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Friday
July 15, 1983

Selected Subjects

CONTINUED INSIDE

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Verification of Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule: Notice of extension of public comment period.

SUMMARY: The interim Verification of Eligibility rule, amending 7 CFR Part 245, was published in the **Federal Register** (48 FR 12505) on March 25, 1983, with a 60-day comment period which closed on May 24, 1983. This Notice extends the public comment period to November 30, 1983. This extension will provide the public the opportunity to submit additional comments subsequent to the implementation of verification requirements. The Department is anticipating that commentors will gain additional operational experience on which to make recommendations which will aid the Department in developing the final rule.

DATE: To be assured of consideration, comments must be postmarked on or before November 30, 1983.

ADDRESS: Comments should be sent to Stanley C. Garnett, Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, USDA, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley C. Garnett at the above address or phone 703–756–3620.

SUPPLEMENTARY INFORMATION:

Background

The Department published an interim rule on the verification of eligibility for free and reduced price meals which *recommends* minimum verification standards for School Year 1982–83 and *requires* these standards beginning School Year 1983–84. The Department published the verification requirements as an interim rule to allow for further refinement after implementation of the verification standards. Interested parties have requested that the Department extend the comment period to provide additional time for School Food Authorities to gain adequate operational insight on which to base their comments. Since the Department is interested in receiving comments based on experience, the Department believes that an extension of the comment period will best serve the public.

The Department will continue to accept comments postmarked on or before November 30, 1983. Commentors who have already submitted comments are welcome to submit additional recommendations if they wish to address new subjects or revise previous remarks. Otherwise, the comments previously submitted will be considered in the comment analysis.

Signed on: July 12, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-19148 Filed 7-14-83; 8:45 am]
BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 790

[Amdt. 4]

Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This action adopts as a final rule an interim rule published in the **Federal Register** October 22, 1982 (47 FR 46999) which provided for miscellaneous amendments to the regulations governing incomplete performance based upon action or advice of an authorized representative of the Secretary.

EFFECTIVE DATE: July 15, 1983.

FOR FURTHER INFORMATION CONTACT: H. Woodrow Jones, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447–3472.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Secretary's Memorandum 1512 and Executive Order 12291, and has been classified as 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 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 U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Programs that this final rule applies to are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Dairy Indemnity Payments, 10.053; Emergency Conservaton Program, 10.054; Feed Grain Producton Stabilization, 10.05; Storage Facilities and Equipment Loans, 10.056; Wheat Stabilization, 10.058; National Wool Act Payments, 10.059; Water Bank Program, 10.062; Agricultural Conservation Program, 10.064; Rice Production Stabilization, 10.065; Emergency Feed Program, 10.066; Grain Reserve Program, 10.067; and, Rural Clean Water Program, 10.068, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilizaton and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

On October 22, 1982, there was published in the **Federal Register** (47 FR 46999) an interim rule amending the regulations set forth at 7 CFR PART 790 which govern incomplete performance based upon action of an authorized representative of the Secretary under the programs administered by the Agricultural Stabilization and

Conservation Service (ASCS). The interim rule: (1) Changed a title designation to Deputy Administrator, State and County Operations, and (2) increased the authority of the State ASC Committee to provide equitable relief under Part 790. Comments were solicited for a period of 60 days after publication of the document. No comments were received during the comment period.

List of Subjects in 7 CFR Part 790

Price support programs.

Final Rule

PART 790—INCOMPLETE PERFORMANCE BASED UPON ACTION OR ADVICE OR AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY

Accordingly, it has been determined that the interim rule published at 47 FR 46999 amending 7 CFR Part 790 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on July 5, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-18941 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 420]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 17–23, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 17, 1983.

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

SUPPLEMENTARY INFORMATION: This final 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 certified that this action will not have a significant economic impact on a substantial number of small entities.

This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on July 12, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.720 is added as follows:

§ 910.720 Lemon regulation 420.

The quantity of lemons grown in California and Arizona which may be handled during the period July 17, 1983, through July 23, 1983, is established at 320,000 cartons.

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

Dated: July 14, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-19405 Filed 7-14-83; 11:48 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Amendments Specifying Licensee Responsibility for Nuclear Materials and Procedures for Termination of Specific Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to specify procedures for the termination of specific licenses authorizing possession and use of nuclear materials. The amendments clarify a licensee's authority and responsibility for nuclear materials and allow for orderly termination of specific licenses. The rule specifies that a license remains in effect, with respect to possession of residual nuclear materials present as contamination, until the Commission notifies the licensee, in writing, that the license is terminated. The rule is necessary to establish clear procedures for the termination of licenses and to establish a more coherent regulatory framework.

EFFECTIVE DATE: August 15, 1983.

FOR FURTHER INFORMATION CONTACT: K. G. Steyer, Chief, Chemical Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–5910.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1982, the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 47400) a notice of proposed amendments to 10 CFR Parts 30, 40, and 70. The notice set forth procedures that a licensee would follow in terminating a specific nuclear materials license and clarified a licensee's responsibility for nuclear materials.

Discussion

Need for the rule. Previously, the Commission's regulations required

licensees under 10 CFR Parts 30, 40, and 70 to notify the Commission, in writing, when the licensee decided to terminate operations. This requirement is continued in the final rule. Licensees were not required by regulation to describe the disposition of nuclear materials authorized under the license or to characterize radiological conditions at the time of license termination. The Commission has requested information concerning disposition of nuclear materials and decontamination on an individual-case-basis. Information concerning residual radioactive contamination has been requested only where it was suspected of being a problem. The rule is necessary to establish clear procedures for termination of licenses and to establish a more coherent regulatory framework. It will enable the Commission to determine that there is no significant risk to public health and safety before a licensee's responsibility for nuclear materials is terminated.

Requirements established by the rule. The rule requires each licensee, who does not apply for license renewal, to submit appropriate information concerning the disposal of licensed nuclear materials and on the absence or presence of residual radioactive contamination. If radiation levels are suitable for release, the Commission will notify the licensee, in writing, that the license is terminated.

If significant residual radioactive contamination is detected, the license continues in force, beyond the expiration date if necessary, with respect to possession of and responsibility for the residual radioactive contamination. The licensee must continue decontamination and control of contaminated areas until radiation levels are suitable for release and the Commission notifies the licensee, in writing, that the license is terminated. In addition, the licensee must submit a plan for decontamination and a final radiation survey report.

Analysis of Public Comments

The **Federal Register** notice provided a 60-day period for public comment. Letters containing a total of 21 comments were received from 12 commenters. Six letters were from electric power and utility companies (10 CFR Part 50 licensees), one from a nuclear fuel cycle licensee, three from consultant groups, and two from State and Federal agencies. Three comments specifically expressed support for the proposed rule and the remainder (18) suggested revisions, additions, and clarification. No comments specifically opposed the proposed rulemaking action. Copies of the comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. The NRC response to the comments is presented below.

1. *Comment.* Many comments were directed at residual radioactivity levels. One commenter said that the rule requires a licensee to certify that no detectable radioactive contamination was found and that without specification of a lower level of detection the no detectable criteria standard is meaningless. Another commenter said that the word "detectable" should be replaced with the word "significant" [the commenter suggested that "significant" be defined as: Beta-gama exposure rates which are greater than twice background and/or soil concentrations of natural uranium greater than 40 picocuries per gram or radium-226 concentrations greater than 20 picocuries per gram]. Another commenter suggested that the rule changes should define the release criteria or "de minimis" radioactivity below which no further licensee control or decontamination is necessary, and referenced and NRC Inspection and Enforcement bulletin for criteria. Another commenter said that an upper level for nondetectable radioactive contamination needs to be established and that the statement "suitable for release for unrestricted use" needs clarification.

Response. Residual and "de minimis" radioactivity levels are outside the scope of this rule. The issue of residual radioactivity levels suitable for release for unrestricted use will be considered in a separate rulemaking action. Meanwhile, NRC will continue to provide guidance, on an individual-case-basis, on suitable levels of residual contamination for unrestricted release.

The rule requires that radiation survey reports be submitted unless the licensee can demonstrate the absence of residual radioactive contamination in some other manner. Further, the rule requires that survey instruments used in making radiation surveys be identified. Using these data the staff can determine a lower level of detection for the specific radionuclide involved and the validity of a radiation survey. There is no requirement to define lower level of detection in this rule. The reason for using the criterion of detectability is that a large number of small licensees (e.g., licensees with sealed sources and small possession limits) can demonstrate absence of residual radioactive contamination with minimal effort and expense.

2. *Comment.* A comment indicated that there should be standards for NRC's decision on whether a radiation survey report is required or not.

Response. The standard used by the staff in this determination is whether or not there may be significant amounts of residual radioactive contamination. In a large number of cases (e.g., where only sealed sources were used, or where short half-life and relatively small quantities of nuclear materials are possessed) a radiation survey report will not be necessary. Clarification is believed to be desirable and the rule is revised to indicate that submittal of a radiation survey report is not necessary if the licensee can demonstrate the absence of residual radioactive contamination without conducting a special radiation survey.

3. *Comment.* A comment stated that NRC should establish standards for determining when a decontamination plan is to be submitted.

Response. The *Regulatory Flexibility Act* section in the preamble of the proposed rule discussed this matter. It said that in some cases detectable residual contamination may be present, but the level may be suitable for release. In these cases, the licensee would not be required to submit a plan for decontamination. As indicated in the response to comment number 1, the NRC will provide guidance concerning suitable levels for release on an individual-case-basis.

4. *Comments.* Two comments were received concerning the statement in the preamble that read, "Prescribed fees for licensing services rendered by NRC would continue to be applicable until a license is terminated." One comment stated that NRC regulations do not contain prescribed fees for license termination services rendered by NRC. It said further that since NRC services rendered during termination of a license would not be comparable to services rendered during license renewal, it is not appropriate to charge the same fees. The comment suggested that NRC estimated, in the same manner used to derive the figures in 10 CFR Part 170, the time involved in terminating a license and establish a corresponding limit on the fees to be charged to a licensee for license termination. The other comment stated that the fees prescribed for licensing services associated with residual nuclear materials should be significantly less than those prescribed for the originally-licensed facility.

Response. It is present Commission policy not to charge fees for Parts 30, 40, and 70 applications requesting termination of licenses. The language

questioned by these comments was intended to mean that if any routine inspection was conducted before or after the expiration date of the license but before the license was terminated, the Commission would assess a fee for the inspection since the license was valid at the time the inspection was conducted. Under the current fee schedule, any nonroutine (close-out) inspection is not charged to the licensee.

5. *Comment.* One comment stated that the word "immediately" [in §§ 30.36(b), 40.42(b), and 70.38(b) in regard to written notification when a licensee decides to terminate operations] should be clarified or defined. This comment suggested that licensees should notify the Commission 90 days prior to vacating the premises.

Response. A licensee may decontaminate and terminate projects at any time under an active license. However, license termination procedures can be most expeditiously followed if a licensee notifies the Commission as soon as the licensee decides to terminate operations. The intent of the rule is that decontamination should be accomplished and the license terminated as soon as practical, after the licensee decides to terminate operations.

6. *Comment.* One comment suggested that licensees should be allowed to continue some or all normal activities while decontamination activities are conducted.

Response. Normal operating activities can be continued during decontamination as long as the license has not expired. But, unless the licensee makes timely application for license renewal, nuclear materials must be transferred or disposed of before the license expiration date. Only activities related to decontamination and control of nuclear materials are permitted beyond the license expiration date, unless a timely license renewal application has been submitted (i.e., 30 days or more before the license expiration date).

7. *Comment.* A concern of several public utility companies (10 CFR Part 50 licensees) is how the new rule affects them in relation to licenses issued to possess and use nuclear materials under 10 CFR Parts 30, 40, and 70.

Response. Production and utilization facility licensees (10 CFR Part 50 licensees) may be issued licenses to possess and use byproduct, source, and/or special nuclear material, before they receive an Operating License for the facility. If the license to possess and use nuclear materials expires before an Operating License is issued, it must be renewed or terminated. Renewal is usually accomplished by amending the nuclear materials license to extend the expiration date, which is done by license condition. If the holder of a Construction Permit decides to terminate a nuclear materials license, e.g., a new fuel license issued under Part 70, before a Part 50 Operating License is issued, the requirements of this rule apply. When a Part 50 Operating license is issued, the nuclear materials license is automatically terminated. Requirements for posssession and use of nuclear materials are contained in the Part 50 Operating License and the requirements of this rule do not apply. No revision to the rule is necessary to accommodate these comments.

8. *Comment.* One comment stated that the substance of Form 314 was not made part of the rule nor the explanation of the proposed rule. The comment suggested it be made part the final rule.

Response. NRC Form 314, "Certification of Disposition of Materials," is sent to each NRC materials licensee 90 days before expiration of the license. This form requests information as to whether or not nuclear materials have been procured. It also requests information concerning disposal of nuclear materials, such as transfer to an NRC licensee, transfer to an Agreement State licensee, or disposal in some other manner. NRC Form–314 is used to obtain information concerning termination of specific licenses. OMB recently approved this form under approval number 3150–0028. As part of the approval process it was determined that this form, and the information required by it, is the best method of obtaining this information. Because the information required by the form is not a subject of this rulemaking action, it is not necessary to include the contents of the form in the rule.

9. *Comment.* One comment stated that there was no mention in the proposed rule as to the effective date of the amendments and whether licensees who have submitted requests for decommissioning or license termination prior to the passage of the rule are exempt.

Response. These amendments will codify procedures that are currently being used on an individual-case-basis. This rule does not significantly alter existing procedures. It is intended that the rule changes be made effective in the usual manner, that is 30 days following notice of final rulemaking published in the **Federal Register**. The provisions of the rule are applicable to any licensee who decides to terminate a license after this date.

Changes from proposed rule. There have been no significant revisions to the proposed rule as a result of public comments or reviews during final rulemaking procedures. However, several changes of a clarifying or editorial nature have been made. The changes are as follows:

1. Editorial changes have been made in §§ 30.36(b) and (e), 40.42(b) and (e), and 70.38(b) and (e).

2. It was apparently not clear in the proposed rule that licensees may decontaminate affected facilities prior to the license expiration date. Changes have been made in §§ 30.36(d)(1) and (3), 40.42(d)(1) and (3), and 70.38(d)(1) and (3) to clarify that licensees are authorized to conduct decontamination activities, in fact must decontaminate to the extent practicable, before the license expires.

3. Changes have been made in §§ 30.36(d)(1)(v)(A) and (B), 40.42(d)(1)(v)(A) and (B), and 70.38(d)(1)(v)(A) and (B) to (1) clarify that submittal of a radiation survey report is not necessary if a licensee can demonstrate absence radioactive contamination without conducting a survey, (2) add units for reporting radioactive contamination in water and indicate that not all of the units listed are appropriate for all licensees, and (3) specify that instruments used in radiation surveys must be working properly.

Environmental Impact

These amendments clarify requirements for termination of a licensee's responsibility for nuclear materials. The amendments do not add substantive requirements from an environmental viewpoint. Environmentally they are nonsubstantive and insignificant. No environmental impact statement, appraisal, or negative declaration needs to be prepared under 10 CFR 51.5(d)(3).

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3510, et. seq.). These requirements were approved by the Office of Management and Budget under approval numbers: Part 30–3150–0017; Part 40–3150–0020; and Part 70–3150–0009.

Regulatory Analysis

The NRC has prepared a regulatory analysis on this regulation. The analysis examines the benefits and costs of the alternatives considered by the staff. Interested parties may examine a copy

of the regulatory analysis at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from W. R. Pearson, Chemical Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-5910.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, the Executive Director for Operations certifies that this action will not have a significant economic impact on a substantial number of small entities.

The rule applies to the Commission's approximately 8,100 materials licensees under 10 CFR Parts 30-35, 40, and 70. These licensees include about 5,000 byproduct material licenses under Parts 30, 32, 33, and 34, 2,000 medical licenses under Part 35, 400 source material licenses under Part 40, and 700 special nuclear material licenses under Part 70. The rule affects about 200 NRC licensees per year who wish to terminate operations.

The NRC estimates that about 90% of the affected licensees would be considered small entities under the criteria set out in the size standards of the Small Business Administration in 13 CFR Part 121 (e.g., most licensees with less than 500 employees, hospitals with less than 150 beds, other medical licenses with less than $1.5 million annual gross receipts). In developing the rule, the NRC specifically considered the potential problems that would face a small entity under these requirements. The NRC has attempted to structure the requirements to mitigate the economic effect of the rule on small entities to the extent possible considering the Commission's responsibility for public health and safety. Although there is not an absolute correlation between the size of a licensee and the requirements of the regulation, in general, the regulation will have minimal incremental impact on most small licensees.

This rule specifies the procedures to be followed when a licensee desires to terminate a materials license. Each licensee is required to—

1. Submit a form NRC-314 that describes the disposal of licensed materials;

2. Submit a final radiation survey, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner; and either;

3. Submit a certification that residual radioactive contamination attributable to activities conducted under the license is not detectable; or

4. Where residual radioactive contamination is present, submit a radiation survey report and a plan for decontamination, if required. In some cases, detectable residual contamination may be present, but the level may be suitable for release. In these cases, the licensee will not be required to submit a plan for decontamination.

The NRC believes that about 99% of the small entities affected by the rule will be able to comply with the requirements by following the simplest procedure. These licensees would submit a form NRC-314 and certify that no residual contamination attributable to activities conducted under the license is present. Data collection for form NRC-314 is similar to actions performed during regular operations. Some clerical and management time is required to complete the form and submit it. The average impact on small licensees, as a result of requiring submittal of a form NRC-314, is estimated to be less than an hour at an approximate cost of $20. Submittal of a certification letter would require only clerical and management personnel. Preparation and submittal of this letter would probably require about an hour at an approximate cost of $20. NRC Form-314, as approved by OMB, has been revised to contain provisions for certification, which will reduce this cost. It is estimated that the total impact on small licensees under the simple procedure will be about one-half person-day of effort at an approximate cost of $80. Some licensees will also be required to submit a final radiation survey report. However, many licensees will not, in particular licensees with sealed sources and byproduct licensees with small license possession limits and short half-life materials. A radiation survey must be conducted by qualified personnel (usually a health physics technician), the report assembled, and submitted. In cases involving extensive contaminated areas some land surveying, sample drilling, and special analyses may be involved. These actions involve health physics, management, clerical, and possibly other types of personnel. On the average for small licensees the impact of submitting radiation survey reports is estimated to be less than one-half person-day at a cost of approximately $80. For some larger licensees the average is estimated to be about two person-days at a cost of approximately $320.

The NRC believes that less than 1% of the affected small licensees will be required to submit a decontamination plan. This action will require the average small licensee to expend about one-half person-day of effort at an approximate cost of $80. A comparable effort might require the average larger licensee to expend about four person-days of effort at approximate cost of $640. Preparation and submittal of a decontamination plan requires use of technical, management, clerical, and possibly other types of personnel. Preparation of this plan would be facilitated by using technical and management personnel familiar with the operations.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Final Rulemaking

The NRC is adopting the following amendments to 10 CFR Parts 30, 40, and 70 under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34 (b) and (c), 30.41 (a) and (c) and 30.53 are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); and §§ 30.36, 30.51, 30.52, and

30.55 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Remove the authority citations following:

Sections 30.3, 30.4, 30.5, 30.11, 30.12, 30.13, 30.14, 30.15, 30.16, 30.18, 30.19, 30.20, 30.31, 30.32, 30.33, 30.34, 30.39, 30.41, 30.51, 30.53, 30.55, 30.61, and 30.71.

§ 30.34 [Amended]

3. Section 30.34 is amended by removing and reserving paragraph (f).

4. Section 30.36 is revised to read as follows:

§ 30.36 Expiration and termination of licenses.

(a) Except as provided in § 30.37(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writing under § 30.6, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1) (iv) and (v) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license, the licensee shall either—

(1) Submit an application for license renewal under § 30.37; or

(2) Notify the Commission, in writing under § 30.6, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 30.37, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of byproduct material;

(ii) Remove radioactive contamination to the extent practicable;

(iii) Properly dispose of byproduct material;

(iv) Submit a completed form NRC–314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual byproduct material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual byproduct material under paragraph (d)(3) of this section, following the expiration date specified in the license shall—

(1) Limit actions involving byproduct material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)–(3), 40.35(a)–(d), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.25 (c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. Remove the authority citations following:

Sections 40.1, 40.2a, 40.3, 40.4, 40.11, 40.13, 40.14, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.34, 40.35, 40.41, 40.45, 40.51, 40.61, 40.62, 40.63, 40.64, 40.65, 40.71, and Appendix A.

§ 40.41 [Amended]

7. Section 40.41 is amended by removing paragraph (f).

8. Section 40.42 is revised to read as follows:

§ 40.42 [Expiration and termination of licenses.

(a) Except as provided in § 40.43(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writting under § 40.5, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1)(iv) and (b) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 40.43; or

(2) Notify the Commission, in writing under § 40.5, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 40.43, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of source material;

(ii) Remove radioactive contamination to the extent practicable;

(iii) Properly dispose of source material;

(iv) Submit a completed form NRC-314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaiminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under a license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual source material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual source material under paragraph (d)(3) of this section, following the expiration date specified in the license, shall—

(1) Limit actions involving source material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

9. Section 40.71 is amended by removing paragraph (d) and revising the section heading to read as follows:

§ 40.71 Modification and revocation of licenses.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10. The authority section for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 12, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.24 (a) and (b), 70.32 (a) (3), (5), (6), and (d), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c) and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 70.20a(d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (e) and (g), 70.56, 70.57(b) and (d), and 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b (d) and (e), 70.38, 70.51-71.55, 70.58 (g)(4), (k), and (l) and 70.59 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

11. Remove the authority citations following:

Sections 70.1, 70.3, 70.4, 70.11, 70.14, 70.19, 70.22, 70.23, 70.31, 70.32, 70.36, 70.39, 70.41, 70.42, 70.44, 70.51, 70.53, 70.54, 70.55, 70.57, 70.59, 70.61, 70.62, 70.71.

12. Section 70.32 is amended by removing and reserving paragraph (h) and revising the introductory text of paragraph (a) to read as follows:

§ 70.32 Conditions of licenses.

(a) Each license shall contain and be subject to the following conditions:

* * * * *

(h) (Reserved)

* * * * *

13. A new § 70.38 is added to read as follows:

§ 70.38 Expiration and termination of licenses.

(a) Except as provided in § 70.33(b) and paragraph (d)(3) of this section each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writing under § 70.5, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1) (iv) and (v) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 70.33; or

(2) Notify the Commission, in writing under § 70.5, if the licensee decides not to renew the license.

(d)(1) If a license does not submit an application for license renewal under § 70.33, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of special nuclear material;

(ii) Remove residual radioactive contamination to the extent practicable;

(iii) Properly dispose of special nuclear material;

(iv) Submit a completed form NRC-314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the level of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification

that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual special nuclear material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual special nuclear material under paragraph (d)(3) of this section, following the expiration date specified in the license shall—

(1) Limit actions involving special nuclear material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

Dated at Bethesda, Maryland this 24th day of June 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-19169 Filed 7-14-83; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Parts 269, 269a, 269b, and 294

[Docket No. R-0462]

Policy on Labor Relations for the Federal Reserve Banks; and Policy on Labor Relations for the Board of Governors of the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final policy statements.

SUMMARY: The Board of Governors of the Federal Reserve System has revised substantially its Policy on Unionization and Collective Bargaining for the Federal Reserve Banks, which was adopted in 1969, to provide, with certain restrictions, for the exclusive recognition of labor organizations to represent employees of the Federal Reserve Banks. The revision changes the composition of the Federal Reserve System Labor Relations Panel, which is charged with administering the matters that are subject to collective bargaining; and eliminates the current requirement that in representation elections 60 percent of eligible voters must vote in order for a labor organization to prevail. The revision also makes additional, less significant, changes in the procedures established by the Policy and clarifies some of the Policy's language. The Board has also revised its Policy on Unionization and Collective Bargaining for the Board of Governors of the Federal Reserve System, which governs labor relations for employees of the Board. The revisions to the Federal Reserve Board Policy make that Policy comparable in substance to the revised Policy governing employees of the Federal Reserve Banks.

DATE: These Policy Statements are effective July 11, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Wood, Assistant Director, Division of Personnel (202) 452-3660, John R. Weis, Assistant Director, Division of Personnel (202) 452-3435, Richard M. Ashton, Assistant General Counsel (202) 452-3750, Legal Division, Jennifer J. Johnson, Senior Counsel (202) 452-3584, Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Pursuant to its statutory authority to exercise general supervision over the twelve regional Federal Reserve Banks that are part of the Federal Reserve System, the Board has issued a Policy on Unionization and Collective Bargaining for the Federal Reserve Banks (the "Reserve Bank Policy"), which provides for the exclusive recognition of a labor organization, within certain restrictions, to represent employees of a Reserve Bank.

The revision effects substantial changes in three major aspects of the Reserve Bank Policy. The current Policy provides for the establishment of the Federal Reserve System Labor Relations Panel, which is authorized to issue rules to implement the Policy and to serve as the final decisional authority in disputes in individual cases that arise under the Policy. Under the present Policy, the System Panel is comprised of two members of the Board and one person chosen from the public. The revised Policy provides for a Panel consisting of two public members and one Board member. The revised Policy further provides that the public members of the Panel shall serve for a fixed term and may be removed from office only upon notice and hearing, and only for neglect of duty or malfeasance in office.

Second, the revision makes certain changes with respect to the matters that may be bargained about by a Reserve Bank and an exclusive representative. Section 269.3(b) of the current Policy requires a Reserve Bank to negotiate with a recognized labor organization concerning personnel policies and working conditions but not with respect to specific designated areas of discretion and policy of the Reserve Bank, such as its purposes and functions or the compensation of its employees. Section 269.7(a)(2) of the current Policy, governing the content of collective bargaining agreements, provides that the management of a Reserve Bank retains certain designated management rights, *e.g.*, the right to hire employees. The revised Policy incorporates the list of non-negotiable topics and designated management rights, which are also clearly non-negotiable, into a single provision expressly listing all matters concerning which negotiation is not required.

The list of non-negotiable items in the revised Policy is generally the same as the matters determined in the current Policy to be not subject to bargaining or to be management rights. The revision adds a provision stating that a Reserve Bank shall upon request discuss, but shall not be required to negotiate with respect to, the procedures followed by a Reserve Bank in exercising the management rights designated in the Policy. The revised provision allows a Reserve Bank to elect to negotiate with regard to procedures for implementing management rights.

Third, the revision modifies the required showing of support a labor organization must obtain in a representation election in order to be recognized. As currently written, the Policy provides that a labor organization is recognized if a majority of the employees in the bargaining unit vote in favor of the union and if 60 percent of employees in the unit eligible to vote actually vote. This provision is revised to adopt the usual rule in unionization elections: the labor organization is recognized if a majority of employees in the unit voting select the labor organization. The proposal also modifies the required showing necessary to revoke the recognition of a labor organization.

The revision makes a number of other changes in the procedures to be followed by labor organizations in seeking representation of Reserve Bank employees. For example, in cases where a labor organization has made the requisite showing necessary to obtain a representation election, the revised Policy provides for the creation of a three-member Special Tribunal, composed of a representative of the Reserve Bank, a representative of the labor organization, and an independent arbitrator chosen from a list provided by the American Arbitration Association. The Special Tribunal would be authorized to determine, subject to appeal to the System Panel, the appropriate bargaining unit and to resolve election disputes.

The revision also adds a new section to the Policy providing for the assistance of an independent mediator upon request in the event of an impasse in negotiations for a collective bargaining agreement. In response to comments received from the Federal Mediation and Conciliation Service, this provision has been revised to delete the requirement that the American Arbitration Association appoint a neutral mediator to assist the parties to resolve the impasse. This revision permits the parties to select mediators through the American Arbitration Association, the Federal Mediation and Conciliation Service or any other recognized organization or individual that provides such services. The new provision replaces regulations issued by the System Panel concerning bargaining impasses (12 CFR Part 294), which have been removed. The regulations issued by the System Panel with respect to unfair labor practice procedures (12 CFR Parts 290, 292) are hereby adopted as regulations of the Board.

The revision also eliminates the existing requirement that arbitration of grievances pursuant to a collective bargaining agreement be advisory in nature, and provides that arbitration may extend only to grievances that involve interpretation of a labor agreement and may be invoked only by a labor organization.

The Board has revised its Policy on Unionization and Collective Bargaining for the Board of Governors of the Federal Reserve System, governing labor relations for Board employees. The revision incorporates the revisions made to the Policy covering employees of the Reserve Banks. Some of the revisions made to the Reserve Bank Policy, such as modifying the composition of the governing panel, are already contained in the current Policy covering Board employees. The changes to the Board Policy make the two Policies substantially the same in all material respects.

The proposed policies were published for comment on April 26, 1983. The Board received three comments on the proposed revisions to the policies. One comment favored the proposed revisions. Another comment expressed opposition to the proposed revisions and indicated that the revisions would "stack the deck" in favor of union representation and disregard the rights of those employees who do not desire union representation. The Board does not believe that the revisions unduly disadvantage employees not desiring union representation, since the revisions merely bring the System's policies more into line with those applying in the public and private sectors generally. The third comment, which was from the Federal Mediation and Conciliation Service, is discussed above.

Lists of Subjects in 12 CFR Part 269

Federal Reserve System, Labor-management relations, Labor organizations.

1. The Board hereby revises Part 269 to read as follows:

PART 269—POLICY ON LABOR RELATIONS FOR THE FEDERAL RESERVE BANKS

Sec.

Authority: Sec. 11, 38 Stat. 261; 12 U.S.C. 248.

§ 269.1 Definition of a labor organization.

When used in this part, the term "labor organization" means any lawful organization of any kind, or any employee representation group, which exists for the purpose, in whole or in part, of dealing with any Federal Reserve Bank concerning grievances, personnel policies and practices, or other matters affecting the working conditions of its employees, but the term shall not include any organization: (a) Which asserts the right to strike against the government of the United States, the Board of Governors of the Federal Reserve System, or any Federal Reserve Bank, or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike; or (b) which fails to agree to refrain from seeking or accepting support from any organization which employs coercive tactics affecting any Federal Reserve Bank's operations; or (c) which advocates the overthrow of the constitutional form of the government of the United States; or (d) which discriminates with regard to the terms or conditions of membership because of race, color, sex, creed, age or national origin.

§ 269.2 Membership in a labor organization.

(a) Any employee of a Federal Reserve Bank (hereinafter referred to as "Bank") is free to join and assist any existing labor organization or to participate in the formation of a new labor organization, or to refrain from any such activities except that officers and their administrative or confidential assistants, managers and other supervisory personnel, secretaries to all such persons and all employees engaged in Bank personnel work shall not be represented by any labor organization.

(b) The rights described in paragraph (a) of this section for employees do not extend to participation in the management of a labor organization, or acting as a representative of any such organization, where such participation or activity would conflict with law or the duties of an employee.

(c) Notwithstanding anything stated in paragraph (a) of this section, professional employees of a Bank shall not be represented by a labor organization which represents other employees of the Bank unless a majority of the professional employees eligible to vote specifically elect to be represented by such labor organization. However, the professional employees of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

(d) Notwithstanding anything stated in paragraph (a) of this section, the guards of a Bank shall not be members of a labor organization which represents other categories of employees of the Bank. However, the guards of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

§ 269.3 Recognition of a labor organization and its relationship to a Federal Reserve Bank.

(a) Any labor organization shall be recognized as the exclusive bargaining representative of the employees in an appropriate unit of a Bank when that organization has been selected by the employees in said unit pursuant to the procedure set forth in § 269.5. A unit may be established in a Bank on any basis which will ensure a clear and identifiable community of interest among the employees concerned, and will promote effective relationships and the efficiency of the Bank's operations, but no unit shall be established solely on the basis of the extent to which a labor organization or employees in the proposed unit may have sought organization.

(b) When a labor organization has been recognized as the exclusive representative of employees in an appropriate unit, it shall be entitled to act for and to negotiate agreements in good faith covering all employees in the unit, and it shall be responsible for representing the interests of all such employees without discrimination and without regard to whether they are members of that labor organization or not, provided that nothing in this Policy shall prevent an employee from adjusting his or her grievance without the intervention of the recognized labor organization. The labor organization shall be given notice of the adjustment and a reasonable opportunity to object on the sole ground that it is in conflict with the terms of the collective bargaining agreement.

(c) A Bank, through appropriate officials, shall have the obligation to meet at reasonable times with representatives of a recognized labor organization to negotiate, in good faith, with respect to personnel policies and practices affecting working conditions for employees, provided that they do not involve matters in any of the following areas:

(1) the purposes and functions of the Bank; the compensation of and hours worked by employees; any classification system used to evaluate positions; the budget of the Bank; the retirement system; any insurance or other benefit plans; internal security operations; maintenance of the efficiency of Bank operations including the determination of work methods; the right to contract out; the determination as to manpower requirements; use of technology and organization of work; and action to meet emergency situations;

(2) management rights as to the direction of employees, including hiring, promotion, transfer, classification, assignment, layoffs, retention, suspension, demotion, discipline and discharge, provided that on matters involving the procedures to be followed by a Bank for the exercise of its rights under this subparagraph, a Bank shall, upon request, discuss such procedures with a recognized labor organization, but shall not be required to negotiate for an agreement as to them;

(3) all Bank matters specifically governed by applicable laws or regulations.

The obligation under this paragraph to negotiate with regard to certain matters shall include the execution of a written contract incorporating any agreement reached, but does not compel either a Bank or a labor organization to agree to a particular proposal or to make any concession during such negotiations.

(d) At the time it requests an election to be held, any labor organization seeking recognition shall submit to a Bank a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(e) Subject to the provisions of § 269.8, the exclusive recognition of a labor organization shall not preclude any employee, regardless of labor organization membership, from bringing matters of personal concern not governed by a collective bargaining agreement to the attention of appropriate officers, managers or supervisory personnel in accordance with applicable law, rule, regulation, or established Bank policy, or from choosing his or her own representative in such matters.

§ 269.4 Determination of appropriate bargaining unit.

(a) If a labor organization asserts in writing to a Bank that it holds cards requesting a representation election signed by at least thirty percent (30%) of the employees in a unit which that organization considers to be an appropriate bargaining unit, the labor organization and the Bank shall each designate a representative who together shall request the American Arbitration Association (hereinafter referred to as "Association") to submit to them from its National Panel of Professional Labor Arbitrators a list of seven (7) impartial, qualified professional arbitrators. The two designated representatives shall meet promptly and, by alternately striking names from the list, arrive at the remaining person who, together with the two representatives, shall constitute a Special Tribunal to rule on the labor organization's request for an election. The impartial arbitrator shall always act as the Chairperson of any Special Tribunal duly constituted under this Section.

(b) In the absence of an agreement between the labor organization and the Bank on the appropriate unit, the Tribunal shall investigate the facts, hold hearings if necessary, and issue a decision as to the appropriateness of the unit for the purposes of conducting a representation election for exclusive recognition and as to related issues submitted for consideration. The expenses for this proceeding, including the fees of the association and of the arbitrator, shall be borne equally by the labor organization and the Bank. If either the Bank or the labor organization should disagree with the Special Tribunal's decision, the party in disagreement may appeal within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel referred to in § 269.11, and the decision of the System Panel shall be final and binding on the parties.

(c) If there is any dispute as to whether a labor organization holds cards signed by at least thirty percent (30%) of the employees in a unit claimed by a labor organization as appropriate or subsequently determined by the Special Tribunal as appropriate, the dispute shall be resolved by the Chairperson of the Special Tribunal, acting as a single impartial arbitrator. The expenses of such procedure, including the impartial arbitrator's fee, shall be borne equally by the labor organization and the Bank. The decision of the Chairperson of the Special Tribunal shall be final and binding and shall not be subject to appeal to the Federal Reserve System Labor Relations Panel.

§ 269.5 Elections.

(a) Once there has been a final determination of the existence of an appropriate bargaining unit under the procedure in Section 269.4, and a showing by a labor organization that it has cards signed by at least thirty percent (30%) of the employees in such unit requesting a representation election, an election shall be ordered by the Special Tribunal. A labor organization shall be recognized as the exclusive bargaining representative of the unit if it is selected by a majority of the employees in the unit actually voting.

(b) The election shall be held under the auspices of the Association and shall be subject to its election rules and regulations. However, if there should be any conflict between such rules and regulations and the provisions of this Policy, the latter shall prevail. The fees

charged by the Association for its election service shall be borne equally by the labor organization and the Bank.

(c) An election to determine whether a labor organization should continue as the exclusive bargaining representative of a particular unit shall be held when requested by a petition or other bona fide showing by at least thirty percent (30%) of the employees of that unit. Any dispute as to whether thirty percent (30%) of the employees requested such an election shall be resolved by the same procedure as that set forth in § 269.4(b). The election shall be held under the auspices of the Association in the same manner described in paragraph (b) of this section. The recognition of a labor organization as the exclusive bargaining representative of a unit shall be revoked if a majority of the employees in the unit who actually vote signify approval of such revocation.

(d) Only one election may be held in any unit in a twelve (12) month period to determine whether a labor organization should become, or continue to be recognized as, the exclusive representative of the employees in that unit.

(e) Upon receipt of a request for an election from a labor organization under § 269.4(a), it shall be incumbent on the Bank, labor organization and all others to refrain from any conduct, action or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative consistent with the right of the Bank, labor organization or employees to exercise privileges of free speech in the expression of any views, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form.

(f) The Special Tribunal shall hear and decide any post-election objections of a Bank or labor organization filed with it claiming that a violation of paragraph (e) of this section has improperly affected the outcome of the election. Such objections must be filed with the Special Tribunal no later than five (5) business days after the date of election. In the event of such violation by a Bank, labor organization or other individuals or organizations which the Special Tribunal finds sufficient to have prejudiced the outcome of an election, appropriate remedial action shall be taken in the form of setting aside the election results and ordering a new election, provided, however, that an appeal from the order of the Special Tribunal may be taken within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel by either the affected Bank or labor organization. The ruling of the System Panel shall be final and binding. Neither the Special Tribunal nor the Federal Reserve System Labor Relations Panel shall have the authority to direct a Bank to recognize a labor organization as the exclusive collective bargaining representative without a valid election being held in which a majority of the employees actually voting have so designated such labor organization.

(g) The Special Tribunal and the Federal Reserve System Labor Relations Panel will adhere to any rules and regulations promulgated by the Board of Governors for the administration of the provisions of paragraphs (e) and (f) of this section.

§ 269.6 Unfair labor practices.

(a) It shall be an unfair labor practice for a Bank to: (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) dominate or interfere with the formation or administration of any labor organization, or to contribute financial or other support to it; (3) encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; (4) refuse to bargain collectively with the representatives of its employees subject to the provisions of § 269.3 (b) and (c).

(b) It shall be an unfair labor practice for a labor organization, its agents or representatives to: (1) Restrain or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) cause or attempt to cause a Bank to Discriminate against an employee in violation of paragraph (a)(3) of this Section; (3) refuse to bargain collectively with a Bank, provided the labor organization is the exclusive representative of a unit of employees.

(c) Notwithstanding anything previously stated in this Section, the expression of any view, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, if such expression contains no threat of reprisal or force, or promise of benefit.

(d) The Federal Reserve System Labor Relations Panel will adhere to the rules and regulations promulgated by the Board of Governors for the prevention and remedy of the unfair labor practices listed herein.

§ 269.7 Approval of agreement and required contents.

Any agreement entered into with a labor organization as the exclusive representative of employees in a unit must be approved by the President of the Bank or a designated officer representative. All agreements with labor organizations shall also be subject to the requirement that the administration of all matters covered by the agreement shall be governed by the provisions of applicable laws and Federal Reserve System rules and regulations, and the agreement shall at all times be applied subject to such laws and regulations.

§ 269.8 Grievance procedures.

(a) Subject to the provisions of § 269.3(b), an agreement entered into with a labor organization as the exclusive representative of employees in a unit may contain a grievance procedure, applicable only to employees in such unit and which shall be the exclusive means for a labor organization and/or an employee to obtain resolution of a grievance arising under such agreement.

(b) Grievance procedures established by a labor agreement may also include provisions for arbitration of unresolved grievances by a tripartite panel under the Voluntary Labor Arbitration Rules of the Association with the impartial arbitrator selected by the Bank and labor organization representatives on the arbitration panel to be the Chairperson. In such event, arbitration shall extend only to grievances which involve the interpretation and application of specific provisions of a labor agreement and not to any other matters or to changes in or proposed changes in the agreement. Arbitration may only be invoked by labor organization on behalf of individual employees with their concurrence.

§ 269.9 Mediation of negotiation impasses.

In the event of an impasse in negotiations between the parties for a collective bargaining agreement, either the labor organization or the Bank may request the appointment of a qualified neutral person as a mediator to assist the parties in attempting to resolve the impasse. The parties will meet promptly with the mediator, and all matters discussed, as well as any documents submitted, shall not be publicly divulged for any reason. The cost of the mediator shall be borne equally by the parties.

§ 269.10 Time for internal labor organization business, consultations and negotiations.

Solicitation of memberships, dues or other internal labor organization business shall be conducted during the nonduty hours of the employees concerned. Officially requested or approved consultation between management executives and

representatives of a labor organization shall, whenever practicable, be conducted on official time, but the President or a duly authorized officer of a Bank may require that negotiations with a labor organization be conducted during the nonduty hours of the Bank.

§ 269.11 Federal Reserve System Labor Relations Panel.

There shall be established a Federal Reserve System Labor Relations Panel, which shall consist of three members: one member of the Board of Governors of the Federal Reserve System, who shall be Chairperson of the Panel, and two public members. Each member shall be selected by the Board of Governors; provided, however, that the public members shall not have any present or past affiliation with the Federal Reserve System. Initially, one of the two public members shall be appointed for a term of two years, and the other for a term of three years. Thereafter, each public member shall be appointed for a term of three years, except that in the case of an unexpired term of a former member, the successor shall be appointed to fill such unexpired term. Upon the expiration of their term of office, public members may continue to serve until their successors are appointed and have qualified. A public member may be removed by the Board only upon notice and hearing, and only for neglect of duty or malfeasance in office. The Panel shall be responsible for the duties assigned to it as set forth in this Policy.

§ 269.12 Amendment.

This policy may be amended upon appropriate legal notice to all Federal Reserve Banks and labor organizations recognized, or seeking recognition, at any such Bank under this Policy. In no instance shall an amendment be applied retroactively.

PART 290—[REDESIGNATED AS PART—269a]

PART 292—[REDESIGNATED AS PART—269b]

PART 294—[REMOVED]

2. Part 290 is redesignated as Part 269a and the internal references are redesignated accordingly. Part 292 is redesignated Part 269b and the internal references are redesignated accordingly. Part 294 is hereby removed. The authority citations for redesignated Parts 269a and 269b read as follows:

Authority: Sec. 11, 38 Stat. 261; 12 U.S.C. 248.

3. The Board hereby revises its Policy on Collective Bargaining for the Board of Governors of the Federal Reserve System to read as follows:

Policy on Labor Relations for the Board of Governors of the Federal Reserve System

Sec.

Section 1 Definition of a Labor Organization

When used in this part, the term "labor organization" means any lawful organization of any kind, or any employee representation group, which exists for the purpose, in whole or in part, of dealing with the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") concerning grievances, personnel policies and practices, or other matters affecting the working conditions of its employees, but the term shall not include any organization: (a) which asserts the right to strike against the government of the United States, the Board of Governors of the Federal Reserve System, or any Federal Reserve Bank, or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike; or (b) which fails to agree to refrain from seeking or accepting support from any organization which employs coercive tactics affecting the Board's operation; or (c) which advocates the overthrow of the constitutional form of government of the United States; or (d) which discriminates with regard to the terms or conditions of membership because of race, color, sex, creed, age or national origin.

Section 2 Membership in a Labor Organization

(a) Any employee of the Board is free to join and assist any existing labor organization or to participate in the formation of a new labor organization, or to refrain from any such activities except that officials and their administrative or confidential assistants, managers and other supervisory personnel, secretaries to all such persons and to members of the Board, and all employees engaged in the Board's personnel work shall not be represented by any labor organization.

(b) The rights described in paragraph (a) of this Section for employees do not extend to participation in the management of a labor organization, or acting as a representative of any such organization, where such participation or activity would conflict with law or the duties of an employee.

(c) Notwithstanding anything stated in paragraph (a) of this Section, professional employees of the Board shall not be represented by a labor organization which represents other employees of the Board unless a majority of the professional employees eligible to vote specifically elect to be represented by such labor organization. However, the professional employees of the Board may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

(d) Notwithstanding anything stated in paragraph (a) of this Section, the guards of the Board shall not be members of a labor organization which represents other categories of employees of the Board. However, the guard of the Board may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

Section 3 Recognition of a Labor Organization and its Relationship to the Board

(a) Any labor organization shall be recognized as the exclusive bargaining representative of the employees in an appropriate unit of the Board when that organization has been selected by the employees in said unit pursuant to the procedure set forth in Section 5. A unit may be established on any basis which will ensure a clear and identifiable community of interest among the employees concerned, and will promote effective relationships and the efficiency of the Board's operations, but no unit shall be established solely on the basis of the extent to which a labor organization or employees in the proposed unit may have sought organization.

(b) When a labor organization has been recognized as the exclusive representative of employees in an appropriate unit, it shall be entitled to act for and to negotiate agreements in good faith covering all employees in the unit, and it shall be responsible for representing the interests of all such employees without discrimination and without regard to whether they are members of the labor organization or not, provided that nothing in this Policy shall prevent an employee from adjusting his or her grievance without the intervention of the recognized labor organization. The labor organization shall be given notice of the adjustment and a reasonable opportunity to object on the sole ground that it is in conflict with the terms of the collective bargaining agreement.

(c) The Board, through appropriate representatives, shall have the obligation to meet at reasonable times with representatives of a recognized labor organization to negotiate, in good faith, with respect to personnel policies and practices affecting working conditions for employees, provided that they do not involve matters in any of the following areas:

(i) the purposes and functions of the Board; the compensation of and hours worked by employees; any classification system used to evaluate positions; the budget of the Board; the retirement system; any insurance or other benefit plans; internal security operations; maintenance of the efficiency of Board operations including the determination of

work methods; the right to contract out; the determination as to manpower requirements; use of technology and organization of work; and action to meet emergency situations;

(ii) management rights as to the direction of employees, including hiring, promotion, transfer, classification, assignment, layoffs, retention, suspension, demotion, discipline and discharge, provided that on matters involving the procedures to be followed by the Board for the exercise of its rights under this subparagraph, the Board shall upon request discuss such procedures with a recognized labor organization, but shall not be required to negotiate for an agreement as to them;

(iii) all Board matters specifically governed by applicable laws or regulations.

The obligation under this paragraph to negotiate with regard to certain matters shall include the execution of a written contract incorporating any agreement reached, but does not compel either the Board or a labor organization to agree to a particular proposal or to make any concession during such negotiations.

(d) At the time it requests an election to be held, any labor organization seeking recognition shall submit to the Board a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(e) Subject to the provisions of Section 8, the exclusive recognition of a labor organization shall not preclude any employee, regardless of labor organization membership, from bringing matters of personal concern not governed by a collective bargaining agreement to the attention of appropriate officers, managers or supervisory personnel in accordance with applicable law, rule, regulation, or established Bank policy, or from choosing his or her own representative in such matters.

Section 4 Determination of Appropriate Bargaining Unit

(a) If a labor organization asserts in writing to the Board that it holds cards requesting a representation election signed by at least thirty percent (30%) of the employees in a unit which that organization considers to be an appropriate bargaining unit, the labor organization and the Board shall each designate a representative who together shall request the American Arbitration Association (hereinafter referred to as "Association") to submit to them from its National Panel of Professional Labor Arbitrators a list of seven (7) impartial, qualified professional arbitrators. The two designated representatives shall meet promptly and, by alternatively striking names from the list, arrive at the remaining person who, together with the two representatives, shall constitute a Special Tribunal to rule on the labor organization's request for an election. The impartial arbitrator shall always act as the Chairperson of any Special Tribunal duly constituted under this Section.

(b) In the absence of an agreement between the labor organization and the Board on the appropriate unit, the Tribunal shall investigate the facts, hold hearings if necessary, and issue a decision as to the appropriateness of the unit for purposes of conducting a representation election for exclusive recognition and as to related issues submitted for consideration. The expenses for this proceeding, including the fees of the Association and of the arbitrator, shall be borne equally by the labor organization and the Board. If either the Board or the labor organization should disagree with the Special Tribunal's decision, the party in disagreement may appeal within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel referred to in Section 11, and the decision of the Board Panel shall be final and binding on the parties.

(c) If there is any dispute as to whether a labor organization holds cards signed by at least thirty percent (30%) of the employees in a unit claimed by a labor organization as appropriate or subsequently determined by the Special Tribunal as appropriate the dispute shall be resolved by the Chairperson of the Special Tribunal, acting as a single impartial arbitrator. The expenses of such procedure, including the impartial arbitrator's fee, shall be borne equally by the labor organization and the Board. The decision of the Chairperson of the Special Tribunal shall be final and binding and shall not be subject to appeal to the Federal Reserve System Labor Relations Panel.

Section 5 Elections

(a) Once there has been a final determination of the existence of an appropriate bargaining unit under the procedure in Section 4, and a showing by a labor organization that it has cards signed by at least thirty percent (30%) of the employees in such a unit requesting a representation election, an election shall be ordered by the Special Tribunal. A labor organization shall be recognized as the exclusive bargaining representative of the unit if it is selected by a majority of the employees in the unit actually voting.

(b) The election shall be held under the auspices of the Association and shall be subject to its election rules and regulations. However, if there should be any conflict between such rules and regulations and the provisions of this Policy, the latter shall prevail. The fees charged by the Association for its election service shall be borne equally by the labor organization and the Board.

(c) An election to determine whether a labor organization should continue as the exclusive bargaining representative of a particular unit shall be held when requested by a petition or other bona fide showing by at least thirty percent (30%) of the employees of that unit. Any dispute as to whether thirty percent (30%) of the employees requested such an election shall be resolved by the same procedure as that set forth in Section 4(b). The election shall be held under the auspices of the Association in the same manner described in paragraph (b) of this Section. The recognition of a labor organization as the exclusive bargaining representative of a unit shall be revoked if a majority of the employees in the unit who actually vote signify approval of such revocation.

(d) Only one election may be held in any unit in a twelve (12) month period to determine whether a labor organization should become, or continue to be recognized as, the exclusive representative of the employees in that unit.

(e) Upon receipt of a request for an election from a labor organization under Section 4(a), it shall be incumbent on the Board, labor organization and all others to refrain from any conduct, action or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative consistent with the right of the Board, labor organization or employees to exercise privileges of free speech in the expression of any views, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form.

(f) The Special Tribunal shall hear and decide any post-election objections of the Board or labor organization filed with it claiming that a violation of paragraph (e) of this Section has improperly affected the outcome of the election. Such objections must be filed with the Special Tribunal no later than five (5) business days after the date of election. In the event of such violation by the Board, labor organization or other individuals or organizations which the Special Tribunal finds sufficient to have prejudiced the outcome of an election, appropriate remedial action shall be taken in the form of setting aside the election results and ordering a new election, provided, however, that an appeal from the order of the Special Tribunal may be taken within thirty (30) calendar days to the Federal Reserve System Labor Relations Panel by either the Board or the affected labor organization. The ruling of the Board Panel shall be final and binding. Neither the Special Tribunal nor the Federal Reserve System Labor Relations Panel shall have the authority to direct the Bord to recognize a labor organization as the exclusive collective bargaining representative without a valid election being held in which a majority of the employees actually voting have so designated such labor organization.

(g) The Special Tribunal and the Federal Reserve System Labor Relations Panel will adhere to any rules and regulations promulgated by the Bord of Governors for the administration of the provisions of paragraphs (e) and (f) of this Section.

Section 6 Unfair Labor Practices

(a) It shall be an unfair labor practice for the Board to: (1) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 2(a); (2) dominate or interfere with the formation or administration of any labor organization, or to contribute financial or other support to it; (3) encourage or discourage membership in any labor organization by discriminations in regard to hire or tenure of employment or any term or condition of employment; (4) refuse to bargain collectively with the representative of its employees subject to the provisions of Section 3(b) and (c).

(b) It shall be an unfair labor practice for a labor organization, its agents or representatives to: (1) restrain or coerce employees in the exercise of the rights guaranteed in Section 2(a); (2) cause or attempt to cause the Board to discriminate

against an employee in violation of paragraph (a)(3) of this Section; (3) refuse to bargain collectively with the Board, provided the labor organization is the exclusive representative of a unit of employees.

(c) Notwithstanding anything previously stated in this Section, the expression of any view, argument or opinion, or the dissemination thereof, whether in oral, written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice, if such expression contains no threat of reprisal or force, or promise of benefit.

(d) The Federal Reserve System Labor Relations Panel will adhere to the rules and regulations promulgated by the Board of Governors for the prevention and remedy of the unfair labor practices listed herein.

Section 7 Approval of Agreement and Required Contents

Any agreement entered into with a labor organization as the exclusive representative of employees in a unit must be approved by the Board of Governors or a designated representative. All agreements with labor organizations shall also be subject to the requirement that the administration of all matters covered by the agreement shall be governed by the provisions of applicable laws and Board rules and regulations, and the agreement shall at all times be applied subject to such laws and regulations.

Section 8 Grievance Procedures

(a) Subject to the provisions of Section 3(b), an agreement entered into with a labor organization as the exclusive representative of employees in a unit may contain a grievance procedure, applicable only to employees in such unit and which shall be the exclusive means for a labor organization and/or an employee to obtain resolution of a grievance arising under such agreement.

(b) Grievance procedures established by a labor agreement may also include provisions for arbitration of unresolved grievances by a tripartite panel under the Voluntary Labor Arbitration Rules of the Association with the impartial arbitrator selected by the Board and the labor organization representatives on the arbitration panel to be the Chairperson. In such event, arbitration shall extend only to grievances which involve the interpretation and application of specific provisions of a labor agreement and not to any other matters or to changes in or proposed changes in the agreement. Arbitration may only be invoked by a labor organization on behalf of individual employees with the concurrence.

Section 9 Mediation of Negotiation Impasses

In the event of an impasse in negotiations between the parties for a collective bargaining agreement, either the labor organization or the Board may request the appointment of a qualified neutral person as a mediator to assist the parties in attempting to resolve the impasse. The parties will meet promptly with the mediator, and all matters discussed, as will as any documents submitted, shall not be publicly divulged for any reason. The cost of the mediator shall be borne equally by the parties.

Section 10 Time for Internal Organization Business, Consultations and Negotiations

Solicitation of memberships, dues or other internal labor organization business shall be conducted during the nonduty hours of the employees concerned. Officially requested or approved consultation between management executives and representative of a labor organization shall, whenever practicable, be conducted on official time, but the Director of the Division of Personnel, or a duly authorized representative, may require that negotiations with a labor organization be conducted during the nonduty hours of the Board.

Section 11 Federal Reserve System Labor Relations Panel

There shall be established a Federal Reserve System Labor Relations Panel, which shall consist of three members: one member of the Board of Governors of the Federal Reserve System, who shall be Chairperson of the Panel, and two public members. Each member shall be selected by the Board of Governors; provided, however, that the public members shall not have any present or past affiliation with the Federal Reserve System. Initially, one of the two public members shall be appointed for a term of two years, and the other for a term of three years. Thereafter, each public member shall be appointed for a term of three years except that in the case of an unexpired term of a former member, the successor shall be appointed to fill such unexpired term. Upon the expiration of their term of office, public members may continue to serve until their successors are appointed and have qualified. A public member may be removed by the Board only upon notice and hearing, and only for neglect of duty or malfeasance in office. The Panel shall be responsible for the duties assigned to it as set forth in this Policy.

Section 12 Amendment

This policy may be amended upon appropriate legal notice to all labor organizations recognized, or seeking recognition, under this Policy. In no instance shall amendment be applied retroactively.

By order of the Board of Governors of the Federal Reserve System, July 11, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-19066 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 270

Federal Open Market Committee; Open Market Operations of Federal Reserve Banks

AGENCY: Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Federal Open Market Commission amended its regulation relating to open market operations of Federal Reserve Banks by removing existing § 270.4(d) and redesignating the remaining paragraph as § 270.4(d). The section had authorized Federal Reserve Banks, under certain circumstances, to purchase securities directly from the U.S. Treasury. Over the years, the legislative authority on which § 270.4(d) is based has been enacted by Congress for limited periods and has occasionally been allowed to lapse prior to its renewal. The most recent renewal was approved on June 8, 1979 for a two-year period ending June 8, 1981. Since the latter date, therefore, the authority has been in a state of *de facto* suspension. The action to remove § 270.4(d) was taken to update the regulation in light of the time elapsed since the authority had expired, and the apparent absence of efforts to secure new legislation to reinstate the authority.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT: Normand R. V. Bernard, Assistant Secretary of the Federal Open Market Committee (202/452-3606), Office of Staff Director for Monetary and Financial Policy, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 270

Federal Open Market Committee, Foreign currencies, Securities.

PART 270—[AMENDED]

§ 270.4 [Amended]

Pursuant to its authority under sections 12A and 14 of the Federal Reserve Act (12 U.S.C. 263, 355), the Open Market Committee amends § 270.4 by removing paragraph (d), and redesignating paragraph (e) as paragraph (d).

By order of the Federal Open Market Committee, July 7, 1983.

Stephen H. Axilrod,

Secretary.

[FR Doc. 83-19069 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-186 (Colorado—35); Order No. 313]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of Colorado Oil and Gas Conservation Commission that portions of the "J" Sand Formation located in Adams, Arapahoe, and Elbert Counties, Colorado be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 11, 1983.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357–8316 or Victor H. Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–186 (Colorado—35) Order No. 313; Final Rule.

Issued: July 12, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include portions of the "J" Sand Formation located in Adams, Arapahoe, and Elbert Counties, Colorado as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued February 28, 1983, 48 FR 9290 (March 4, 1983)[1] based on a recommendation by the State of Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that portions of the "J" Sand Formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that portions of the "J" Sand Formation located in Adams, Arapahoe, and Elbert Counties, Colorado meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective August 11, 1983.

[1] Comments on the proposed rule were invited and one comment in support of Colorado's recommendation was received by the Commission in this docket. No one requested a public hearing and no hearing was held.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(139) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(139) *"J" Sand Formation in Colorado* RM79–76–186 (Colorado—35),

(i) *Delineation of formation.* The "J" Sand Formation is located in Adams, Arapahoe, and Elbert Counties, Colorado, approximately 12 miles east of the city of Denver. The "J" Sand Formation in Adams County underlies Township 2 South, Range 63 West, Sections 7, 18, 19, 30, 31 and S½ of Section 32; Township 2 South, Range 64 West, Sections 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 65 West, Sections 25 through 36; Township 3 South, Range 63 West, Sections 1 through 12; Township 3 South, Range 64 West, Sections 1 through 36; Township 3 South, Range 65 West, Sections 1 through 36. In Arapahoe County the "J" Sand Formation underlies Township 4 South, Range 64 West, Sections 1 through 30 and 32 through 36; Township 4 South, Range 65 West, Sections 1 through 30; Township 5 South, Range 63 West, Sections 1 through 36; Township 5 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36; In Elbert County the subject formation underlies Township 6 South, Range 63 West, Sections 1 through 35; Township 6 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 34 through 36; Township 7 South, Range 63 West, Sections 4 through 9, 16 through 21, and 28 through 33; Township 7 South, Range 64 West, Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The "J" Sand Formation ranges in thickness from 40 to 95 feet, and begins at the base of the "D" Sand and extends to the top of the Skull Creek Shale. The average depth to the top of the "J" Sand Formation is 8,100 feet.

[FR Doc. 83–19056 Filed 7–14–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–148 (Oklahoma—5) Order No. 316]

High-Cost Gas Produced From Tight Formations; Oklahoma

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Oklahoma Corporation Commission that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group located in Lincoln County, Oklahoma, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 11, 1983.

FOR FURTHER INFORMATION CONTACT: Jane M. Oliver, (202) 357–8316 and C. W. Gray, Jr., (202) 357–8731.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–148 (Oklahoma—5) Order No. 316; Final Rule.

Issued: July 12, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group located in Lincoln County, Oklahoma, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued December 16, 1982 (46 FR 57056,

December 22, 1982)[1] based on a recommendation by the Oklahoma Corporation Commission (Oklahoma) in accordance with § 271.703, that the "Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group be designated as a tight formation.

Evidence submitted by Oklahoma supports the assertion that the "Jones Sand member" of this "Cleveland Sand" interval in the Skiatook Group located in Lincoln County, Oklahoma, meets the guidelines contained in § 271.703(c)(2). The Commission adopts Oklahoma's recommendation.

This amendment shall become effective August 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(140) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * *

(140) *"Jones Sand member" of the "Cleveland Sand" interval of the Skiatook Group in Oklahoma.* RM79–76–148 (Oklahoma—5).

(i) *Delineation of formation.* The "Jones Sand member" of the "Cleveland Sand" interval is found in Sections 1 through 4 and 9 through 12, Township 13 North, Range 2 East; Sections 4 through 8, Township 13 North, Range 3 East; Sections 21 through 28 and 33 through 36, Township 14 North, Range 2 East; and Sections 19, 20 and 28 through 33, Township 14 North, Range 3 East, in Lincoln County, central Oklahoma. The "Jones Sand member" consists of three quartz sandstone zones ("upper," "middle"and "lower") and two interbedded zones of predominantly shale.

(ii) *Depth.* The depth of the designated interval ranges from 3,910 to 4,500 feet, and it is approximately 200 feet thick. The top of the designated interval is overlain by a shale zone (ranging from 200 to 280 feet in thickness), the "Upper Cleveland sand" and the "Checkerboard limestone" of the Lower Skiatook Group; the base of the interval is underlain by a shale zone (ranging from 100 to 150 feet in thickness) which separates the "Oswego limestone" of the Marmaton Group (Des Moinesian age) from the "Lower Jones sand" zone.

[1] Comments on the proposed rule were invited, and no comments were received. No one requested a public hearing and no hearings were held.

[FR Doc. 83-19061 Filed 7-14-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-169 (Texas—22 Addition III) Order No. 314]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Strawn-Detrital Formation located in Crockett County, Texas, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 11, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross (202) 357–8571, or Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced From Tight Formations; Docket No. RM79–76–169 (Texas—22 Addition III) Order No. 314; Final rule.

Issued: July 12, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include additional areas of the Strawn-Detrital Formation located in Crockett County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued March 1, 1983, (48 FR 9663, March 8, 1983)[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that additional areas of the Strawn-Detrital Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that additional areas of the Strawn-Detrital Formation meet the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective August 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising and combining paragraphs (d)(106)(i) and (d)(106)(iii). As revised, paragraph (d)(106)(i) reads as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(106) *Strawn-Detrital Formation in Texas.* RM79–76 (Texas—22).

(i) *University Block 31 (Strawn-Detrital) and Howards Creek (Penn) Fields.*

(A) *Delineation of formation.* The Strawn-Detrital Formation in the area of the University Block 31 and Howards Creek Fields is located in Crockett County, Texas, Railroad Commission District 7C. The designated area consists of Sections 7, 8, 9, the south half of Section 10, Sections 16 through 20, the south half of Section 21, Sections 29 through 32, Block 30, University Lands Survey; all Sections in Block 31, University Lands Survey; Sections 1, 2, 3, the south half of Section 4, Sections 5

[1] Comments on the proposed rule were invited and one comment in support of the recommendation was received by the Commission in this docket. No one requested a public hearing and no hearing was held.

through 8, the south half of Section 9, Sections 11 through 14 and the north half of Section 18, Block 32, University Lands Survey; Sections 6 through 20, Block 33, University Lands Survey; the southwest ¼ of Section 12, Sections 29, 30, 31, the south half of Section 32, Sections 50, 51 and the southeast ¼ of Section 53, Block UV , GC & SF RR Co. Survey; Section 2, Block ST–2, GC & SF RR Co. Survey; the north half of Hampton Survey; Section 1001 of W. G. Hall Survey; Section 1002 of J. M. Jean Survey; Section 1003 of M. F. Lopez Survey; Sections 1, 2, 14 through 18, Block ST, GC & SF RR Co. Survey; the north half of Section 49, Sections 50 through 53, the south half of Section 54, Sections 66 through 70, the east half of Section 71, Sections 76 through 79, the south half of Section 90, Sections 91, 92, 93 and the north half of Section 94, Block OP, GC & SF RR Co. Survey.

(B) *Depth.* The average depth to the top of the Strawn-Detrital Formation is approximately 7,900 feet in the north and 8,535 feet in the southwest. The thickness of the formation varies from 50 feet to 100 feet in the northeast and from 100 feet to 250 feet in the southwest.

(ii) *Perner Ranch Area.* * * *

(iii) [Removed].

[FR Doc. 83-19059 Filed 7-14-83; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Texas

[Docket No. RM79-76-170 (Texas—33) Order No. 315]

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that portions of the Devonian/Strawn/Detrital Formation located in northeast Terrell County and adjoining portions of western Crockett County, Texas, Railroad Commission District 7C, be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective August 11, 1983.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced from Tight Formations Docket No. RM79–76–170 (Texas—33) Order No. 315; Final Rule.

Issued: July 12, 1983.

The Commission hereby amends § 271.703(d) of its regulations to include portions of the Devonian/Strawn/Detrital Formation located in northeast Terrell County and adjourning portions of western Crockett County, Texas, Railroad Commission District 7C, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued February 28, 1983 (48 FR 9295, March 4, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas), in accordance with § 271.703, that portions of the Devonian/Strawn/Detrital Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that a portion of the Devonian/Strawn/Detrital Formation located in Terrell and Crockett Counties, Texas, Railroad Commission District 7C, meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective August 11, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

[1] Comments on the proposed rules were invited and the Commission received one comment, by Champlin Petroleum Company, in support of the recommendation. No one requested a public hearing, and no hearing was held.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(138) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(138) *Devonian/Strawn/Detrital Formation in Texas.* RM 79–76–170 (Texas—33).

(i) *Delineation of formation.* The Devonian/Strawn/Detrital Formation is found in northeast Terrell County and adjacent portions of western Crockett County in Texas. The designated area consists of the listed portions of the following Terrell County surveys: Sections 10–31, 73, Block 1, I&GN RR Co.; Section 19, Mrs. M. E. Hope; Section 21, J. M. Anderson; Section 22, C. M. Shaw (J. D. Blair); Section 23 P. H. Terry; Section 24, Mrs. N. King; Section 1, Block A–4, J McMurty; Section 2 Block A–4, A. C. W.; Section 3 Block A–4, P. L. Kinman; Section 4, Block A–4, F. Baumgarner; Section 5, Block A–4, J. H. Felps; Section 6, Block A–4, J. L. Cunningham; Section 7, Block A–4, J. A. Manes; Section 8, Block A–4, Mrs. A. Pride; Section 9 Block A–4, Mrs. L. Martin; Section 10, Block A–4, I. N., Bloodworth; Section 11, Block AJ–4, J. E. R.; Section 1–12, Block 176, TM RR; Section 1–38, Block B–2, CCSD & RGNG; and the following Crockett County surveys: Section 24–38, 40–42, 45, 48–50, Block 2, I&GN RR Co.; Section 39–46, Block ST, TC RR; Section 199, 200, L&SV; Section 48, Block ST, TC RR; Section 13–20, Block 2, J. H. Gibson; Section 99, 100, Block NN, GC & SF; Section 22, Block NN–2, WM. Hornsbuckle (A–4873); Section 48½, J. B. Brown; Section 1, Block NN, L. G. Moses; Section 2, Block NN, W. L. Lacy; Section 3,4, Block NN, Robert Rankin; Section 22–35, Block 1, I&GN RR Co.; Section 14, 22–24, west half of 25, Block 28, University Lands.

(ii) *Depth.* The top of the Strawn section of the Devonian/Strawn/Detrital ranges from a measured depth of 8,442 feet in the east to 10,200 feet in the southwest. The Strawn varies in thickness from 28 feet in the east to 205 feet in the west. The top of the Detrital section ranges from a measured depth of 8,500 feet in the east to 10,310 feet in the southwest. The Detrital varies in thickness from 46 feet in the east to 230 feet in the southwest. The top of the Devonian section ranges from a

measured depth of 8,570 feet in the east to 10,900 feet in the southwest. The Devonian varies in thickness from 275 feet in the north central to 600 feet in the northwest. In the western third of the designated area the Detrital and Devonian sections are separated by a wedge of Mississippian age rock units up to 500 feet thick.

[FR Doc. 83-19060 Filed 7-14-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 82F-0272]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of propylene glycolated poly(N-1', 2'-dihydroxyethylene-4-hydroxy-5-methylpyrimid-2-one) copolymer as a starch insolubilizer in paper coatings intended to contact dry food. This action responds to a petition by Sun Chemical Corp.

DATES: Effective July 15, 1983; objections by August 15, 1983.

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

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 17, 1982 (47 FR 41208), FDA announced that a petition (FAP 2B3651) had been filed by the Sun Chemical Corp., P.O. Box 70, Chester SC 29706, proposing that the food additive regulations be amended to provide for the safe use of propylene glycolated poly(*N*-1', 2'-dihydroxyethylene-4-hydroxy-5-methylpyrimid-2-one) copolymer as a starch insolubilizer in paper coatings intended to contact dry food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 U.S.C. 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the infomation contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and therefore an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

PART 176—INDIRECT FOOD ADDITIVES, PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.180(b)(2) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

Substances	Limitations
* * * * *	
Propylene glycolated poly(*N*-1', 2'-dihydroxyethylene-4-hydroxy-5-methylpyrimid-2-one) copolymer	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 15, 1983 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 15, 1983.

(Secs. 210(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: July 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-18930 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 82F-0181]

Indirect Food Additives: Polymers; Polysulfone Resins

Correction

In FR Doc. 83-15537, beginning on page 26761 in the issue of June 10, 1983, make the following correction.

On page 26761, second column, first line of the **"FOR FURTHER INFORMATION CONTACT"** paragraph, "(HFF-344)" should have read "(HFF-334)".

BILLING CODE 1505-01-M

21 CFR Part 178

[Docket Nos. 81F-0413 and 81F-0414]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for

the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl)ester as an antioxidant and/or stabilizer in polycarbonate and in polyvinyl chloride and vinyl chloride copolymers in contact with food. This action responds to food additive petitions filed by Borg-Warner Chemicals, Inc.

DATES: Effective July 15, 1983; objections by August 15, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** of January 29, 1982, FDA announced that petitions (FAP 2B3598 at 47 FR 4345 and FAP 2B3599 at 47 FR 4344) had been filed by Borg-Warner Chemicals, Inc., Technical Centre, Washington, WV 26181, proposing that the food additive regulations be amended to provide for the safe use of phosporus acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl)ester with triisopropanolamine as an antioxidant and/or stabilizer in polyvinyl chloride and vinyl chloride copolymers (FAP 2B3598) and in polycarbonate (FAP 2B3599) in contact with food. The petitions were later amended to omit the use of triisopropanolamine.

FDA has evaluated the data in the petitions and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an enviromental impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61 as revised February 4, 1983; 48 FR 5251), Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Phosphorous acid, cyclic neopentanetetrayl bis(2,4-di-*tert*-butylphenyl)ester (CAS Reg. No. 26741-53-7).	For use only: 1. At levels not to exceed 0.88 percent by weight in polyvinyl chloride and/or vinyl chloride copolymers that comply with §§ 177.1950, 177.1960, 177.1970, or 177.1980 of this chapter for use with all food types described in Table 1 of § 176.170(c) of this chapter, except those containing more than 15 percent alcohol, under conditions of use B, C, D, E, F, G, and H described in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.25 percent by weight of polycarbonate resins that comply with § 177.1580 of this chapter for use with all food types described in Table 1 of § 176.170(c) of this chapter, except those containing more than 15 percent alcohol, under conditions of use B, C, D, E, F, G, and H described in Table 2 of § 176.170(c) of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 15, 1983 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective July 15, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: July 7, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-18933 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

New Animal Drugs Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for several new animal drug applications (NADA's) from Elanco Products Co. to Medico Industries, Inc. Supplements to the affected NADA's provide for this change.

EFFECTIVE DATE: July 15, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024 has filed supplements to several NADA's providing for a change of sponsor from Elanco Products Co. The firms confirmed the changed of sponsor by letter. Affected are: NADA 11–531, Dizan Tablets; NADA 11–674, Dizan Powder; and NADA 12–469, Dizan Suspension.

This action, the change of sponsor for several NADA's, does not involve changes in manufacturing facilities, equipment, procedures, or personnel. The regulations are amended to reflect the change of sponsor.

List of Subjects in 21 CFR Part 520

Animal drugs, oral.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

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) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended as follows:

§ 520.763a [Amended]

1. In § 520.763a *Dithiazanine iodide tablets*, paragraph (c) is amended by removing "000986" and inserting in its place "015562".

§ 520.763b [Amended]

2. In § 520.763b *Dithiazanine iodide powder*, paragraph (c) is amended by removing "000986" and inserting in its place "015562".

§ 520.763c [Amended]

3. In § 520.763c *Dithiazanine iodide and piperazine citrate suspension*, paragraph (b) is amended by removing "000986" and inserting in its place "015562".

Effective date. July 15, 1983.

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

Dated: July 8, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-18927 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Methohexital Sodium Injection; Removal of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing a portion of the animal drug regulations to reflect withdrawal of approval of a new animal drug application (NADA) for methohexital sodium injection held by Elanco Products Co. The sponsor requested withdrawal of approval.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a document published elsewhere in this issue of the **Federal Register** approval of Elanco Products Co.'s NADA 11-618 for Brevane (methohexital sodium injection) is withdrawn. The sponsor requested the withdrawal of approval because the product is no longer being marketed. This document amends the animal drug regulations to remove that section reflecting approval of the NADA (21 CRR 522.1404).

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1404 [Removed]

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Part 522 is amended by removing § 552.1404 Sodium methohexital for injection.

Effective date. July 25, 1983.

((Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: July 8, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-18929 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-83-1078]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR Part 115, which provides recognition by the Department of those State and local fair housing laws that provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment grants recognition to twelve additional jurisdictions that meet the legal and performance standards for recognition.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426-3500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 28, 1983, the Department of Housing and Urban Development published in the **Federal Register** (48 FR 19180) a notice of proposed rulemaking to the effect that, pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968, as amended, it was proposing to grant recognition to thirteen localities determined to have laws substantially equivalent to Title VIII. The evaluation of the laws of these jurisdictions had been conducted in accordance with the provisions of 24 CFR Part 115, with particular focus on §§ 115.2(a), 115.3 and 115.8. In the notice of proposed rulemaking, those sections were set forth to give appropriate information to all parties with an interest in HUD's proposed action.

All interested persons and organizations were invited to submit written comments on or before May 31, 1983. Only one comment was received within the comment period, with respect to the Village of Maywood, Illinois from the Maywood Human Relations Commission. This comment expressed concern about the Commission's performance capability because of its lack of money to hire professional staff to perform fair housing functions. Since HUD's requirements for recognition of a jurisdiction as providing substantially equivalent protection include adequate performance, and HUD has not yet had time to resolve this performance issue, this final rule excludes the Village of Maywood from the list of recognized jurisdictions.

Findings and Certifications

This final rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because the greater flexibility afforded to localities to implement their own enforcement mechanisms and the greater responsiveness to specific problems in localities under this rule should inure alike to the benefit of both large and small governmental jurisdictions.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18053) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program numbers and titles are: 14.400, Equal Opportunity in Housing and 14.401, Fair Housing Assistance Program.

List of Subjects in 24 CFR Part 115

Fair housing, Intergovernmental relations.

Accordingly, 24 CFR Part 115.11 is amended as follows:

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Add to the list of localities in § 115.11, the names of Anchorage, Alaska; Metropolitan-Dade County, Florida; Urbana, Illinois, East Chicago, Indiana; Lexington-Fayette, Kentucky; St. Paul, Minnesota; St. Louis, Missouri; Winston-Salem, North Carolina; Dayton, Ohio; Harrisburg, Pennsylvania; York, Pennsylvania; and King County, Washington, so that the section reads as follows:

§ 115.11 Jurisdictions with substantially equivalent laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska	Montana
California	Nebraska
Colorado	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
Illinois	New Mexico
Indiana	New York
Iowa	Oregon
Kansas	Pennsylvania
Kentucky	Rhode Island
Maine	South Dakota
Maryland	Virginia
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin

Localities

Anchorage, Alaska	Kansas City, Missouri
Phoenix, Arizona	St. Louis, Missouri
District of Columbia	Lincoln, Nebraska
New Haven, Connecticut	Omaha, Nebraska
Clearwater, Florida	New York, New York
Metropolitan Dade County, Florida	Charlotte, North Carolina
Jacksonville, Florida	Mecklenburg County, North Carolina
Orlando, Florida	New Hanover County, North Carolina
St. Petersburg, Florida	Raleigh, North Carolina
Bloomington, Illinois	Winston-Salem, North Carolina
Evanston, Illinois	Dayton, Ohio
Springfield, Illinois	Harrisburg, Pennsylvania
Urbana, Illinois	Philadelphia, Pennsylvania
Columbus, Indiana	Pittsburgh, Pennsylvania
East Chicago, Indiana	York, Pennsylvania
Fort Wayne, Indiana	Sioux Falls, South Dakota
Gary, Indiana	Knoxville, Tennessee
South Bend, Indiana	King County, Washington
Iowa City, Iowa	Seattle, Washington
Kansas City, Kansas	Tacoma, Washington
Salina, Kansas	Beckley, West Virginia
Wichita, Kansas	Charleston, West Virginia
Lexington-Fayette, Kentucky	Huntington, West Virginia
Howard County, Maryland	Beloit, Wisconsin
Montgomery County, Maryland	
Prince Georges County, Maryland	
Minneapolis, Minnesota	
St. Paul, Minnesota	

(Sec. 810(c) of the Civil Rights Act of 1968, 42 U.S.C. 3610; Section 234 of the Housing and Community Development Amendments of 1978).

Dated: July 8, 1983.

W. Scott Davis,

General Deputy, Assistant Secretary, Fair Housing and Equal Opportunity.

[FR Doc. 83-19110 Filed 7-14-83; 8:45 am]

BILLING CODE 4210-28-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 145

[OW-FRL-2395-2]

New Jersey Department of Environmental Protection Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of New Jersey has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for all classes of injection wells meets the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Walter Andrews, Chief Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. Ph.: (212) 264–1800.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect ot its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of New Jersey was listed as needing a UIC program on June 19, 1979 (44 FR 35288). The State submitted an application under Section 1422 on December 10, 1982, for a UIC program to be administered by the New Jersey Department of Environmental Protection (NJDEP). On December 17, 1982 EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the NJDEP (47 FR 56520). The public hearing was held on January 19, 1983 in Trenton, New Jersey. After careful review of the application

and comments from the public, I have determined that the New Jersey UIC program for Classes I, II, III, IV, and V injection wells submitted by the NJDEP meets the requirements established by the Federal regulations pursuant to Section 1422 of the SDWA and, hereby, approve it.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the New Jersey Department of Environmental Protection will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: July 11, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-19200 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[W18-FRL-2390-5]

Wyoming Department of Environmental Quality Underground Injection Control; Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Wyoming has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes, I, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's program to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the Act. Therefore, this application is approved.

EFFECTIVE DATE: This approval is effective July 15, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick Crotty, Chief, Colorado/North Dakota/Wyoming Section, Drinking Water Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. PH (303) 837-2731.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Wyoming was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State submitted an application under Sections 1422 and 1425 on February 11, 1982, for the approval of a UIC program governing Classes I, II, III, IV, and V injection wells. The program would be jointly administered by the Wyoming Department of Environmental Quality (WDEQ), applying under Section 1422 for Classes, I, III, IV, and V wells, and the Wyoming Oil and Gas Conservation Commission (WOGCC), applying under Section 1425 for Class II injection wells. On March 12, 1982 EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Wyoming UIC program submitted by the WDEQ/WOGCC (47 FR 10862). A public hearing was held on April 13, 1982 in Casper, Wyoming. The Class II injection well program was approved by EPA on November 23, 1982 (47 FR 52434). After careful review of this application, which includes the Memoranda Of Agreement (MOA), and the comments received from the public, I have determined that the Wyoming UIC program submitted by the WDEQ to regulate Classes I, III, IV, and V injection wells meets the requirements of Section 1422 of the SDWA, and hereby approve it.

In this application, Wyoming chose not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe a UIC program governing injection wells on any Indian lands or reservations in Wyoming.

The Wyoming program application outlines the responsibilities of both Wyoming and EPA in the procedure for processing requests for aquifer exemptions. Wyoming will submit information on all aquifer exemption requests to EPA. EPA will review each request for conformance with the State criteria and EPA's regulations at 40 CFR 146.04. EPA will act upon the request in accordance with provisions in the MOA and EPA's regulations at 40 CFR 144.7(b)(3). The State agrees that before any permit is issued after program approval, the Land Quality Division will incorporate into its permit form standard permit conditions equivalent to 40 CFR 144.32(b) and (c), 144.51(e), 144.51(j), and 146.33(c). Wyoming further agrees that permits for existing Class III injection wells will be modified to reflect the application approval by EPA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—lands, Water supply, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information.

The EPA is publishing this approval, effective immediately, so that Wyoming can permit two new Class I wells and one new Class III facility under a federally approved UIC program.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Wyoming Department of Environmental Quality will not have a significant economic impact on a substantial number of small entities, since this rule only approves States actions. It imposes no new requirements on small entitites.

Dated: July 11, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-19199 Filed 7-14-83, 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[HW-5-FRL-2399-6]

Hazardous Waste Management Programs; Phase I Interim Authorization

AGENCY: Environmental Protection Agency, Region V.

ACTION: Granting of Phase I interim authorization to Ohio's State hazardous waste management program.

SUMMARY: The State of Ohio has applied for Phase I interim authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 271, Subpart B). EPA has reviewed Ohio's hazardous waste program and has determined that the program is substantially equivalent to the Federal program. EPA is hereby granting Phase I interim authorization to Ohio to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: July 15, 1983.

FOR FURTHER INFORMATION CONTACT: Patricia Vogtman, Environmental Protection Agency, Region V, Waste Management Division, Waste Management Branch, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-7450.

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle C of RCRA requires EPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, EPA is authorized under Section 3006 of RCRA to approve State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions. Two types of State programs approvals are authorized under RCRA: "Final authorization" is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement. "Interim authorization" is a temporary approval for States which might not meet the requirements of final authorization, but whose programs are at least "substantially equivalent" to the Federal program. RCRA contemplates that States receiving interim authorization will use the interim authorization period to make the changes in their regulations and statutes necessary to qualify for final authorization.

On May 19, 1980, EPA published the first phase of the Federal hazardous waste program regulations (40 CFR Parts 260–263 and 265) including guidelines for authorizing State hazardous waste programs under Section 3006 (40 CFR Part 271). These guidelines set forth the requirements for interim authorization and the procedures which EPA will follow in acting on State applications for interim authorization. They also provide that EPA will grant interim authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal program.

On January 7, 1983, the State of Ohio submitted to EPA its complete application for Phase I interim authorization (IA application). In the February 3, 1983 **Federal Register** (40 FR 4836), EPA announced the availability for public review of the Ohio application. EPA also indicated that a public hearing would be held on March 16, 1983, with the public record open until March 26, 1983. There were no comments presented at the public hearing.

After a detailed review of the final Ohio IA application, EPA transmitted comments to the Ohio Environmental Protection Agency (OEPA) on March 16, 1983. These comments requested minor additions and revisions to the Authorization Plan and the Memorandum of Agreement portions of the IA application. On May 9, 1983, the State submitted the requested revision to EPA.

There were no major issues raised by EPA concerning the application. However, pursuant to 40 CFR 271.127, EPA requested the State to identify those statutory changes necessary to meet the requirements for final authorization contained in Phase I. The OEPA has amended its Authorization Plan to meet this requirement.

II. Response to Public Comments

Two commenters presented written testimony on the Ohio IA application. Both comments supported the granting of interim authorization to the State of Ohio. The significant issues raised by these commenters and EPA's responses are summarized below:

Issue—Will the State of Ohio be required to maintain a uniform regulatory system of environmental protection after authorization by adopting regulations substantially equivalent to amendments promulgated by EPA?

Response—In order for Ohio to qualify for Phase I authorization, the State was required to adopt regulations substantially equivalent to the Federal regulations relevant to Phase I as promulgated in the **Federal Register** on May 19, 1980. This requirement has been met. Although the State of Ohio has adopted many of the Federal regulatory amendments to the May 19, 1980, Phase I regulations, it has not adopted all amendments promulgated to date. To qualify for final authorization, all States are required to adopt regulations equivalent to the Federal program and must have provisions in the State rules for incorporating modifications that EPA makes in its hazardous waste regulations (40 CFR 271.21).

Issue—One commenter was concerned that Ohio's administrative procedures might impede the ability of the State to adopt Federal regulations in a timely manner.

Response—As noted above, to qualify for Phase I interim authorization, States are only required to adopt regulatory amendments promulgated by EPA on May 19, 1980. However, to qualify for final authorization, States are required to adopt regulations equivalent to all Federal hazardous waste management regulations promulgated up to the date of authorization. In addition, the State must adopt Federal amendments adopted after authorization within 1 year of the date of promulgation of such

regulation, unless the State must amend or enact a statute in order to make the required revision. In the latter case, the State is given 2 years to make the revision. Ohio's administrative procedures for adopting statutory or regulatory amendments are well within the Federal time constraints.

Issue—Ohio permits are issued for a 3-year period. This is much too short a period, creating uncertainty for facility owners and unnecessarily increasing the cost of the program.

Response—Under Phase I interim authorization, EPA retains authority for issuing RCRA permits in the State of Ohio. Comments on the State permit issuance process should be addressed to the State.

Issue—The State of Ohio requires an annual report of hazardous waste handling activities along with a number of "ad hoc" reports which may be required. These reporting requirements add a significant burden to regulated facilities. The State of Ohio should replace these reporting requirements with the biennial report adopted by EPA.

Response—Under interim authorization, the State has the authority to adopt regulations which are more stringent and broader in scope than the Federal regulations, as long as these regulations do not impede the flow of interstate commerce or otherwise interfere with the national regulatory scheme established by RCRA. The rationale for this provision is to provide sufficient flexibility for each State to tailor its hazardous waste program to meet its own needs and priorities. Ohio and other States rely upon annual and other reports to enable the State to adequately assess and manage the types and amounts of hazardous wastes (including small quantity wastes) that are generated, stored, treated, or disposed of within and outside of its jurisdiction.

III. Decision

EPA has reviewed the complete application for Phase I interim authorization from the State of Ohio and has determined that the State program is "substantially equivalent" as defined in 40 CFR Part 271, Subpart B to the Phase I Federal program. In accordance with Section 3006(c) of RCRA, the State of Ohio is hereby granted interim authorization to operate its hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Ohio will be subject to the State of Ohio hazardous waste program in lieu of the Federal hazardous waste program (40 CFR Part 260–263 and 265) and will not again be subject to Phase I of the Federal program unless: (1) The State fails to amend its Phase I submission to include all of the components of Phase II interim authorization by the deadline specified in 40 CFR 271.137, or (2) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations, or (3) authorization is withdrawn for good cause by EPA pursuant to Section 3006(e) of RCRA.

IV. Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

V. Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

VI. Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a singificant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. This rule, therefore, does not impose any new burdens on small entities. This rule, therefore, does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: May 27, 1983.

Alan Levin,

Acting Regional Administrator, Region V.

[FR Doc. 83-19164 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 425

[WH-FRL 2400-5]

Leather Tanning and Finishing Industry Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of final rule.

SUMMARY: EPA is correcting the effective dates for the applicability of the sulfide pretreatment standards contained in 40 CFR 425.04. The erroneous dates appeared in the Federal Register on June 30, 1983 (48 FR 30115). These changes are not substantive in nature.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained by writing to Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-7189.

SUPPLEMENTARY INFORMATION: The regulations are corrected as follows:

1. 40 CFR 425.04(c)(1) as amended at 48 FR 30117 refers to "February 22, 1983." This is revised to read October 13, 1983.

2. 40 CFR 425.04(c)(2) as amended at 48 FR 30117 refers to "May 23, 1983." This is revised to read October 13, 1983.

3. 40 CFR 425.04(c)(3) as amended at 48 FR 30117 refers to "June 22, 1983." This is revised to read October 13, 1983.

Dated: July 13, 1983.

Tudor Davies,

Acting Assistant Administrator for Water.

[FR Doc. 83-19380 Filed 7-14-83; 10:02 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 233

Aid to Families With Dependent Children Disregard of Income of Dependent Children Deprived From Participation in Programs Carried Out Under the Job Training Partnership Act of 1982

AGENCY: Social Security Administration, HHS.

ACTION: Interim regulations with request for comments.

SUMMARY: These regulations implement the Job Training Partnership Act of 1982 (JTPA) which became effective on October 13, 1982. The Act provided that the $30 and one-third earned income disregard will be applied after all other disregarded amounts have been deducted from an individual's countable monthly income, including the new optional disregard. This new section specifies that, at State option, the income of any dependent child applying for or receiving aid to families with dependent children (AFDC) derived from a program carried out under the JTPA may be disregarded for purposes of eligibility determination and benefit calculation, but only in such amounts, and for such periods of time (not to exceed six months per year for earned income) as the Secretary provides in regulations. In addition, the Act requires that the same amounts that the State disregards under section 402(a)(8)(A)(v), be disregarded in determining whether the family's gross income exceeds 150 percent of the State's need standard.

This regulation provides that, for purposes of determining eligibility, including whether the family has income in excess of 150 percent of the State standard of need, and in determining the amount of AFDC benefits, a State may, at its option, disregard all or a portion of the monthly earned income of each dependent child applying for or receiving AFDC derived from participation in a program carried out under the JTPA. This disregard of earned income can be for a maximum of six months per year. Also, a State may disregard all or a portion of the monthly unearned income, i.e., need-based payments, cash assistance, compensation in lieu of wages, and allowances, that a child may receive from participating in any such program. This disregard of unearned income can be for any length of time specified by the State.

DATES: These interim regulations are effective July 15,1983, except paragraph (a)(3)(xvii) of § 233.20. However, the statute was effective upon enactment, October 13, 1982. Written comments may be submitted by September 13, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Md. 21203, or delivered to the Office of Family Assistance, Social Security Administration, Room B–442, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. David Siegel, Room B–442, Transpoint Building, 2100 Second Street, SW., Washington, D.C. 20201, telephone (202) 245–2637.

SUPPLEMENTARY INFORMATION:

Justification for Dispensing With Notice of Proposed Rulemaking

The JTPA replaced the Comprehensive Employment and Training Act (CETA) with a new program and delivery system to train economically disadvantaged persons and others for permanent, private sector employment. Two of the programs under CETA, Job Corps (Title IV, Part B) and the Summer Youth Employment and Training Program (Title II, Part B) were incorporated into the JTPA. In particular, the Summer Youth Employment and Training Program (hereinafter "Summer Youth Program") is a major potential source of summer employment for children who receive AFDC. For both these programs, the statute provides that the States can disregard income but only in such amounts and for such period of time as the Secretary prescribes in regulations. In view of the imminent start of the Summer Youth Program for the summer of 1983, and the continuing operation of the Job Corps Program, it is necessary that interim regulations be promulgated as soon as possible so that States are made aware of the Secretary's decisions regarding the option to disregard all or part of the income which applicants and recipients derive from participation in these programs. Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking because issuance of proposed regulations would be impracticable and contrary to the public interest.

While Notice of Proposed Rulemaking is being waived, we are, of course, interested in comments regarding these interim regulations. We will review these comments and will revise the rules, if appropriate.

Discussion of the Statutory Provisions

Overview of the Job Training Partnership Act

Title I of the JTPA sets forth State and local service delivery system and planning requirements. It provides policies and procedures on the development and implementation of performance standards and defines basic administrative requirements under the JTPA. Title II authorizes and sets out requirements for adult and youth training programs (including the Summer Youth Program) to be administered by the State and planned and carried out through a partnership between the private sector and government at the local level. Title III provides for a State administered training and placement assistance program for dislocated workers. Title IV authorizes certain federally administered activities, including programs for Native Americans, migrant and seasonal farmworkers, veterans, labor market information, the Job Corps, and other national activities. Title V includes amendments to the Social Security Act which are implemented by this regulation and the Wagner-Peyser Act.

Types of Payments Participants May Receive

The JTPA of 1982 provides for several types of payments for participants, as follows:

1. *Wages for Work Experience Programs.* Wage rates must not be less than the higher of the Federal, State or local minimum wage, or the prevailing rate of pay for individuals employed in similar occupations by the same employer. (Wages paid to participants in on-the-job training are paid by the employer and not from JTPA funds.)

2. *Need-Based Payments.* Where necessary, need-based payments may be provided in accordance with a locally developed formula or procedure to enable individuals to participate in a training program.

3. *Payments for Supportive Services.* Cash or in-kind assistance may be provided to cover supportive services which are necessary to enable an individual, who is eligible for training but who cannot afford to pay for such services, to participate in a training program. Such payments cover transportation, health care, child care, meals, etc.

4. *Compensation In Lieu of Wages.* Compensation in lieu of wages must be provided for participants in tryout employment at private-for-profit work sites or at public and private non-profit work sites when private-for-profit work sites are not available. Individuals in tryout employment may not participate more than 20 hours per week during the school year or 250 hours per assignment.

5. *Payments to Job Corps Participants.* Most Job Corps participants reside at a Job Corps Center where their

subsistence needs are met. An allowance is provided to participants for personal necessities. The amount of the allowance depends on longevity and successful participation in the program. Upon termination, a readjustment allowance based on longevity is paid for transition from the Job Corps Center to the community.

Discussion of the Regulatory Provisions

These regulations allow States maximum flexibility in determining what portion of a dependent child's earned and unearned income will be disregarded and the length of time the disregard will be applied (up to six months per year for earned income). This approach was selected because we believe that it carries out the intent of the statute and represents the most reasonable method of implementing the statute.

Earned Income

We are permitting States to establish the amounts, and time periods (up to six months per year) that the disregard will apply. This approach was selected for two reasons. First, States are in a better position to know local employment opportunities and to know what amounts are necessary to encourage participation in JTPA employment in a cost effective manner. Second, since the disregard is optional, it seems clear that Congress did not intend to require that States with fiscal problems would have to grant any specific disregards under JTPA programs. If the Secretary, in exercising her broad discretion under the Act to set these disregards, mandated a specific limit or a flat amount of earned income to be disregarded, there could be States which might be forced to opt against granting any disregards in light of their fiscal condition. However, by providing each State maximum flexibility to apply disregards in accordance with its fiscal priorities, the Secretary has ensured that there will be a broader application of the JTPA disregard provisions. In this way, the Secretary has carried out her responsibility in a manner which comports with the optional nature of the disregard provisions of the statute and the intent of Congress that States authorize earned income disregards where feasible.

Unearned Income

As with earned income, these regulations also provide States maximum flexibility to establish the amount of unearned income, i.e., need-based payments, cash assistance, compensation in lieu of wages, allowances, etc., that can be disregarded. Thus, the State may disregard the total amount of unearned income, set a flat amount, or choose to disregard, on a case-by-case basis, only that portion of the need-based payment which is directly related to expenses from participating in the program. States may also at their option continue the unearned income disregard indefinitely or set a maximum number of months per year during which the disregard is available.

Apart from the amount and length of time that States may apply these disregards, another provision of the regulation permits States to determine for which programs under the JTPA this disregard will be applied. For example, a State may elect to allow a disregard under the Summer Youth Program and not under the program for Migrant Workers or Native Americans. We believe States should have this flexibility in view of the optional nature of these disregards. If we did not allow this option, as we indicated in the discussion of the earned income disregard, States faced with financial constraints may choose not to apply the disregards in any JTPA program. By allowing this flexibility, each State, if it chooses, will be able to extend the disregard to the maximum extent possible under the fiscal circumstances of the State.

Other Provision

It should be pointed out that the new provision does not affect the current law in how this income is treated if it is retained. To the extent that the income is retained on the month following its receipt, it must be counted against the State's resource limit.

Application of the JTPA Income Disregards

The AFDC program has a two tiered process for determining eligibility. First, a family's gross income must be measured against 150 percent of the State's need standard. In making this determination, if a dependent child has earned or unearned income from participating in a JTPA program, the amount which is disregarded pursuant to section 402(a)(8)(A)(v) of the Social Security Act, is not counted in making this determination. If the family's gross income still exceeds 150 percent of the need standard, the family is ineligible for assistance.

However, if the family's income is less than 150 percent of the need standard, the eligibility process continues. The family's income is measured against the State's standard of need to determine if the family is eligible for benefits, and if so, the amount of the benefit. With respect to these determinations, all applicable income disregards are applied in reducing the family's countable income.

As indicated above, section 503 of the JTPA added a new 402(a)(8)(A)(v) to the Social Security Act to provide for an optional income disregard for dependent children participating in JTPA programs. This new disregard is in addition to all pre-existing disregard provisions under the Social Security Act. Under the Act, 402(a)(8)(A)(i) provides for a total disregard of the earned income of a dependent child who is a full-time student or is part-time student who is not employed full-time. Thus, since a student's earned income is already totally disregarded, no additional earned income disregard is available in determining the amount of the benefit as a result of this new optional disregard. However, the child does receive the benefit of an additional disregard in that the amount set forth in the State plan to be disregarded under section 402(a)(8)(A)(v) will not be counted in determining initial eligibility under the 150 percent of need test. The child will also receive for unearned income, the disregard applicable to such income designated by the State.

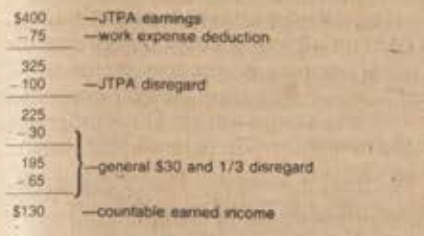
If the dependent child is not a student whose earned income is totally disregarded, the AFDC statute also provides, in the case of earned income, for the monthly disregard of $75 for work expenses, of up to $160 for the care of a child or an incapacitated adult, and of $30 and one-third of the remainder of earned income for four consecutive months (if the child has received AFDC in one of the four prior months). In applying the applicable disregards to non-students, the work expense disregard and the child care disregard (if applicable) are applied first. The second step is to apply the earned income disregard specified in the State plan for earned income derived from participation in a JTPA program. Finally, the statutory $30 and one-third pursuant to 402(a)(8)(A)(iv) is applied to any remaining income. Of course, if the child has any unearned income derived from a JTPA program, the disregard specified in the State plan for unearned income will be applied to that income.

The following example illustrates how countable earned income is computed in a State that elects to disregard a flat amount of $100 per month.

Example

When a child (who has received AFDC in one of the four prior months) is employed full time in a JTPA program but is not a student and has no child

care costs, countable earned income is computed as follows:



Cost/Regulatory Impact Analysis

This regulation does not meet any of the three criteria which result in a required regulatory impact analysis under Executive Order 12291. Specifically, this regulation will not have an annual effect on the economy of more than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant 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.

The number of States which would elect this option is currently unknown. Therefore, the estimate provided below is the maximum possible effect if all States elect to disregard all income derived by AFDC dependent children participating in the Summer Youth Employment and Training Program an average of three months. The estimated additional program expenditures would be $16.5 million in Federal funds and $14 million in State and local funds, or approximately $30.5 million total. The estimate is based on the level of participation and earnings of AFDC children in the FY 1982 CETA Summer Youth Employment and Training Program.

The estimate excludes the additional cost which may result from the disregard of unearned income that may be provided to some AFDC dependent children participating in Job Corps and the Summer Youth Program. This unearned income is subject to wide variation in the amount received under these programs, and is therefore difficult to estimate reasonably. The effect of the regulation on administrative costs is expected to be negligible.

As the analysis above indicates, the combined impact of this regulation is less than $100 million, it will not cause a major increase in costs to State and local agencies, and it will not affect United States-based enterprises from competing with foreign-based enterprises. Thus, it does not meet any of the three criteria of Executive Order 12291 which would require a regulatory impact analysis.

Discussion of Non-Selected Options

The options we considered in developing these regulations, but did not select, are discussed below.

(A) We considered whether to limit the disregard of monthly earned income to a maximum of $30 and one-third of the remainder for a period not to exceed four consecutive months (but in no event longer than six months) per year and to limit the disregard of unearned income to $25. The $30 and one-third has been the commonly accepted earned income disregard for AFDC, and $25 is the maximum amount for which Federal Financial Participation (FFP) is available for necessary and reasonable expenses incurred by participants in the Community Work Experience Program (CWEP). This option was not selected because it would limit State discretion in implementing the disregard. Further, we believe that the approach adopted in these interim regulations more fully implements the optional income disregard provisions of the JTPA in that it will enable States to make available to applicants and recipients the broadest possible disregard while at the same time taking into account their own fiscal circumstances.

(B) We considered whether to permit States to limit application of the disregards to certain AFDC children. For example, States may wish to encourage school attendance by limiting the disregards to students. This option was not selected because there is no indication in the JTPA that Congress intended this disregard to apply only to children in school.

(C) We considered whether to require a State, which elects the option to disregard income under the JTPA, to apply the disregards to all programs under the JTPA. As mentioned previously, this option was not selected because it might force a State to not choose to implement the option in any JTPA program.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis in not required.

Recordkeeping/Reporting Burden—Information collection requirements contained in these interim regulations will be effective upon approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Regulatory Flexibility Act—These regulations, if promulgated, will not have a significant impact on a substantial number of small entities because they primarily affect State governments and individuals. Therefore, a regulatory flexibility analysis, as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of sections 1102 of the Social Security Act, as amended, 42 U.S.C. 1302, sections 402(a)(8)(A) (iv) and (v) and 402(a)(18) as amended by section 503 of Pub. L. 97–300.

(Catalog of Federal Domestic Assistance Program 13.808, Public Assistance Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance, Grant programs—Social programs, Public assistance programs, Reporting and recordkeeping requirements.

Dated: June 22, 1983.

Paul B. Simmons,

Acting Commissioner of Social Security.

Approved: June 23, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 233—[AMENDED]

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

Section 233.20 is amended by revising paragraphs (a)(11)(i)(A), (a)(11)(i)(D), (a)(11)(ii)(A), (a)(11)(ii)(B), by deleting and reserving paragraph (a)(4)(ii)(j), and by adding two new paragraphs, (a)(3)(xvii) and (a)(11)(v) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * *

(3) *Income and resources.* * * *

(xvii) In the case of AFDC, if the State chooses to disregard monthly income derived from participation in a program under the JTPA, provide that the State plan shall:

(A) Identify from which programs under the JTPA, income will be disregarded;

(B) In the case of earned income, specify what amount will be disregarded, and the length of time the disregard will be applicable (up to six months per year); and (C) In the case of unearned income, specify what amount will be disregarded, and the length of

time per year the disregard will be applicable if any such limit is chosen.

(4) Disregard of income in OAA, AFDC, AB, APTD, or AABD. * * *

(ii) * * *

(j) [Reserved.]

* * * * * * *

(11) Disregard of income and resources applicable only to AFDC.

* * *

(i) * * *

(A) Disregard all of the monthly earned income of each child receiving AFDC if the child is a full-time student or is a part-time student who is not a full-time emploee. A student is one who is attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the Job Corps program under the Job Training Partnership Act (JTPA).

* * * * * * *

(D) Where appropriate, an amount equal to $30 plus one-third of the earned income not already disregarded under paragraphs (a)(11)(i) and (a)(11)(v) of this section of an individual who received assistance in one of the four prior months.

(ii) * * *

(A) Disregard all of the monthly earned income of each child receiving AFDC if the child is a full-time student or is a part-time student who is not a full-time employee. A student is one who is attending a school, college, or university or a course of vocational or technical training designed to fit him or her for gainful employment and includes a participant in the Job Corps program under the Job Training Partnership Act (JTPA).

(B) Disregard from any other individual's earned income the amounts specified in paragraphs (a)(11)(i) (B) and (C) of this section, and $30 plus one-third of his earned income not already disregarded, under paragraphs (a)(11)(ii) and (a)(11)(v) of this section. However, the State may not provide the disregard to an individual after the fourth consecutive month (any month for which the unit loses the $30 plus one-third disregard because of a provision in paragraph (a)(11)(iii) of this section, shall be considered as one of these months) it has been applied to his earned income until after an additional twelve consecutive months during which he is not a recipient of AFDC. If income from a recurrring source resulted in suspension or termination due to an extra paycheck, the month of ineligibility does not interrupt the accumulation of consecutive months of the $30 and ⅓ disregard, nor does it count as one of the consecutive months.

* * * * *

(v) At State option, disregard all or part of the monthly income of any dependent child applying for or receiving AFDC derived from a program carried out under the Job Training Partnership Act of 1982, except that in respect to earned income such disregard may not exceed six months per year.

* * * * *

[FR Doc. 83-18510 Filed 7-14-83; 8:45 am]
BILLING CODE 4190-11-M

FEDERAL MARITIME COMMISSION

46 CFR Part 522

[General Order 24, Amendment No. 3; Docket No. 76-63]

Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Amendment of final rules.

SUMMARY: This grants, in part, Petitions for Reconsideration of the final rules issued in this proceeding. These amendments are for the purpose of further clarifying the status and treatment of supporting statements, and for allowing communications between Commission staff and agreement proponents in the case of uncontested agreements.

DATE: July 15, 1983.

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

SUPPLEMENTARY INFORMATION: On October 18, 1982, the Commission issued final rules[1] in this proceeding which revised regulations governing the filing and processing of agreements pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814). A supplement to the final rules was issued on November 2, 1982,[2] and the rules became effective on January 1, 1983. Petitions seeking relief from certain provisions of the final rules have been filed by a group of fifteen steamship conferences and rate agreements (Conference Group),[3] by the Pacific Coast European Conference (PCEC),[4] by Sea-Land Service, Inc. (Sea-Land),[5] by six of the member conferences of the Associated Latin American Freight Conferences (ALAFC),[6] and by the Council of European & Japanese National Shipowners' Associations (CENSA).[7]

Background

The final rules revise Commission procedures for: (a) filing agreement approval requests pursuant to section 15, including statements in support thereof; (b) filing comments and protests to such agreements, and responsive pleading thereto; and (c) the disposition of agreement approval requests. The purpose of the final rules is to ensure fair, orderly and expeditious processing of agreement approval requests.

The original Notice of Proposed Rulemaking appeared in the **Federal Register** on November 23, 1976 (41 FR 51622 51623). Numerous comments to the proposed rulemaking were filed by carriers, conferences of carriers, and other interested parties. On June 20, 1979, the Commission issued revised proposed rules and invited further comment (44 FR 36077-36080).

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[1] General Order 24, Amdt. 2, 46 CFR Part 522, 47 FR 46284-46287.

[2] 47 FR 49648-49649. Notice of the Office of Management and Budget clearance of the reporting requirements of the rules appeared in the **Federal Register** on January 7, 1983 (48 FR 797).

[3] The Conference Group filed a "Petition For Reconsideration Or Modification Of, And Relief From, The Commission's Final Rules" pursuant to Rules 261, 51 and 69 of the Commission's Rules of Practice and Procedure (46 CFR 502.261, 502.51 & 502.69). The fifteen conferences and rate agreements joining in this Petition are: Australia/Eastern U.S.A. Shipping Conference; The "8900" Lines; Greece/U.S. Atlantic Rate Agreement; Iberian/U.S. North Atlantic Westbound Freight Conference; Israel/North Atlantic Ports Westbound Freight Conference; Italy, South France, South Spain, Portugal/U.S. Gulf and the Island of Puerto Rico (Med-Gulf) Conference; Marseilles North Atlantic U.S.A. Freight Conference; Mediterranean-North Pacific Coast Freight Conference; Mediterranean U.S.A. Great Lakes Westbound Freight Conference; North Atlantic/Israel Freight Conference; North Atlantic Mediterranean Freight Conference; U.S. Atlantic & Gulf/Australia-New Zealand Conference; U.S. North Atlantic Spain Rate Agreement; U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement; The West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference.

[4] PCEC filed a "Petition For Reconsideration" on behalf of the Conference and its member lines.

[5] Sea-Land filed a "Petition for Clarification or Amendment" pursuant to Rules 51 and 69 of the Commission's Rules of Practice and Procedure.

[6] Six of the member conferences of the ALAFC filed "Comments in Support of a Petition for Reconsideration or Modification of, and Relief From, the Commission's Final Rules." The comments support the Conference Group Petition and urge that it be granted. The six ALAFC members subscribing to the comments are: United States Atlantic & Gulf/Ecuador Freight Conference; Atlantic & Gulf/Panama Canal Zone, Colon and Panama City Conference; Atlantic & Gulf/West Coast of South America Conference; East Coast Colombia Conference; West Coast of South America Northbound Conference; and United States Atlantic & Gulf-Venezuela Conference.

[7] CENSA filed a "Petition for Reconsideration and Modification of Final Rules".

Additional comments were submitted on the revised rules. [8]

These comments were carefully considered and, where appropriate, were incorporated in the final rules issued by the Commission. The Petitioners seeking relief from the final rules have, for the most part, been participants during the course of this rulemaking proceeding. [9]

Discussion

The particular sections of the final rules objected to by the Petitioners are: (1) Sections 522.5 and 522.6 as they concern the status of supporting statements and affidavits as public records and the confidential treatment of such documents; (2) section 522.7 as it concerns communications between Commission staff and agreement proponents and the good cause requirement for supplementation of a filing; and (3) section 522.8 as it relates to the "notice and hearing" requirement of section 15 of the Shipping Act. In addition, Petitioners object to the absence from the final rules of a provision which would establish internal Commission deadlines for processing agreements, and the absence of the provision which would indicate that internal staff memoranda and recommendations are part of the administrative record in the agreement review process. Each of these objections are discussed below. [10]

1. *Section 522.5 Supporting statements and § 522.6* **Federal Register** notice. Section 522.5 provides that supporting statements are public records and that no claims of confidentiality with regard to such statements will be allowed. Section 522.5 also provides that affidavits or other evidence may be attached to supporting statements. Section 522.6(e) provides that supporting statements shall be available for inspection at the Commission's offices. The earlier revised rule provided that copies of the agreement and the supporting statement would be available for inspection at the Commission offices. It did not explicitly state that requests for confidentiality would not be allowed.

Several Petitioners object to these sections as they relate to affidavits and supporting statements filed in connection with requests for approval of an agreement. Sea-Land claims that it is unclear whether the affidavits submitted with supporting statements may be given confidential treatment. Sea-Land believes that this section should be clarified to permit confidential treatment of proprietary information contained in an affidavit or other document submitted with a supporting statement. CENSA also argues that some measure of confidentiality should be provided for in order to avoid the alleged harm that may result from disclosure of sensitive business information. Sea-Land states further that, if confidential treatment is not permitted, these sections should then be modified to affirm Commission practice of providing notice to agreement proponents of any request for proprietary data so that such information may be withdrawn prior to disclosure.

Affidavits and other documents submitted with a supporting statement are part of the supporting statement and, therefore, are public documents for which confidentiality claims are not permitted. This is the clear intent of § 522.5 and 522.6. However, in order to avoid any possible ambiguity, these sections shall be amended to expressly state that affidavits and other evidence attached to supporting statements are part of the public record.

No amendment to these sections to allow for confidential treatment of supporting statements is necessary or appropriate. Making such information public is the consequence that proponents must accept when they seek section 15 authority. Such agreements are impressed with a public interest and are not merely contracts governing the private business relationships of the parties. Full disclosure is required to enable protestants, commentators and other interested persons to know the basis for an agreement and be able to fashion informed responses. Therefore, Petitioners' request that this section be amended to allow for confidential treatment of supporting statements is denied.

Nor is it practical to notify agreement proponents of any request for proprietary data prior to disclosure. Such a provision would be contrary to the purpose of the final rules since it would be likely to delay the processing of agreements. Therefore, Petitioners' request for such an amendment is denied.

2. *Section 522.7 Comments and protests.* Section 522.7 defines and sets forth procedures for the filing of comments and protests. This section also provides for the service of comments and protests and for the filing and service of any response by proponents of an agreement. Section 522.7(e) limits communications between parties to section 15 agreements and Commission staff and prohibits further supplementation of the proponent's filing unless good cause is shown. The provision of § 522.7(e) which sets forth the good cause requirement did not appear in the earlier revised proposed rules. Other changes in § 522.7 from the revised proposed rules are non-substantive in nature.

Petitioners object to the prohibition against communications between Commission staff and agreement proponents in the case of unprotested agreements. Petitioners argue that such contacts facilitate the agreement review process, that the prohibition against such contacts will delay consideration of agreements, and that such a prohibition should apply only where protests or comments have been filed.

Petitioners also object to the good cause requirement of § 522.7(e). They argue that the good cause requirement unduly restricts a proponent's ability to supplement its support of an agreement in unprotested cases and is not in keeping with the Commission's responsibility to base its decisions on the fullest possible record.

The final rule's preclusion of communication with staff in the case of unprotested agreements was intended to expedite the agreement review process by encouraging proponents to make the proper showing required for approval with their initial submission and to avoid piecemeal additions of supporting information which could delay the agreement review process. There are, however, instances where such communications may resolve staff questions and aid the review process. The Commission has determined that, with respect to unprotested agreements, such contacts may on balance be of more benefit than detriment to the agreement review process. Therefore, § 522.7 shall be amended to permit members of the staff of the Bureau of Agreements and Trade Monitoring (Bureau) to contact the parties to unprotested agreements, at the discretion of the Bureau Director. Such contacts would not be undertaken prior to the close of the comment period. The preclusion of such contacts by the

[8] A list of commentators is set forth in Appendix A of the final rules. 47 FR 46286-47287.

[9] One member conference joining in the ALAFC Petition and four conferences subscribing to the Conference Group Petition appear not to have previously submitted comments.

[10] Petitioners also complain that the record in this proceeding is stale and that the final rules were issued without additional notice and comment. Petitioners do not explain how the length of this proceeding would affect the record or the final rules themselves. Moreover, Petitioners and other interested persons have had ample opportunity to comment on the rules throughout this proceeding. Many of the objections raised by Petitioners have previously been considered. Finally, these very Petitions have provided an opportunity to comment on the final rules.

Bureau staff in the case of protested or commented agreements remains in effect. Contacts initiated by parties to an agreement are not permitted.

The "good cause" requirement of § 522.7 is also intended to expedite agreement review by limiting supplementary submissions to those instances wherein good cause is shown. This provision ensures a definite termination of the agreement review process and at the same time establishes a procedure for dealing with those instances in which special circumstances call for allowing supplementary submissions. This mechanism appears to be reasonable and fair and no amendments to the good cause requirement appear to be warranted. Therefore, Petitioners' requests to amend the "good cause" requirement shall be denied.

3. *Section 522.8 Disposition of agreement approval requests.* Section 522.8 sets forth procedures for the disposition of agreement approval requests. This section provides for further proceedings regarding an agreement when the Commission considers further inquiry advisable, when a protest alleges material facts which would preclude approval, and when the proponents of an agreement properly exercise their right to request a further hearing. This section also establishes procedures for conditional approval of agreements and describes the factual showing that must be made when proponents request further hearing. Although this section of the final rules reflects certain clarifying, technical and editorial changes, it is substantially the same as published in the revised proposed rules.

The Conference Group contends that § 522.8 fails to ensure a hearing prior to conditional or unconditional disapproval of an agreement by treating the statutory right to a hearing prior to disapproval as discretionary. It also argues that this section places an unfair triple burden on the proponent which the Commission has not explained or justified.[11] The Conference Group believes that this section will delay rather than expedite the processing of agreements.

ALAFC goes further and argues that section 15 guarantees proponents an evidentiary hearing prior to conditional disapproval. ALAFC also notes that § 522.8 contains no definition of "conditional order of disapproval", and that such orders are not final orders of the Commission and may not be appealed to the United States Court of Appeals.

PCEC contends that the proponent of a section 15 agreement has a statutory right to a hearing upon "simple request" and attacks those provisions in §§ 522.8 (b)(3) and (d)(2) which require that a proponent prove entitlement to a hearing.

CENSA argues that § 522.8 improperly limits proponents' right to a hearing and imposes new, unnecessary, burdensome, and costly requirements. CENSA contends that the conditional disapproval procedure is not consistent with the statutory right to a hearing before disapproval.

The basic issue raised by these rules and the contentions of the parties is not so much the right of parties to a hearing, but the right of the Commission to control the structure and procedures of hearings conducted under the Shipping Act. It is clear that the statute requires "notice and hearing" before the Commission may disapprove an agreement.[12] It is also clear that the Commission has substantial latitude in constructing the type of procedures best suited to fulfilling this hearing obligation.[13] The procedures set forth in the final rules afford filing parties a basic hearing procedure from the date an agreement is filed. Neither the language of the statute nor the decisions of the courts require the Commission to hold a formal evidentiary hearing prior to action on a request for approval. The kind of hearing required will depend upon the nature of the agreement and the issues which must be resolved.[14]

In determining what kind of hearing is appropriate in a particular case, the Commission must, of course, be guided by principles of due process and fairness to the parties.[15] Where an application for approval raises disputed issues of material fact, a trial-type evidentiary hearing may well be required.[16] However, where the disposition of the case does not involve such issues, the Commission must be able to reach intelligent decisions about other types of proceedings which will most economically provide fair procedures to the parties and an adequate record for Commission decision and judicial review.[17] The Commission must also ensure that it obtains sufficient information so that its decision is based on substantial evidence,[18] and reflects a consideration of all relevant factors.[19]

An appropriate hearing within the meaning of section 15 is one in which the proponents of an agreement are afforded an effective opportunity to develop a factual record and legal argument in support of the request for approval. Typically, the hearing requirement of section 15 is satisfied by affording all interested parties the opportunity to submit comments or arguments and present evidence in the form of affidavits or other documents. The procedures set forth in § 522.8 provide this opportunity and are in harmony with the statute and relevant

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[11] The alleged triple burden is: (1) In the initial supporting statement; (2) in the requirements to prove entitlement to a hearing; and (3) in the hearing itself.

[12] Section 15 of the Shipping Act, 1916 provides in relevant part that:

The Commission shall by order, after notice and hearing, disapprove, cancel or modify any agreement or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act, and shall approve all other agreements, modifications, or cancellations.

[13] *Sea-Land Service, Inc.* v. *United States*, 663 F. 2d 491, 495 (D.C. Cir. 1982); *United States Lines, Inc.* v. *Federal Maritime Commission*, 584 F. 2d 519, 537 (D.C. Cir. 1978). In *Marine Space Enclosures, Inc.* v. *Federal Maritime Commission*, 420 F. 2d 577, 589 (D.C. Cir. 1969) the court stated that: "The requirement of a hearing in a proceeding before an administrative agency may be satisfied by something less time-consuming than courtroom drama."

[14] "The statute does not require that a hearing be held where no one requests one, rather, it requires only that interested persons be given the opportunity for a hearing. This applies equally to approval or disapproval of agreements. Further, a trial-type evidentiary hearing is not always required. Where there are no disputes as to the material facts, an appropriate hearing could consist of the filing of briefs or memoranda of law. In the usual case, the Commission affords interested parties an opportunity for hearing by the publication in the Federal Register of an invitation to submit comments, protests, and requests for hearing. If no one takes advantage of that opportunity, or if the comments, protests, or requests for hearing are frivolous, the Commission is not required to hold a hearing before approving an agreement." *Canadian-American Working Arrangement*, 16 S.R.R. 733, 738 (1976).

[15] *Seatrain International, S.A.* v. *Federal Maritime Commission*, 584 F. 2d 546, 550 (D.C. Cir. 1978).

[16] In *Marine Space Enclosures* the court held that where agreements which are anticompetitive in nature involve disputed issues of material fact a further hearing was necessary. As the court noted, antitrust issues ". . . do not lend themselves to disposition solely on briefs and argument." In remanding the case to the Commission, however, the *Marine Space Enclosures* court deliberately and explicitly refrained from requiring the Commission to hold formal evidentiary hearings. *Marine Space Enclosures, supra*, 420 F. 2d at 590.

[17] *Outward Continental North Pacific Freight Conference* v. *Federal Maritime Commission*, 385 F. 2d 981, 984 n.9 (D.C. Cir. 1967); *Persian Gulf Outward Freight Conference* v. *Federal Maritime Commission*, 375 F. 2d 335, 340-41 (D.C. Cir. 1967).

[18] *Consolo* v. *Federal Maritime Commission*, 383 U.S. 607 (1966).

[19] *Seatrain International S.A.* v. *Federal Maritime Commission, supra*, 584 F. 2d at 550.

court decisions. Proponents may file whatever supporting information they believe is necessary in their initial filing. Should the Commission determine that this initial showing is not adequate and issue an order of conditional disapproval, § 522.8 provides that proponents may exercise their right to request a further hearing. This further hearing will be granted provided a proper showing is made that additional proceedings will serve some legitimate purpose which cannot be fulfilled by less formal tools. The conditional disapproval order is in essence a notice to parties of the Commission's view that the state of the record is such that approval cannot be granted, and that absent a request for additional procedures to demonstrate material evidence, the subject agreement will be finally disapproved at a subsequent date.

Petitioners complain that § 522.8 places an undue burden on proponents.[20] The final rules, however, do not impose any mandatory filing requirements. The only burden imposed on proponents of an agreement is the burden to satisfy the standards of section 15. In the particular case of an agreement which would otherwise be violative of the antitrust laws or which would be likely to have serious anticompetitive consequences, a proponent has a burden to justify the agreement under the *Svenska* doctrine.[21] The final rules merely set forth a procedure for meeting the burden imposed by section 15 and, where applicable, the *Svenska* doctrine. Petitioners' arguments that the final rule impose additional, extra-statutory, substantive burdens on filing parties are without merit. The Commission has simply established uniform procedures for making determinations as to the type of hearing required.

[20] Petitioners' objections to this section contain certain internal inconsistencies. On the one hand, they claim that proponents are deprived of an adequate hearing, and on the other, that the provisions in § 522.8 which provide an additional opportunity to justify an agreement place an undue burden upon proponents. The so-called "triple burden" is in fact but one requirement: the requirement that parties seeking Commission action on agreements explain the reasons for the requested action and provide presentation to enable the agency to structure an appropriate proceeding.

[21] The *Svenska* doctrine is the proposition affirmed in *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), whereby section 15 agreements which interfere with the policies of the antitrust laws will be disapproved as "contrary to the public interest" unless justified by evidence establishing that the agreement, if approved, will meet a serious transportation need, secure an important public benefit or further a valid regulatory purpose of the Shipping Act, 1916. The burden is on proponents of such agreements to come forward with the necessary evidence.

Petitioners claim that § 522.8 will delay the processing of agreements. The procedures set forth in § 522.8, however, should promote more efficient management of Commission resources and hence expedite the agency's processes. A rule which would require formal hearings upon mere request without any supporting information would be likely to lead to unnecessary hearings. The Conference Group's suggestion that parties would not frivolously undertake an expensive hearing is beside the point. It is the Commission's responsibility to control its administrative processes. The burden is properly on proponents of an agreement to make a sufficient showing of approvability to warrant further hearing. Such a requirement is not unreasonable.

It is not clear what point ALAFC intends to make when it states that conditional orders of disapproval are not final orders of the Commission and may not be appealed. Such orders become final when the conditions stated therein are not met, and thereafter may be appealed.[22] No right of appeal is denied by the procedures of this section.

ALAFC also complains that § 522.8 does not define the term "conditional order of disapproval". While the term is not defined in the rules, the language of § 522.8 makes the meaning of the term readily apparent and inclusion of an actual definition would appear to be unnecessary.

Accordingly, no further revision of § 522.8 appears to be warranted and Petitioners' various requests for modification of or relief from this section shall be denied.

4. *Internal Deadlines for Processing Agreements.* The Preamble to the final rules states that: "Internal deadlines and procedures have been established and are now in the process of being further updated. However, these matters are inappropriate for inclusion in a Commission General Order and are more properly the subject of an internal Commission directive." 47 FR 46284. On October 18, 1982, simultaneously with the issuance of the final rules, the Commission published Commission Order No. 104 which sets forth internal procedures governing the processing of agreements (47 FR 46376–46379). This Order also became effective on January 1, 1983.

The Conference Group objects to the absence in the final rules issued in Docket No. 76–63 of any provision establishing binding internal deadlines for the processing of agreements. The Conference Group is aware of the procedures set forth in Commission Order No. 104,[23] but contends that those procedures are inadequate because they are not mandatory and because there are no sanctions for non-compliance. The Conference Group contends that agreements should be processed in the order in which they are filed.

The Commission has established adequate internal procedures to ensure the expeditious processing of agreements. The procedures set forth in Commission Order No. 104 should ensure that agreements generally will be processed in the order in which they are filed. The final rules do not, nor would it be feasible, given the varying complexity of agreements, guarantee that agreements will be processed strictly in the order in which they are filed. Such a rule would unduly restrict the flexibility of the Commission.

Although the original rules do not have the force of law, they do establish a clear regime for processing agreements which the Commission is now implementing. Petitioners suggest that the rules should contain sanctions for non-compliance but do not state what sanctions would be appropriate. Commission Order No. 104 sets forth the requirements which the staff of the Commission must meet. Adherence to these requirements is a matter which concerns the performance of Commission personnel and any failure to meet those requiremetns may be addressed through established Commission personnel policy. This is not a matter which involves the approvability of an agreement pursuant to section 15 and hence should not be included in General Order 24. Accordingly, Petitioners' request for an amendment to the final rules providing for inclusion of internal processing rules and sanctions related thereto shall be denied.

5. *Availability of Internal Reports or Information.* CENSA objects that both the final rules in Docket No. 76–63 and the procedures set forth in Commission Order No. 104[24] permit the Commission

[22] Proponents are also free at that time to refile the agreement with appropriate justification, the conditional disapproval order having indicated the deficiencies.

[23] In its Petition filed on November 12, 1982, PCEC stated that the Commission's internal processing guidelines should be made public. PCEC's comment completely overlooks the publication of the Commission's internal rules on October 18, 1982, in the same issue of the **Federal Register** as appeared the final rules in Docket No. 76–63.

[24] CENSA objects to the procedures in section 5 of Commission Order No. 104 which provides for the development of "additional facts" and the preparation of a "data package" by the Office of Regulatory Policy and Planning upon request of the Director, Bureau of Agreements and Trade Monitoring.

to make determinations on the approvability of agreements on the basis of information which CENSA contends is not in the record. CENSA argues that staff recommendations and memoranda are part of the administrative record upon which the Commission relies in its decisionmaking process and should be available to the parties. CENSA argues that the full administrative record must be disclosed in order to determine whether the Commission acted arbitrarily.

As authority for this contention, CENSA cites *United States Lines, Inc.* v. *Federal Maritime Commission*, 584 F. 2d 519 (D.C. Cir. 1978) and *Home Box Office, Inc.* v. *Federal Communications Commission*, 567 F. 2d 9 (D.C. Cir.), *cert. denied*, 434 U.S. 829 (1977). These cases deal with the issue of *ex parte* communications and hold that if a communication from outside the agency contains information which forms the basis for agency action, then that information must be disclosed to the public.

These decisions do not require the routine disclosure of internal memoranda or recommendations, prepared to assist the Commission in its deliberations, either during the agreement review process or even prior to a decision by the Commission. It is sufficient for the Commission to articulate the facts relied upon to support its decision in the order itself even where those facts are derived from internal Commission sources. We are aware of no legal precedent which would require the routine disclosure of internal memoranda in all cases. Accordingly, Petitioners' request to amend the rules to require that such internal documents be made available to the public shall be denied.

List of Subjects in 46 CFR Part 522

Administrative practice and procedure.

PART 522—[AMENDED]

Therefore, it is ordered, That pursuant to 5 U.S.C. 553 and sections 15, 21, 22 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 820, 821 and 841a), Part 522 of Title 46, Code of Federal Regulations, is amended as follows.

1. Section 522.5 is amended by revising the third sentence to read as follows:

§ 522.5 Supporting Statements.

* * * Supporting statements, including all documents, affidavits, or other evidence attached thereto, are public records.

2. Section 522.6 is amended by revising paragraph (e) to read as follows:

§ 522.6 Federal Register Notice.

* * * * *

(e) A statement that the agreement and any supporting statement, including all documents, affidavits, or other evidence attached thereto, are available for inspection at the Commission's offices;

3. Section 522.7 is amended by revising the first sentence of paragraph (e) to read as follows:

§ 522.7 Comments and Protests.

* * * * *

(e) Except as provided in this section and § 522.5, or except, in the case of an unprotested agreement, as the Director, Bureau of Agreements and Trade Monitoring may in his/her discretion initiate, or unless specifically requested in writing by the Commission, with copies to the proponents and persons which have filed protests or comments, no other written or oral communication concerning a pending agreement shall be permitted. * * *

* * * * *

It is further ordered, That Petitioners' requests for reconsideration, clarification, modification or withdrawal of, relief from, or amendment to the final rules issued in Docket No. 76–63 are granted to the extent indicated above and denied in all other respects.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-19080 Filed 7-14-83; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register
Vol. 48, No. 137
Friday, July 15, 1983

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 52

United States Standards for Grades of Canned Ripe Olives

Correction

In FR Doc. 83-18267 beginning on page 31406 in the issue of Friday, July 8, 1983, make the following corrections:

1. On page 31408, in the first column, in § 52.3756(c), in the eleventh line, "80 percent" should read "70 percent".

2. On the same page, also in the first column, in § 52.3761(a), in the first line, "fo" should read "of".

3. On page 31409, in the third column, in § 52.3761(f), in the sixth line, "reardless" should read "regardless".

BILLING CODE 1505-01-M

Commodity Credit Corporation

7 CFR Part 1493

CCC Export Credit Guarantee Program (GSM-102)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commodity Credit Corporation (CCC) is considering a revision of the CCC Export Credit Guarantee Program regulations (GSM-102) (7 CFR Part 1493). Under the current GSM-102 program, only the U.S. exporter may apply for a GSM-102 payment guarantee, but the exporter then usually assigns the guarantee to a financial institution in the United States. Also, each payment guarantee is identified with a particular export sale(s). CCC is considering changing the current structure of GSM-102 to allow only the entity that actually will finance, or arrange the financing for, the transaction to apply for the payment guarantee. Another change being considered is to issue one guarantee to cover the total amount to be financed rather than to issue guarantees on a sale by sale basis. It is anticipated that such a change would reduce the administrative burden for all U.S. parties involved since it could substantially reduce the number of individual guarantees issued and would essentially eliminate the necessity of assigning the payment guarantees. CCC is also considering making any technical changes in the GSM-102 regulations that are desirable in light of the operating history of the program to date.

DATE: Comments must be received on or before September 13, 1983.

ADDRESS: Mail comments to the Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: L. T. McElvain, Deputy Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, Washington, D.C. 20250. Tel: (202) 447-6225.

SUPPLEMENTARY INFORMATION: The tremendous expansion of the Commodity Credit Corporation (CCC) Export Credit Guarantee Program (GSM-102) in recent years has caused a huge increase in paperwork for exporters, financing institutions and CCC. CCC, therefore, is considering a revision of the GSM-102 regulations to reduce the amount of paperwork and administrative burden for all parties concerned.

In addition, since the inception of the GSM-102 program in 1980, CCC has gained substantial experience with the day to day operation of the program. CCC recognizes, as a result of this experience, that a number of technical issues and questions have arisen concerning the interpretation of the regulations. CCC wishes to clarify these concerns as much as possible in the revised regulations and therefore encourages interested parties to comment on any such issues or questions they have encountered under the current program.

The GSM-102 regulations currently in effect guarantee exporters who sell U.S. agricultural commodities overseas on credit terms for 3 years or less that they will be paid by CCC in the event the purchaser's bank fails to make a scheduled payment. In practice, the vast majority of CCC guarantees are assigned by the exporter to financing institutions in the United States which actually finance or arrange financing for the sale.

Under present procedures, each guarantee is identified with an export sale or sales. The recent expansion of the GSM-102 program has significantly increased the number of sales covered by CCC guarantees. The resulting rise in the number of guarantees issued and the number of assignments made has led to an increase in the paperwork and other administrative burdens for exporters, financial institutions and CCC.

To reduce the workload involved in assigning guarantees, CCC is considering issuing the guarantee directly to the party (the exporter or financial institution) who actually finances the sale or arranges to finance the sale instead of issuing the guarantee only to the exporter.

To reduce the number of guarantees issued, CCC is considering allowing a single guarantee to provide the specified coverage for the entire amount financed or arranged to be financed for a given foreign bank by the applicant for the guarantee. This amount could include several export sales made by one or more exporters.

CCC is also considering revising its regulations to include details of the guarantee terms and conditions in the payment guarantee document itself rather than in the regulations as under the current system. This change would allow CCC to administer the GSM-102 program in a way more compatible with commonly accepted commercial practice. The guarantee, with its terms and conditions, thus will be in a single document and more self-explanatory to guarantee holders and others who participate in guarantee financing.

This public is invited to submit written comments and suggestions to the above address regarding the changes discussed in this notice and any other changes which would improve the operation of the present program. Each person submitting suggestions or comments is requested to include his/her name and address and should give reasons for the comments or suggestions. Copies of all written communications will be available for examiniation by interested persons in Room 4526, South Building, U.S.

Department of Agriculture during regular business hours.

List of Subjects in 7 CFR Part 1493

Agricultural commodities, Exports, Foreign banking, Loan programs-agriculture, Reporting and recordkeeping requirements.

Dated: July 11, 1983.

Melvin E. Sims,

General Sales Manager and Vice-President, Commodity Credit Corporation.

[FR Doc. 83-19057 Filed 7-12-83; 10:45 am]

BILLING CODE 3410-10-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

Proposed Amendment; Defining the Amount of Insured Deposit

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend Part 330 of its regulations ("Clarification and Definition of Deposit Insurance Coverage") by adding a new section that would define the amount of an insured deposit, taking into account accrued or anticipated interest or dividends. This action is necessary so as to facilitate the FDIC's insurance activities in paying off insured deposits where a bank fails. The intended effect of this proposed regulation is to provide for the calculation of accrued or anticipated interest or earnings on deposits and would include them as part of the deposits for deposit insurance purposes.

DATE: Comments must be received by September 13, 1983.

ADDRESSES: Comments should be sent to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, or delivered to Room 6108 at the same address between the hours of 9:00 a.m. and 5:00 p.m. on business days. Comments received may be inspected in Room 6108 between 9:00 a.m. and 4:15 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel or Fredric H. Karr, Attorney (202) 389-4171, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC does not have a specific regulation setting forth the procedures for accrual of interest for purposes of paying an insured deposit. As a matter of practice, and particularly in the case of commercial banks which contract to pay interest on deposits, the practice of accruing interest to the date of the closing of the bank determines the amount owed by the bank to the depositor as of the date that the bank is closed for liquidation.

Differences in the rights of mutual saving bank depositors, as distinguished from commercial bank depositors, and the advent of the "zero interest" certificate of deposit, have stimulated an examination of FDIC practices with regard to the accrual of interest. As for state-chartered mutual savings banks, insofar as savings deposits are concerned, it is the general practice of the mutual savings bank's board of trustees to meet at the times (usually at the end of a calendar quarter) that the earnings on the savings deposit ("dividends") are to be paid, look to such external factors as the savings bank's profitability, and then declare dividends to be paid on savings deposits. This distinction between commercial bank interest and mutual savings bank dividends raises the question as to the recognition for insurance purposes of anticipated dividends on the savings deposits of a mutual savings bank were the bank to default in the middle of a dividends-payment period prior to the declaration of dividends for that period.

A second issue for consideration involves the "zero-interest" certificate of deposit. In this situation, the depositor does not receive interest *per se*. Rather, the depositor purchases the certificate at a discount from its face value and receives the full face value of the certificate at maturity. There is no contract for the payment of interest during the term of the deposit and no stated interest rate or period for compounding. A regualtion prescribing the method for constructing accrued interst on "zero-interest" time deposits would eliminate uncertainty with regard to their value for purposes of FDIC insurance.

The proposed regulation equates the announced or anticipated interest or dividends of a mutual savings bank with the contract rate of interest of a stock form of depository institution and provides for accrual of interest, whether contracted or anticipated, as of its date of closing in order to determine the amount of the deposit for insurance purposes. In the absence of any such announced or stated anticipated rate, the constructive rate for savings deposits will be the rate paid in the immediately preceding payment period. To deal with the zero-interest certificate situation, the proposed regulation provides for the following: the value for that type of certificate shall be its purchase price, plus the amount of accreted earnings to the date of the bank's closing. In turn, these accreted earnings shall be calculated by compounding interest annually at the rate necessary to increase the purchase price to the maturity value over the life of the certificate.

The adoption of this proposed rule will not bring into play either the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Section 605(b) of the Regulatory Flexibility Act provides in essence that the regulatory flexibility analyses required under sections 603 and 604 of that Act need not be prepared if the head of the agency certifies that the rule will not, if promulgated, have a "significant economic impact on a substantial number of small entities." The Board of Directors of the FDIC has certified that the adoption of such a regulation will not have such an impact because it merely contains a method of computing deposit accounts to be used by the FDIC, and then only where a depository institution fails.

The rule will not have a direct or noticeable effect on the competitive relationships among banks and between banks and nonbanks. Consequently, as provided in section 605(b), initial and final regulatory flexibility analyses need not be prepared. For the same reasons, a cost-benefit analysis, with a small bank impact statement, as otherwise required by the FDIC's statement of policy, "Development and Review of FDIC Rules and Regulations," need not be prepared.

The adoption of this proposed regulation will not involve the Paperwork Reduction Act, since the promulgation of this rule will require no additional recordkeeping on the part of banks and instead only represents a method of computation to be used by the FDIC and then only in the event of a contingency, *i.e.*, the failure of a depository institution.

List of Subjects in 12 CFR Part 330

Banks, Banking, Deposit insurance.

Proposed Amendment

PART 330—[AMENDED]

12 CFR is amended as follows:

1. The authority citation for Part 330 reads as follows:

Authority: 12 U.S.C. 1813, 1817, 1821, 1822.

2. In Part 330, the text is amended by adding a new § 330.15 to read as follows:

§ 330.15 Amount of insured deposit.

(a) For those depository institutions where earnings on any savings deposit are calculated at a contract rate, the amount of an insured deposit is the principal amount which the insured deposit holder would have been entitled to withdraw as of the date of default of the institution, plus earnings on the deposit accrued to such date at the contract rate, without regard to whether such deposit is subject to any pledge.

(b) For those depository institutions where earnings on any deposit are calculated at an anticipated or announced rate, the amount of an insured deposit is the principal amount which the insured deposit holder would have been entitled to withdraw as of the date of default of the institution, plus earnings on the deposit accrued to such date at the anticipated or announced rate, without regard to whether such deposit is subject to any pledge.[1] In the absence of any such announced or stated anticipated rate, such rate for savings deposits shall be the rate paid in the immediately preceding payment period.

(c) With respect to certificates of deposit sold at a discount from their face value, and for which there is no stated rate of interest, the value of the certificate shall be its purchase price plus the amount of accrued earnings calculated by compounding interest annually at the rate necessary to increase the purchase price to the maturity value over the life of the certificate.

(d) For all insured banks, where there is a time deposit with a fixed or minimum term or a qualifying or notice period that has not expired as of such date, interest theron to the date of closing shall be computed according to the terms of the deposit contract as if the deposit could have been withdrawn on such date without any penalty or reduction in the rate of earnings.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

July 11, 1983.

[FR Doc. 83-19175 Filed 7-14-83; 8:45 am]

BILLING CODE 6714-01-M

[1] Regardless of the method of the calculation of earnings on a deposit and whether or not the deposit is subject to any pledge, said method and/or presence or absence of a pledge shall not affect the FDIC's right to deduct offsets in determining the amount of insured deposits, as set forth in section 3(m)(1) of the Federal Deposit Insurance Act.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6472, File No. S7-983]

Proposed Revisions to Rule 144 and Rescission of Rule 237 and Form 237

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment a proposed amendment to Rule 144 [17 CFR 230.144] under the Securities Act of 1933 which would remove the requirement that current information be available publicly for the resales of securities held for three years or more by non-affiliates of the issuer. In light of the proposed amendment to Rule 144, the Commission also is proposing to rescind Rule 237 [17 CFR 230.237], an exemption for the resale of certain securities held for five years, and Form 237 [17 CFR 239. 145], a notice of sales pursuant to Rule 237. The amendment, if adopted, would relieve certain of the burdens that Rule 144 may impose upon small issuers and non-affiliates.

DATE: Comments must be received on or before August 22, 1983.

ADDRESS: Interested persons should submit three copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 and should refer to File No. S7-983. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Betsy Callicott Goodell at (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 144 [17 CFR 230.144] under the Securities Act of 1933, [15 U.S.C. 77a *et seq.*, as amended] (the "Securities Act") sets forth a "safe harbor" under Section 4(1)[1] of the Securities Act for the resale of restricted securities and securities held by affiliates. As discussed more fully below, the Commission is proposing to remove the requirement that current information be publicly available with respect to an issuer of restricted securities prior to resale by a non-affiliate after a three-year holding period. In addition, the Commission proposes to rescind Rule 237 [17 CFR 230.237], an exemption for the sale of certain securities held for five years, and Form 237 [17 CFR 239.145], a notice of sales pursuant to Rule 237.

I. Discussion of proposals

In September 1982, The Commission hosted the first annual SEC Government-Business Forum on Small Business Capital Formation (the "Forum").[2] Approximately 175 persons with an interest in small business met to discuss the problems small businesses face in raising capital and developed 37 recommendations in the areas of taxation, securities, credit and access to institutional investors, designed to facilitate the capital formation process. With regard to the regulatory scheme concerning the resale of restricted securities, the participants at the Forum felt that certain provisions of Rule 144[3] may deter investment in small business and recommended that the rule be amended to allow non-affiliates to resell restricted securities freely after a holding period of three years.[4]

While a company which is required to file periodic reports pursuant to the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*] (the "Exchange Act") fulfills the information requirement of Rule 144 so long as the company is current in its reports [17 CFR 144(c)(i)], small companies not in the reporting system must make certain information available on a continuing basis to

[1] Section 4(1) exempts sales of securities "by any person other than an issuer, underwriter, or dealer." [15 U.S.C. 77(d)(1) (1976)].

[2] The Small Business Investment Incentive Act of 1980 directs the Commission to conduct an annual Government-Business Forum for the purpose of reviewing "the current status of problems and programs relating to small business capital formation." Pub. L. No. 96-477, section 503, 94 Stat. 2275, 2292 (1980).

[3] Rule 144 establishes specific objective criteria, compliance with which ensures the availability of Section 4(1) for resales of securities without registration. Generally, the rule protects resales if current material information about the issuer is available publicly, the securities have been held for at least two years, the sales do not exceed specified volume restrictions, the sales are conducted in regular brokers' transactions, and a notice of sales is filed with the Commission. [17 CFR 230.144(c)-(h)]. For restricted securities held for three years by non-affiliates, only the requirement that current public information be available remains applicable. [17 CFR 230.144(k)].

[4] *See* SEC Government-Business Forum on Small Business Capital Formation, *Final Report* at 53 (November, 1982).

security holders, broker-dealers, market makers, financial statistical services and other interested persons.[5] Participants at the Forum felt that this requirement unduly restricts resales of securities of small companies. Investors generally have no right to demand that the company make such information publicly available. Moreover, many small companies do not have the financial or personnel resources to compile, print and distribute the required information on a regular basis as contemplated by the "publicly available" requirement. As a result, the small business community believes that potential investors often choose not to purchase in a private offering of a small issuer's securities because of the reduced liquidity of their investment.

The Commission believes that the comments by the Forum participants have merit. Section 2(11) of the Securities Act does not contain any specific reference to the need for current public information as a determinant of underwriter status, and it seems appropriate not to impose a current information requirement after a person has demonstrated, through a holding period of three years, that it is unlikely he bought his securities from the issuer with a view to distribution. Accordingly, while an information requirement may be necessary and appropriate in certain circumstances as a condition for the safe harbor provided by Rule 144, it appears unduly restrictive to apply the requirement on an indifinite basis to non-affiliates. In view of the significant burdens which such a requirement can impose on small public companies, and the resultant proscription on resales by non-affiliates who have met the holding period when the company is unable to meet the information requirement, the three year holding period for non-affiliates appears to be an adequate standard. For companies whose securities are traded, Rule 15c2–11 [17 CFR 240.15c2–11] under the Exchange Act currently requires brokers who initiate trading in a security through the submission or publication of priced quotations in quotation media to maintain certain minimum current information about the issuer of the security [6] and to make such information available to investors upon request.[7]

Rule 237 provides an exempton for sales of certain securities after a holding period of five years. Only 269 notices of proposed sale on Form 237 were filed between the effective date of Rule 237, April 15, 1972, and April 21, 1983. Therefore, Rule 237 does not appear to be a viable alternative to Rule 144. Since the proposed amendment to Rule 144 would preclude the need for Rule 237, the Commission proposes to rescind Rule 237 and Form 237.

II. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an initial regulatory flexibility analysis in accordance with 5 U.S.C. § 603 regarding the revision of Rule 144.

The analysis notes that the Rule 144 amendment is being proposed as a result of recommendations developed at the 1982 SEC Government-Business Forum on Small Business Capital Formation. The objective of the proposed revision to Rule 144 is to alleviate undue restrictions on the resale of restricted securities after a three-year holding period by a non-affiliate.

Commentators previously have suggested various revisions to Rule 144 which may be considered alternatives to the proposed amendment. In this instance, however, the objective of the Commission was to implement the specific recommendation made by the Forum participants. Other suggested changes to the rule may be considered at such time as a comprehensive review of other aspects of Rule 144 may be undertaken. The Commission believes the increased benefits of the proposed revision to Rule 144 outweigh any disadvantages and, therefore, deems it appropriate to consider the proposals contained herein.

A copy of the initial regulatory flexibility analysis may be obtained by contacting Betsy Callicott Goodell, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, at (202) 272–2644.

III. Statutory Basis and Text of Proposed Rule

Authority

The amendment to Rule 144 and rescission of Rule 237 and Form 237 are being proposed by the Commission pursuant to the Securities Act of 1933.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1–4, 68 Stat. 683, sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a))

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Proposals

Pursuant to Section 19(a), the Commission proposes to amend Chapter II of Title 17 of the Code of Federal Regulations as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph (k) of § 230.144 as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(k) *Termination of certain restrictions on sales of restricted securities by persons other than affiliates.* The requirements of paragraphs (c), (e), (f) and (h) of this rule shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the preceding three months, provided the securities have been beneficially owned by the

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[5] *See* Release No. 33–6099 (August 2, 1979) [44 FR 46752], at question 20.

[6] For issuers which are not reporting companies under the Exchange Act, Rule 15c2–11(a)(4) requires brokers to maintain the following information: the name, address and state of incorporation of the issuer; title and class of security; par or stated value of security; number of shares outstanding; name and address of transfer agent; nature of issuer's business; nature of products or services offered; nature and extent of issuer's facilities; name of chief executive officer and members of the board of directors; issuer's most recent balance sheet, and profit and loss and retained earnings statements; similar financial information for such part of the two preceding years as the issuer or its predecessor has been in business; any affiliation of the broker or dealer with the issuer; whether the quotation is being published or submitted on behalf of any other broker or dealer, and, if so, the name of such broker or dealer; and whether a quotation is being submitted or published directly or indirectly on behalf of the issuer, or any director, officer, or any person, directly or indirectly the beneficial owner of more than 10 per cent of the outstanding units or shares of the issuer, and, if so, the name of such person, and the basis under the securities laws for any sales of such securities on behalf of such person. [17 CFR 240.15c2–11(a)(4)].

[7] The Commission recently proposed amendments to Rule 15c2–11 which, if adopted, would require any broker who initiates trading in a security through priced or unpriced entries in the pink sheets to maintain the specified information. The National Daily Quotation Service, known as the "pink sheets," is an interdealer quotation system which provides the principal quotation medium for infrequently traded securities of lesser known issuers, or as a supplement to more active securities traded in the NASDAQ system, an automated quotation system. In addition, the proposed amendments to Rule 15c2–11 include an exemption from the Rule for entries which represent unsolicited customer orders. Release No. 34–19673 (April 14, 1983) [48 FR 17111].

person for a period of at least three years prior to their sale. In computing the period for which securities have been beneficially owned for purposes of this provision, reference should be made to paragraph (d) of this section.

§ 230.237 [Removed].

2. By moving § 230.237.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. By moving § 239.145.

§ 239.145 [Removed].

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

July 8, 1983.

[FR Doc. 83-19177 Filed 7-14-83; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 239

[Release No. 33-6471; File No. S7-982]

Proposed Revisions to Optional Form S-18

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for public comment proposed amendments to Form S-18 (17 CFR 239.28), a simplified registration form under the Securities Act of 1933 available to domestic and Canadian issuers. The proposals would: (1) Raise the aggregate offering price permitted from $5 million to $10 million; (2) increase the aggregate amount of securities that may be sold for the account of persons other than the registrant from $1.5 million to $3 million; and (3) revise the disclosure requirements relating to interests of management and others in certain transactions.

DATE: Comments must be received on or before August 22, 1983.

ADDRESSES: All communications on the matters discussed in this release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C., 20549. Comments should refer to File No. S7-982 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Suzanne S. Brannan, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549 at (202) 272-2644.

SUPPLEMENTARY INFORMATION:

Executive Summary

Form S-18 (17 CFR 239.28) is a simplified registration statement form under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a *et seq.*) designed to facilitate the entry of small businesses into the public capital markets. Adopted on an experimental basis in 1979,[1] S-18 has substantially displaced Form S-1 for initial public offerings below $5 million.[2] These proposals would: (1) Raise the aggregate offering price ceiling for offerings pursuant to the Form from $5 million to $10 million; (2) increase the aggregate account of securities that may be sold for the amount of persons other than the registrant from $1.5 million to $3 million; and (3) revise disclosure for registrants regarding transactions with management. The proposed increase in the aggregate offering price ceiling for Form S-18 offerings is in response to a recommendation of the recent SEC Government-Business Forum on Small Business Capital Formation (the "Forum").[3] The proposed revisions to the disclosure requirements are consistent with recently adopted amendments to the corresponding item in Regulation S-K (17 CFR 229.1),[4] the repository of uniform disclosure requirements for filings under the Securities Act and the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a *et seq.*).

I. Operation of Form S-18

Form S-18 contains fewer narrative disclosure items than Form S-1. Items that are included in Form S-18, however, are generally consistent in content with their corresponding items in Form S-1. Subsequent to the adoption of the integrated disclosure system,[5] a number of these narrative disclosure items were amended to conform them, to the extent appropriate, with revisions to Regulation S-K and Regulation C (17 CFR 230.400 *et seq.*).[6] As mentioned above, the Commission recently revised the Regulation S-K disclosure requirements relating to transactions with management and others. Form S-18 does not cross-reference this Regulation S-K item but, instead, contains a separate item for disclosure of certain transactions with management which contains requirements that are specifically tailored to the type of disclosure generally made by small, first-time public issuers. Since certain aspects of the revisions to this Regulation S-K disclosure item appear appropriate for Form S-18 issuers, the Commission has determined to publish for comment similar proposed changes to Form S-18.

II. Proposed Revisions

A. Aggregate Offering Price Limitation

1. *Paragraph A. of I. Rule as to Use of Form S-18.* The Commission is proposing to expand the availability of Form S-18 by amending paragraph A of the Rule as to Use of Form S-18. The revision, if adopted, would raise the aggregate offering price permitted on Form S-18 from $5 million to $10 million.[7] As noted above, the proposal is responsive to a recommendation of the recent SEC Government-Business Forum on Capital Formation that the Commission raise the offering ceiling on Form S-18 to $10 million. The Commission occurs with the Forum recommendation that the benefits of Form S-18 should be extended to additional small companies seeking to tap the public capital markets. The Commission believes that an adjustment is necessary to assist in accommodating the financing needs of a larger number

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[1] Release No. 33-6049 (April 3, 1979) [44 FR 21562].

[2] The Commission expects approximately 450 filings will be made on Form S-18 in the current fiscal year. This compares to 109 filings in fiscal year 1980, 306 in fiscal year 1981 and 213 in fiscal year 1982.

[3] *See* SEC Government-Business Forum on Small Business Capital Formation, *Final Report* at 4 (November 1982). Section 503 of the Small Business Investment Incentive Act of 1980 directs the Commission to conduct an Annual Government-Business Forum to review the status of problems and programs relating to small business capital formation and transmit to Congress a summary of the Forum proceedings together with any findings or recommendations.

[4] New disclosure Item 404 concerning disclosure of the interests of management in certain transactions was adopted by the Commission in December 1982. [Release No. 33-6441 (December 2, 1982) [47 FR 55661].]

[5] Release Nos. 33-6383-6385 (March 3, 1982 [47 FR 11380].

[6] Release No. 33-6406 (June 4, 1982) [47 FR 25128].

[7] Since the adoption of Form S-18, the Commission has incrementally expanded the availability of Form S-18. Initially, the Form was available only to corporate, and non-oil and gas and non-mining issuers. Citing the absence of novel and significant disclosure or enforcement problems, the Commission subsequently expanded the availability of Form S-18 to include mining companies in March 1981 [Release No. 33-6299 (March 19, 1981) [46 FR 18947] and to include non-corporate issuers and oil and gas issuers in June 1982 [Release No. 33-6406 (June 4, 1982) [47 FR 25126]. Currently, the Form is available for the registration of securities by any domestic or Canadian corporate and non-corporate issuer which is not an investment company and is not a reporting company under the Exchange Act.

of small issuers and, in part, to reflect inflation since 1979.[8]

2. *Paragraph B. of I. Rule as to Use of Form S–18.* In conjunction with the proposed increase of the aggregate offering amount limitation, the Commission also is proposing to amend paragraph B of the Rule as to Use of Form S–18[9] to raise the aggregate offering price of securities registered to be sold for the account of any person other than the registrant. The aggregate offering price limitation on such securities is currently $1.5 million and the total of such securities together with the aggregate offering price of securities to be sold by the registrant cannot exceed $5 million. The Commission proposes to raise the aggregate offering price permitted for securities sold for the account of others to $3 million and to raise the aggregate offering price of all the securities, for others and the registrant, to $10 million.

B. Proposed Revisions to Item 18. Interest of Management and Others in Certain Transactions

In December 1982, the Commission adopted new Item 404 of Regulation S–K concerning disclosure of the interests of management and others in certain transactions with the registrant. The Commission is proposing the following corresponding amendments to Item 18 of Form S–18 which sets forth disclosure requirements with respect to transactions with the registrant in which certain specified persons connected with the registrant or their relatives have a direct or indirect material interest.

1. *Directors and Officers.* The Commission is proposing to amend subparagraph (1) of Item 18 which currently requires disclosure as to all directors and officers, to eliminate disclosure as to transactions with those officers not serving as executive officers.[10] Disclosure of transactions would thus be required only as to officers performing policy-making functions. Such officers are the persons in positions to commit the registrant to the types of transactions meant to be disclosed.

2. *Family Members.* The Commission is also proposing to revise the class of relatives whose transactions must be disclosed. Currently, subparagraph (4) of Item 18 requires disclosure of direct or indirect material interests in transactions with the registrant of any relative or spouse (or relative of the spouse) of a director or officer of the registrant; nominee for director; or owner, beneficially or of record, of more than five precent of any class of the registrant's voting securities, who lives in the same household as such person or who is a director or officer of any parent or subsidiary of the registrant. Potential conflicts of interest are not necessarily limited to relatives who live in the same household or who are employed by parents or subsidiaries of the registrant; such opportunities may exist for any close relative of a person connected with management. Thus, the Commission is proposing to require disclosure of transactions involving members of the immediate family of the primary reporting persons. In addition, the Commission is proposing to add Instruction 9 which defines immediate family to include a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, and brothers and sisters-in-law.

3. *Increase in Threshold.* Finally, the Commission is proposing to amend Instruction 2(c) of Item 18 to raise the $40,000 reporting threshold to $60,000. This is the same reporting threshold utilized in Regulation S–K Item 404(a). The amendment would retain the consistency between Form S–18 and other registration forms and reports which existed prior to the adoption of Item 404.

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed revisions to Form S–18, as well as on other matters which might have an impact on the proposals contained herein, are requested to do so. Commentators are specifically invited to make suggestions as to other revisions and to express their views as to the types of information about transactions with management which are or are not important to investment decisions.

IV. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the revisions to Form S–18 proposed herein.

The analysis notes that the Commission adopted Form S–18 to be used by certain smaller companies in an efforts to alleviate some of the cost and compliance burdens traditionally associated with registration on Form S–1, the standard registration form. the Commission took this step in recognition of its statutory authority to vary disclosure requirements depending upon the issuer and other considerations, and with the designated prpose of facilitating small business capital formation.

Specifically, as compared to Form S–1, Form S–18 provides for reduced narrative disclosure requirements, reduced and less burdensome financial statement requirements, and permits regional filing and processing of the registration statement, all of which result in a more timely and less expensive registration process for smaller issuers seeking access to the public capital markets.

In order to further reduce the expenses incurred by small issuers registering their securities under the Securities Act, the Commission permits registrants which filed on Form S–18, and thereby became subject to section 15(d) of the Exchange Act, to include the Form's simplified financial statements and narrative disclosures in their initial annual report filed with the Commission.

The Commission believes these steps have served to alleviate the burdens on small business consistent with its statutory mandate to protect investors and foster continued confidence in the securities markets.

The amendments being proposed herein are designed to, among other things, expand the availability of Form S–18. Form S–18 would be proposed to be available for offerings on behalf of the issuer up to a ceiling of $10 million, and on behalf of persons other than the issuer up to a ceiling of $3 million.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Suzanne S. Brannan, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, Washington, D.C. 20549, at (202) 272–2644.

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[8] It should be noted that the time period from the date of filing to the receipt of the first comment letter by the issuer might be lengthened if adoption of the proposal resulted in a substantial increase in the number of Form S–18 filings.

[9] A conforming change to paragraph C. which gives instructions on calculating the aggregate offering price, is also proposed for comment.

[10] See the definition of "executive officers" contained in Rule 405 [17 CFR 230.405] under the Securities Act and Rule 3b–7 [17 CFR 240.3b–7] under the Exchange Act. The term "executive officer," when used in reference to a registrant, means its president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy-making functions for the registrant.

V. Statutory Authority

The revisions are being proposed pursuant to Section 6, 7, 8, 10 and 19(a) of the Securities Act of 1933.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a))

List of Subjects in 17 CFR Part 239

Reporting and recordkeeping requirements, Securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended. The text of Form S–18 does not appear in the Code of Federal Regulations. Form S–18 itself is proposed to be amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

By amending the registration statement on Form S–18 as set forth below:

1. By revising paragraphs A (introductory text), B and C under section I "Rule as to Use of Form S–18" to read as follows:

General Instructions.

A. This form is to be used for the registration of securities not to exceed an aggregate offering price of $10 million which are to be sold for cash, installments for cash and/or cash assessments and assumptions by partners of partnership debt, by the registrant, or for the account of security holders in accordance with paragraph B, provided such registrant:

* * * * *

B. This form may be used for the registration of securities to be sold for the account of any person other than the registrant, *Provided:* (i) the aggregate offering price of such securities by any such persons does not exceed $3 million and (ii) the aggregate offering price of such securities together with the aggregate offering price of any securities to be sold by the registrant does not exceed $10 million.

C. For purposes of computing the $10 million ceiling specified above, there shall be included in the aggregate offering price of the securities registered herein, the aggregate offering price of all securities sold: (i) By the registrant within one year prior to the commencement of the proposed offering in violation of Section 5(a) of the Securities Act; (ii) by the registrant within one year prior to the commencement of the proposed offering pursuant to a registration statement filed on Form S–18; and (iii) which would be deemed integrated with the proposed offering. (*See:* Securities Act Release No. 4552 (November 6, 1962) [27 FR 11316].) In computing the $10 million ceiling, the aggregate price of all securities sold which fall in more than one of the above-described categories need be counted only once.

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2. By revising subparagraphs (1) and (4) and Instruction 2(c) and adding Instruction 9 to Item 18, PART I to read as follows:

Item 18. Interest of Management and Others in Certain Transactions.

* * * * *

(1) Any director or executive officer of the issuer;

* * * * *

(4) Any member of the immediate family of any of the foregoing persons.

Instructions. * * *

1. * * *
2. * * *
(a) * * *
(b) * * *

(c) The amount involved in the transaction or a series of similar tranactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $60,000; or

* * * * *

9. For purposes of this item, a person's immediate family shall include such person's spouse; parents; children; siblings; mothers- and fathers-in-law; sons- and daughters-in-law; and brothers- and sisters-in-law.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

July 8, 1983.

[FR Doc. 83–19178 Filed 7–14–83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 81N–0040]

Insect Repellent Drug Products for Over-the-Counter Oral Human Use

Correction

In FR Doc. 83–15286 beginning on page 26986 in the issue of Friday, June 10, 1983, make the following corrections:

1. On page 26986, first column, last line of the **"DATES"** paragraph, "(21 CFR 300.10)" should have read "(21 CFR 330.10)".

2. On page 26987, second column, fifth line of the second complete paragraph," 70 Sat. 919 and 77" should have read "70 Stat. 919 and 72".

BILLING CODE 1505–01–M

21 CFR Part 680

[Docket No. 80N–0051]

Allergenic Products; Criteria for Source Materials; Reproposal

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal; reproposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing specific manufacturing or propagation criteria for allergenic source materials such as molds, submission of a listing of allergenic source materials and suppliers by licensed manufacturers and recordkeeping requirements applicable to all manufacturers of Allergenic Products. This proposal is based on comments and other information received in response to an earlier proposal on the same subject and supersedes that proposal. This action will give interested persons an opportunity to comment on the revised proposal.

DATE: Comments by September 13, 1983. FDA is proposing that the effective date of any final rule be 60 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: FDA is proposing to amend the biologics regulations by prescribing criteria for source material intended for use in the manufacture of Allergenic Products. Allergenic Products, defined in § 680.1(a) (21 CFR 680.1(a)), include any licensed biological product intended for the diagnosis, prevention, or treatment of allergies. An allergenic source material, defined in § 680.1(b), used to produce an Allergenic Product includes allergens, such as molds, feathers, and hair. It is essential that the source material be suitable for manufacture into final Allergenic Products, most of which are administered to humans by injection. FDA's Office of Biologics has examined certain allergenic source materials that unlicensed allergenic source material suppliers were shipping to licensed manufacturers of Allergenic Products. FDA's examinations revealed that occasionally the unlicensed source material suppliers ship such

manufacturers incorrectly identified or contaminated allergenic source materials. If licensed manufacturers use incorrectly identified or contaminated source materials, the licensed manufacturers may ship practitioners potentially harmful Allergenic Products. If a patient receives and reacts to an incorrectly identified diagnostic Allergenic Product, the practitioner may give a long series of costly and ineffective injection treatments to a patient for the wrong allergen. If a practitioner gives a patient an Allergenic Product that is contaminated with an unknown allergen, the patient may become sensitized to the contaminant(s), unnecessarily complicating the patient's treatment and causing a worsening of the patient's condition. Also, the unknown contaminating allergen rarely may cause a serve allergic reaction in a patient.

The criteria proposed herein for manufacture or propagation of a specific source material concern only a source material from molds and certain animals. However, the proposed requirements concerning listing of nonlicensed establishments and recordkeeping apply to all licensed Allergenic Product manufacturers who use any allergenic source material to manufacture a final product. Notwithstanding the proposed requirements in this document that would be applicable to nonlicensed source material establishments, FDA emphasizes that the licensed final product manufacturer must continue to take those precautions that will ensure that the allergenic source material used in manufacturing will produce a final product that meets current standards of purity and quality.

In the **Federal Register** of September 26, 1978 (43 FR 43472), FDA first proposed regulations to prescribe additional criteria for source materials under Part 680 (21 CFR Part 680) of the Additional Standards for Allergenic Products. The September 26, 1978 proposals explained that:

> The use of Allergenic Products produced from molds that have been contaminated or inadequately identified may result in false positive reactions in the patient or may cause sensitization of the patient to the mold. Accordingly, proposed § 680.1(b)(2)(i) would require that molds used as a source material (1) meet the requirements concerning storage, maintenance, identity, and verification prescribed in § 610.18 (21 CFR 610.18) and (2) conform to the quality and purity requirements prescribed in § 680.2 (a) and (b) (21 CFR 680.2 (a) and (b)). Proposed § 680.1(b)(2)(ii) would require that molds contain no foreign materials.
>
> Allergenic Products produced from animal origin may also be unsuitable for injection into humans if the source material (feathers, hair, and danders) is prepared from sick animals or animals that have died from undetermined causes. Accordingly, the proposed regulations would require (1) in § 680.1(b)(3)(i) that pets, farm animals, and other domesticated mammals and birds meet the requirements concerning care, quarantine, immunization against tetanus, and reporting of certain diseases that are prescribed in § 600.11(f) (1), (2), (3), and (6) (21 CFR 600.11(f) (1), (2), (3), and (6)) and that animals be in good health at the end of the guarantine period as determined by a licensed veterinerian; (2) in § 680.1(b)(3)(ii) that wild mammals and birds that cannot meet the requirements prescribed in § 600.11(f) may be used as a source of material only when the package label and the package insert of the final Allergenic Product state that it was prepared from animals whose state of health could not be determined; and (3) in § 680.1(b)(3)(iii) that dead animals may be used as source material only if the animals are properly stored so that the allergen will not be adversely affected and if the other applicable requirements concerning animals in § 680.1(b)(3) are met. The proposed regulations also would provide, in § 680.1(b)(3)(iv), that mammals and birds that have been inspected by the U.S. Department of Agriculture and found suitable as food are exempt from the requirements of proposed § 680.1 (b)(3) (i) and (ii).
>
> Many licensed Allergenic Products are manufactured from ource materially that is propagated and prepared at nonlicensed establishments. The licensed final product manufacturer has no assurance that the source material has been properly identified, obtained, or processed. Therefore, the Commissioner is proposing to add a new § 680.1(c) to require that manufacturers of the licensed final product establish and maintain a written agreement with each nonlicensed source material supplier that will permit authorized representative of the Food and Drug Administration (FDA) to inspect the nonlicensed establishment during reasonable business hours. The Commissioner recognizes that a written agreement and inspection may normally be unnecessary and impracticable when the source material is to be obtained under certain circumstances (e.g., house dust from an individual's home) in which inspection will provide no additional assurances of safety. Accordingly, proposed § 680.1(c)(2) would provide exemptions to the agreement and inspection requirements.
>
> The biologics regulations currently require, in § 600.12 (21 CFR 600.12), that records be made concurrently with the performance of each step in the manufacture and distribution of products. Proposed § 680.2(f) would require that a copy of such records be available at the establishment of the licensed manufacturer of the finished product. This record requirement will facilitate a complete and expeditious FDA inspection of the licensed manufactured of the finished product. (43 FR 43472.)

Interested persons were given 60 days to file written comments on the September 26, 1978 proposal. In response to these comments and information received at an open meeting on February 6, 1979 (see the **Federal Register** of January 23, 1979; 44 FR 4707), substantial revisions of the original proposal have been made. The original proposal has now been superseded by this new proposal. Accordingly, FDA has determined that the proposed regulations should be republished to provide interested persons an opportunity for comment. For the benefit of those who may wish to comment on the new proposal, FDA is identifying in this preamble those changes in the new proposal that resulted from comments and information received at the February 6, 1979 open meeting. All persons wishing to comment on these changes should do so now. Written comments received in response to the earlier proposal will be considered to the extent that the comments discuss sections of the proposal not changed by this reproposal. Both those comments received on the original proposal which are still relevant and any new comments received as the result of the reproposal will be considered in preparing any final rule that results from this rulemaking.

FDA is proposing the following changes in the September 26, 1978 proposal:

1. FDA is proposing to amend § 680.1(b), by redesignating paragraph (b) as paragraph (b)(1), and exempting molds, mammals, and birds from the general requirement that the source material contain no more than a total of 1.0 percent of detectable foreign materials. FDA is also proposing to amend the last sentence in the redesignated § 680.1(b)(1) to read, "Source materials such as pelts, feathers, hairs, and danders shall be collected in a manner that will minimize contamination of the source material." The current requirement that the collected source material be free of blood and serum is technically impractical and not always desirable because certain allergens are known to be present in blood and serum. The new requirement is also intended to ensure that the source material that is collected and labeled is homogeneous for each genus and species of animal.

2. Section 680.1(b)(2)(ii) of the original proposal required that molds used as source material for the manufacture of Allergenic Products shall contain no foreign material. This requirement is being reproposed to exclude rusts and smuts, which cannot be cultured on synthetic media; to specify that mold cultures shall be free of contaminating materials (including microorganisms) prior to harvest; and to require that care shall be taken to minimize

contamination during harvest and subsequent processing. The agency advises that materials, other than the mold, that are necessary in the culture container are not considered as contaminating materials.

3. A new § 680.1(b)(2)(iii) is proposed to require that the standard operating procedures for each establishment specify the acceptable limits and kinds of contamination. The tests to determine acceptable limits and kinds of contamination would have to be performed on at least three consecutive lots of molds. These tests must be performed at each manufacturing step during and subsequent to harvest, as specified in the standard operating procedures. The standard operating procedures and test data must have been submitted to and approved by the Director, Office of Biologics. Once it has been harvested, a mold cannot be properly identified. Therefore, these provisions would require that the standard operating procedures for identifying the mold seed culture (culture identity is required under § 610.18(b)) (21 CFR 610.18(b)) and subsequent processing of the mold be developed by a qualified individual, i.e., a mycologist with training in taxonomy.

4. Section 680.1(b)(3) (i) of the original proposal concerning animals is being reproposed as § 680.1(b)(3) (i) through (iv). The original proposal cross-referenced the applicable provisions of § 600.11(f) (21 CFR 600.11(f)) as the requirements for animals intended as source material for Allergenic Products. Under this reproposal, reference to § 600.11(f) is being replaced with the specific requirements concerning care of animals, quarantine of animals, immunization of animals of the equine genus against tetanus, and the reporting of certain diseases for mammals and birds intended as an allergenic source material. This amendment would not affect the applicability of the provisions of § 600.11(f) to other types of biological products. In response to comments received on the original proposal, FDA advises that a farm, zoo, animal shelter, or similar area may be a suitable quarantine area, provided that no animals are introduced into the designated area during quarantine and collection of the allergen. The determination of overt good health at the end of the quarantine period must be made by a licensed veterinarian or a competent individual under the supervision and instruction of a licensed veterinarian, provided that the licensed veterinarian certifies in writing that the individual is capable of determining the overt good health of the animals. The agency advises that a copy of the written certification must be maintained by the source material supplier and be available for inspection by an authorized representative of FDA.

5. Section 680.1(b)(3)(ii) of the original proposal concerning wildlife, exempted wildlife mammals and birds from the requirements proposed for domesticated mammals and birds. FDA agrees with the comments received on the original proposal that wildlife animals must meet the same care and health requirements as domesticated animals to ensure safe and pure finished Allergenic Products. Therefore, the reproposal makes no distinction between wildlife and domesticated animals. Consistently, the phrase concerning wildlife in § 680.1(b)(3)(v), "Dead animals," originally proposed under § 680.1(b)(3)(iii), is deleted in the reproposal.

6. Section 680.1(b)(3)(iv) of the original proposal concerning mammals and birds inspected by the U.S. Department of Agriculture is being reproposed as § 680.1(b)(3)(vi). In addition, FDA is proposing to exempt animals as a source material for Allergenic Products from the requirements of § 680.1(b)(3) (i) through (iv) if the supplier of the animals is licensed by the U.S. Department of Agriculture under the Animal Welfare Act and meets the regulatory standards under Part 2 of Title 9 of the Code of Federal Regulations.

7. Section 680.1(c) of the original proposal concerning inspection of nonlicensed establishments is being reproposed with a new section title, "Listing of source materials and suppliers". The original proposal provided for the use of source material obtained from a nonlicensed establishment in the preparation of a licensed allergenic drug product only if an agreement existed between the nonlicensed source material establishment and the licensed allergenic drug product manufacturer which would permit representatives of FDA to inspect the nonlicensed establishment. However, a supplier of a source material for an allergenic drug product is a manufacturer of a drug component, as defined in the Federal Food, Drug, and Cosmetic Act (the act) (see section 201(g)(1)(D) (21 U.S.C. 321(g)(1)(D))). Accordingly, such a supplier is subject to inspection unless the agency finds that inspection is not necessary for the protection of the public health (see section 704 of the act (21 U.S.C. 374)). Because the agency has the authority to inspect a nonlicensed source material supplier, there is no need for an agreement between a nonlicensed establishment and the licensed manufacturer as originally proposed in § 680.1(c).

Under section 510 of the act (21 U.S.C. 360), any supplier of a drug component is required to be registered with FDA, unless the agency finds that registration is not necessary for the protection of the public health. Section 510 of the act further requires that registered establishments be inspected once every 2 years. Because the identification of all source material suppliers would be provided to the agency by the licensed manufacturers under proposed § 680.1(c), the agency believes that there is no need, at this time, to require registration of nonlicensed source material suppliers. Accordingly, proposed § 680.1(d)(2) provides that such suppliers would be exempt from drug registration, and FDA is not enforcing the registration provisions during this rulemaking. Further, FDA believes that the biennial scheduled inspections of nonlicensed allergenic source material suppliers required by section 510 of the act are unnecessary. Rather, the agency believes that the inspection of nonlicensed source material suppliers and the review of records required under proposed § 680.2(f), as inspection and record review are needed on an ad hoc basis, would be adequate to protect the public health.

8. Section 680.1(c)(2) of the original proposal concerning exemptions or modifications of inspectional requirements is being reproposed as new § 680.1(d). FDA proposes exemptions from registration as discussed in paragraph 7 and exemptions or modifications of requirements concerning molds and animals. Such exemptions or modifications shall be made only upon written approval by the Director, Office of Biologics.

9. Section 680.2(f) of the original proposal is being reproposed and revised to delete certain recordkeeping requirements originally proposed and to clarify what records must be available at the establishment manufacturing the final product. The original proposal cross-referenced the recordkeeping requirements of § 600.12 (21 CFR 600.12). FDA has determined that not all of the records, including animal necropsy records, required under § 600.12 are applicable to allergenic source materials. The new proposal requires that records of the history of the manufacture or propagation of each lot of source material intended for manufacture of a final Allergenic Product be available at the

establishment of the manufacturer of the source material. A summary of such records shall be available at the establishment of the manufacturer of the final product. The finished product manufacturer may prepare any portion of the records concerning the history of the source material to the extent that the finished product manufacturer is present or otherwise able to verify the accuracy of the records. When licensed establishments prepare source materials for marketing to other licensed establishments of finished Allergenic Products, it will not be considered by FDA as divided manufacturing and, thus, will not be subject to the recordkeeping and labeling requirements under §§ 600.12(e) and 610.63 (21 CFR 600.12(e) and 610.63), respectively.

FDA notes that the Panel on Review of Allergenic Extracts has completed its review of the safety, effectiveness, and labeling of those extracts licensed prior to July 1, 1972, and has issued its report and recommendations to the Commissioner of Food and Drugs. The Panel's recommendations concerning allergenic source materials are consistent with the regulations proposed in this document. The Panel's report was made available to the public by a notice published in the **Federal Register** of April 21, 1981 (46 FR 22808).

Paperwork Reduction Act of 1980

Section 680.1(c) of this proposed rule contains information collection requirements. As required by Section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Rm. 3208), Washington, DC 20503, ATTN: Richard A. Eisinger.

In addition, the proposed rule would continue present information collection requirements already submitted to OMB under section 3507 of the Paperwork Reduction Act (§§ 600.12, 601.2, and 601.12, OMB approval number 0910–0041).

In order to permit manufacturers to prepare for implementation of the rules proposed in this document, FDA intends that the effective date be 60 days after publication in the **Federal Register** of any final rule that results from this rulemaking. FDA proposes that the initial listing with the Director, Office of Biologics, required under proposed § 680.1(c), be submitted within 60 days after the effective date of the final rule.

The agency has determined pursuant to 21 CFR 25.25(b)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has examined the regulatory impact and regulatory flexibility implications of the proposed regulations in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The agency concludes that 18 allergen manufacturers will be affected by these requirements, of which approximately 14 are small manufacturers. Costs per firm could possibly vary from zero to several thousand dollars, depending upon current firm practices, number of source suppliers, mix of source materials and applicability of exemptions. The anticipated costs are insufficient to warrant designation of this proposal as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291 or to require a regulatory flexibility analysis. Accordingly, under section 605(b) of the Regulatory Flexibility Act, the Commissioner of Food and Drugs certifies that this rulemaking, if promulgated, will not have a significant economic impact on a substantial number of small entities. A copy of the threshold assessment for supporting this determination is on file with the Dockets Management Branch.

List of Subjects in 21 CFR Part 680

Biologics, Blood.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 510, 704, 52 Stat. 1049–1050 as amended, 67 Stat. 477 as amended, 76 Stat. 794–795 as amended (21 U.S.C. 351, 360, 374)) and under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Part 680 be amended as follows:

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

1. In § 680.1 by revising paragraph (b) and adding new paragraphs (c) and (d), to read as follows:

§ 680.1 Allergenic products.

* * * * *

(b) *Source materials*—(1) *Criteria for source material.* Only specifically identified allergenic source materials that contain no more than a total of 1.0 percent of detectable foreign materials shall be used in the manufacture of Allergenic Products, except that this requirement shall not apply to molds and animals described under paragraph (b) (2) and (3) of this section, respectively. Source materials such as pelts, feathers, hairs, and danders shall be collected in a manner that will minimize contamination of the source material.

(2) *Molds.* (i) Molds (excluding rusts and smuts) used as source material in the manufacture of Allergenic Products shall meet the requirements of § 610.18 of this chapter and § 680.2 (a) and (b).

(ii) Mold cultures shall be free of contaminating materials (including microorganisms) prior to harvest, and care shall be taken to minimize contamination during harvest and subsequent processing.

(iii) Mold manufacturers shall maintain written standard operating procedures, developed by a qualified individual, that will ensure the identity of the seed culture, prescribe adequate processing of the mold, and specify the accepatable limits and kinds of contamination as determined by appropriate tests on at least three consecutive lots of the processed mold. The tests shall be performed at each manufacturing step during and subsequent to harvest, as specified in the standard operating procedures. Before use of the mold as a source material for Allergenic Products, the standard operating procedures and test data shall be submitted to and approved by the Director, Office of Biologics, as required by §§ 601.2 and 601.12 (Office of Management and Budget approval number 0910–0041).

(3) *Mammals and birds*—(i) *Care of animals.* Animals intended as a source material for Allergenic Products shall be maintained by competent personnel in facilities or designated areas that will ensure adequate care. Competent veterinary care shall be provided as needed.

(ii) *Quarantine of animals.* Animals intended as a source material for Allergenic Products shall be quarantined in a designated area designed to restrict the introduction of animals for a period of at least 7 days prior to collection of the source material. Only animals in overt good health and free from detectable skin diseases at the end of the quarantine period shall be used as a source material for Allergenic Products. The determination of overt good health at the end of the quarantine period shall be made by a licensed veterinarian or a competent individual under the

supervision and instruction of a licensed veterinarian provided that the licensed veterinarian certifies in writing that the individual is capable of determining the overt good health of the animals.

(iii) *Immunization against tetanus.* Animals of the equine genus intended as a source material for Allergenic Products shall be treated to maintain immunity to tetanus.

(iv) *Reporting of certain diseases.* In cases of actual or suspected infection with foot and mouth disease, glanders, tetanus, anthrax, gas gangrene, equine infectious anemia, equine encephalomyelitis, or any of the pock diseases among animals intended for use or used as source material in the manufacture of Allergenic Products, the manufacturer shall immediately notify the Director, Office of Biologics.

(v) *Dead animals.* Dead animals may be used as source material in the manufacture of Allergenic Products: *Provided,* that (*a*) the carcasses shall be frozen or kept cold until the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decomposition processes do not adversely affect the allergen, and (*b*) when alive, the animal met the applicable requirements prescribed in paragraph (b)(3) (i), (ii), and (iii) of this section.

(vi) *Mammals and birds inspected by the U.S. Department of Agriculture.* Mammals and birds, subject to inspection by the U.S. Department of Agriculture at the time of slaughter and found suitable as food or animals obtained from dealers licensed under the Animal Welfare Act and the regulations in 9 CFR Part 2, may be used as a source material, and the requirements of paragraph (b)(3) (i) through (iv) of this section do not apply in such cases. Notwithstanding U.S. Department of Agriculture inspection, the carcasses of such inspected animals shall be frozen or kept cold until the allergen is collected, or shall be stored under other acceptable conditions so that the postmotal decomposition processes do not adversely affect the allergen.

(c) *Listing of source materials and suppliers.* Each licensed manufacturer shall initially list with the Director, Office of Biologics, the name and address of each of the manufacturer's source material suppliers. The listing shall identify each source material obtained from each source material supplier. The licensed manufacturers shall update the listing annually to include new source material suppliers or to delete those no longer supplying source materials.

(d) *Exemptions.* (1) Exemptions or modifications from the requirements under paragraph (b) of this section shall be made only upon written approval by the Director, Office of Biologics.

(2) Nonlicensed source material suppliers are exempt from drug registration.

2. In § 680.2 by adding new paragraph (f) to read as follows:

§ 680.2 Manufacture of Allergenic Products.

* * * * *

(f) *Records.* A record of the history of the manufacture or propagation of each lot of source material intended for manufacture of final Allergenic Products shall be available at the establishment of the manufacturer of the source material, as required by § 600.12 (Office of Management and Budget approval number 0910-0041). A summary of the history of the manufacture or propagation of the source material shall be available at the establishment of the manufacturer of the final product.

Interested persons may, on or before September 13, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identifed with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1983.

Arthur Hull Hayes, Jr., M.D.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-19045 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Black Canyon of the Gunnison National Monument, Colorado; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate those routes in Black Canyon of the Gunnison National Monument where snowmobiles may be used for recreational purposes when such routes are closed to normal motor vehicular traffic because of snow and ice. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the national monument in a manner that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior.

DATE: Written comments, suggestions or objections will be accepted until August 15, 1983.

ADDRESS: Comments should be directed to: Superintendent, Black Canyon of the Gunnison National Monument, P.O. Box 1648, Montrose, Colorado 81402.

FOR FURTHER INFORMATION CONTACT: Joseph A. Kastellic, Superintendent, Black Canyon of the Gunnison National Monument, Telephone: (303) 249-9661.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicle on Public Lands) issued on February 9, 1972 (37 FR 2877), directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harrassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Department memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directives, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. Snowmobile use must be consistent with the park's natural, cultural, scenic and aesthetic values; reflect safety considerations and park management objectives; and not result in disturbing wildlife or damaging other park rersources.

The policy further provides that, where permitted, snowmobiles shall be confined to property designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

This proposed regulation is necessary to comply with the Service wide policy. Its promulgation also responds to public interest in additional recreational opportunities at Black Canyon of the Gunnison National Monument, North Rim, when weather conditions are such that the motor roads there are closed to public automobile traffic. Consequently, the regulation set forth below proposes to designate for snowmobile use, during periods of sufficient snow depth as determined by the superintendent, on the graded, graveled North Rim Drive and parking areas from the north monument boundary to both the North Rim Campground and the Turnaround.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Joseph A. Kastellic and Irene R. Ingle, Black Canyon of the Gunnison National Monument.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of the Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no substantial costs, if any, should result for any small entity. There may be a limited positive result for local repair shops, filling stations, parts stores, and retail snowmobile outlets.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment of this proposed rule, which is available at the address noted above.

Authority

Section 3 of the Act of August 23, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36, Code of Federal Regulations, by adding a new § 7.53 to read as follows:

§ 7.53 Black Canyon of the Gunnison National Monument.

(a) *Snowmobiles.* (1) During periods when snow depth prevents regular vehicular travel to the North Rim of the Monument, as determined by the superintendent, snowmobiling will be permitted on the graded, graveled North Rim Drive and parking areas from the north monument boundary to North Rim Campground and also to the Turnaround.

(2) On roads designated for snowmobile use, only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when there is sufficient snow cover and when these roads and parking areas are closed to all other motor vehicle use by the public. These routes will be marked by signs, snow poles, or other appropriate means. Snowmobile use outside designated routes is prohibited.

Dated: June 9, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19195 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 7

Theodore Roosevelt National Park, North Dakota; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate locations in Theodore Roosevelt National Park where snowmobiles may be used for recreational purposes. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the park in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior. This is proposed to be accomplished by restricting the use of snowmobiles to the frozen surface of the Little Missouri River.

DATE: Written comments, suggestions or objections will be accepted until August 15, 1983.

ADDRESS: Comments should be directed to: Superintendent, Theodore Roosevelt National Park, Medora, North Dakota 58645.

FOR FURTHER INFORMATION CONTACT: Harvey D. Wickware, Superintendent, Theodore Roosevelt National Park, Telephone: (701) 623-4466.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued on February 9, 1972 (37 FR 2877), directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.35 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

A notice was published in the **Federal Register**, March 13, 1975, (40 FR 11768) designating Little Missouri River channel within Theodore Roosevelt National Park as the authorized snowmobile trail. The route has since received annual winter use by snowmobiles. The routes to be designated by this proposal are the same as those adopted in 1975.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44

FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. Snowmobile use must be consistent with the park's natural, cultural, scenic and aesthetic values; reflect safety considerations and park management objectives; and not result in disturbing wildlife or damaging other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

The designated trail snowmobiles in Theodore Roosevelt National Park shall be the frozen surface of the Little Missouri River main channel within the boundaries of the park.

Public Participation

The policy of the National Park Service is, whenever paracticable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Harey Wickware and Robert Powell, Theodore Roosevelt National Park.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that the majority of use will be for access to snowmobiling areas on adjacent lands. No substantial costs, if any, should result for any small entity. There may be a limited postive result for local repair shops, filling stations, parts stores, and retail snowmobile outlets.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service prepared an environmental analysis of this proposed rule if 1975, which is available at the address noted above.

Authority

Section 3 of the Act of August 23, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36, the Code of Federal Regulations, by adding a new § 7.54 to read as follows:

§ 7.54 Theodore Roosevelt National Park.

(a) *Snowmobiles.* (1) Designated routes open to snowmobile use are the portions of the Litle Missouri River which contains the main river channels as it passes through both units of Theodore Roosevelt National Park. Ingress and egress to and from the designated route must be made from outside the boundaries of the park. There are no designated access points to the route within the park.

(2) The superintendent shall determine the opening and closing dates for the use of designated snowmobile routes each year, taking into consideration snow, weather and river conditions. He shall notify the public by posting of appropriate signs at the main entrance to both units of the park. The superintendent may, by the posting of appropriate signs, require persons to register or obtain a permit before operating any snowmobile within the park. The operation of snowmobile shall be in accordance with State laws in addition to the National Park Service regulations.

Dated: June 9, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19194 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 7

Zion National Park, Utah; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate those routes in Zion National Park where snowmobiles may be used for recreational or transportation purposes when that portion of the motor road is closed to normal motor vehicular traffic by snow and ice. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the park in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior.

DATE: Written comments, suggestions or objections will be accepted until August 15, 1983.

ADDRESS: Comments should be directed to: Superintendent, Zion National Park, Springdale, Utah 84767.

FOR FURTHER INFORMATION CONTACT: Superintendent, Zion National Park, Telephone: 801/772-3256.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued on February 9, 1972 (37 FR 2877), directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. Snowmobile use must be consistent with the park's

natural, cultural, scenic and aesthetic values; reflect safety considerations and park management objectives; and not result in disturbing wildlife or damaging other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

This proposed regulation is necessary to comply with Servicewide policy. Recreational use of the designated snowmobile routes will be encouraged. However, it is expected that most use will be by private individuals traveling through Zion National Park to their property north of the park boundary. Snowmobile routes will comprise 11.75 miles on the Kolob Terrace Road and in the area of Lava Point Fire Lookout.

Specifically, five segments of road are proposed for designation as follows: (1) The 3.5-mile paved portion of the Kolob Terrace Road from the park boundary in the west one-half of sec. 33, Township 40 South, Range 11 West, Salt Lake Base and Meridian, north to where this road leaves the park in the northwest corner of sec. 16, T. 40 S., R. 11 W., SLBM; (2) An approximately 5-mile paved portion of the Kolob Terrace Road from the park boundary, north of Spendlove Knoll, in sec. 5, T. 40 S., R. 11 W., SLBM, north to where this road leaves the park in the southwest corner of sec. 23, T. 39 S., R. 11 W., SLBM; (3) An approximately 1-mile portion of unplowed, graded road from the park boundary in the southeast corner of sec. 13, T. 39 S., R. 11 W., SLBM, south to the Lava Point Fire Lookout in the northwest quarter of sec. 31, T. 39 S., R. 10 W., SLBM; (4) An approximately 2-mile portion of unplowed, graded dirt road from the Lava Point Ranger Station, southeast to the West Rim Trailhead and then to a point where the road divides and leaves the park in the southeast corner of sec. 30, and the northeast corner of sec. 31, T. 39 S., R. 10 W., SLBM; and (5) An approximately ¼-mile portion of unplowed, graded dirt road from the Lava Point Ranger Station, north to the park boundary where the road leaves the park all in the southeast corner of sec. 13, T. 39 S., R. 11 W., SLBM.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: M. S. Nicholson, and L. L. Hays, Zion National Park.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on the substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that the majority of use will be for access to adjacent lands. No substantial costs, if any, should result for any small entity. There may be a limited positive result for local repair shops, filling stations, parts stores, and retail snowmobile outlets.

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment of this proposed rule, which is available at the address noted above.

Authority

Section 3 of the Act of August 23, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by adding a new paragraph (d) to § 7.10 as follows:

§ 7.10 Zion National Park

* * * * *

(d) *Snowmobiles.* After consideration of snow and weather conditions, the superintendent may permit the use of snowmobiles on designated routes within the park. Snowmobile use is restricted to the established roadway. All off-road use is prohibited. The designated routes are defined as follows:

(1) All of the paved portion of the Kolob Terrace Road from the park boundary in the west one-half of sec. 33, T. 40 S., R. 11 W., Salt Lake Base and Meridian, north to where this road leaves the park in the northwest corner of sec. 16, T. 40 S., R. 11 W., SLBM. This paved portion of the Kolob Terrace Road is approximately three and one-half miles in length.

(2) All of the unplowed, paved portions of the Kolob Terrace Road from the park boundary, north of Spendlove Knoll, in sec. 5, T. 40 S., R. 11 W., SLBM, north to where this road leaves the park in the southwest corner of sec. 23, T. 39 S., R. 11 W., SLBM, a distance of approximately five miles.

(3) The unplowed, graded dirt road from the park boundary in the southeast corner of sec. 13, T. 39 S., R. 11 W., SLBM, south to Lava Point Fire Lookout in the northwest quarter of sec. 31, T. 39 S., R. 10 W., SLBM, a distance of approximately one mile.

(4) The unplowed, graded dirt road from the Lava Point Ranger Station, southeast to the West Rim Trailhead and then to a point where this road divides and leaves the park, in the southeast corner of sec. 30, and the northeast corner of sec. 31, T. 39 S., R. 10 W., SLBM, a distance of approximately two miles.

(5) The unplowed, graded dirt road from the Lava Point Ranger Station, north to the park boundary where this road leaves the park, all in the southeast corner of sec. 13, T. 39 S., R. 11 W., SLBM, a distance of approximately one-fourth mile.

Dated: June 9, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19193 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

Insurance Coverage and Rates; National Flood Insurance Program Emergency Phase

AGENCY: Federal Insurance Administration (FIA), FEMA.

ACTION: Proposed rule.

SUMMARY: The Federal Emergency Management Agency proposes to increase the chargeable rates for all structures located in communities participating in the emergency phase of the National Flood Insurance Program.

The Federal Insurance Administration (FIA) has examined the current chargeable rates and the amount of subsidy required to supplement the inadequate premium income derived from insurance policies to which these rates apply. Based on this examination, FIA has determined that the general public continues to bear too great a share of the burden for subsidized insurance rates. In addition, FIA has determined that it is necessary to bring the National Flood Insurance Program closer to a self-supporting basis and create a sounder financial basis for the program.

DATE: All comments received on or before September 15, 1983, will be considered before final action is taken on the proposed rule.

ADDRESS: Persons who wish to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Wasington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, S.W., Washington, D.C. 20472; telephone number (202) 287–0740.

SUPPLEMENTARY INFORMATION: Section 1308 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), separated the flood insurance ratemaking process for the National Flood Insurance Program (NFIP) into two distinct categories. These are: (1) Estimated risk premium or "actuarial" rates and (2) chargeable rates which under certain statutory conditions could be less than estimated risk premium rates. The chargeable or "subsidized" rates currently in use are set forth in Section 61.9 of the National Flood Insurance Program regulations (44 CFR 59 et seq.).

These subsidized rates are countrywide rates for broad building type classifications which, when applied to the amount of insurance purchased and added to the expense constant, produce a premium income somewhat less than the expense and loss payments incurred on the flood insurance policies issued on that basis. The funds needed to supplement the inadequate premium income are provided by the National Flood Insurance Fund. The subsidized rates are promulgated by the Administrator for use under the Emergency Program (added to the NFIP by the Congress in Section 408 of the Housing and Urban Development Act of 1969) and for the use in the Regular Program on construction or substantial improvement started before December 31, 1974 (this additional grandfathering was added to the NFIP by Congress in Section 103 of the Flood Disaster Protection Act of 1973) or the effective date of the initial Flood Insurance Rate Map (FIRM), whichever is later. The level of these rates in recent years has resulted in an average annual insurance premium of $167 per policy paid by policyholders and an average premium subsidy of about $100.00 per policy, for policies electing subsidized rates, borrowed from the Treasury of the United States.

The statutory mandate to establish reasonable chargeable rates requires that the Federal Insurance Administrator balance the need to provide reasonable rates to encourage potential insureds to purchase flood insurance with the requirement that the NFIP be a flexible program which minimizes costs and distributes burdens equitably among those who will be protected by flood insurance and the general public. The Federal Insurance Administration (FIA) has examined the current chargeable rates and the amount of subsidy required to supplement the inadequate premium income derived from insurance policies to which these rates apply. Based on this examination, FIA has determined that the general public continues to bear too great a share of the burden for subsidized insurance rates. In addition, FIA has determined that it is necessary to bring the National Flood Insurance Program closer to a self-supporting basis and create a sounder financial basis for the Program. Therefore, to meet these needs, FIA proposes to increase the chargeable or subsidized rates as follows:

Type of structure	Rates per year per $100 coverage on	
	Structure	Contents
(1) Residential	$0.45	$0.55
(2) All other (including hotels and motels with normal occupancy of less than 6 months in duration)	.55	1.10

For comparison, the current subsidized rates are as follows:

Type of structure	Rates per year per $100 coverage on	
	Structure	Contents
(1) Residential	$0.40	$0.50
(2) All other (including hotels and motels with normal occupancy of less than 6 months in duration)	.50	1.00

The need for these increases has been balanced with the statutory requirement that the chargeable rates be consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase flood insurance. Although policyholders will be required to pay more for flood insurance coverage for all existing structures and for new structures in emergency program communities, FIA has determined that the premium payments for policies purchased or renewed, to which the new rates are applicable, will be reasonable as required by statute.

The amount of the proposed rate increases represents a balance between the need for decreasing the federal subsidy required for the Program, thus, more equitably distributing the burdens and the requirement that chargeable rates be reasonable.

Section 1308 of the National Flood Insurance Act of 1968, as amended, requires that FIA shall prescribe by regulation chargeable rates after consultation with representatives of the insurance industry, State and local government, lending institutions, the homebuilding industry and the general public.

FIA has determined that the comment period provided for this proposed rule will be adequate for any comments to be made on the proposed rates and their effects.

FIA proposes that the increased chargeable rates go into effect on October 1, 1983.

FEMA has determined that the proposed rule does not contain a collection of information required as described in Section 3504(h) of the Paperwork Reduction Act.

FEMA has determined, based upon an Environmental Assessment, that this proposed rule does not have a significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, S.W. Washington, D.C. 20472.

List of Subjects in 44 CFR Part 61

Flood insurance.

Accordingly, Part 61 of Subchapter B of Chapter 1 of Title 44 is proposed to be amended as follows:

PART 61—[AMENDED]

Section 61.9 is revised to read as follows:

§ 61.9 Establishment of chargeable rates.

(a) Pursuant to section 1308 of the Act, chargeable rates per year per $100 of flood insurance are established as follows for all areas designated by the Administrator under Part 64 of this subchapter for the offering of flood insurance.

RATES FOR NEW AND RENEWAL POLICIES

Type of structure	Rates per year per $100 coverage on	
	Structure	Contents
(1) Residential	$0.45	$0.55
(2) All other (including hotels and motels with normal occupancy of less than 6 months in duration)	.55	1.10

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

(42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978 (3 CFR 1978 Comp. 329) and Executive Order 12127 (44 FR 19367))

(Catalog of Federal Domestic Assistance No. 83.100 National Flood Insurance Program)

Issued: July 1983

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 83-19105 Filed 7-14-83; 8:45 am]

BILLING CODE 6718-01-M

Notices

Federal Register
Vol. 48, No. 137
Friday, July 15, 1983

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

Food and Nutrition Service

Child Care Food Program; National Average Payment Rates, Day Care Home Food Service Payment Rates and Administrative Reimbursement Rates for Sponsors of Day Care Homes for the Period July 1, 1983–June 30, 1984

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the national average payment rates for meals served in centers, the food service payment rates for meals served in day care homes and the administrative reimbursement rates for sponsors of day care homes to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Child Care Food Program.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 416, Alexandria, Virginia 22302 or by telephone at (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291, and has been determined to be "nonmajor" 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 been reviewed for compliance with the requirements of Public Law 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service, has determined that this notice will not have a significant economic impact on a substantial number of small entities. This notice merely complies with a Congressional mandate to adjust reimbursement rates in the Child Care Food Program to allow for changes in the Consumer Price Index, thereby maintaining constancy in the Program.

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the *Paperwork Reduction Act of 1980* (44 U.S.C. 3587).

Background

Pursuant to Sections 11 and 17 of the National School Lunch Act (NSLA), Section 4 of the Child Nutrition Act (CNA) and § 226.4, § 226.12 and § 226.13 of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given of the new payment rates for participating institutions. These rates shall be in effect during the period July 1, 1983–June 30, 1984.

Public Law 97–35 requires that all rates in the Child Care Food Program (CCFP) be adjusted annually on July 1 to reflect changes in the Consumer Price Index (CPI) for the most recent 12 month period. In accordance with this mandate, the Department last adjusted the national average payment rates for centers and the food service payment rates for day care homes on July 1, 1982. Due to litigation, the adjusted administrative reimbursement rates for sponsors of day care homes were published on September 21, 1982. However, this September adjustment to the administrative rates was based on the change in the CPI between May 1981 and May 1982, the same period used for the other rate adjustments. Therefore, for rate adjustment purposes, the period being adjusted by this notice is considered to have begun on July 1, 1982. The adjustments announced in this notice are based on the change in the CPI for the 12 month period from May 1982 to May 1983.

ALL STATES EXCEPT ALASKA AND HAWAII

Meals served in centers—Per meal payment rates in cents:	
Breakfasts:	
Paid	8.0.
Free	62.75.
Reduced	32.75.
Lunches and suppers:	
Paid	11.50.[1]
Free	108.75 + paid = 120.25.[1]
Reduced	120.25 − 40.00 = 80.25.[1]
Supplements:	
Paid	3.00.
Free	33.00.
Reduced	16.50.
Meals served in day care homes—Per meal payment rates in cents:	
Breakfast	52.50.
Lunches and Suppers	103.00.
Supplements	30.75.
Administrative reimbursement rates for sponsoring organizations of day care homes—Per home per/month rates in dollars:	
Initial 50 day care homes	46.
Next 150 day care homes.	35.
Next 800 care homes	28.
Additional day care homes.	24.

[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 of commodities are published separately in the FEDERAL REGISTER.

Pursuant to Section 12(f) of the NSLA, the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

ALASKA

Alaska—Meals served in centers—Per meal payment rates in cents:	
Breakfasts:	
Paid	14.75.
Free	101.75.
Reduced	71.75.
Lunches and suppers:	
Paid	18.75.[1]
Free	176.25 + paid = 195.00.[1]
Reduced	195.00 − 40.00 = 155.00.[1]
Supplements:	
Paid	5.00.
Free	53.50.
Reduced	26.75.
Alaska—Meals served in day care homes—Per meal payment rates in cents:	
Breakfasts	85.00.
Lunches and Suppers	167.00.
Supplements	49.75.
Alaska—Administrative reimbursement rates for sponsoring organizations of day care homes—Per home/per month rates in dollars:	
Initial 50 day care homes	75.
Next 150 day care homes.	57.
Next 800 day care homes.	45.
Additional day care homes.	39.

[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 of commodities are published separately in the FEDERAL REGISTER.

The new payment rates for Hawaii are as follows:

HAWAII

Hawaii—Meals served in centers—Per meal Payment rates in cents:	
Breakfasts:	
Paid	10.75.
Free	73.50.
Reduced	43.50.
Lunches and suppers:	
Paid	13.50.[1]
Free	127.25 + paid = 140.75.[1]
Reduced	140.75 − 40.00 = 100.75.[1]
Supplements:	
Paid	3.50.
Free	38.75.
Reduced	19.25.
Hawaii—Meals served in day care homes—per meal payment rates in cents:	
Breakfasts	61.50.
Lunches and Suppers	120.50.
Supplements	36.00.
Hawaii—Administrative reimbursement rates for sponsoring organizations of day care homes—Per home/per month rates in dollars:	
Initial 50 day care homes	54.
Next 150 day care homes	41.
Next 800 day care homes	32.
Additional day care homes	26.

[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 of commodities are published separately in the FEDERAL REGISTER.

The changes in the national average payment rates and the food service payment rates for day care homes reflect a 4.53 percent increase during the 12 month period May 1982 to May 1983 (from 304.8 in May 1982 to 318.6 in May 1983) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The changes in the administrative reimbursement rates for sponsoring organizations of day care homes reflect a 3.48 percent increase during the 12 month period May 1982 to May 1983 (from 287.1 in May 1982 to 297.1 in May 1983) in the series for all items of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

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 August 20, 1982 at 47 FR 36524–36551.

(Catalog of Federal Domestic Assistance Program No. 10.558)

(Sec. 810 and 820, Public Law 97–35, Omnibus Budget Reconciliation Act of 1981; Section 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); Section 10(a), Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760))

Dated: July 11, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-19025 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-35-M

National School Lunch, Special Milk, and School Breakfast Programs: National Average Payments/Maximum Reimbursement Rates

Correction

In FR Doc. 83–18071, beginning on page 31058 in the issue of Wednesday, July 6, 1983, make the following corrections:

1. On page 31059, second column, the fifth line of the paragraph following the heading "National School Lunch Program Payments" should read, "Year 1981–82 the payments are:".

2. On page 31059, third column, the last entry in the third column of the portion of the table headed, "School Breakfast Program" should read, ".8825".

BILLING CODE 1505-01-M

Cash in Lieu of Commodities; Value of Donated Commodities for School Year 1983

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that, since the value of agricultural commodities and other foods provided meets the level of assistance authorized under the National School Lunch Act, there will be no shortfall cash payments to States for the National School Lunch Program for the 1983 school year. The Secretary of Agriculture has determined that the annually programmed level of assistance was met in food donations by June 30, 1983.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22303, (703) 756–3660.

SUPPLEMENTARY INFORMATION:

Classification: This action, which implements a mandatory provision of section 6(b) of the National School Lunch Act (the Act), has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "nonmajor." It meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service has determined that it will not have a significant economic impact on a substantial number of small entities. The primary purpose of the action is to notify States that the amount of foods donated will meet the programmed level for the school year 1983; therefore, no payment of cash in lieu of donated foods will be necessary.

Section 6(b) of the National School Lunch Act (the Act), as amended (7 U.S.C. 1755) and the regulations governing cash in lieu of donated foods (7 CFR Part 240) require the Secretary of Agriculture by May 15 of each school year to estimate the value of agricultural commodities and other foods that will be delivered to States during that school year. Under the food distribution regulations (7 CFR Part 250), these foods are used by schools participating in the National School Lunch Program. If the estimated value is less than the total level of commodity assistance authorized under section 6(e) of the Act, the Secretary is required by June 15, 1983, to pay to each State administering agency, funds equal to the difference between the value of programmed deliveries and the total level of authorized assistance for each State.

For school year 1983 the adjusted minimum national average value per lunch donated foods or payment of cash in lieu thereof has been established under section 6(e) at 11.50 cents per lunch (47 FR 35261). In accordance with this requirement, a national entitlement of $420,489,938 in commodities was established for school year 1983. The Secretary has determined that at least that amount was delivered nationally by June 30, 1983, to meet the mandated level of assistance.

Notice is hereby given, therefore, that no shortfall cash payments will be made for the school year ending June 30, 1983.

This notice contains no reporting or recordkeeping provision necessitating clearance by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance No. 10.550)

Dated: July 8, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-19082 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

South Kaibab Grazing Advisory Board; Meeting

The South Kaibab Grazing Advisory Board will meet at 9:30 A.M., Friday, August 5, 1983, at the Supervisor's Office, 800 South 6th Steet, Williams, Arizona.

The purpose of this meeting is:

1. Development of Allotment Management Plans
2. Utilization of Range Betterment Funds

The meeting will be open to the public. Persons who wish to attend should notify: Forest Supervisor, Kaibab National Forest, 800 South 6th Street, Williams, Arizona 86046, Telephone: (602) 635-2681.

Those attending may express views when recognized by the Chairman.

Dated: July 5, 1983.

Leonard A. Lindquist,

Forest Supervisor.

[FR Doc. 83-19071 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Plains Electric Generation and Transmission Cooperative, Inc. and Southwestern Electric Cooperative, Inc.; Finding of no Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of No significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding on No Significant Impact with respect to proposed financing assistance for the construction of 115 kV transmission facilities by Plains Electric Generation and Transmission Cooperative, Inc., (Plains) in Colfax, Harding and Union Counties, New Mexico, and with respect to proposed financing assistance to Southwestern Electric Cooperative, Inc., (SWEC) for construction of 69 kV transmission facilities in Union County, New Mexico.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Plains' and SWEC's Borrower's Environmental Report (BER) may be reviewed in the office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1915, at the office of Plains Electric Generation and Transmission Cooperative, Inc., (Stanley K. Bazant, Manager), 2401 Aztec Road, N.E., Albuquerque, New Mexico 87107, telephone (505) 884-1881 or at the office of Southwestern Electric Cooperative, Inc., (D. E. Carter, Manager), P.O. Box 369, Clayton, New Mexico 88415, telephone (505) 374-2451, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from Plains and financing assistance from SWEC, has reviewed the BER's submitted by Plains and SWEC and has determined that they represent an accurate assessment of the environmental impact of the proposed projects. Plains' project consists of a 115 kV transmission line about 144 km (90 miles) long between the existing Springer Substation near Springer, New Mexico, a proposed station at Clapham, New Mexico, and a proposed delivery point near Rosebud, New Mexico, and enlargement of the Springer Substation. SWEC's project consists of about 65 km (46 miles) of 69 kV transmission facilities interconnecting with Plains' Clapham Station and serving the area south of Clayton, New Mexico.

REA determined that the proposed projects will have no effect on wetlands and threatened and endangered species. Plains' 115 kV line will traverse the floodplain of the Canadian River near Springer, New Mexico. The 115 kV line will also cross some important farmland. The environmental effects on the floodplain and important farmland will be minimal. No National Register sites or archaeological sites were reported along the proposed routes. A qualified archaeologist will conduct a cultural resource survey along the final alignment.

Alternatives examined for the Springer-Rosebud 115 kV line included: (1) No action, (2) alternative means of delivery, (3) alternative voltages, and (4) alternative substation sites and routes. Alternative substation sites and routes would be located in Colfax, Harding and Union Counties also. Alternative means of delivery could result in a transmission line from either Dalhart or Amarillo, Texas, or from Tucumcari, New Mexico. REA determined that the proposed route is acceptable for Plains to provide SWEC with the Rosebud Delivery Point.

Alternatives examined for the SWEC 69 kV facilities included: (1) No action, (2) alternative means of delivery, and (3) alternative substation sites and routes. Alternative substation sites and routes would be located in Union County also. REA determined that the proposed 69 kV facilities are an acceptable alternative to provide for SWEC's present and future anticipated needs.

Based upon the BER's and support documents, REA prepared an EA concerning the proposed projects and their impact. REA concluded that the proposed financing assistance for Plains and proposed financing assistance for SWEC would not be a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20-21:320-21, dated January 21, 1980, Plains and SWEC advertised and requested comments on the environmental aspects of the proposed projects in local newspapers in Bernalillo, Colfax, Harding and Union Counties, New Mexico. Southwest Public Service Company of Amarillo, Texas, commented on alternative means of delivery for providing power to the Rosebud area.

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

Dated: July 11, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-19162 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-15-M

New Hampshire Electric Cooperative, Inc., Plymouth, N.H.; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Proposed loan guarantee.

SUMMARY: 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 $111 million to New Hampshire Electric Cooperative, Inc., (NHEC), Plymouth,

New Hampshire. This loan guarantee will provide supplemental funds needed to complete the financing of NHEC's 2.17 percent undivided ownership interest in the Seabrook Nuclear Generating Station, Units 1 and 2, (2–1150 MW units), and for additional transmission support charges. The Seabrook project is being constructed by the lead owner, The Public Service Company of New Hampshire, in Stafford County, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. John Pillsbury, Manager, New Hampshire Electric Cooperative, Inc., Tenney Mountain Highway, Plymouth, New Hampshire, 03264.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Pillsbury at the address given above.

In order to be considered, proposals must be submitted on or before August 15, 1983 to Mr. Pillsbury. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as NHEC and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Public Information Office, 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: July 11, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-19081 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Clear Creek Road RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: 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 Clear Creek Road RC&D Measure, Highland County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: 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, Robert R. Shaw, 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 to stabilize a 1500 foot section of streambank along Clear Creek Road. The planned works of improvement include shaping the streambank, placement of rock riprap and seeding bare areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(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)

Robert R. Shaw,

State Conservationist.

July 6, 1983.

[FR Doc. 83-19053 Filed 7-14-83; 8:45 am]

BILLING CODE 3412-10-M

Waggoner Riffle Road RC&D Measure, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: 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 Waggoner Riffle Road RC&D Measure, Adams County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone (614)–469–6962.

SUPPLEMENTARY INFORMATION: 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, Robert R. Shaw, 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 to stabilize a land slip affecting a 600 food section of county road. The planned works of improvement include the installation of surface and subsurface drainage systems, a grade stabilization structure and approximately five acres of critical area seeding.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

(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)

Robert R. Shaw

State Conservationist.

July 6, 1983.

[FR Doc. 83-19052 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-16-M

Centauri Junior High School Critical Area Treatment RC&D Measure, Colorado; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: 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 Centauri Junior High School Critical Area Treatment RC&D Measure, Conejos County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 W. 26th Avenue, Denver, Colorado 80211, telephone (303) 837–4275.

SUPPLEMENTARY INFORMATION: 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. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This critical area treatment measure concerns a plan to reduce wind erosion on the school grounds by shaping and grading, adding topsoil and establishing trees, shrubs, and grasses. A drip type irrigation system will be installed to establish and support the tree/shrub shelterbelts.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(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: July 6, 1983.

Sheldon G. Boone,

State Conservationist.

[FR Doc. 83–19028 Filed 7–14–83; 8:45 am]

BILLING CODE 3410–16–M

Chesapeake Isle; Critical Area Treatment RC&D Measure, Maryland

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1968; 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 notic that an environmental impact statement is not being prepared for the Chesapeake Isle Critical Area Treatment RC&D Measure, Cecil County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301–344–4180.

SUPPLEMENTARY INFORMATION: 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. Gerald R. Calhoun, 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 to control erosion along 1,730 feet of shoreline on Elk Neck Peninsula. The planned works of improvement include installation of a 1,730-foot stone revetment, construction of a diversion and outlet at top of the bank, and grading (where feasible) and vegetative stabilization of eroding areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Gerald R. Calhoun,

State Conservationist.

July 6, 1983.

[FR Doc. 83–18998 Filed 7–14–83; 8:45 am]

BILLING CODE 3410–16–M

Northmoreland Lake Development RC&D Measure, Pennsylvania

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: 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 Northmoreland Lake Development RC&D Measure, Westmoreland County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782–2202.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the measure will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. James H. Olson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a water impoundment. The planned works of improvement include an earthen dam

creating an 18 acre lake within the existing county park.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting James H. Olson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(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: July 6, 1983.

James H. Olson,

State Conservationist.

[FR Doc. 83-18962 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Hearing on Permit Application

On March 17, 1983, Notice was published in the **Federal Register** (48 FR 11310) that an application had been filed with the National Marine Fisheries Service by Sea World, Inc., 1720 South Shores Road, San Diego, California 92109, for a Public Display/Scientific Research permit to take killer whales under the provisions of the Marine Mammal Protection Act of 1972.

Notice is hereby given that as authorized by Section 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the National Marine Fisheries Service will hold a public hearing on this application. The hearing will be held between 9:00 a.m. and 4:00 p.m. on August 16, 1983, in the auditorium of the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard, East, Seattle, Washington 98112. All participants should be prepared to testify on August 16; however, the hearing may continue on August 17, if necessary.

Individuals and organizations may express their opinions and views by appearing at this hearing or by submitting written testimony for inclusion in the record. Those individuals or organizations wishing to testify must submit written notice of intent to participate by Friday, August 5, 1983, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. Time allotted each participant may be limited depending on the number of participants.

The public comment period on this application originally closed on April 16, 1983, and was subsequently extended through July 27, 1983 (48 FR 16934, 22976 and 29571). Since a hearing will be held on the application, the public comment period/hearing record will remain open until Friday, August 26, 1983. All written comments should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235 and must be postmarked by that date in order to be considered.

For further information, contact the Protected Species Division, National Marine Fisheries Service, Washington, D.C. 20235 (phone 202-634-7529).

Dated: July 12, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-19154 Filed 7-14-83; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Agricultural Options Advisory Committee; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a) and 41 CFR 101-6.1015(b), that the Commodity Futures Trading Commission's Agricultural Options Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street, N.W., Washinton, D.C. 20581, on July 28, 1983, beginning at 9:00 a.m. and lasting until 5:00 p.m. The agenda will consist of:

1. Introductory Remarks—Kalo A. Hineman, Chairman of the Advisory Committee and Commissioner, CFTC;

2. Statements on agricultural options issues requested by the Committee from representatives of commodity exchanges;

3. Statements on agricultural options issues by members of the public;

4. Statements by Committee members concerning additional issues, if any, which the Committee should consider;

5. Briefing on applicability of the "trade option" exemption to agricultural options—CFTC Divisions of Economics and Education, Trading and Markets and Office of the General Counsel;

6. Discussion of the Committe's Initial Report on Agricultural Options Issues. The Report will present the Committee's views and comments to the Commission prior to the Commission's drafting of proposed regulations for the trading of agricultural options;

7. Discussion of timetable for next Committee meeting.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural options issues. The purposes and objectives of the Advisory Committee are more fully set forth at 48 FR 26508 (June 8, 1983).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Kalo A. Hineman, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Agricultural Options Advisory Committee c/o Charles O. Conrad, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Conrad in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on July 11, 1983.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 83-19084 Filed 7-14-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Regulatory Permit Action To Construct Stagecoach Reservoir; Yampa River in Routt County, Colorado

Agency: Army Corps of engineers, DOD.

Action: Notice of Intent to prepare a Draft EIS.

Summary: The Upper Yampa Water Conservacy District applied for a Department of the Army permit (Public Notice Number 8154 dated April 29, 1983) to place fill material in the Yampa River for construction of a 33,700 acre-foot reservoir with a surface area of 780 acres. The minimum pool would be 3,700 acre-feet with a surface area of about 180 acres. The application was filed pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). The purpose of the project is to provide storage water to supplement municipal, industrial, and agricultural water supplies in the Yampa River and Egeria Creek basins.

Alternatives: The alternatives being considered at this time are:

1. Stagecoach Reservoir as proposed by the applicant.
2. Smaller reservoir at the same location.
3. Other reservoirs located on the Yampa River.
4. Offstream storage.
5. Groundwater wells.
6. Infiltration galleries.
7. Utilization of existing storage.
8. No action.

Other alternatives identified during the scoping process will also be considered.

Concurrently with this notice, the Sacramento District is issuing a public scoping notice. The notice is being sent to all known interested parties, and is requesting that the reviewers provide comments on the scope of the EIS. We intend to accomplish the scoping process in this manner; however, if it is determined that this method is not adequate, a scoping meeting will be held.

The significant issues which have been identified to date and which will be analyzed in the EIS are:

1. The existing and future need for this project.
2. Effects on river recreation.
3. Effects on threatened and endangered species.
4. Effects on cultural resources.
5. Effects on water quality.
6. Effects of flow reduction and water temperature modifications.
7. Growth inducing impacts in the vicinity of the reservoir.
8. Effects on wildlife habitat including critical elk and deer wintering range.
9. Effects on fishery resources.
10. Effects on riparian/wetland vegetation.
11. Effects on farmlands.
12. Effects on adjacent National Forests currently being studied for wilderness potential.

Other effects identified during the scoping process will also be discussed in the EIS.

Other environmental review and consultation requirements which will be conducted concurrently with the NEPA process include Section 401 and 404 of the Clear Water Act, Fish and Wildlife Coordination Act, National Historic Preservation Act, Endangered Species Act and Executive Order 11988 on floodplain management.

We estimate the Drafts EIS will be made available to the public in January 1984.

Questions concerning the proposed action and EIS should be directed to Mr. Jim Gibson, Regulatory Section, U.S. Army Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440–2541, (FTS 448–2541)

Dated: June 30, 1983.

Arthur E. Williams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-19056 Filed 7-14-83; 8:45 am]

BILLING CODE 3710-GH-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Task Force on the Role of C³I in Strategic Deterrence will meet on August 3–4, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the role of DOD/JCS C³I systems in strategic deterrance and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander K. M. Cummings, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Phone (703) 756–1205.

Dated: July 11, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 83-19090 Filed 7-14-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Advisory Council on Continuing Education; Meeting

AGENCY: National Advisory Council on Continuing Education, Ed.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Annual Report Drafting Committee of the National Advisory Council on Continuing Education. It also describes the functions of the Council. Notice of meetings is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: July 29, 1983.

ADDRESS: National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Dr. William G. Shannon, Executive Director, National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C. 20004, Telephone: (202) 376–8888.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Continuing Education is established under Section 117 of the Higher Education Act (20 U.S.C. 1009), as amended. The Council is established to advise the President, the Congress, and the Secretary of the Department of Education on the following subjects:

(a) An examination of all federally supported continuing education and training programs, and recommendations to eliminate duplication and encourage coordination among these programs;

(b) the preparation of general regulations and the development of policies and procedures related to the administration of Title I of the Higher Education Act; and

(c) activities that will lead to changes in the legislative provisions of this title and other federal laws effecting federal continuing education and training programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending are asked to call the Council's office beforehand.

The meeting of the Council's Annual Report Drafting Committee will be held from 9:00 a.m. until 4:30 p.m.

The proposed agenda includes:

—Review and editing draft of Annual Report to the President, the Congress, and the Secretary of Education. The Committee's report will be submitted to a meeting of the full Council in September prior to its official distribution as required by law.

—Other Committee business.

Records are kept of all Council proceedings and are available for public inspection at the office of the National Advisory Council on Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C.

Signed at Washington, D.C., on July 11, 1983.

William G. Shannon,

Executive Director.

[FR Doc. 83-19054 Filed 7-14-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Enhanced Oil Recovery will meet in July 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its ninth meeting on Wednesday, July 27, 1983, starting at 8:30 a.m., in the Gold Room of the Brown Palace Hotel, 321 Seventeenth Street, Denver, Colorado.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss study assignments.
3. Review task group study assignments.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-2918, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public reading Room, 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays

Issued at Washington, D.C., on July 7, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-18907 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in July 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task group. The time, location, and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its seventh meeting on Tuesday, July 26, 1983, starting at 8:30 a.m., in the Gold Room of the Brown Palace Hotel, 321 Seventeenth Street, Denver, Colorado.

The tentative agenda for the Thermal Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Thermal Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Thermal Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 7, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-18898 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in July 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of

increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economics Task Group will hold its eighth meeting on Tuesday, July 19, 1983, starting at 9:00 a.m., in the Research Conference Room, Cities Service Technology Center, 4500 South 129th East Avenue, Tulsa, Oklahoma.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review remarks by the Chairman and Government progress of Task Group assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 8, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-19160 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-144 et al.]

Allentown Hospital et al.; Certifications of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FEDERAL REGISTER notice of application
Allentown Hospital, Allentown, Pa	May 26, 1983	83-CERT-144	48 FR 27420, June 15, 1983.
Phoenix Forging Co., Catasauqua, Pa	do	83-CERT-145	48 FR 27425, June 15, 1983.
St. Joseph Hospital, Lancaster, Pa	do	83-CERT-146	48 FR 27426, June 15, 1983.
The Faultless Rubber Co., Ashland, Ohio	do	83-CERT-147	48 FR 27421, June 15, 1983.
Kaiser Aluminum & Chemical Corp., Hamilton County, Ohio	do	83-CERT-148	48 FR 27423, June 15, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on July 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-19158 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

National Petroleum Council Coordinating Subcommittee on Petroleum Inventories and Storage Capacity; Open Meeting

Notice is hereby given of the following meeting:

Name: Coordinating Subcommittee of the Committee on Petroleum Inventories and Storage Capacity

Date and Time: Wednesday and Thursday, July 27-28, 1983—9:00 a.m.

Place: The Standard Oil Company (Indiana) Building, Conference Rooms 2 and 3, 200 East Randolph Drive, Chicago, Illinois

Contact: Jimmie L. Petersen, Director, Office of Oil and Gas, Energy Information Administration, U.S. Department of Energy, Forrestal Building, Room 2H-058, Washington, D.C. 20585, Telephone: 202:252-6401

Purpose of Subcommittee: To assemble information on matters relating to petroleum inventories and petroleum product storage capacities.

Tentative Agenda:

- Review individual Subcommittee assignments.
- Discussion of assignments for the next meeting.
- Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.
- Public Comment.

Public participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Jimmie L. Petersen at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the prsentation on the agenda. The Chairperson to the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of meeting: Minutes of subcommittee meetings are prepared and are available for review and copying at the Freedom of Information Public Reading Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on July 5, 1983.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 83-19159 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Revision of the Form EIA-767

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of the proposed revision of the Form EIA–767, "Steam-Electric Plant Air and Water Quality Control Data," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is proposing a revision of Form EIA–767, "Steam-Electric Plant Air and Water Quality Control Data." Prior to 1982, this form was known as the Federal Power Commission (FPC) Form 67, "Steam-Electric Plant Air and Water Quality Control Data." The proposed revised form will be titled "Steam-Electric Plant Operation and Design Report." After the approval of the Office of Management and Budget (OMB) is obtained, EIA will begin using the revised form for the collection of the calendar year 1982 data.

DATE: Written comments must be received by EIA on or before August 15, 1983.

ADDRESSES: Comments should be sent to Al Breuel at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the revised Form EIA–767, contact: Al Breuel, Office of Coal, Nuclear, Electric and Alternate Fuels, Energy Information Administration, Department of Energy, MS–2F021, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6541.

SUPPLEMENTARY INFORMATION:

I. Background

The revised Form EIA–767 remains an annual form that collects data on the operation and design of steam-electric plants. The form collects data required by the following sponsors: The Environmental Protection Agency (EPA), the DOE Office of Environmental Safety, and Emergency Preparedness (EP), the Federal Energy Regulatory Commission (FERC), and the Bureau of Economic Analysis (BEA) of the Department of Commerce. Most of the data elements on this form are required by more than one sponsor. EPA uses the data to develop, assess, reform, and enforce the regulations required by the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*), and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*). EP uses the data to assess the environmental impacts of electric energy plans and projections, and the impacts of environmental regulations on the generation of electric power. Both EPA and EP use the data to perform analyses required of them as participants in the Interagency Acid Precipitation Task Force established by the Energy Security Act of 1980 (42 U.S.C. 8901 *et seq.*). FERC uses the data to evaluate fuel use in utility rate-making proceedings and the use of alternate fuels. BEA uses the data to assess the impact of pollution abatement and control expenditures on the Gross National Product. EIA, in coordination with the sponsors, designed the revised form and is responsible for collecting and processing the data.

II. Current Action

The revised version of Form EIA–767 differs significantly from the current version. The form is the product of a major redesign effort, which started with a requirements study and included two working drafts which in turn were critiqued by experts both inside and outside of government. The form is organized into sections based on the level of reporting, e.g., plant, boiler, etc., and by the categorization of the data as operating or design. The form is designed for preprinting data that change infrequently. Starting with the collection of the data for calendar year 1983, EIA will preprint the previous year's data on the page header lines and design sections. The preprinted data will only need to be verified and updated when necessary by the respondent.

After OMB approval is obtained, all U.S. electric utilities must file this form for each qualifying U.S. plant that they operate or are responsible for constructing. A qualifying plant is one for which the total generator nameplate capacity of the existing or planned, organic- and nuclear-fueled steam-electric units is 100 megawatts or greater. A planned unit is one that is expected to be in commercial service within 7 years of the end of the reporting year. The form must be submitted by May 1 following the end fo the reporting year. However, for the collection of the data for 1982, the form must be submitted by the last day of the second month following the date it is mailed to the utilities.

Without preprinting, the average respondent burden, defined as the number of person-hours required to complete a form, is estimated to be 88 hours for the revised Form EIA–767. With preprinting, the average respondent burden for this form is estimated to be 72 hours. Since this form will be filed for approximately 750 plants, the total industry burden is estimated to be 66 thousand hours for submitting the 1982 data and 54 thousand hours for subsequent collections. From their information collection budgets, EPA, EP, FERC, and BEA will allocate 31, 19, 15, and 1 thousand hours respectively for the collection of the 1982 data. For subsequent collections, they will allocate 25, 16, 12, and 1 thousand hours respectively.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed revision within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential respondent.)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your utility require to complete and submit a form for each plant?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

(As a potential user.)

A. Can you use data at the levels of detail indicated on the form?

B. For what purposes would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies?

EIA is also interested in receiving comments from persons regarding their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for OMB approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., July 11, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 83-18157 Filed 7-14-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Parker-Davis Project; Proposed Power and Transmission Rate Adjustments

Correction

In FR Doc. 83-18371 beginning on page 31459 in the issue of Friday, July 8, 1983, make the following correction:

On page 31459, middle column, under "DATES", fifth line, "October 21, 1983" should have read "October 14, 1983".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51475; TSH-FRL 2399-1]

Certain Chemicals; Premanufacture Notices

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 forty-eight PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-882, 83-883, 83-884, 83-885, 83-886, 83-887, 83-888, 83-889, 83-890, 83-891, 83-892, 83-893, 83-894, 83-895, 83-896, 83-897 and 83-898, September 28, 1983.

PMN 83-899, 83-900, 83-901, 83-902, 83-903, 83-904, 83-905, 83-906, 83-907, 83-908, 83-809, and 83-910, October 2, 1983.

PMN 83-911, 83-912, 83-913, 83-914, 83-915, 83-916, 83-917, 83-918, 83-919, 83-920, and 83-921, October 3, 1983.

PMN 83-922, 83-923, 83-924, 83-925, 83-926, 83-927, 83-928 and 83-929, October 4, 1983.

Written comments by: PMN 83-882, 83-883, 83-884, 83-885, 83-886, 83-887, 83-888, 83-889, 83-890, 83-891, 83-892, 83-893, 83-894, 83-895, 83-896, 83-897, and 83-898, August 29, 1983.

PMN 83-899, 83-900, 83-901, 83-902, 83-903, 83-904, 83-905, 83-906, 83-907, 83-908, 83-909 and 83-910, September 2, 1983.

PMN 83-911, 83-912, 83-913, 83-914, 83-915, 83-916, 83-917, 83-918, 83-919, 83-920 and 83-921, September 3, 1983.

PMN 83-922, 83-923, 83-924, 83-925, 83-926, 83-927, 83-928 and 83-929, September 4, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51475]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St. SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-882

Manufacturer. Confidential.

Chemical. (G) Ester of gluco-heptonic acid.

Use/Production. (G) Dispersant for suspension and dispersion of mineral phases. Prod. Range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-883

Manufacturer. Confidential.

Chemical. (G) Modified rosin calcium salt.

Use/Production. (S) Stabilizer for PVC. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 17da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by reclamation and private treatment system.

PMN 83-884

Manufacturer. Confidential.

Chemical. (G) Poly(ester amide).

Use/Production. (G) Open use. Prod. range: 1,000-9,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and ocular, a total of 27 workers, up to 6 hrs/da, up to 180 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-100 to land. Disposal by incineration and landfill.

PMN 83-885

Manufacturer. Confidential.

Chemical. (G) Styrene containing copolymer.

Use/Production. (G) Open use. Prod. range: 1,000-33,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and ocular, a total of 100 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-100 to land. Disposal by incineration and landfill.

PMN 83-886

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic diol.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Male—1,343 g/kg, female—1.499 g/kg; Irritation: Skin—Negative, Eye—Negative; Ames Test: Negative.

Exposure. Manufacture: dermal and inhalation, a total of 20-25 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to water and land.

PMN 83-887

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 20-25 workers, up to 24 hrs/da, up to 330 da/yr.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83-888

Manufacturer. American Cyanamid Company.

Chemical. (G) Carbocyclic isocyanate.

Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20–25 workers, up to 24 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83–889

Manufacturer. American Cyanamid Company.
Chemical. (G) Carbocyclic urethane.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20–25 workers, up to 24 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83–890

Manufacturer. American Cyanamid Company.
Chemical. (G) Carbocyclic urenthane.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20–25 workers, up to 24 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83–891

Manufacturer. American Cyanamid Company.
Chemical. (G) Carbocyclic urethane.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20–25 workers, up to 24 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83–892

Manufacturer. American Cyanamid Company.
Chemical. (G) Carbocyclic urethane.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 20–25 workers, up to 24 hrs/da, up to 330 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by incineration and landfill.

PMN 83–893

Manufacturer. Confidential.
Chemical. (G) Substituted sulfobenzoic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, 2 hrs/batch, 60 manhours/yr, maximum.
Environmental Release/Disposal. No release. Disposal by wastewater treatment plant.

PMN 83–894

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzenesulfonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, up to 2 hrs/batch, up to 60 manhours/yr.
Environmental Release/Disposal. Disposal by wastewater treatment plant.

PMN 83–895

Manufacturer. Confidential.
Chemical. (G) Disubstituted benzenesulfonic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, up to 2 hrs/batch, up to 60 manhours/yr.
Environmental Release/Disposal. Disposal by wastewater treatment plant.

PMN 83–896

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzenesulfonic acid, alkali metal salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers, up to 2 hrs/batch, up to 60 manhours/yr.
Environmental Release/Disposal. Disposal by wastewater treatment plant.

PMN 83–897

Importer. Confidential.
Chemical. (G) Polymer of ethylene oxide, maleic anhydride and alkanepolyol and polymer of ethylene oxide, maleic anhydride and alkanepolyol, ammoinum salt.
Use/Import. (S) Leather auxiliary. Import range: Confidential.
Toxicity Data. Acute oral: >5.0 ml/kg; Irritation: Skin—Non-irritant. Eye—Non-irritant.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted. Disposal by publicly owned treatment works (POTW) or private waste treatment facility.

PMN 83–898

Manufacturer. Sun Chemical Corporation.
Chemical. (G) Polyether CR1226B.
Use/Production. (G) Polymeric dispersant for printing ink materials. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Minimally irritating. Eye—Mildly irritating (unwashed).
Exposure. Confidential.
Environmental Release/Disposal. No release expected.

PMN 83–899

Manufacturer. Confidential.
Chemical. (G) Alkyl (hydroxy aryloxy) alkanoate.
Use/Production. (S) Intermediate in the manufacture of agricultural chemicals. Prod. range: 2,500–300,000 lbs/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Severe irritant (reversible).
Exposure. Manufacture: a total of 1 worker, up to 1 hr/da, up to 200 da/yr.
Environmental Release/Disposal. Release to air, water and land. Disposal by incineration or approved landfill.

PMN 83–900

Manufacturer. Confidential.
Chemical. (G) Polyglycol, polyalkyl polymer with polyalkanolamine.
Use Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 3 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 0–10 kg/batch released to water. Disposal by private treatment works.

PMN 83–901

Manufacturer. Confidential.
Chemical. (G) Polyglycol, polyalkyl polymer with polyalkanolamine acetate.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 3 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 0–10 kg/batch released to water. Disposal by private treatment works.

PMN 83–902

Manufacturer. Confidential.
Chemical. (G) Polyglycol, polyalkyl, polymer with polyalkanolamine hydrochloride.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 3 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 0–10 kg/batch released to water. Disposal by private treatment works.

PMN 83–903

Manufacturer. Confidential.
Chemical. (G) Polyalkylenepolyammonium alkanoate hydrohalide.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a maximum of 4 workers, up to 2 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 0–1 lb/batch released to air.

PMN 830–904

Manufacturer. Confidential.
Chemical. (G) 4,4'-thio diether dianhydride.
Use/Production. (G) Industrial intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >2 g/kg; Irritation: Skin—Non-irritant, Eye—Mild (transient) irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture: dermal and inhalation, a total of 4 workers, up to 1 hr/da, up to 30 da/yr.
Environmental Release/Disposal. No release.

PMN 83–905

Manufacturer. Confidential.
Chemical. (G) Acetyl anilino ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–906

Manufacturer. Confidential.
Chemical. (G) Brominated aryl alkyl ether.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–907

Manufacturer. Confidential.
Chemical. (G) Substituted benzoyl benzoic acid.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–908

Manufacturer. Confidential.
Chemical. (G) Ethylated amino phenol.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–909

Manufacturer. Confidential.
Chemical. (G) Amino phenol.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–910

Manufacturer. Confidential.
Chemical. (G) Anilinoether.
Use/Production. (G) Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83–911

Importer. Biddle Sawyer Corporation.
Chemical. (S) 2,2-dimethyl butanoic acid.
Use/ImportProduction. (G) Intermediate. Import range: Confidential.
Toxicity Data. Acute oral: > 790 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Severely irritating, Eye—Severely irritating..
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83–912

Importer. Confidential.
Chemical. (G) Substituted, amine salt.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: <5,000 mg/kg; Irritation: Skin—Not irritating, Eye—Not irritating.
Exposure. Use: dermal, a total of 2 workers, up to 1 hr/da.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–913

Importer. Confidential.
Chemical. (G) Copper sulfonylphenazopolyhydroxy phenazobenzoate.
Use/ImportT1. (S) Industrial dye for leather. Import range: Confidential.
Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Slight, Eye—Moderate.
Exposure. Processing: dermal and inhalation, a total of 2 workers, up to 1 hr/da, up to 50 da/yr.
Environmental Release/Disposal. Release to water 1 hr/da, up to 50 da/yr. Disposal by POTW and approved landfill.

PMN 83–914

Importer. Confidential.
Chemical. (G) Polyester of dicarboxylic acids and substituted alkanes.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a maximum of 1 worker, up to ½ hr/da, up to 225 da/yr.
Environment Release/Disposal. Less than 10 kg/yr released to air and land. Disposal by approved landfill.

PMN 83–915

Manufacture. Confidential.
Chemical. (G) Poly alkylene polyol.
Use/Production. (G) Open use. Prod. range: 100,000–2,500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and ocular, a total of 75 workers, up to 6 hrs/da, up to 165 da/yr; Processing: dermal and ocular, a maximum of 48 workers, up to 6 hrs/da, up to 175 da/yr; Use: dermal and ocular, a maximum of 10 workers, up to 8 hr/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water at 4 sites, with 10–100 kg/yr to land at 3 sites and 10–1,000 kg/yr to land at a 4th site. Disposal by reclamation and incineration.

PMN 83–916

Importer. Confidential.
Chemical. (G) [(Benzoquinolinyl)-(Methimidazolylmethylene)] Indenedion deriv.
Use/Import. (S) Industrial dye for paper. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; I.P. LC_{50}-147 mg/kg.
Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 400 kg/yr, maximum, released to water. Disposal by POTW and incineration.

PMN 83–917

Importer. Confidential.
Chemical. (G) Substituted (cyanophenyl-thiazolyl) tetraazo dimethoxybenzene.
Use/Import. (S) Dye for textile fibers and fabrics. Prod. range: 75–300 kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Slightly irritating, Eye—Non-irritating.
Exposure. Processing, use and disposal: dermal, a maximum of 60 workers, up to 5 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by POTW and incineration.

PMN 83–918

Manufacturer. Confidential.

Chemical. (G) Aminomethyl sulfide.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. BOD_{20}-89%; Acute 96 hr. LC_{50} (Fathead minnow)—5 mg/1.

Exposure. Confidential.

Environmental Release/Disposal. Negligible.

PMN 83–919

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Trisubstituted pyrimidine.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,250 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild irritant (temporary); Ames Test: Not mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83–920

Importer. Confidential.

Chemical. (G) Phosphonocarboxylic acid derivative.

Use/Import. (S) Ferrous metal corrosion inhibitor in industrial water treatment systems. Prod. range: Confidential.

Toxicity Data. Acute oral: 2,750 mg/kg; Irritation: Skin—Corrosive, Eye—Corrosive; LC_{50} (rainbow trout) 190 parts per million (ppm).

Exposure. Use: dermal, a maximum of 600 workers, up to 4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Released to water.

PMN 83–921

Importer. Confidential.

Chemical. (G) Hydrolyzed copolymer based on maleic anhydride.

Use/Import. (S) Used 100% as a scale control additive/dispersant for industrial water systems. Import range: Confidential.

Toxicity Data. Acute oral: 3,870 mg/kg; Irritation: Skin—Irritant, Eye—Irritant; LC_{50}, 96 hr (zebra fish)—>1,000 ppm.

Exposure. Use: dermal, a total of 600 workers, up to 4 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Release to water.

PMN 83–922

Manufacturer. Confidential.

Chemical. (G) Substituted aniline.

Use/Production. (S) Company limited intermediate. Prod. Range: 300–1,300 kg/yr.

Toxicity Data. acute oral: >2,200 mg/kg; Acute dermal: >1,000 mg/kg; Irritation: Skin—Slight irritant, Eye—Slight irritant; Skin sensitization: Low potential.

Exposure. Manufacture and use: dermal and inhalation, a maximum of 15 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–923

Manufacturer. Confidential.

Chemical. (G) Substituted vinyl pyridine salt.

Use/Production. (S) Low volume site-limited intermediate. Prod. range: 200 kg/yr.

Toxicity Data. Actue oral: 1,903 mg/kg (male rats); Acute dermal: > 1,000 mg/kg; Irritation. Skin—Slight irritant: Eye—Slight irritant.

Exposure. Manufacture, use and disposal: dermal and inhalation, minimal.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–924

Manufacturer. Confidential.

Chemical. (G) Polymer of substituted vinyl pyridine salt.

Use/Production. (G) Minor constituent in articles for commercial use. Prod. range: 200 kg/yr.

Toxicity Data. Acute dermal: > 20 ml/kg; Irritation: Skin—Slight irritant, Eye—Slight irritant.

Exposure. Manufacture and processing: dermal and inhalation, minimal.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–925

Manufacturer. tlConfidential.

Chemical. (G) Substituted benzenesulfonamide.

Use/Production. (G) Site-limited intermediate. Prod. range: 300,1,700 kg/yr.

Toxicity Data. Actue oral: >3,000 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Repeated Skin Application—Slight exacerbation of the initial response; Skin sensitization: Moderate potential.

Exposure. Manufacture and processing: dermal and inhalation, a total of 25 workers, up to 2 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incenteration.

PMN 83–926

Manufacturer. Confidential.

Chemical. (G) Substituted benzenesulfonamide.

Use/Production. (G) Incorporated as a minor constituent in an article for commercial use. Prod. range: 500–3,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.

Exposure. Manufacture and Use: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system and incineration.

PMN 83–927

Manufacturer. Confidential.

Chemical. (G) Amino aliphatic propoxylate.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water and land. Disposal by biological treatment system, incineration and approved landfill.

PMN 83–928

Importer. Confidential.

Chemical. (G) Polyglycolamine.

Use/Import. Confidential. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >5,000 mg/kg; Irritation: Skin—Not irritating, Eye—Not irritating.

Exposure. Use: dermal, a total of 2 workers, up to 1 hr/da.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83–929

Manufacturer. Confidential.

Chemical. (G) Mixed phthalic—glycol polyester polymer.

Use/Production. (S)(G) Open use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Potential for dermal, inhalation, ocular and ingestion.

Environmental Release/Disposal. Disposal by incineration and landfill.

Dated: July 11, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-19144 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2389-5]

Availability of Environmental Impact Statements Filed July 5 Through July 8, 1983, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general information, (202) 382-5075 or 382-5076.

US Army Corps of Engineers:
- EIS No. 830358, Draft, COE, HI, Sand Island State Park, Phase II, Shore Protection, Oahu County, Due: Aug. 31, 1983
- EIS No. 830360, Final, COE, WA, Wynoochee Dam, Hydropower/Fish Hatchery Development, Grays Harbor County, Due: Aug. 15, 1983
- EIS No. 830361, Final, COE, SEV, NM WI Duluth-Superior Harbor and Channel Modification, Lake Superior, Due: Aug. 15, 1983
- EIS No. 830364, Report, COE, MI, Report—Marquette and Pesque Isle Harbors Operation and Maintenance

Department of Commerce:
- EIS No. 830366, Final, NOA, Reg, American Lobster Fishery Mgmt. Plan, Adoption/Approval/Implementation, Due: Aug. 15, 1983

Department of the Interior:
- EIS No. 830365, Draft, OSM, Pro, State/Indian Reclamation Program, Title IV Grants, SMCR Act of 1977, Due: Sept. 6, 1983

Environmental Protection Agency:
- EIS No. 830362, Draft, EPA, NC, Barrier Islands WWT Mgmt., Grants, Dare/Carteret/Onslow/Brunswick Counties, Due: Aug. 31, 1983
- EIS No. 830368, Draft, EPA, TX, Fort Worth Wastewater Treatment Facilities, Const. Grant, Tarrant Counties, Due: Aug. 29, 1983
- EIS No. 830367, FSuppl, EPA, LA, Dolet Hills Lignite Mine Const./Oper., NPDES Permit, De Sota Parish, Due: Aug. 15, 1983

Department of Housing and Urban Development:
- EIS No. 830363, Final, HUD, MD, Riverside Development, Mortgage Insurance, Harford County, Due: Aug. 15, 1983

Department of Agriculture:
- EIS No. 830359, Draft, SCS, MS, Riverside-Black Bayou Watershed Protection, Bolivar and Washington Counties, Due: Aug. 29, 1983
- EIS No. 830357, Final, SCS, MO, Mississippi County Spillway Area Watershed Protection, Mississippi County, Due: Aug. 15, 1983
- EIS No. 830369, DSuppl, AFS, AK, Chugach National Forest Land and Resource Management Program, Due: Oct. 21, 1983

Amended Notices:
- EIS No. 830339, Draft, DOE, AZ, Liberty-Coolidge 230 kV Trans. Line Project, Maricopa and Pinal Counties, Published FR July 1, 1983—Review reestablished due to noncompletion of distribution, Due: Aug. 29, 1983
- EIS No. 830335, Draft, BLM, AL, Southern Appalachian Coal Region, Round Two Leasing, Published FR July 1, 1983—Review extended, Due: Aug. 31, 1983

Dated: July 12, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-19128 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59131; BH-FRL 2398-7]

Modified Rosin Calcium Salt; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 7378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by August 1, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59131]" and the specific TME number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

Close of Review Period. August 14, 1983. *TME-83-67*

Manufacturer. Confidential.

Chemical. (G) Modified rosin calcium salt.

Use/Production. (S) Stabilizer for PVC. Prod. range: Confidential.

Toxicity Data. No data on the TME substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 1 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by reclamation and private treatment system.

Dated: July 11, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-19143 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRC 2395-6]

Substitute Modernization Project; Wheeling-Pittsburgh Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of amended findings and notice of consent prior to lodging of amended consent decree.

SUMMARY: The Administrator amends findings under the Steel Industry Compliance Extension Act by approving a substitute modernization project for Wheeling-Pittsburgh Steel Corporation.

EFFECTIVE DATE: Effective July 9, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart I. Silverman, Attorney, Office of Enforcement Counsel (LE-134A), United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone (202) 382-2859.

SUPPLEMENTARY INFORMATION: On July 17, 1983, President Reagan signed into law the Steel Industry Compliance Extension Act (SICEA), 42 U.S.C. 7413(e), thereby amending Section 113 of the Clean Air Act (CAA), 42 U.S.C. 7401, *et seq.*

SICEA provides the Administrator of the U.S. Environmental Protection Agency (EPA) with discretionary authority to enter into consent decrees postponing compliance with applicable air standards under the CAA until 1985, provided the Administrator finds, among other things, that compliance extensions are necessary to allow a steel company applicant to invest in plant modernization. 42 U.S.C. 7413(e)(1)(A).

Effective May 13, 1983, the EPA Acting Administrator exercised his discretion under SICEA and consented to extensions of compliance with CAA standards for Wheeling-Pittsburgh Steel Corporation to enable the company to invest approximately $15 million in modernization of its 80-inch hot strip mill in South Steubenville, Ohio. 48 FR 22619 (May 19, 1983).

An implementing Federal consent decree embodying, among other things, compliance extensions and corresponding commitments for modernization investments has been negotiated and, on June 23, 1983, the proposed decree was lodged with the U.S. District Court for the Western District of Pennsylvania prior to entry by the court.

By letters dated June 13, 1983 and June 29, 1983, Wheeling-Pittsburgh requested an amendment to the proposed SICEA decree by substituting a modernization investment for a portion of the previously approved modernization commitment for the company's South Steubenville, Ohio hot strip mill. Specifically, the company proposed an investment of approximately $1.2 million for a Huerty Rig at its Martins Ferry, Ohio, plant in lieu of an equivalent investment in the hot strip mill at South Steubenville, Ohio.

Wheeling-Pittsburgh's request for a substitute modernization project was submitted under Section 113(e)(2) of the CAA which specifies that a Federal decree under SICEA may be "modified to substitute equivalent projects for those specified" in the decree. This notice represents EPA's formal determination that the modernization project proposed by Wheeling-Pittsburgh at its Martins Ferry, Ohio plant as a substitute meets the foregoing requirement under Section 113(e)(2) and otherwise comports with the requirements of SICEA.

Finding

This notice amends the Acting Administrator's Findings of May 13, 1983, by striking paragraph (2) and substitiuting therefor the following:

. . . . . .

(2) The Administrator finds that these extensions of compliance are necessary to allow the company to make capital investments in both its eighty inch hot strip mill at South Steubenville, Ohio, and a Huerty Rig at Martins Ferry, Ohio. The Company has committed to invest approximately $14.2 million and $1.2 million for the hot strip mill and Huerty Rig, respectively. These investments will yield improvements in steelmaking efficiency and productivity in a community which contains iron-and steel-producing operations.

Consent

I hereby give notice that I have consented to the entry of an amendment to the proposed Federal decree logdged with the court on June 23, 1983, reflecting a substitution of the foregoing modernization project. Following agreement among the parties, including the Commonwealth of Pennsylvania, and the States of West Virginia and Ohio, and amendment to the SICEA Federal decree embodying the substitute modernization project will be lodged with the court for public comment under 28 CFR 50.7 prior to court entry.

Persons wishing to comment on this Finding should do so by July 13, 1983, to Stuart I. Silverman, (LE 134A), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Phone: (202) 382–2859

Documents submitted by Wheeling-Pittsburgh and information otherwise available to the Administrator in connection with the foregoing may be inspected at the following location between 8:30 am and 4:00 pm week days. U.S. Environmental Protection Agency, Central Docket Section West Tower, 401 M Street, SW Washington, D.C. 20460 Docket No. EN 83–05.

Dated: July 9, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-19165 Filed 7-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

Antioch Savings and Loan Association, Antioch, Illinois; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B) of the National Housing Act, as amended, 12 U.S.C.A. 1729(c)(1)(B) (West Supp. 1983), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Antioch Savings and Loan Association, Antioch, Illinois, on July 7, 1983.

Dated: July 12, 1983.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19133 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-246]

First Federal Savings and Loan Association of Arizona, Phoenix, Arizona; Final Action; Approval of Conversion Applications

Notice is hereby given that on June 15, 1983 the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Arizona, Phoenix, Arizona, 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, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California, 94120.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19141 Filed 7-15-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-242]

Florida Federal Savings and Loan Association, St. Petersburg, Florida; Final Action; Approval of Conversion Applications

Notice is hereby given that on April 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Florida Federal Savings and Loan Association, St. Petersburg, Florida, 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, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19137 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-244]

Grady County Savings and Loan Association, F. A., Chickasha, Oklahoma; Final Action; Approval of Conversion Applications

Notice is hereby given that on June 14, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Grady County Savings and Loan Association, F. A., Chickasha, Oklahoma, 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 Agency of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19139 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-240]

Home Savings and Loan Association, Anchorage, Alaska; Final Action; Approval of Conversion Applications

Notice is hereby given that on June 3, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Savings and Loan Association, Anchorage, Alaska, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19135 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-241]

Home Savings and Loan Association of La Crosse, La Crosse, Wisconsin; First Financial Savings and Loan Association, Stevens Point, Wisconsin; Final Action; Approval of Conversion Application

Notice is hereby given that on May 24, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Savings and Loan Association of La Crosse, La Crosse, Wisconsin ("Home Savings") and First Financial Savings and Loan Association, Stevens Point, Wisconsin, for permission to convert Home Savings to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19136 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-239]

Pacific First Federal Savings Bank, Tacoma, Washington; Final Action; Approval of Conversion Applications

Notice is hereby given that on June 13, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Pacific First Federal Savings Bank, Tacoma, Washington, 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, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19134 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-243]

St. Charles Federal Savings and Loan Association, St. Charles, Mo.; Final Action; Approval of Conversion Applications

Notice is hereby given that on May 5, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of St. Charles Federal Savings and Loan Association, St. Charles, Missouri, 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, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19138 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-247]

Shelby-Panola Federal Savings and Loan Association, Carthage, Texas; Final Action; Approval of Conversion Applications

Notice is hereby given that on April 29, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Shelby-Panola Federal Savings and Loan Association, Carthage, Texas, 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, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19142 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-245]

Sincere Federal Savings and Loan Association, San Francisco, California; Final Action; Approval of Conversion Applications

Notice is hereby given that on May 25, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Sincere Federal Savings and Loan Association, San Francisco, California, for permission to convert to the stock savings bank form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California 94120.

Dated: July 8, 1983.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 83-19140 Filed 7-14-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Appointment of Tariff Compliance Review Board; Redelegation of Authority

Section 9 of Commission Order 1 (Revised), effective November 12, 1981, delegates specific authority to the Director, Bureau of Tariffs. Section 6.03 of Commission Order 1 provides that such authority may be redelegated to subordinate personnel under the direction of the Director, Bureau of Tariffs.

Section 9.01 of Commission Order 1 delegates the following authority to the Director, Bureau of Tariffs:

9.01 Authority, except as provided in subsection 9.02 of this Order with respect to a controlled carrier subject to the Ocean Shipping Act of 1978 (P.L. 95-483), to approve or disapprove Special Permission applications submitted by domestic offshore carriers or carriers in the foreign commerce of the United States, or conferences of such carriers, for relief from statutory and/or Commission tariff requirements.

Furthermore, section 9.05 of Commission Order 1 delegates the following authority to the Director, Bureau of Tariffs:

9.05 Authority to accept or reject tariff filings of common carriers in the foreign and domestic offshore commerce of the United States or conferences of such carriers for failure to meet the requirements of the statutes or the Commission, for lack of completeness and clarity of the rules and regulations governing the tariffs, or noncompliance with special permission or other orders of the Commission.

Pursuant to the provisions of section 6.03 of Commission Order 1, and subject to the limitation contained in sections 6.02, 6.04 and 6.05 of that Order, I hereby delegate the authority contained in sections 9.01 and 9.05 of Commission Order 1 to a Tariff Compliance Review Board within the Bureau of Tariffs. The Tariff Compliance Review Board is to be composed of the following members:

Eugene P. Stakem, Chairman
  Alternate: Hubert E. Bradford
Ronald J. Nieforth
  Alternate: Norman D. Lee
Frank J. Schwarz
  Alternate: Mary J. Buckler

Three members of the Board, or alternates as requires, shall constitute a quorum, and the affirmative votes of two members shall be sufficient to carry out any action of the Board. Actions of the Board may be appealed to the Director, Bureau of Tariffs or the Federal Maritime Commission in accordance with prescribed Commission procedures.

This delegation of authority and the appointment of the Tariff Compliance Review Board is effective immediately.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-19063 Filed 7-14-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

July 11, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Revisions to an Existing Set of Reports

1. Report title: Report of Condition and Income and Report of Past Due, Nonaccrual and Renegotiated Loans and Lease Financing Receivables
Agency form number: FFIEC 010-015; 021-023; 031-034
Frequency: Quarterly
Reporters: State member banks
SIC Code: 602pt.
Small businesses are affected.
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 324); a pledge of confidentiality is not promised.

These reports provide for all state member banks a quarterly summary statement and detailed schedules of assets, liabilities, and capital accounts in the form of a condition report, and summary statement; detailed schedule

of operating income and expense sources and disposition of income and changes in equity capital in the form of an income statement; and information on past due, nonaccrual, and renegotiated loans and lease financing receivables. Banks with foreign offices also provide additional detail on foreign-related assets, liabilities, etc. These data are used for regulatory, supervisory, policy, and analytical purposes.

Board of Governors of the Federal Reserve System, July 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19079 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; Rawlins Bancshares, Inc.

The company listed in this notice 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 voting shares or assets of a 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 indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the 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.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Rawlins Bancshares, Inc.*, Atwood, Kansas; to acquire 24.67 percent of the voting shares or assets of Security State Bank, Bird City, Kansas. Comments on this application must be received not later than August 3, 1983.

Board of Governors of the Federal Reserve System, July 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19077 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Norwest Corp. et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; North Carolina): To engage through its subsidiaries, Norwest Financial North Carolina, Inc., and Norwest Financial North Carolina 1, Inc., in consumer finance, sales finance and commercial finance activities, in the sale of credit life, credit accident and health and property, and credit related casualty insurance related to extensions of credit by Norwest Financial North Carolina, Inc., Norwest Financial North Carolina 1, Inc., and Norwest Financial America, Inc. (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982), and in the offering for sale and selling of travelers checks. This information is for the relocation within the same city of an existing office of Norwest Financial North Carolina, Inc. and Norwest Financial North Carolina 1, Inc., in Charlotte, North Carolina, and for permission to engage *de novo* in commercial finance activities from said office, as relocated. Additionally by this notification, Norwest Financial America, Inc., also a subsidiary of Norwest Corporation, proposes to engage *de novo* in commercial finance activities at this same relocated office. Upon relocation, said office will serve Charlotte, North Carolina. Comments on this application must be received not later than July 29, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Kings River Bancorp*, Reedley, California (insurance activities, California): To act as agent for the sale of life, accident and health directly related to extensions of credit by its wholly owned subsidiary, Kings River State Bank, pursuant to the authority contained in Section 4(c)(8) of the Bank Holding Company Act and, in particular exceptions (A) and (F) of Section 4(c)(8) which allow a bank holding company to provide insurance as agent where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a subsidiary of the bank holding company in the event of the death, disability, or involuntary unemployment of the debtor, and any other insurance agency activity by a bank holding company which has total assets of $50,000,000 or less. These activities would be conducted from an office in Reedley, California serving the State of California. Comments on this application must be received not later than August 1, 1983.

2. *Orient Bancorporation*, San Francisco, California (mortgage company and servicing activities; California): To engage, through its subsidiary, Orient Mortgage Corporation, in making or acquiring and servicing mortgage loans for its own account and for the account of others. These activities would be conducted from offices in San Francisco, California, serving the State of California. Comments on this application must be received not later than August 10, 1983.

3. *Orient Bancorporation*, San Francisco, California (investment and financial advising activities; California):

To engage in giving investment or financial advice, including portfolio investment advice and advice to mortgage or real estate investment trusts. These activities would be conducted from an office in San Francisco, California, serving the State of California. Comments on this application must be received not later than August 10, 1983.

4. *Valley National Corporation,* Phoenix, Arizona (lending and leasing activities; Texas): To engage through its subsidiary, Valley National Financial Services Company, in lending and leasing pursuant to §§ 225.4(a)(1) and 225.4(a)(6) of the Board's Regulation Y, 12 CFR 225.4(a)(1) and 225.4(1)(6). These activities will be conducted from offices in Texas, serving the State of Texas. Comments on this application must be received not later than August 11, 1983.

Board of Governors of the Federal Reserve System, July 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19076 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Clinton Bancshares, Inc., et al.

The companies listed in this notice have 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 bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Clinton Bancshares, Inc.,* Clinton, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of Clinton Bank & Trust Company, Clinton, Louisiana. Comments on this application must be received not later than August 3, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Waxahachie Bancshares, Inc.,* Waxahachie, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Waxahachie, Waxahachie, Texas. Comments on this application must be received not later than August 8, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Laurel Bancshares, Inc.,* Laurel, Montana; to become a bank holding company by acquiring 99.9 percent of the voting shares of the 1st Security Bank of Laurel, Laurel, Montana. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than August 11, 1983.

Board of Governors of the Federal Reserve System, July 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19075 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Proposed Acquisition of USLife Credit Corp.

Norwest Corporation, Minneapolis, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of USLife Credit Corportion, Schaumberg, Illinois.

Applicant states that the proposed subsidiary would engage in consumer and commercial financing activities, the sale of credit life, credit accident and health, and property and casualty insurance related to extensions of credit by Applicant, and offering for sale and selling travelers checks. These activities would be performed from offices of Applicant's subsidiaries in Alabama, Arizona, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Missouri, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, and West Virginia. Applicant does not propose to offer property and casualty insurance in Kentucky, Maryland, or West Virginia. Each office will serve the state in which it is located. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 11, 1983.

Board of Governors of the Federal Reserve System, July 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19078 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

Indiana Bancorp, Inc.; Merger of Bank Holding Companies

Indiana Bancorp, Inc., Fort Wayne, Indiana, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Financial Incorporated, Fort Wayne, Indiana. 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 the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 30, 1983. 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, July 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-19379 Filed 7-14-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 8.

Public Health Service

Centers for Disease Control

Subject: NIOSH Cross-Sectional and Prospective Medical Industrywide Studies (0920-0037)—Revision
Respondents: Individuals and households
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: NCHS Application for Technical Assistance—Training Form—New
Respondents: State and territorial vital statistics and registration officials
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Preclearance: Evaluation of the Clinical Social Worker Demonstration (HCFA 408)—New
Respondents: Individuals in experimental and control groups in the State of California
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503

ATTN: (name of OMB Desk Officer)

Dated: July 13, 1983.

John J. O'Shaughnessy,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 83-19387 Filed 7-14-83; 10:41 am]

BILLING CODE 4150-04-M

Alternative Financing Project; Applications for Grants

Pursuant to Section 1110 of the Social Security Act, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for a grant for policy development in the area of public administration of social service programs.

A. Type of Applications Requested

The Department is interested in gaining new ideas about alternative financing mechanisms that increase consumer choice, promote competition among providers, and reduce governmental control over decisions for the provision of social services. Over the past two decades, public provision of social services has been marked by a growth of bureaucratization and a deemphasis on personal responsibility. New ideas are needed to facilitate the return to families and communities of the responsibility for delivery and funding of social services. While the Department wishes to promote original thinking on this subject, it also wishes to have the ideas subjected to the scrutiny of other points of view, particularly those of State and local policymakers, practitioners, and community representatives.

The Department is aware of a number of different approaches that have been or are being tried by social service programs in States and localities to address these problems by promoting competition among providers, increasing client choice, offering a wider range of options to clients, and shifting responsibility from a centralized public agency to local communities. Among these approaches are the use of vouchers in the financing of day care and long-term care services, cash grants as an alternative to the direct provision of services, designating the client as purchaser of his or her own services, tax subsidies for day care and the care of dependent elderly, and the greater use of competitive purchasing practices by States.

While vouchers have received some attention in the social services literature, only recently have there been several applications of the concept. Stimulated in part by grants from the Office of Human Development Services of the Department of Health and Human Services, several voucher projects have been started. New Jersey, Maryland, Massachusetts, and Hennipen County, Minnesota, operate day care voucher projects. Wisconsin includes a voucher demonstration as part of its community long-term care program.

The number of projects offering cash grants to families who care for the elderly or handicapped has been growing in the past few years: well over 15 States now have such projects. These projects are meant to prevent or delay institutional placements. Families are often given greater flexibility under these programs than would be possible under direct service programs.

The Department has examined current State practice regarding vouchers and cash grants under a short-term exploratory evaluation. The Department now seeks through this announcement to explore directions that go beyond current practice, of particular interest are creative ideas that have not received wide public attention, yet offer new and useful ways of financing and delivering social services. These might include approaches that increase community involvement, broaden the range of suppliers, make use of informal supports, use new types of helpers, and draw on non-governmental energies and resources.

This announcement seeks applications for projects that will:

- Generate and present creative ideas that may have the potential for remedying problems in the social services delivery system.
- Explicate and explore these ideas so that their implications are well understood.
- Involve people with varying perspectives in discussing these ideas and drawing out the issues and implications concerning implementation.
- Prepare materials explaining the results of this project that can be distributed to State and local officials, private citizens, and others with an interest in the subject.

The following are examples of activities that could meet these objectives:

- Papers which present and develop ideas, as well as analyze their implications.
- Various types of meetings of people of differing backgrounds and perspectives to respond to, expand upon, add to, or provide insights from practical experience relative to, ideas that were generated for this project.

• Forums of people, including those from outside the traditional social services system, to generate ideas about ways the family and community can have greater responsibility in the financing and delivery of services.

These activities are not mutually exclusive; an application may use one or more of these approaches or others. Other approaches that address the concerns of this announcement are welcome.

Activities that generally will not meet the objectives of this announcement include:

• Demonstration projects.
• Research projects devoted to collection or manipulation of data.
• Meetings of social service administrators or practitioners designed mainly to discuss experiences.
• Meetings that are not well focused: for instance, conferences that do not start with some reasonably well-defined ideas for exploration.

Grant applictions should include a discussion of three areas:

(1) *Subject Area*—The applicants should identify the subject areas they will explore, including:

(a) *Financing mechanism(s)*—The grant application should explain the financing mechanisms to be addressed: e.g., vouchers, cashing out of services, greater use of community resources, tax incentives, or other approaches. The application may focus on one or more of these mechanisms.

(b) *Service area(s)*—The grant application should explain which services are to be addressed. The financing mechanism(s) under consideration may be investigation in relation to one or more services. For example, a project may explore a full range of services to the elderly, or it may explore just the homemaker service.

An appliction should not be too broad, but should be confined to an area that is reasonably coherent conceptually. Futhermore, it is recognized that the applicant will not have fully developed the ideas which the project is to address. However, the application must provide sufficient discussion of the ideas to permit evaluation of the application. (See section E.5 below.)

(2) *Approach*—The grant application should explain what the applicant plans to do to meet the objectives of this solicitation. Planned procedures should include both an approach for developing and explicating the ideas that the applicant wants to advance and a means to include reviewers and commentators in the process of critiqueing and further refining the topic. Various types of meetings, symposia, and gatherings that facilitate a productive give-and-take are appropriate. An applicant who does not wish to take responsibility for a larger process of review and discussion may propose solely to develop a paper on a selected topic.

(3) *Who will be involved*—The application should expain who is to be involved in each task of the grant. Applicants should plan to include a mix of persons with various interests or contributions to make to the project. These might include State agency officials, legislators, budget officials, representatives of public interest groups, academics, and concerned citizens. Applicants may wish to involve persons from outside the usual social service network in order to obtain differing perspectives on the approaches posed. State and local government representatives might be included to obtain their perspective on the practicality of the ideas from legislative, legal, and administrative points of view.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the Code of Federal Regulations on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the Code of Federal Regulations on June 9, 1981.

C. Effective Date and Duration

1. Grant awards pursuant to this announcement are expected to be made on or about September 30, 1983.

2. In order to avoid unnecessary delays in the preparations, this notice is effective immediately. The closing dates for applications are specified in Section F and G below.

3. Applicants should present a work plan and budget covering no more than a one year period, distinguishing tasks and costs.

D. Statement of Funds Availability

1. It is expected that approximately $230,000 will be available for the fiscal year ending September 30, 1983, for the award of a grant or grants pursuant to this announcement. One or more grants may be made, depending on which combination of awards is determined to be in the best interests of the government. It is expected that no grant will be for more than $100,000. However, we expect that a grant for preparing a paper alone would be for no more than $25,000. A grant to an organization that would generate several papers would be for no more than $50,000. Grants involving meetings could be up to $100,000, depending on the appropriateness of the budget.

2. Nothing in this application should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants or to make any award.

E. Applications Processing

1. Applications will be initially screened for relevance to the needs defined in section A. If judged relevant, the application will then be reviewed by a government review panel (possibly augmented by outside experts.) Ten (10) copies of each application are required.

2. Applications will be judged as to eligibility, quality and relevance to policy issues, according to the criteria set forth in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with the information requirements of the reviewers. Applications should be limited to 25 double-spaced typed pages, exclusive of forms, resumes, and the proposed budget. They should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for evaluation.* Evaluation applications will employ the following criteria. The relative weights are shown in parentheses.

a. The potential usefulness of the approach proposed in addressing the concerns of this solicitation, considering both the ideas advanced and the approach to involving others in the exploration of the ideas. (40 points.)

b. The adequacy of the technical approach, including the objectives of the project, the methods to be used, and the anticipated products. Adequacy entails thoroughness, a well conceived plan, and a clear and succinct presentation of tasks. (30 points.)

c. The appropriateness of the staffing and management plan, which explains the qualifications of the staff for carrying out the project; how responsibilities are assigned, including the time of senior staff; the schedule of activities; and the applicant organization's resources and experience for carrying out the tasks of the proposed project. (20 points.)

d. The reasaonbleness and appropriateness of the proposed budget for accomplishing the proposed tasks. (10 points.)

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by first class, registered, certified, or express mail not later than September 8, 1983, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applicants are cautioned to request a legible postmark from the U.S. Postal Service. Private metered postmarks are not accepted as proof of timely mailing.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 a.m. and 4:30 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on Thursday, September 8, 1983.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application the Assistant Secretary will either (a) approve the application in whole or in part; (b) disapprove the application; (c) defer action on the application for such reasons as lack of funds or need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants as to the disposition of their applications. A signed notification of grant award will be issued to the contact person listed in block 4 of the application to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201, Phone (202) 245-1794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address. Neither questions nor requests for applications should be submitted after August 19.

J. Federal Domestic Assistance Catalog

This announcement is not listed in the Federal Domestic Assistance Catalog.

Dated: July 8, 1983.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 83-19067 Filed 7-14-83; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83F-0207]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2(2'-hydroxy-5'-methylphenyl) benzotriazole as an ultraviolet light absorber in ethylene-1, 4-cyclohexylene dimethylene terephthalate copolymers and polyethylene phthalate polymers intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3705) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 2(2'-hydroxy-5'-methylphenyl)-benzotriazole as an ultraviolet light absorber in ethylene-1,4-cyclohexylene dimethylene terephthalate copolymers and polyethylene phthalate polymers intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 7, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-18932 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0208]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di/*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3736) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in olefin polymers complying with § 177.1520(c) (21 CFR 177.1520(c)) intended for use in contact with food without fatty food limitations.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 7, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-18934 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

Elanco Products Co.; Brevane (Methohexital Sodium); Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Elanco Products Co. providing for use of Brevane (methohexital sodium) for dogs and cats as a general anesthetic. The firm requested withdrawal of approval.

EFFECTIVE DATE: July 25, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Elanco Products Co., Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, is the sponsor of NADA 11-618 which provides for use of Brevane (an injectable containing 25 milligrams of methohexital per milliliter of sterile solution) for use as an intravenous general anesthetic for dogs and cats.

The product was originally approved December 20, 1959. Approval of this NADA has since been codified in the Code of Federal Regulations in 21 CFR 522.1404. The firm, in its submission of August 19, 1982 to the Bureau of Veterinary Medicine, requested withdrawal of approval of the NADA without prejudice and waived opportunity for a hearing (see 21 CFR 514.115(d)) because the product is not being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 11-618 and all supplements for Elanco Products Co.'s Brevane containing 2.5 percent methohexital sodium is hereby withdrawn, effective July 25, 1983.

In a separate document published in this issue of the **Federal Register**, the regulations are amended to remove that section reflecting approval of this NADA.

Dated: July 8, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-18828 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0276; DESI 7630]

Nandrolone Decanoate; Drugs for Human Use; Drug Efficacy Study Implementation, Revocation of Exemption; Announcement of Marketing Conditions; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is revoking the temporary exemption that has allowed drug products containing nandrolone decanoate to remain on the market beyond the time limits scheduled for implementation of the Drug Efficacy Study. FDA announces the conditions for marketing this product for the indication now regarded as effective, and offers an opportunity for a hearing on the indications now classified as lacking substantial evidence for effectiveness. Nandrolone decanoate is categorized as an anabolic steroid.

DATES: Requests for hearings are due on or before August 15, 1983; supplements to approved or conditionally approved new drug applications are due on or before September 13, 1983.

ADDRESSES: Communications in response to this notice should be identified with reference number DESI 7630, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applicatons (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFN-130), Rm. 14B-04, National Center for Drugs and Biologics.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN-530), National Center for Drug and Biologics.

Requests for hearing (identify with Docket No. 80N-0276): Dockets Management Branch (HFA-305), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN-501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administation, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 24, 1970 (35 FR 10327), FDA classified nandrolone decanoate as probably effective as adjunctive therapy in the treatment of senile and postmenopausal osteoporosis and in pituitary dwarfism, and lacking substantial evidence of effectiveness for certain ill-defined, vague, and general indications. All other labeled indications for nandrolone decanoate, which included the indication "for the treatment of refractory anemia, were classified as possibly effective. The classifications were based on recommendations of the National Academy of Sciences/National Research Council (NAC/NRC) as part of the Drug Efficacy Study Implementation (DESI).

Subsequently, in a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), FDA temporarily exempted anabolic steroids, including nandrolone decanoate, from the time limits established for completing the DESI program. That exemption allowed these products to remain on the market while studies were conducted to determine effectiveness. The exemption was granted because of the medical need for drugs effective for osteoporosis and pituitary dwarfism and the absence, at that time, of other drugs classified as effective for these conditions.

Realizing that there was a lack of general agreement on parameters to be measured and the techniques for measurement, FDA developed guidelines for the clinical study of drugs used to treat osteoporosis. The agency announced the availability of these guidelines in the **Federal Register** of June 20, 1980 (45 FR 41705).

In a subsequent **Federal Register** notice, of October 31, 1980 (45 FR 72291), FDA amended the December 14, 1972 notice by establishing specific conditions for the continued marketing and study of anabolic steroids for the treatment of osteoporosis. (Pituitary dwarfism was no longer appropriate because adequate amounts of growth hormone, effective for that condition, had become available.) One of the conditions for continued marketing was adherence to a timetable established for submission of protocols, for initiating

studies, and for completion of the studies. In addition, the notice stated that the agency was evaluating data and information submitted in support of other "less-than-effective" indications and would announce its evaluation of this material in a future notice.

On the basis of additional data and information submitted and review, the Director of the National Center for Drugs and Biologics has determined that nandrolone decanoate, as contained in the products covered by the new drug application (NDA) and conditionally approved abbreviated new drug applications ANDA's) listed below, is effective for the management of the anemia associated with renal insufficiency. Because the Director is not aware of any ongoing study that complies with the conditions of the October 1980 notice which would be applicable to nandrolone decanoate in the treatment of osteoporosis, the Director has further determined that the drug is no longer entitled to the temporary exemption and that osteoporosis and all other indications (except for the management of anemia due to renal insufficiency) lack substantial evidence of effectiveness.

1. NDA 13–132; Deca Durabolin Injection containing nandrolone decanoate 50, 100, and 200 milligrams per milliliter (mg/ml); Organon, Inc., 375 Mount Pleasant Ave., West Orange, NJ 07052.

2. ANDA 86–385; Nandrolone Decanoate 50 mg/ml; Carter Glogau Laboratories, Inc., 5160 West Bethany Home Rd., Glendale, AZ 85301.

3. ANDA 86–598; Nandrolone Decanoate 100 mg/ml; Carter Glogau Laboratories, Inc.

4. ANDA 87–598; Nandrolone Decanoate 50 mg/ml; Lemmon Co., Sellersville, PA 18960.

5. ANDA 87–599; Nandrolone Decanoate 100 mg/ml; Lemmon Co.

The temporary exemption announced in the December 14, 1972 notice, as it pertains to any drug product that contains nandrolone decanoate, is hereby revoked. This drug is regarded as a new drug (21 U.S.C. 321(p)) and an approved new drug application is required for marketing it. A supplemental new drug application is now required to revise the labeling and to update any previously approved new drug application or conditionally approved abbreviated new drug application providing for this drug.

In addition to the holders of the applications specifically named above, this notice applies to any person who manufactures or distributes a drug product that is not the subject of an approved new drug application and that is identical to a drug product named above. It may also be applicable, under 21-CFR 310.6, to a related or similar drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that nandrolone decanoate is effective for the indication in the labeling conditions below. The drug product lacks substantial evidence of effectiveness for other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications for products containing nandrolone decanoate for the indication now regarded as effective and a supplement to the previously approved new drug application and conditionally approved abbreviated new drug applications under the conditions described herein.

1. *Form of drug.* The drug is nandrolone decanoate, 50, 100, or 200 mg/mL in sterile sesame oil solution, suitable for intramuscular administration.

2. *Labeling conditions.* a. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows: Nandrolone decanoate is indicated for the management of the anemia of renal insufficiency, and has been shown to increase hemoglobin and red cell mass. Surgically induced anephric patients have been reported to be less responsive.

c. The dosage and administration section should include the following. Nandrolone decanoate is intended only for deep intramuscular injection, preferably into the gluteal muscle. Dosage should be based on therapeutic response and consideration of the benefit-to-risk ratio. Duration of therapy will depend on the response of the condition and the appearance of adverse reactions. If possible, therapy should be intermittent.

A dose of 50 to 100 mg per week is recommended for women and 100 to 200 mg per week for men. Improvement is seen within the first 6 months. Adequate iron intake is required for maximal response. For children from 2 to 13 years of age, the average dose is 25 to 50 mg every 3 to 4 weeks.

3. *Marketing status.* a. Marketing the drug product that is now the subject of an approved or effective new drug application or a conditionally approved abbreviated application may be continued provided that, on or before September 13, 1983, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.2) (previously 21 CFR 314.1(f); see 48 FR 2751, published in the **Federal Register** of January 21, 1983) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD–356H (21 CFR 314.1(c)) must be obtained before marketing such products. The requirements for bioavailability-bioequivalence testing (21 CFR 320.21) are waived for any product as described under B.1. "Form of drug," above. Marketing drug products before approval of a new drug application will subject those products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* Notice is given to the holders of the new drug application and conditionally approved abbreviated new drug applications and to all other interested persons that the Director of the National Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval and conditional approval of the new drug applications and all amendments and supplements thereto providing for the indications (not referred to in paragraph B.2.b., above) that lack substantial evidence of effectiveness. The basis of the proposed action is that new information before the Director with respect to the drug products, evaluated together with the evidence available to him when the

applications were approved, shows there is a lack of substantial evidence that the drug products will have all the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. If no hearing is requested, and the applications are further supplemented in accord with this notice to delete the claims lacking substantial evidence of effectiveness, approval of the indications that lack evidence of effectiveness will be considered withdrawn, and no further order will issue.

This notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 301 and 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) and not the subject of a new drug application, are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn, and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above and of all identical, related, or similar drug products not the subject of a new drug application.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before August 15, 1983 a written notice of appearance and request for hearing, and (2) on or before September 13, 1983 the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a granting or denial of a hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed and a waiver of any contentions concerning the legal status of the relevant drug product. Any such drug product labeled for the indications referred to in this notice as lacking substantial evidence of effectiveness may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such a drug product from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in their request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: July 7, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-18831 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5) U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Arthritis Advisory Committee

Date, time, and place. August 18 and 19, 9 a.m., Lister Hill Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, August 18, 9 a.m. to 10 a.m.; open committee discussion, August 18, 10 a.m. to 5 p.m., August 19, 9 a.m. to 5 p.m.; Dotti Moore, Executive Secretary, Arthritis Advisory Committee, Office of New Drug Evaluation (HFN–150), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritis conditions.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary by August 1 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of the proposed participants, and an indication of the approximate time required to make their comments. Presentations should be limited to 15 minutes. Persons or groups with similar views on the issues before the committee are requested, if possible, to consolidate their presentations and make a single presentation before the committee.

Open committee discussion. The committee will discuss over-the-counter (OTC) marketing of ibuprofen and the remarketing of zomepirac sodium.

Ibuprofen is a nonsteroidal anti-inflammatory agent with analgesic and antipyretic activities. It has been marketed as a prescription drug for more than 10 years and is one of the most frequently prescribed products in

the United States. Two firms currently have an approved new drug application (NDA) to market the drug: Boots Pharmaceuticals, Inc. (Rufen; 400 milligram (mg) tablets for oral administration); The Upjohn Co. (Motrin; 300, 400, and 600 mg tablets for oral administration). FDA has now been requested by two sponsors, American Home Products Corp. (NDA 18-989) and Upjohn (NDA 19-012), to approve NDA's for OTC use of a 200-mg tablet of ibuprofen for oral administration. Presentations will be made to the committee, demonstrating that there is sufficient data and information to support OTC use of the product for the same indications as aspirin.

Zomepirac sodium is a prescription nonsteroidal anti-inflammatory; agent (Zomax) approved by the agency as an analgesic drug. The product was removed from the market by the sponsor, McNeil Pharmaceutical, in March 1983 because of the incidence of anaphylactoid reactions. The sponsor and FDA will present data accumulated since March from various sources, and McNeil will present its proposed plan to remarket the drug with limited indications.

Background material consisting of a summary of pertinent data and information is available from the executive secretary (address above) on each of the two agenda topics. In addition, written submissions will be accepted until September 15 and should be addressed to the executive secretary.

Any interested person attending the open committee discussion who did not request an opportunity to make an oral presentation will be given an opportunity at the conclusion of the scheduled presentations, to the extent that time permits.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: July 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-19221 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Buffalo District Office, chaired by George D. Tilroe, Supervisory Investigator, Albany Inspection Post. Topics to be discussed: Direct-to-Consumer Advertising of Prescription Drugs, Sulfiting Agents, Standards for Sunlamp Products, and other updates.

Dates and Addresses: Tuesday, July 26, 1983, 10 a.m., 314 Federal Building, Rm. 215, Henry St., Binghamton, NY 13902. Wednesday, July 27, 1983, 10 a.m., State University of New York College at New Paltz, Rm. 112, Lecture Center, New Paltz, NY 12562.

For Further Information Contact: Kim K. Stalker, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202; 716-846-5452.

Boston District Office, chaired by Frederick R. Carlson, District Director. Topics to be discussed: Direct-to Consumer Advertising of Prescription Drugs and Updates on Nutrition Labeling Formats, Standards for Sunlamp Products, and Bendectin.

Date: Thursday, August 4, 1983, 10 a.m. to 12:30 p.m.

Address: Federal Building Conference Room, Rm. 201, 68 Sewall St., Augusta, ME 04330.

For Further Information Contact: Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109; 617-223-5857.

Supplementary Information: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: July 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affiars.

[FR Doc. 83-19222 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Executive Council of the Science Advisory Board-National Center for Toxicological Research

Date, time, and place. August 18 and 19, 9:30 a.m. Conference Room, Bldg. 13, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open public hearing, August 18, 9:30 a.m. to 10:30 a.m.; open committee discussion, August 18, 10:30 a.m. to 4:30 p.m., August 19, 9:30 a.m. to 2:30 p.m.; Dr. Lawrence Fishbein or Mrs. Ruth Bryant, National Center for Toxicological Research (HFT-30), Jefferson, AR 72079, 501-541-4390.

General function of the committee. To assist the Director, NCTR, in establishing and implementing as well as advising on research and quality assurance programs that will assist the supporting agencies in fulfilling their regulatory responsibilities. The Board as a whole or under the subcommittee structure provides extra-agency review, ensuring that research and quality assurance programs at NCTR are scientifically sound and pertinent to toxicological problems.

Agenda—Open public hearing: Any interested person may present data, information or views, orally or in writing, on issues pending before the committee.

Agenda—Open committee discussion: The Executive Council will consider the following items:

1. Selection of nominees for Board membership.
2. Research direction as recommeded by the Science Advisory Board.
3. Design and construction input regarding new facilities.
4. Establishment of mini-workshops.
5. Lecture series.
6. Organization resource allocation.
7. Evauation and recommedations.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: July 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-19040 Filed 7-14-83; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Third Party Billing for Cost of Care Provided by Indian Health Service

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Options for Indian Health Service (IHS) Third Party Billing for Cost of Care Provided by IHS.

SUMMARY: The notice sets forth a discussion of major approaches under consideration by the Health Resources and Services Administration (HRSA) to implement the Administration's proposed Fiscal Year 1984 budget with respect to expanding the billing and collection for services provided by the IHS from insurance companies and other sources.

DATES: Comments should be submitted by August 15, 1983.

ADDRESSES: Send comments to: Mr. Richard J. McCloskey, Director, Office of Legislation and Regulations Services, Indian Health Service, Health Resources and Services Administration, Rm. 6A-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. McCloskey, Director, Office of Legislation and Regulations Services, HRSA, 301/443-1116.

SUPPLEMENTARY INFORMATION: The IHS provides a range of health care services to Indians and Alaska Natives directly or through contracts with tribes and private health organizations. In 1982, the IHS service population consisted of approximately 900,000 persons (64% of the total Indian population in the United States). Direct care services are available to persons who are of Indian descent and who are members of the Indian community served by the local facilities and program. Contract care services are provided to Indians who are eligible for direct care, live in a designated geographic area on or adjacent to a reservation and either belong to or maintain close ties with the tribe or tribes for whom the reservation was established.

The various special programs established by the Congress to provide health services to the Indian people are based on the regulation of commerce with the Indian tribes. As citizens of the United States and of the States in which they reside, Indians are eligible for Federal, State, and local programs on the same basis as other citizens regardless of their membership in a Federally recognized tribe or eligibility for a program based on their status as an Indian.

It is the Department's position that the IHS program is residual to other health care delivery systems and health care payment mechanisms and, accordingly, individual entitlement for such programs as Medicare, Veterans Administration, and private insurance are used first. In the instance of private insurance, it has been difficult to obtain payments from private third party insurers because presently Indians are not held liable for the cost of medical care provided to them by the IHS. The insurance companies do not pay, citing as a reason the fact that they exclude payment of bills for beneficiaries who are not held financially responsible for the services rendered.

The President's Fiscal Year 1984 budget submission to Congress noted the Administration's intention for the IHS to embark upon an expanded program of billing and collecting for services from insurance and other sources. The Administration's proposal would result in expanded Medicare and Medicaid collections and initiate charges to tap third party coverage as an additional sources of revenue to the extent that Indians have their own health insurance coverage and other resources. Indians will continue to be served by IHS regardless of their ability to pay.

This proposed change will enhance the resources available to maintain the Federal role in delivering health care services to the Indians. In addition to the annual appropriations request, this proposal will result in increased IHS flexibility to maintain existing health care service levels despite the increasing costs of medical care.

At this time, HRSA is considering various options for how best to implement the Administration's proposal. These include:

- Working with States to have them change State statues in order to negate the exclusionary clause presently contained in third party health insurance polices for indians; and/or
- Proposing Federal Legislation that would prohibit insurers from applying the exclusionary clause against beneficiaries covered by the Indian Health Services;

HRSA is soliciting comments on whether the major options enumerated above represent a complete and appropriate set of alternatives for consideration. HRSA would be interested in the identification of any additional options for potential examination.

HRSA is also soliciting comments on a general set of issues that pertain to each of the above options under consideration. Public comment would be most beneficial if directed to each issue set forth below for each of the options being reviewed:

- For each option, are there specific constitutional or other broad legal or ethical questions that must be considered? To what extent is the thrust of each option consistent or inconsistent with current Federal legislation and implementing regulations?
- For each option, what are the respective implications for Indian self determination and other existing Federal-Indian relationships and understandings? If negative consequences are envisioned, what steps should be taken to minimize or avoid such an outcome?
- What are the respective implications for Federal-State government responsibilities and relationships regarding the implementation of any of these options?
- For each option, what are the major cost and benefit considerations? What are their relative magnitudes?
- What general operational and administrative factors need to be identified that may affect the implementation of each option? Are there critical uncertainties affecting the full implementation of these options? What actions should be considered to address any problem areas or uncertainties identified?
- What specific political, organizational, economic, legal, and technological constraints may be important for each option? What steps might be undertaken to address each of the constraints identified?
- What are realistic time frames for implementing each of the options? Do opportunities exist to reduce the time envisioned for the effective implementation of the options?
- Do the options above have any implications for the health status of American Indian and Alaska Native people? If negative consequences are envisioned, are there parallel actions or policies that might be instituted to lessen or avoid such an impact?

It is important to note that this listing does not necessarily represent an exhaustive treatment of all issues pertinent to the major options.

Therefore, HRSA is also interested in the identification of and comments on any additional issues relevant for examining the options under review. Such issues might only be relevant for a specific option or might generically apply to all options.

It is anticipated that this General Notice solicitation will result in detailed comments regarding the options and issues set forth above. In this regard, the Administrator of the Health Resources and Services Administration is especially interested in receiving general and specific comments from American Indian and Alaska Native people and organizations representing them.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-19048 Filed 7-15-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Relationship of Interior Programs to E.O. 12372 Process; Intergovernmental Review of the Department of the Interior Programs and Activities

Correction

In FR Doc. 83-16710, beginning on page 29235, in the issue of Friday, June 24, 1983, on page 29236, in the second column, in entry "14", in the second line, "District" should read "Districts".

BILLING CODE 1505-01-M

Bureau of Indian Affairs

Information Collection Submitted for Review

June 22, 1983.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Officer of Management and Budget Interior Desk Officer, at (202) 395-7340.

Title: Forestry—Contract Timber Cutting on Indian Land
Bureau Form Numbers: BIA-5324, BIA-5325, BIA-5326, BIA-5327, BIA-5328, BIA-5331, BIA-5315, BIA-5318, BIA-5319, and BIA-5349
Frequency: On occasion
Description of Respondents: Corporations, partnership, individuals involved with Indian timber sale contracts
Annual Responses: 198,825
Annual Burden Hours: 9,769
Bureau Clearance Office: Diana Loper (202) 343-3574

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 83-19074 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Reorganization of the Field Structure of the Eastern States Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In addition to those changes in the field structure of the Eastern States Office announced in the July 11, 1983 **Federal Register**, the Bureau of Land Management (BLM) hereby announces that its field office in Indianapolis, Indiana, will close permanently on Friday, July 22, 1983.

As a result of Secretarial Order 3087, dated December 3, 1982, which merged the onshore minerals activities of the Minerals Management Service (MMS) into BLM, the MMS field office in Indianapolis became a part of BLM's Eastern States Office (ESO). The ensuing reorganization of ESO has resulted in the consolidation of its field offices in Indianapolis and Duluth, Minnesota, to form the Milwaukee District Office, which will open on Monday, July 25, 1983.

The address of the Milwaukee District Office is as follows: Bureau of Land Management, Milwaukee District Office, 310 West Wisconsin Avenue, Suite 220, Milwaukee, Wisconsin 53203. Inquiries should be directed to Chuck Steele, Milwaukee District Manager.

Also as a result of Secretarial Order 3087, the MMS field office in Rolla, Missouri, became part of ESO. BLM cadastral survey crews formerly stationed in Salem, Missouri, have been moved to the Rolla office, which will now be known as the Rolla Resource Area Office.

The address of the Rolla Resource Area Office is as follows: Bureau of Land Management, Rolla Resource Area Office, 901 Pine Street, #201, Rolla, Missouri 65401. Inquiries should be directed to C. V. Collins, Area Manager.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-19085 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Conveyances

July 5, 1983.

Notice is hereby given that, pursuant to the Act of June 1, 1938, a patent was issued to Chester F. and Helen B. Dawson for the following described land in Clark County.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 15, NE¼NE¼SE¼NE¼.
Containing 2.5 acres.

Pursuant to the Acts of March 3, 1877 and March 3, 1891, a patent was issued to Charles Chisholm for the following described land in Churchill County.

Mount Diablo Meridian, Nevada

T. 19 N., R. 35 E.,
Sec. 3, S½NW¼SW¼SE¼, S½SW¼SE¼, SW¼SW¼SE¼SE¼;
Sec. 10, N½NE¼NE¼, N½S½NE¼NE¼, N½N½NW¼NE¼;
Sec. 11, N½NE¼NW¼, NE¼SW¼NE¼NW¼, W½SE¼NE¼NW¼, N½SW¼NW¼NW¼, NW¼SE¼NW¼NW¼, SE¼SE¼NW¼, NE¼NW¼NE¼SW¼.
Containing 115 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of a conveyance document to the above named parties (43 CFR 2711.5-3).

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-19176 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Notice of Filing of Plats of Survey

July 5, 1983.

1. The Plats of survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on May 20, 1983.

Mount Diablo Meridian, Nevada

T. 39 N., R. 51 E., Group No. 574.
T. 40 N., R. 51 E., Group No. 574.
T. 37 N., R. 52 E., Group No. 574.
T. 36 N., R. 26 E., Group No. 578.
T. 37 N., R. 26 E., Group No. 578.
T. 37 N., R. 61 E., Group No. 584.
T. 46 N., R. 33 E., Group No. 591.
T. 26 N., R. 19 E., Group No. 592.
T. 16 S., R. 68 E., Supplemental Plat.

The above surveys were accepted May 5, 1983.

Inquiries concerning these surveys shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Deputy State Director, Operations

[FR Doc. 83-19153 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-84-M

Burns District, Oregon; Research Natural Areas—Areas of Critical Environmental Concern

Correction

In FR Doc. 83-17646, beginning on page 30201 in the issue of Thursday, June 30, 1983, the second line of the next to last land description in column two of page 30202 should read, "Sec. 33, S½NE¼, SE¼NW¼, SW¼ and".

BILLING CODE 1505-01-M

Minerals Management Service

North Atlantic Outer Continental Shelf; Location and Date of Public Hearing Regarding Proposed Outer Continental Shelf Oil and Gas Lease Offering in the North Atlantic Scheduled for February 1984.

In accordance with 30 CFR 256.26, a public hearing will be held July 29, 1983, for the purpose of receiving comments and suggestions relating to the draft environmental impact statement (EIS) concerning the proposed North Atlantic Outer Continental Shelf (OCS) oil and gas lease offering scheduled for February 1984. The hearing will be held at the World Trade Institute, Conference Rooms 4 and 5, 1 World Trade Center, 55th Floor, New York, New York 10048. The hearings will open from 9:00 a.m. and will conclude at 5:00 p.m., or earlier if all scheduled witnesses have testified.

The hearings will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing oil and gas tracts in the North Atlantic OCS. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearings are requested to contact the Regional Manager, Minerals Management Service, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, by 4:15 p.m., July 22, 1983. Written comments from those unable to attend a hearing also should be addressed to the Regional Manager, Atlantic OCS Region, Minerals Management Service at the above address. The Minerals Management Service will accept written testimony and comments on the draft EIS until August 9, 1983. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others will be given an opportunity to be heard.

After testimony and comments have been received and analyzed, a final EIS will be prepared.

Dave Russell,

Acting Director, Minerals Management Service.

Approved: July 8, 1983.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 83-19100 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The proposal for the collection of information, "Application for and Disposition of Royalty Oil Taken In Kind," has been submitted to the Office of Managment and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material, or other information, may be obtained by contacting Raymond A. Hicks at 303–231–3357. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer listed below and the Office of Management and Budget Interior Desk Officer at 202–395–7340.

- Title: Application for the Purchase of Royalty Oil

Bureau Form Number: MMS–4070
Frequency: Annually
Description of Respondents: Independent oil refineries
Annual Responses: 200
Bureau Clearance Officer: Dorothy Christopher, 703–435–6213

- Title: Semiannual Report of Royalty-in-Kind (RIK) Oil Entitlements and Deliveries

Bureau Form Number: MMS–4071
Frequency: Semiannually
Description of Respondents: Lessees of Federal oil and gas leases
Annual Responses: 1,000
Bureau Clearance Officer: Dorothy Christopher, 703–435–6213

Dated: June 29, 1983.

Orie L. Kelm,

Acting Associate Director for Royalty Management.

[FR Doc. 83-19051 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Monthly Meeting of the Advisory Committee on Minerals Accountability

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of monthly meeting.

SUMMARY: The purpose of the Advisory Committee on Minerals Accountability is to develop over a 1-year period an expanded policy of cooperation with States and Indian Tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis.

The purpose of the Advisory Committee meeting will be to introduce Committee members to the Lakewood Accounting facility and to provide the Committee members with a complete tour of the facility. Along with the tour will be briefings and presentations from the Royalty Management supervisors who manage the various Royalty Management accounting functions at the Lakewood facility. In addition, the Committee will be meeting in Executive Session to discuss general matters of business brought before the Committee. There will be no public participation at the meeting.

Notice of the next monthly meeting will be published 15 days before the meeting is to take place.

DATE: Wednesday, July 27, and Thursday, July 28, 9:00 a.m.

ADDRESS: Sheraton Inn Lakewood, 360 Union Boulevard, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th and C Streets, NW., Room 4216, Washington, D.C. 20240, telephone: (202) 343–3526.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982 (Order No. 3071).

Date: July 11, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

[FR Doc. 83-19131 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Extend Concession Contract; Yosemite Medical Group

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with Yosemite Medical Group, authorizing it to continue to provide medical, emergency surgical and related services, the prescription and sale of drugs, medicines, medical appliances and supplies for the public at Yosemite National Park for a period of one (1) year from the date of execution or until such time as a new contract may be executed.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Yosemite Medical Group the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Yosemite Medical Group. If Yosemite Medical Group amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Yosemite Medical Group.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand-delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102 for information as to the requirements of the proposed contract.

Dated: July 5, 1983.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 83-19149 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-70-M

Trail Markers; Illinois et al.

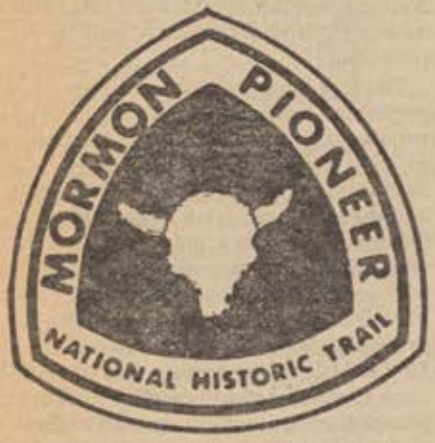
AGENCY: National Park Service, Interior.

ACTION: The document published in the **Federal Register** (Volume 48, No. 50) Monday, March 14, 1983 (48 FR 10758), is hereby amended to:

(1) Substitute a revised distinctive symbol (Figure 1) to mark segments of the Mormon Pioneer National Historic Trail; and,

(2) Change the effective date for proceeding to implement plans for the marking of segments of the Mormon Pionneer National Historic Trail from March 14, 1983, to August 1, 1983.

Figure 1



Dated: July 8, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-19161 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[INT-FES 83-34]

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a final environmental statement on the proposed Galesville Project in Douglas County, Oregon.

Under provisions of the Small Reclamation Projects Act (Public Law 84-984, as amended), Douglas County has applied for a Federal loan to develop a dam and reservoir at the Galesville site on Cow Creek which would provide for irrigation, municipal and industrial water supply, stream enhancement, flood control, hydropower generation, and outdoor recreation opportunities.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Communications, Washington, D.C. 20240

Department of the Interior, Bureau of Reclamation, Office of Environmental Affairs, Washington, D.C. 20240

Library Branch, Division of Management Support, Engineering and Research Center, Room 450, Building 67,Denver Federal Center, Denver, Colorado 80225

Office of the Regional Director, Bureau of Reclamation, Pacific Northwest Region, Box 043, 550 West Fort Street, Boise, Idaho 83724

Douglas County, Department of Water Resources Survey, Justice Building, Room 104, Roseburg, Oregon 97470

Single copies of the statement may be obtained upon request to the Director, Office of Environmental Affairs, the Regional Director, Pacific Northwest Region, or to the Director, Douglas County Water Resources Survey, at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: July 8, 1983.

Robert N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 83-18967 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 43271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon 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 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.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions 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.

Agatha L. Mergenovich,

Secretary.

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." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP–1–281(N)

Decided: July 11, 1983.

By the Commission, Review Board Members Carleton, Parker, and Joyce.

MC 3730 (Sub-4) filed June 30, 1983. Applicant: SUN TRANSPORTATION, INC., 40 Pullman Street, Worcester, MA 01606. Representative: Daniel J. Lucey, P.O. Box 102, Shresburg, MA 01545, (617) 799–2741. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 117940 (Sub-381) filed June 27, 1983. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359, (612) 479–1984. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN.

MC 125440 (Sub-15) filed June 30, 1983. Applicant: CONCRETE TRUCKING SERVICE, INC., 50 James Street, Somerville, NJ 08876. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850, (301) 424–2420. Transporting *cloy, concrete, glass or stone products, and building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Nitterhouse Concrete Products, Inc., of Chambersburg, PA.

MC 134220 (Sub-2) filed June 28, 1983. Applicant: TED'S OF FAYVILLE, INC., 5 Park Street, P.O. Box 297, Southboro, MA 01772. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146230 (Sub-2) filed June 27, 1983. Applicant: J & V TRUCKING COMPANY, INC., 617 River Rouge Drive, Nashville, TN 37209. Representative: Don Garrison, 416 Hay Drive, SW-Fl, Decatur, AL 35603, (205) 355–0221. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

MC 150451 (Sub-5), filed June 20, 1983. Applicant: G. & L. TRANSPORT, INC., Route 9, Troy, ME 04987. Representative: Barry Weintrabu, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in ME, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161210 (Sub-4), filed June 28, 1983. Applicant: J–R TRANSPORTATION SERVICES, INC., RD No. 6, Box 385, Hammonton, NJ 08037. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *food and related products, textile mill products, lumber and wood products, furniture and fixtures, pulp, paper and related products, chemicals and related products, petroleum and coal products, rubber and plastic products, leather and leather products, clay, concrete, glass or stone products, metal products, machinery, transportation equipment, and waste or scrap materials not identified by industry producing*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in section 10923 of the Motor Carrier Act of 1980 who are engaged in business as manufacturers, distributors, or receivers in the industries set forth above.

MC 168911 (A), filed June 27, 1983. Applicant: MILTON SCHRENGER, d.b.a. BLUE CHIP EXPRESS, 1728 Berry Blvd., Louisville, KY 40215. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—Applicant has also requested authority in MC–168911(B) published this same **Federal Register** issue.

MC 168921, filed June 27, 1983. Applicant: W. G. BROWN, INC., 15 Kansas Avenue, Kansas City, KS 66105. Representative: Larry E. Gregg, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in IA, KS, MO and NE, on the one hand, and, on the other, points in AZ, CA, CO, ID, NE, NV, NM, ND, OK, SD, TX, and UT. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) 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 this filing to Team 1, Room 2379.

For the following, please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–433

Decided: July 8, 1983.

By the Commission, Review Board, Members: Dowell, Joyce, and Fortier.

MC 3647 (Sub-473), filed June 28, 1983. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Ave., Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, McCarter Hwy and Market St., P.O. Box 10009, Newark, NJ 07101, (201) 648–6908. Transporting *passengers*, between points in Howell Township, NJ, serving all intermediate points: from junction U.S. Hwy 9 and access road near Land of Pines, NJ to Aldrich Road, then over Aldrich Road to junction Pinewood Road, then over Pinewood Road to junction Windeler Road, then over Windeler Road to junction Georgia Tavern Road, then over Georgia Tavern Road to junction U.S. Hwy 9 and return over the same route.

Note.—(1) Applicant states it intends to tack the authority herein with its presently authorized operations. (2) Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient, and (3) Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 50307 (Sub-108), filed June 28, 1983. Applicant: INTERNATIONAL DISTRIBUTION CENTERS, INC., 215 County Ave., Secaucus, NJ 07094.

Representative: Irwin Rosen (same address as applicant), (212) 868–8686. Transporting *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and department stores, between points in the U.S. under continuing contract(s) with Modern Maid Foods Products, of Garden City, NY.

MC 97397 (Sub-16), filed June 29, 1983. Applicant: BARKLEY TRUCK LINES, INC., 124 1st Ave., NW., Watertown, SD 57201. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in UT, MT, ND, SD, NE, IA, MN, PA, WI, IL, KS, NM, MO, TX, AZ, OK, AR, WY, CA, OR, WA, OH, CO, MI, IN, and TN.

MC 105007 (Sub-85), filed June 30, 1983. Applicant: MATSON TRUCK LINES, INC., P.O. Box 328, Albert Lea, MN 56007. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneaspolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 135276 (Sub-6), filed June 30, 1983. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water St., Box 10, Frederick, MD 21701. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *clay, concrete, glass or stone products*, between points in Frederick County, MD, on the one hand, and, on the other, points in VA, WV, PA and DC.

MC 141046 (Sub-19), filed June 29, 1983. Applicant: MITCHELL TRUCKING, INC., 1911 I St., LaPorte, IN 46350. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151996 (Sub-5), filed July 1, 1983. Applicant: M & S TRANSPORTATION, INC., Route 1, Box 88C, North Little Rock, AR 72119. Representative: James M. Duckett, Suite 411, 221 W. 2d, Little Rock, AR 72201, (501) 375–3022. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia-Pacific Corporation, of Darien, CT.

MC 165726 (Sub-1), filed June 29, 1983. Applicant: FLEETWAY TRANSPORTATION, INC., 3949 Lyman Dr., Hilliard, OH 43026. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Standard Oil Company of Ohio, of Twinsburg, OH, and its subsidiaries.

MC 168996, filed June 30, 1983. Applicant: ROBERT L. CURRIER, d.b.a. CURRIER TRUCKING, P.O. Box 724, Soldotna, AK 99669. Representative: John L. Wilson, P.O. Box 2765, Soldotna, AK 99669, (907) 262–9597. Transporting *building materials, machinery, and iron and steel products, wood and lumber products*, between points in WA and AK.

Volume No. OP4–434

Decided: July 11, 1983.

By the Commission, Review Board, Members: Parker, Williams, and Dowell.

MC 155916 (Sub-5), filed June 16, 1983, previsouly noticed in the **Federal Register** issue of July 1, 1983, and republished this issue. Applicant: ARDMORE FARMS, INC., 1915 North Woodlawn Blvd., P.O. Box 183, Deland, FL 32720. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *food and related products*, between points in AL, FL, GA, NC, SC, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit to the Secretary's office indicating why such approval is unnecessary. In lieu of filing an application for approval, such person or persons may wish to file a letter-petition for exemption for Commission action. Such a petition should include the notice required by Section 11343(e)(2). See Ex Parte 400 (Sub-No. 1), Procedures for Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343, 47 FR 42947. In order to expedite issuance of any authority, please submit a copy of the affidavit, or proof of filing the petition or application(s) concerning common control to Team 4, Room 2410.

Note.—The purpose of this republication is to indlude the "Condition."

Volume No. OP4–436

Decided: July 11, 1983.

By the Commission, Review Board, Members: Dowell, Joyce, and Fortier.

FF–716, filed June 28, 1983. Applicant: MILDRED E. ABBOTT, d.b.a., PEOPLE'S INTERNATIONAL, 2406 33rd Ave. S.E., Puyallup, WA 98373. Representative: Jim Pitzer, P.O. Box 895, Renton, WA 98057, (206) 235–1111. As freight forwarder, in connection with transportation of *household goods, unaccompanied baggage, and used automobiles*, between points in the U.S.

Volume No. OP4–437

Decided: July 11, 1983.

By the Commission, Review Board, Members: Carleton, Parker, and Joyce.

MC 168626, filed June 13, 1983, previously noticed in the **Federal Register** issue of July 1, 1983, and republished this issue. Applicant: THOMAS WOLFGANG AND HARRY CRALEY, d.b.a. CHAMPION LINE, 590 S. State St., York, PA 17403. Representative: Gary L. Snyder, 52 S. Duke St., York, PA 17401, (717) 854–3871. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, OH, VA, WV, and DC.

Note.—The purpose of this republication is to exclude commodities in bulk from the requested authority.

[FR Doc. 83-19091 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

Rail Carriers; Scheduling of Modified Procedure Proceedings; Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Modified procedures scheduled.

SUMMARY: The following railroads have filed petitions seeking reopening of the dockets named below. The Commission previously denied the petitions. The proceedings are now being reopened on the Commission's own motion.

DATES: Notice of intent to participate are due on August 15, 1983. All evidence and argument in support of removing the condition are due on September 30, 1983. All evidence and argument in opposition are due on November 14, 1983 rebuttal is due on December 14, 1983.

ADDRESSES: Send an original plus 1 copy of each notice of intent to participate and an original plus 10 copies of all pleadings to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. Other addresses

to which copies are to be sent appear with the listing of individual dockets.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275–7245
or
Anne K. Quinlan, (202) 275–6458

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's full decision in Finance Docket No. 8393 (Sub-No. 1) et al. To purchase a copy of the decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4387 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: June 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

St. Louis Southwestern Railway Company, Control

[Finance Docket No. 8393 (Sub-No. 1)]

By a petition filed October 8, 1980, St. Louis Southwestern Railway Company and Southern Pacific Transportation Company seek reopening of this proceeding for the limited purpose of removing Condition 1, a traffic protective condition, as set forth in *St. Louis S.W. Ry. Co. Control*, 180 I.C.C. 175 at 206 (1932). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and pleadings to: W. Harney Wilson, Southern Pacific Bldg.; One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 8393 (Sub-No. 1).

Petaluma & Santa Rosa Railroad Company, Control

[Finance Docket No. 8917 (Sub-No. 1)]

On October 8, 1980, Petaluma & Santa Rosa Railroad Company (P&SR) and Southern Pacific Transportation Company (SP) filed a petition seeking limited reopening of this proceeding to consider removal of the sole condition imposed by the Commission in *petaluma & S.R.R. Co. Control*, 180 I.C.C. 321 at 328 (1932). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and one copy of each pleading to: W. Harney Wilson, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 8917 (Sub-No. 1).

Pere Marquette Railway Company Merger, etc.

[Finance Docket No. 15228 (Sub-No. 1)]

On January 24, 1980, Chesapeake and Ohio Railway Company filed a petition to reopen this proceeding for the limited purpose of considering removal of condition 2, a traffic protective condition, prescribed in *Pere Marquette Ry. Co. Merger*, 267 I.C.C. 207 at 253 (1947). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and one copy of each statement to: Charles C. Rettberg, Jr., Chesapeake and Ohio Railway Company, P.O. Box 6419, Cleveland, OH 44101.

Pleadings should refer to Finance Docket No. 15228 (Sub-No. 1).

Chesapeake & Ohio Railway Company—Control—Baltimore & Ohio Railroad Company

[Finance Docket No. 21160 (Sub-No. 1)]

On January 24, 1980, Chesapeake and Ohio Railway Company and Baltimore and Ohio Railroad Company (collectively, Chessie) filed a petition seeking reopening of this proceeding for the limited purpose of considering removal of traffic protective conditions. Specifically, Chessie seeks revoval of conditions 1–7 in Appendix VII set forth in *Chesapeake & O.R. Co.—Control—Baltimore & O. R. Co.*, 317 I.C.C. 261 at 345 (1962). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and one copy of each statement to: Charles C. Rettberg, Jr., Chesapeake and Ohio Railway Company, P.O. Box 6419, Cleveland, OH 44101.

Pleadings should refer to Finance Docket No. 21160 (Sub-No. 1).

Great Northern Pacific & Burlington Lines, Inc.—Merger, etc.—Great Northern Railway Compaany, et al.

[Finance Docket No. 21478 (Sub-No. 5)]

On July 2, 1981, Burlington Northern Railroad Company successor to Burlington Northern, Inc., filed a petition requesting that the Commission reopen this proceeding for the limited purpose of considering removal of certain traffic protective conditions. Specifically, BN seeks elimination of conditions 1–6 in Appendix L set forth at *Great Northern Pac.—Merger—Great Northern*, 331 I.C.C. 228 at 352 (1967).

Notice of the instant petition was originally published at 46 FR 39690, August 4, 1981. Comments were filed by 21 parties and thereafter the petition was dismissed as moot as a result of the decision in *Traffic Protective Conditions*, 366 I.C.C. 112 (1982). Because that decision has been stayed by the United States Court of Appeals for the Sixth Circuit, the proceeding is reopened on the Commissions own motion. All comments previously submitted in the reopened proceeding remain part of the record. However, since that record is now stale, a new modified procedure schedule will be set to give all parties an opportunity to update their commens and give other persons the opportunity to become parties and be heard on the issues raised in the petition.

Send one copy of each notice of intent to participate and one copy of each pleading to: William R. Power, Assistant General Solicitor, Law Dept., Burlington Northern Railroad Co., 176 East 5th Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 21478 (Sub-No. 5).

Southern Pacific Company Merger, etc., Texas and New Orleans Railroad Company et al.

[Finance Docket No. 21261 (Sub-No. 1)]

On October 8, 1980, Southern Pacific Transportation Company filed a petition seeking reopening of this proceeding for the limited purpose of removing a traffic protective condition. Specifically, SP seeks elimination of the condition set forth in *Southern Pacific Co. Merger*, 312 I.C.C. 598 at 603 (1961). This proceeding is reopened on the Commission's own motion. Persons interested in participating in this limited reopening shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and one copy of each pleading to: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 21261 (Sub-No. 1).

Southern Pacific Company—Merger—Pacific Electric Railway Company

[Finance Docket No. 23011 (Sub-No. 1)]

On October 8, 1980, Southern Pacific Transportation Company filed a petition seeking reopening of this proceeding for the limited purpose of removing a traffic protective conditions. Specifically, SP seeks removal of conditions 1–6 set forth at *Southern Pac. Co. Merger*, 327 I.C.C. 38 at 40 and 47 (1964). The proceeding is

reopened on the Commission's own motion. Persons interested in participating shall give notice of their intent to participate.

Send one copy of each notice of intent to participate and one copy of each pleading to: Gary A. Laakso, Southern Pacific Bldg., One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 21261 (Sub-No. 23011).

Chesapeake & Ohio Railway Company—Control—Chicago South Shore & South Bend Railroad

[Finance Docket No. 23566 (Sub-No. 1)]

On January 24, 1980, Chesapeake and Ohio Railway Company and Chicago South Shore and South Bend Railroad (collectively, Chessie) filed a petition seeking reopening of this proceeding for the limited purpose of considering removal of traffic protective conditions. Specifically, petitioners seek removal of conditions 1–7 in Appendix A set forth at *Chesapeake & O. Ry. Co.—Control—Chicago S.S. & S.B.R.*, 330 I.C.C. 477 at 487 (1966). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of intent to participate.

Send one copy of each notice of intent to participate and one copy of each statement to: Charles C. Rettberg, Jr., Chesapeake and Ohio Railway Company, P.O. Box 6419, Cleveland, OH 44101.

Pleadings should refer to Finance Docket No. 23566 (Sub-No. 1).

Chesapeake & Ohio Railway Company and Baltimore & Ohio Railroad Company—Control—Western Maryland Railway Company

[Finance Docket No. 23178 (Sub-No. 1)]

On January 24, 1980, Chesapeake and Ohio Railway Company and Western Maryland Railway Company (collectively, Chessie) filed a petition seeking reopening of this proceeding for the purpose of considering removal of traffic protective conditions. Specifically, Chessie seeks removal of conditions 1–7 in Appendix G set forth in *Chesapeake & O. Ry. Co.—Control—Western Maryland Ry. Co.*, 328 I.C.C. 684 at 760–761 (1967). The proceeding is reopened on the Commission's own motion. Persons interested in participating shall give notice of intent to participate.

Send one copy of each notice of intent to participate and one copy of each statement to: Charles C. Rettberg, Jr., Chesapeake and Ohio Railway Company, P.O. Box 6419, Cleveland, OH 44101.

Pleadings should refer to Finance Docket No. 23178 (Sub-No. 1).

[FR Doc. 83-19094 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

[AB-209 (Sub-1)]

Rail Carriers; Brooklyn Eastern District Terminal—Abandonment—Kings and Queens Counties, NY; Findings

The Commission has issued a certificate authorizing the Brooklyn Eastern District Terminal: (1) To abandon its entire line of railroad comprising Kent Terminal (including about 0.5 mile of track) in Kings County, NY, and Pidgeon Street Terminal (including about 0.05 mile of track) in Queens County, NY, and (2) to discontinue (a) service to a private facility at the Brooklyn Navy Yard, Kings County, NY, and (b) rail and marine carfloat operations within the Port of New York. The certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19095 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-6 (Sub-135)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Latah County, ID; Findings

The Commission has found that the public convenience and necessity permit Burlington Northern Railroad Company to abandon its 3-mile rail line near Moscow (milepost 90.00) and the end of the line near Estes (milepost 87.00) in Latah County, ID. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in boldface on the lower left-hand corner of the envelope: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19097 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-6 (Sub-148)]

Rail Carriers; Burlington Northern Railroad Company—Abandonment—in Christian and Greene Counties, Mo; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its line of railroad extending from milepost 250.10 near Kissick, to milepost 257.60 at the end of the line near Ozark, a distance of 7.50 miles in Christian and Greene Counties, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assitance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The following notation shall be typed in boldface on the lower left-hand corner of the envelope: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail

service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19096 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-397N)]

Rail Carriers; Conrail Abandonment Between York Junction and Delano, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, by the Review Board has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between York Junction and Delano, PA, in Fayette and Schuylkill Counties, PA, a total distance of 10.1 miles effective on June 8, 1983.

The net liquidation value of this line is $295,346. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line, it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19092 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 30203]

Railroad Operation; Midland Terminal Company, the Monongahela Connecting Railroad Company and Jones & Laughlin Steel, Incorporated—Exemption From 49 U.S.C. 10901, 11301 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemptions.

SUMMARY: The Interstate Commerce Commission exempts The Midland Terminal Company from the requirements of prior approval under: (1) 49 U.S.C. 10901 for its lease from its parent company, Jones & Laughlin Steel Incorporated, and operation of a 10.5-mile line of railroad located in the Borough of Midland, Beaver County, PA and (2) 49 U.S.C. 11301 for its issuance of 50 shares of common stock. Monongahela Connecting Railroad Company and Jones & Laughlin Steel Incorporated also seek to control The Midland Terminal Company pursuant to 49 U.S.C. 11343. The control proposal is an exempt transaction for which review is unnecessary. [49 CFR 1180.2(d)(2)]. Use of the control exemption is subject to labor protective conditions.

DATES: Exemptions effective on July 15, 1983. Petitions to reopen must be filed by August 4, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30203 to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: James E. Howard, 1500 Oliver Building, Pittsburgh, PA 15222

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T. S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC, 20423, or call 275-0895 (D.C. Metropolitan area) or toll free (800) 424-5403.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-19093 Filed 7-14-83; 8:45 am]

BILLING CODE 7035-01-M

U.S. DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation; Neighborhood watch program

The National Institute of Justice announces a competitive research grant to evaluate the effectiveness of Neighborhood Watch programs in reducing crime and fear, improving citizen-police coordination, and dealing with other neighborhood problems. Factore related to program effectiveness are to be identified. Substantiated recommendations will be produced for use by groups who wish to start a new program or improve an existing one.

The solicitation asks afor submission of proposals of twenty-five (25) pages or less. In order to be considered, papers must be received at the National Institute of Justice by August 19, 1983. One grant will be awarded of up to $150.000 for 15 months. To maximize competition, both profit-making and nonprofit organizations are encouraged to apply; however, no fee will be paid.

To obtain a copy of the Solicitation, send a self-addressed mailing label to: National Criminal Justice Reference Service, Attn: Neighborhood Watch Solicitation, P.O. Box 6000, Rockville, MD 20860.

James K. Stewart,

Director.

[FR Doc. 83-19305 Filed 7-14-83; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor,

200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension (Burden Change)

- Employment Standards Administration

20 CFR 702.111, Maintenance of Records of Injury/Occupation Disease
ESA-100 LS
Recordkeeping Reporting
Business or other for-profit
22,3000 responses; 4,460 hours

Section 29 of the Longshoremen's Act requires that every employer shall keep a record in respect to any injury to an employee and that such record shall be available for inspection by the Secretary of Labor. Inspection may be required to verify compliance with the Act.

Reinstatement

- Employment and Training Administration

CETA Grant Application and Reporting Requirements
ETA 2202, ETA 5134, etc.
On occasion; quarterly; Annually
State or Local Governments
1,637,301 responses; 1,123, 276 hours; 11 forms

Information by prime sponsor is required for submission in annual reports to Congress and to the President. Summary data are also used for management and is tabulated at the regional and national levels. Data are also used for Congressional responses and news releases.

New

- Bureau of Labor Statistics

Labor Market Information Cooperative Agreement
SF 424, ET 362, BLS LMI 83-1, BLS LMI-2
Quarterly, Monthly
State Employment Security Agencies
SIC: 944
53 respondents; 1696 hours; 4 forms

The 1982 amendments to the Wagner-Peyser Act mandated that the basic grant funds to the States for Labor exchange activities be distributed based on a formula which reflected civilian labor force and unemployment. The Secretary of Labor was specifically authorized to provide additional funds to the States through reimbursable agreements distinct from the basic grant to develop employment and unemployment statistics. During the Fiscal Year (FY) 1984 budget preparation process, the Office of Management and Budget (OMB) instructed the Department of Labor to fund the Local Area Unemployment Statistics, Current Employment Statistics, and Occupational Employment Statistics programs through the Bureau of Labor Statistics. These forms represent the cooperative agreement process.

Reinstatement

- Employment and Training Administration

Targeted Jobs Tax Credit (TJTC) Report Forms
ETA 8468-8473 and 8588
On occasion; quarterly
State Employment Security Agencies; State and Federal Support Agencies
Businesses; Individuals
Small business or organizations
SIC: Multiple
1,650,832 responses; 218,948 hours; 7 forms

Forms are used for eligibility determination, verification, and employer certification for tax credit. Reports provide program data on vouchers, wage rates, target group membership certifications and eligibility verification, and are used for program planning and evaluation and for oversight of verification activities as mandated by Pub. L. 97-248.

Signed at Washington, D.C. this 12th day of July 1983.

Richard F. Glesener,

Acting Departmental Clearance Officer.

[FR Doc. 83-19123 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-14,216]

RCA Corp. Commercial Communications Systems Division; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 10, 1983 in response to a worker petition received on January 4, 1983 which was filed on behalf of workers and former workers of the Camden, New Jersey plant of RCA Corporation, Commercial Communications Systems Division.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 5 day of July 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-19126 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letter No. 30-83; Federal Unemployment Tax Credits for 1985 and Thereafter

Unemployment Insurance Program Letter No. 30-83 interprets the provisions of Sections 3302(b) and 3303(a)(1) of the Federal Unemployment Tax Act as requiring a standard rate of at least 5.4 percent under State unemployment compensation laws effective with respect to wages paid for services performed after December 31, 1984, for employers to qualify for the full allowable credits of 5.4 percent against the tax assessed under Section 3301 of the Federal Unemployment Tax Act for taxable year 1985 and thereafter. UIPL 30-83 is published below.

Dated: July 6, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

Classification: UI
Correspondence Symbol: TEURL
Date: June 23, 1983

Subject: Federal Unemployment Tax Credits for 1985 and Thereafter Under Recent Amendments to Federal Law

Directive: Unemployment Insurance Program Letter No. 30-83
To: All State Employment Security Agencies
From: Royal S. Dellinger, Administrator, for Regional Management

1. *Purpose.* To explain what amendments are needed to State laws as a result of the increase in the Federal taxable wage base to $7,000 with respect to wages paid for employment in 1983 and thereafter and the increase in the gross Federal tax and in the ceiling on total allowable credits against the Federal unemployment tax with respect to wages paid for employment in 1985 and thereafter.

2. *References.* Pub. L. 97-248 and UIPL 4-83.

3. *Background.* The taxable wage base with respect to wages paid for employment in 1983 and thereafter has been increased to $7,000. The gross

Federal tax on such wages has been increased by 0.1 percent to 3.5 percent for 1983 and 1984. With respect to such wages paid in 1985 and thereafter, the gross Federal tax has been increased to 6.2 percent, and the total allowable credits have been increased to 5.4 percent against the gross tax. All of those changes in the Federal law will have significant consequences for employers in all States, especially those with experience rating.

4. *State Laws.* To assure that employers qualify for full allowable credits against the gross Federal unemployment tax with respect to wages paid for employment in 1985 and thereafter, SESAs should seek amendments to their laws, as appropriate, in the following respects.

a. The taxable wage base with respect to wages paid in 1983 and thereafter should be at least $7,000.

Expiration Date: July 30, 1984.

b. The standard rate for experience rating purposes should be at least 5.4 percent with respect to wages paid in 1985 and thereafter.

c. All rates at 5.4 percent and below with respect to wages paid in 1985 and thereafter must be based on an employer's experience with his workers' risk of unemployment consistent with the requirements of section 3303(a)(1), FUTA, except as permitted under a transition provision mentioned below.

d. The transition provision, over a period of four years from 1985 to and including 1988, applies to a "specific industry provision" of a State law, as defined, and as explained in the attachment to this letter.

The reasons for, and an explanation of, the advice given above are contained in the attachment to this letter.

5. *Action Required.* SESAs should take timely action to assure amendment of their State laws as needed.

6. *Inquiries.* Inquiries may be directed to the appropriate regional office or to Ted Wagman on 202–376–7306 or Jim Segraves on 202–376–7052.

7. *Attachment.* Federal Unemployment Tax Credits and Experience Rating.

[Attachment to UIPL No. 30–83]

Federal Unemployment Tax Credits and Experience Rating

The nature of the partnership between the Federal Government and the States in the unemployment compensation program is found most characteristically in their interrelated systems of taxation. An amount equal to the revenue derived from the Federal tax is appropriated to the Unemployment Trust Fund for use primarily to finance grants to the States for administration of their unemployment insurance laws and their employment service programs. The revenue derived from State taxes (contributions) is used for the payment of benefits to qualified unemployed individuals.

Employers subject to the tax imposed by section 3301 of the Federal Unemployment Tax Act (FUTA) with respect to having individuals in their employ may offset against that tax, currently in 1983 equal to 3.5 percent of taxable wages in the amount of $7,000, a credit pursuant to section 3302(a) of up to 2.7 percent of the contributions paid into the unemployment fund of a State certified by the Secretary of Labor under section 3304(c), FUTA. Employers may be granted "additional credit" pursuant to section 3302(b) under other conditions to be described below. Those conditions become particularly important for the States and employers subject to their laws when the offset credit ceiling is increased to 5.4 percent with respect to wages paid for employment subject to FUTA in 1985 and thereafter, as provided in section 271 of Pub. L. 97–248.

Section 3302(b), in effect, permits employers of a State with an approved law to credit against the Federal unemployment tax an amount of contributions paid by them into a State unemployment fund at a rate less than the rate at which credit is allowable pursuant to section 3302(a), commonly known as "normal credit," as though such reduced rate were equal to the rate at which normal credit is allowable. In other words, an employer with a "reduced rate" of contributions under a State's experience rating plan that satisfies the requirements of the Federal law with respect to granting reduced rates may credit against the gross Federal unemployment tax the full amount of the offset credit allowable if, in 1985 and thereafter, certain experience rating requirements are satisfied and the standard rate or the highest rate under experience rating, whichever is lower, is at least 5.4 percent.

There is an explicit linkage between section 3302(b) with respect to additional credit and section 3303(a) with respect to experience rating. Section 3302(b) provides that an employer may take additional credit against the Federal unemployment tax, if the State law satisfies the experience rating requirements of section 3303(a) and "if throughout such 12-month period, he had been subject under such State law to the highest rate applied *thereunder* in the 12-month period to any person having individuals in his employ (i.e. any subject employer,) or a rate of 2.7 percent (or 5.4 percent for 1985 and thereafter,) *whichever rate is lower.*" (Emphasis added.) Section 3303(a) provides that an employer "shall be allowed *an additional credit under section 3302(b)* with respect to any reduced rate of contributions permitted by a State law, only if the Secretary of Labor finds that under such law" (emphasis added) reduced rates of contributions to a pooled fund are permitted only under an approved experience rating plan.

The term "reduced rate" is defined in section 3303(c)(8) as "a rate of contributions lower than the standard rate applicable under the State law, and the term *'standard rate'* means the rate on the basis of which variations therefrom are computed." (Emphasis added.) The "standard rate" is thus crucial to a determination of what rates are reduced rates within the context of experience rating requirements. Since additional credit with respect to contributions paid in 1985 and thereafter will be permitted to employers of a State at a maximum rate of 5.4 percent of taxable wages or the highest rate applied under the State's approved experience rating plan, whichever rate is *lower*, and since additional credit is allowable only with respect to a reduced rate, it is important that a State's standard rate for such period be no less than 5.4 percent. Since the "standard rate" is the rate on the basis of which variations therefrom are computed, it must be a rate that is assignable to an employer on the basis of his experience under the State's experience rating plan. This is significant in relation to the maximum additional credit that is allowable because under section 3302(b), the amount of additional credit in 1985 and thereafter will be the highest rate applied under experience rating (i.e., a computed rate) or 5.4 percent, whichever rate is lower.

It is apparent from the foregoing description of the Federal law provisions governing the allowance of additional credit and experience rating that the emphasis is upon the *rates* of contributions assessed subject employers. The taxable wage base is relevant, in contrast, to the amount of allowable *normal credit.* If in 1983, for example, when the taxable wage base is increased to $7,000, a State's taxable wage base remains at $6,000, all employers who pay contributions at rates lower than 3.15 (which yields the same amount as a rate of 2.7 percent on a taxable wage base of $7,000) will lose a portion of the allowable normal credit. Even employers who qualify for additional credit in 1983 will be granted normal credit of only 2.7 percent on

taxable wages of $6,000 in the example given.

If a State prefers not to permit reduced rates of contributions or suspends experience rating to preserve the solvency of its unemployment fund, the rate or rates at which its subject employers pay contributions should be no less than 5.4 percent for 1985 and thereafter, or there will be a loss of normal credit.

If a State's taxable wage base is higher than the Federal taxable wage base of $7,000 in 1985, it will nevertheless be necessary for the State's standard rate under experience rating to be no less than 5.4 percent if all of the State's employers are to receive the full additional credit allowable under the Federal law. A yield of contributions under a State standard rate lower than 5.4 percent applied to a taxable wage base higher than $7,000 will not necessarily qualify all of the State's employers for the full amount of additional credit allowable under the Federal law since wages actually paid may be less than the higher taxable wage base. It will, therefore, produce a lower yield than the nominal State taxable wage base.

Section 3302(c)(1), FUTA, provides, as amended, that the total credits allowable under section 3302—normal and additional credits—for a taxable year on and after 1985 "shall not exceed 5.4 percent" of the total taxable wages subject to the Federal unemployment tax.

With respect to 1985 and thereafter, contribution rates of 5.4 percent and below must satisfy the experience rating requirements of section 3303(a)(1), FUTA. If a State's schedule of rates contains rates higher than 2.7 percent which are not assigned to employers on the basis of experience or which do not satisfy, in one or more respects, the requirements of the Federal law, the State agency should seek amendment to its law. Such rates above 2.7 percent should be rates computed by the same factors as used in computing the rates at and below 2.7 percent. There is one exception in the form of a limited transition provision.

Section 271(c)(3) of Pub. L. 97-248 provides that additional credit will be allowed for up to four years, from 1985 through and including 1988, despite rates of contributions granted at and below 5.4 percent which are not based on experience, if such rates are granted under a "specific industry provision," as defined. There are four conditions all of which must be satisfied for a rate to qualify under that exception. Such a rate must:

1. Have been granted pursuant to a provision in the State law in effect on August 10, 1982.

2. Apply to employees in a specific industry or to an otherwise definable category of employees.

3. Be a rate higher than 2.7 percent which is not based on experience and which employers may elect, i.e., which is not mandatory, for the payment of contributions.

4. Be increased in the years 1985 through and including 1988 by at least 20 percent of the difference between such rate (in effect prior to 1985) and 5.4 percent so that with respect to 1989, or earlier, and thereafter all rates assigned to employers at 5.4 percent and below will be based on an employer's experience.

[FR Doc. 83-19125 Filed 7-14-83; 8:45 am]
BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of California

This notice announces the ending of the Extended Benefit Period in the State of California, effective on July 2, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of California on January 23, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on June 11, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on July 2, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 6125.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on July 6, 1983.

Albert Angrisani,
Assistant Secretary of Labor.

[FR Doc. 83-19127 Filed 7-14-83; 8:45 am]
BILLING CODE 4510-30-M

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Notice of 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 permissable 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 in 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. Coments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, N.W., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 12th day of July 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JULY 16, 1983

Name of applicant and location of enterprise	Principal product or activity
Bauer Built, Inc. Durand, Wisconsin	Manufacture of retreaded tires, whole-sale and retail distribution of tires, bulk fuel oil and gasoline distribution.

[FR Doc. 83-19083 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-30-C]

Big Hill Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Big Hill Coal Company, Hatfield, Kentucky 41514 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 4 (I.D. No. 15-11612) located in Pike County, Kentucky. 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 cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 38 to 50 inches, with rolls and dips.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies cause visibility problems for the equipment operator, increasing the chances of an accident.

4. For these reasons, 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated: July 7, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19122 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-10-M]

Greer Limestone Co.; Petition for Modification of Application of Mandatory Safety Standard

Greer Limestone Company, Greer Building, Morgantown, West Virginia 22505 has filed a petition to modify the application of 30 CFR 57.6-220 (ammonium nitrate-fuel oil blasting agents) to its Greer Mine and Mill (I.D. No. 46-00016) located in Monongalia 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 ammonium nitrate-fuel oil blasting agents shall not be mixed or otherwise formulated underground.

2. Petitioner has been using premixed bags of ammonium nitrate, but the heavy weight of the bags has caused back injuries.

3. As an alternate method, petitioner proposes to transport underground in a bulk truck, fuel and nitrate for blasting use. In support of this request, petitioner states that:

a. The bulk truck is inspected daily and defects corrected before use;

b. For protection against stray electrical currents and static electricity, the truck has been grounded with coppper wire attached to the frame and a steel plate placed on the mine floor when loading begins;

c. The exact amount of fuel and nitrate can be metered into the powder monkey and placed into the holes without spilling or wasting of material. There are no paper or plastic bags in the loading area to catch fire and cause a hazard, eliminating the chances of tripping, slipping, and falling accidents;

d. The bulk truck allows no ammonium nitrate and fuel mixture to be premixed in the mine prior to loading. This also eliminates the hazard of storing premixed bags of nitrate on mine property;

e. The bulk truck will only contain enough supply for 2 or 3 face shots per day. The truck will be washed out every night to ensure cleanliness and no buildup in the bins, powder monkey, or in the hose and auger overnight.

4. Petitioner states that the proposed alternate 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 furnished 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated: July 7, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances..

[FR Doc. 83-19117 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-60-C]

Inland Steel Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Inland Steel Coal Company, P.O. Box 416, Nicktown, Pennsylvania 15762 has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of firefighting equipment) to its Lancashire No. 25 mine (I.D. No. 36-00838) located in Cambria County, Pennsylvania. 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 one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. As an alternate method, petitioner proposes to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity in lieu of providing one portable fire extinguisher and 240 pounds of rock dust.

3. Petitioner states that the proposed alternate 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated: July 7, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19120 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-21-C]

Scheib Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Scheib Coal Company, R.D. 1, Box 40A, Tower City, PA 17980 has filed a petition to modify the application of 30 CFR 75.902 (low- and medium-voltage ground check monitor circuits) to its Honey Slope (I. D. No. 36-05827) located in Schuylkill County, Pennsylvania. 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 low- and medium-voltage resistance grounded systems include a failsafe ground check circuit to monitor continuously the grounding circuit.

2. The mine generates 480-volt, 3-phase power with a diesel-powered generator, which energizes one 50 hp pump, one 20 hp pump, and one 13 hp pump, which are all stationary. The power conductors, grounding conductors, and electrodes are of sufficient size and ampacity for the mine, as set forth in the National Electrical Code.

3. There is no high voltage in the mine. The pumps are removed from the mine for repair by qualified dealers and approved electricians. All pumps are in isolated areas, away from the areas where any miners are working on a daily basis.

4. As an alternate method, petitioner proposes that:

a. No personnel will be allowed to enter isolated areas where pumps are located while circuits are energized;

b. Signs of adequate size, stating notices that pumps are energized, will be posted at isolated areas;

c. Electrical circuit boxes, controlled from the surface, will be in a lock out position before any miner is allowed to enter isolated areas.

5. Petitioner states that the proposed alternate 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated July 7, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19121 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-62-C]

Southmountain Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Southmountain Coal Co., Inc., Box 933, Wise, Virginia 24293 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 44-05769) located in Wise County, 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 cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that, due to the height of the coal and the undulation of the coal bed, the use of cabs or canopies on the mine's electric face equipment would hamper the visibility of the equipment operator, increased the chances of an accident.

3. For these reasons, 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated: July 7, 1983.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19118 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-6-M]

Texasgulf Chemicals Co.; Petition for Modification of Application of Mandatory Safety Standard

Texasgulf Chemicals Company, P.O. Box 100, Granger, Wyoming 82934 has filed a petition to modify the application of 30 CFR 57.21-78 (permissible equipment) to its Trona Operations (I.D. No. 48-00639) located in Granger 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 requirements that only permissible equipment maintained in permissible condition be used beyond the last open crosscut or in places where dangerous quantities of flammable gases are present or may enter the air current.

2. Petitioner seeks a modification of the standard to permit the use of nonpermissible diesel equipment which is designed for specific tasks within the mine. Petitioner states that use of permissible equipment that is available but not designed for specialized maintenance or other tasks may not be appropriate and could be less safe, resulting in a diminution of safety.

3. Ventilation will be maintained that exceeds the requirements of 30 CFR 57.21-34, precluding the possibility of any dead air spaces in which methane may accumulate. Monitoring for methane at intervals of 20 minutes, or as determined by MSHA, will be done to assure no hazardous quantities of this gas will occur.

4. For these reasons 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 August 15, 1983. Copies of the petition are available for inspection at that address.

Dated: July 7, 1983.

Patricia W. Silver,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-19119 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[V-83-3]

ASARCO, Inc.; Grant of Interim Order and Application for Temporary Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: (1) Notice of application for temporary variance and interim order (2) Grant of interim order

SUMMARY: This notice announces the application of ASARCO, Incorporated, for a temporary variance and interim order pending a decision on the application for variance from certain requirements of the medical removal provisions prescribed in 29 CFR 1910.1025(k)(l)(i)(C), 29 CFR 1910.1025(k)(l)(i)(D) and 29 CFR 1910.1025(k)(l)(iii)(A)(*3*), of the Standard for Occupational Exposure to Lead.

It also announces the granting of an interim order until a decision is rendered on the application for temporary variance.

DATES: The interim order became effective on May 17, 1983, the date of the letter granting the interim order. The last date for interested persons to submit comments is August 15, 1983. The last date for affected employers and employees to request a hearing on the application is August 15, 1983.

ADDRESS: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. and Constitution Ave., NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: 202-523-7183, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffen Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor, Occupational Safety and Health Administration, Overland—Wolf Building, Rm. 100, 6910 Pacific Street, Omaha, Nebraska 68106

U.S. Department of Labor, Occupational Safety and Health Administration, 4300 Goodfellow Boulevard, Building 105E, St. Louis, Missouri 63120

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building, Rm. 1554, 1961 Stout Street, Denver, Colorado 80294

U.S. Department of Labor, Occupational Safety and Health Administration, Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101

Notice of Application

Notice is hereby given that ASARCO Incorporated, 120 Broadway, New York, NY 10271, has made application pursuant to section 6(b)(6(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance from 29 CFR 1910.1025(k)(l)(i)(C), (k)(l)(i)(D) and (k)(l)(iii)(A)(*3*) of the medical removal protection (MRP) provisions of the lead standard, which state, respectively:

> The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up sampling test * * * indicate that the employee's blood-lead level is at or above 60 μg/100g of whole blood;
>
> The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests * * * (or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer) indicates that the employee's blood-lead level is at or above 50 μg/100g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 μg/100g of whole blood; and
>
> The employer shall return an employee to his or her former job status * * * when two consecutive blood sampling tests indicate that the employee's blood-lead level is at or below 40 μg/100g of whole blood.

The purpose of these provisions is to provide protection from excessive lead exposure for employees with substantially elevated blood-lead levels.

The addresses of the places of employment that will be affected by the application are as follows:

ASARCO, Incorporated, P.O. Box 7, Glover, MO 63646

ASARCO, Incorporated, East Helena, MN 59635

ASARCO, Incorporated, Fifth and Doyle Streets, Omaha, NB 68102
ASARCO, Incorporated, P.O. Box 1111, El Paso, TX 79940

The applicant certifies that employees who would be affected by the variance have been notified of the application by the employer giving a copy of it to their authorized employee representative and posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that the implementation of the 50 μg/100g removal and 40 μg/100g return triggers of the lead standard is not feasible for the following reasons:

(1) Implementation would require the long-term removal of significant numbers or percentages of skilled and experienced employees who are critical to maintaining safe and healthful operations;

(2) The length of time that these employees are predicted to have to remain on removal would create serious operational disruptions unless these employees can be quickly replaced, which they cannot.;

(3) Further, since there are virtually no work areas where ambient air levels are consistently under the action level (30μg/m³ of air), nearly all removed employees would have to be laid off with full MRP benefits, making the cost of medical removal prohibitive.

ASARCO therefore requested a removal trigger of 60 μg/100g of whole blood and a return trigger of 50 μg/100g of whole blood. In addition, ASARCO also requested that such relief apply to all employees in the lead-exposed workforce and that removed employees be permitted to be removed to areas where lead exposure is below 50 μg/m³ of air rather that below 30 μg/m³, as required by the standard.

The applicant qualified this final request for relief by stating that if the blood lead level of an employee removed to areas with air leads above 30 μg/m³ but less than 50 μg/m³ does not decline to 50 μg/100g or below by the end of a six-month period, the employee would then be removed to an area where lead exposure is below 30 μg/m³. Further, this six-month limit would be jointly evaluated by ASARCO and the Steelworkers on or about November 1, 1983, and removal to areas below 50 μg/m³ would continue to be permitted only if it was determined that the blood-lead levels of a substantial majority of the removed employees had declined to 50 μg/100g within six month of such removal. If not, ASARCO and the Steelworkers will reevaluate this provision and submit an application to modify the variance accordingly.

In support of plant-wide relief, applicant states that the percent of lead-exposed employees subject to removal under a 50 μg/100g trigger for the four plants in question would range between 10.4% and 18.6%. Almost all jobs in ASARCO's primary lead facilities, applicant claims, involve a degree of skill, training, and experience such that the widespread removals and transfers necessary under the 50 μg/100g trigger would severely impair the safety and efficiency of the plant. Limitation of the relief from removal/return trigger levels to supervisory, skilled or maintenance employees would, therefore, pose difficult administrative burdens.

In support of being permitted to remove employees to areas where exposure levels are above 30 μg/m³ but below 50 μg/m³ of lead in air, applicant indicates there are virtually no work areas where the ambient air leads are consistently under the 30 μg/m³ "action level". The experimental use of removal areas between 30 μg/m³ and 50 μg/m³ will substantially increase the number of productive positions at which removed workers could be employed. Employees removed to such areas would receive special protection. Additional respirator usage would be required to reduce their effective exposure. The removal to such areas, moreover, would be limited to six months, and the entire experiment would be evaluated on or about November 1, 1983, to determine if it should be continued.

This request for relief comes at a time when ASARCO and the USWA have taken the initiative to apply experience they gained under the arsenic standard to implimenting the lead standard. For the purpose of developing engineering Compliance plans for ASARCO's four facilities, ASARCO, the United Steelworkers, and OSHA are participating in a cooperative tripartite assessment to determine the lowest air lead levels that can be achieved by engineering controls, operation by operation, in each facility. This will take approximately six months. Since OSHA is very concerned that engineering solutions be found to lead exposure a problems, the Agency looks favorably upon the tripartite arrangement as an effective way to achieve these solutions. OSHA commends ASARCO and the Steelworkers for their initiative.

Our technical staff has reviewed the data submitted concernign ASARCO's primary lead smelting and refining plants located at Glover, Missouri; East Helena, Montana; Omaha, Nebraska; and El Paso, Texas. We found that 17 percent of the lead exposed employees had average blood-lead levels for the previous six months at or above 50 μg/100g of whole blood. Based upon that review, OSHA has decided to grant interim orders temporarily relieving ASARCO from complying with the 50 μg/100g removal trigger. Employees are still required to be removed at 60 μg/100g in compliance with the medical removal protection provision of 29 CFR 1910.1025(k)(1)(i)(C), except that employees are permitted to be removed to areas where lead exposure is less than 50 μg/m³ of air. This interim order applies to all employees in the lead-exposed workforce.

With regard to the 40 μg/100 return trigger, although relief may will have been appropriate in light of data initially submitted in support of this request for a variance, the most recent blood-lead data submitted by ASARCO demonstrates the company's laudable achievements in lowering blood-lead levels. In part because of this, OSHA has determined that the data is inconclusive at the present time to justify granting relief from the 40 μg/100g return trigger. In denying such relief, the Agency is unlikely to impose an unreasonable burden on ASARCO. Because of the relatively brief duration of the interim order, the difference between the number of employees who would be returned under a 50 μg/100g and a 40 μg/100g return trigger is likely to be minimal.

The need for relief from the 40 μg/100g return trugger is not a closed issue, however. OSHA recongnizes this is an area of scientific uncertainty in which experience is limited and predictive models are inexact. OSHA therefore anticipates that if data is developed within the next six months showing need for such relief, ASARCO will submit that data, at which time the Agency will promptly take whatever action may be necessary.

This relief is conditioned upon ASARCO's onging compliance with all other provisions of the lead standard as well as with all conditions of the order set forth below, in lieu of complying with the requirement of 29 CFR 1910.1025(k)(1)(i)(C) to remove employees to work in areas where lead exposure is less than 30 μg/m³ of air and the requirements of 29 CFR 1910.1025(k)(1)(i)(D). OSHA believes that the inclusion in the order of additional requirements for medical surveillance, in conjunction with the agreed upon tripartite process, demonstrates all parties' concern that

the health of ASARCO's employees be well protected.

A copy of the application for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than August 15, 1983. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no late than August 15, 1983, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

It appears from the application and supporting data that an interim order is necessary to prevent undue hardship on the applicant and its employees pending a decision on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059) that the facilities listed above are hereby authorized to comply with the requirements of the interim order set forth below, in lieu of complying with the requirement of 29 CFR 1910.1025(k)(1)(i)(C) to remove employees to work in areas where lead exposure is less than 30 $\mu g/m^3$ of air and the requirements of 29 CFR 1910.1025(k)(1)(i)(D). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of the order.

The terms of the interim orde are as follows:

(1) The terms of the order apply to all employees in the lead-exposed workforce.

(2) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood-lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood-lead level at or above 40 $\mu g/100g$ and who is exposed to lead above the action level of 30 $\mu g/m^3$.

(3) Employers shall remove and return all employees with blood-lead levels at or above 60 $\mu g/100g$ in accordance with the provisions of Section 1910.1025(k)(1)(i)(C) and 1910.1025(k)(1)(iii)(A)(3) of the lead standard, except that removal may be to areas where lead exposure is below 50 $\mu g/m^3$. For those employees who are removed to areas where lead exposure is less than 50 $\mu g/m^3$ but at or above 30 $\mu g/m^3$ of air, ASARCO shall also:

(a) Require effective respiratory protection to be worn at all times that employees are in these areas and do an immediate inspection and evaluation of the employee's respirator usage;

(b) Transfer to an area where lead concentration is below 30$\mu g/m^3$ of air any employee whose blood-lead level has not declined to or below 50 $\mu g/100g$ of whole blood within 6 months from the date of removal; and

(c) assure that any employee whose blood-lead level has risen 5 $\mu g/100g$ or more above the previous test, and any employee whose last test result is 70 $\mu g/100g$ or greater, upon confirmation of the result, be removed to an area where the lead concentration is less than 30 $\mu g/m^3$ of air.

(4) Any employee removed with a confirmed blood-lead test result of 70$\mu g/100g$ or higher shall be removed to an area where the concentration of lead is less than 30 $\mu g/m^3$ of air.

(5) For employees with blood-lead levels between 50–60 $\mu g/100g$, who need not be removed under the terms of this order, and who work in jobs having lead exposure at or above 30 $\mu g/m^3$, the employer shall:

(a) Require that effective respiratory protection be worn at all times they are in the job area;

(b) Do an immediate inspection and evaluation of the employee's respirator usage;

(c) Do an immediate inspection and evaluation of the lead-related work practices affecting the employee;

(d) Do an immediate inspection and evaluation of the use and availability of hygiene facilities, and the employee's relevant personal hygiene habits;

(e) Provide a personal consultation with a licensed physician every two months; and

(f) Provide the comprehensive medical examination required under paragraph (j) of the lead standard by a licensed physician every three months.

(6) For all employees required to wear respiratory protection under the terms of this order, ASARCO shall provide:

(a) Quantitative face fit tests at the time of initial fitting and at least semi-annually thereafter;

(b) An evaluation by a licensed physician, prior to the time of initial fitting and at least annually thereafter of:

(i) A pulmonary function test which includes FEV_1, FVC; and

(ii) A physical examination.

(c) A posterior-anterior chest x-ray on a 14x17 inch film, on a five-year time interval.

(7) Based upon the inspections and evaluations required in paragraph 5 (b), (c) and (d), the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead.

(8) After the various consultation, evaluations, examinations and test required in paragraphs 5(e), 5(f), 6(b) and 6(c), the physician shall make a written determination as to whether the employee has a detected medical condition that places the employee at increased risk of material impairment to health from exposure to lead, or is unable to wear a respirator. If the employee is determined to have such a medical condition or to be unable to wear a respirator, he or she shall be removed from work areas where the exposure to airborne lead is at or greater than 30 $\mu g/m^3$.

(9) The employer shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order.

As soon as pososible ASARCO Incorporated shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for temporary variance and interim order. The Assistant Secretary may revoke this order at any time, without prior notice, whenever the applicant does not comply with any requirement of the order or the relevant standards; or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remian in effect until November 1, 1983, or until a decision is made on the application for temporary variance, whichever occurs first.

Signed at Washington, D.C., this 12th day of July 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-19124 Filed 7-14-83; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

Grant of Individual Exemptions Neurological Associates, et al.

Correction

In FR Doc. 83–16622 beginning on page 28364 in the issue of Tuesday, June 21, 1983, column three, beneath paragraph "(c)" add the following information, **"Neurological Associates, S.C., Profit Sharing Plan and Trust (the Plan) Located in Peoria, Illinois."**

BILLING CODE 1505-01-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications, Advisory Committee; Closed Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) will be held on July 19–20, 1983. The meeting will be held at Headquarters Strategic Air Command, Offutt Air Force Base, Bellevue, Nebraska. Portions of the meeting will

be held while enroute to Offutt Air Force Base. The agenda is as follows:

July 19, 1983

A. Tour and briefing of communications aboard the National Emergency Airborne Command Post
B. Strategic Air Command Briefing
C. Soviet Strategic Force Modernization Briefing

July 20, 1983

A. Strategic Air Command, Command and Control + Warning Briefing
B.NSTAC Deliberations
—Opening Remarks.
—Administrative Actions.
—Briefing on new NSDD which will replace PD/NSC–53.
—Review of NSTAC activities.
—Reports on NSTAC charges to IES.
—Charges to the IES.
—Adjournment.

Due to the requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (Area code 202–692–2974) or write the Manager of the National Communications System, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

Joseph C. Wheeler,

Colonel, USAF, NCS Joint Secretariat.

July 12, 1983.

[FR Doc. 83–19129 Filed 7–14–83; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences, Subcommittee for Environmental Geosciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Environmental Geosciences Subcommittee).

Date and Time: August 1, 2, and 3, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 602, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, telephone: (202) 357–7958.

Purpose of Committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1983.

[FR Doc. 83–19065 Filed 7–14–83; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Earth Sciences, Subcommittee for Seismology and Deep Earth Structure, and Experimental and Theoretical Geophysics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Seismology & Deep Earth Structure, and Experimental & Theoretical Geophysics Subcommittee).

Date and Time: August 3, 4, and 5, 1983; 8:30 a.m. to 5:00 p.m. each day.

Place: State University of New York at Stony Brook, Stony Brook, New York 11794.

Type of Meeting: Closed.

Contact Person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357–7958.

Purpose of Committee: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

July 12, 1983.

[FR Doc. 83–19064 Filed 7–14–83; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–237]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Unit No. 2); Modification of Order

I

The Commonwealth Edison Company (the licensee) is the holder of Provisional Operating License No. DPR–19 which authorizes the licensee to operate the Dresden Nuclear Power Station, Unit No. 2 at power levels not in excess of 2527 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Grundy County, Illinois.

II

On January 13, 1981, the Commission issued an Order (46 FR 9312) modifying the license and requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO–24583–1 and NEDO–21888 and the staff's Acceptance Criteria contained in Appendix A to NUREG–0661; and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG–0661. The Order required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Apppendix A to NUREG–0661 be completed not later than December 31, 1982, or, if the plant is shut down on that date, before the resumption of power thereafter.

On January 19, 1982, the Commission issued an Order (47 FR 3655) modifying the completion date of the January 13, 1981 Order. The January 19, 1982 Order changed the completion date to prior to July 1, 1983.

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these

acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, all of the major modifications have been completed. However as identified in a June 16, 1983 letter, the licensee determined that some of the remaining modifications could not be completed prior to July 1, 1983 because (1) final loading information became available too late to complete designs, (2) required welding procedures could not be qualified in time, (3) the amount of welding required was greater than anticipated, (4) interference with hidden concrete rebar occurred, (5) welding in high temperature/high radiation areas took longer than expected, and (6) the ECCS Suction Heater Axial Snubbers work can not be completed until ninety days after a Technical Specification amendment has been approved allowing the work to be done while the unit is in operation. The modifications yet to be installed in Dresden Unit 2 are:

1. Vacuum Breaker Header Supports.
2. Suppression Chamber Saddle Extension Plates.
3. ECCS Suction Header Axial Snubbers.
4. Torus Pipe Penetration Reinforcement.
5. Pipe Supports.

The additional modifications are considered to be minor and the licensee expects to complete them by September 28, 1983 with the exception of the ECCS Suction Header Axial Snubbers installation whose schedule is as described above. The installation of the supports, snubbers, reinforcements, and related items listed above are the only items of the Mark I Long-Term Program not completed for Dresden Unit No. 2. All of the major modifications, which constituted approximately 95% of the overall torus-related modification work, have been completed.

Since all the modifications except those listed above have been completed, most of the intended margins of safety have been restored. In consideration of the range of modification completion dates given in SECY-81-678 that was approved by the Commission, and the relatively minor nature of the items not yet completed, we have concluded that the licensee's proposed completion schedule is acceptable.

The Commission has therefore determined to permit an extension of the previously imposed completion dates for the remaining plant modifications. This Order continues in effect the exemption to General Design Criterion 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, the Commission's regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption," as modified by the Order of January 19, 1982, for the items listed in Section III of this Order, is hereby changed to read as follows:

" " " not later than September 28, 1983 with the exception of the ECCS Suction Header Axial Snubbers modification which must be completed within ninety (90) days of the approval by the Commission of a Technical Specification amendment allowing the snubber work to be performed while the unit is in operation.

The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy of the request shall be sent to the Executive Legal Director at the same address.

If a hearing is to be held, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this order should be sustained.

This Order shall become effective upon the licensee's consent or upon expiration of the period within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland this 11th day of July 1983.

For The Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 19186 Filed 7-14-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-443-OL, 50-444-OL; ASLBP No. 82-471-02-OL]

Public Service Co. of New Hampshire, et al., (Seabrook Station, Units 1 and 2); Hearing on Issuance of Facility Operating License

July 11, 1983.

On October 19, 1982, the Staff of the Nuclear Regulatory Commission published in the **Federal Register** a notice that the Commission had received from the Public Service Company of New Hampshire, *et al.*,[1] (applicants) an application for facility operating license to possess, use, and operate the Seabrook Station, Units 1 and 2—two pressurized water nuclear reactors located in the town of Seabrook, approximately 40 miles north of Boston. Each reactor is designed to operate at a core power level of 3411 megawatts thermal with an equivalent net electrical output of approximately 1198 megawatts each. 46 FR 51331 (1981).

The notice stated that the Commission will consider the issuance to applicants of a facility operating license to possess, use, and operate the Seabrook Station; and the notice also provided that by November 18, 1981, anyone whose interest might be affected by the proceeding could file a request for a hearing and a petition for leave to intervene in accordance with the Comission's Rules of Practice, 10 CFR Part 2. On November 30, 1981, the Chief Administrative Law Judge of the Atomic Safety and Licensing Board Panel, pursuant to delegation by the Commission dated December 29, 1972 (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.711, 2.714a, 2.717, and 2.721 of the Commission's Regulations, established an Atomic Safety and licensing Board to rule on petitons for leave to intervene and/or requests for hearings and to preside over the preceeding in the event that a hearing was ordered. 46 FR 59667-68 (1981).[2]

[1] The applicants for the operating license for Seabrook Station are: Bangor Hydro-Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Commonwealth Energy Systems, Connecticut Light & Power Company, Montaup Electric Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, New England Power Company, Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, the United Illuminating Company, and the Vermont Electric Cooperative, Inc.

[2] The Licensing Board was reconstituted on August 25, 1982, because of a schedule conflict of one of the Board members. 47 FR 38656 (1982). The Licensing Board is presently comprised of the following Administrative Judges: Helen F. Hoyt, Chairperson; Dr. Emmeth A. Luebke; and Dr. Jerry Harbour.

Twelve petitions to intervene were originally filed with the Commission. After special prehearing conferences held in Portsmouth, NH on May 6–7 and July 15–16, 1982, the Licensing Board admitted as a party pursuant to 10 CFR 2.714 the State of New Hampshire, the New England Coalition on Nuclear Pollution, the Seacoast Anti-Pollution League, and the Coastal Chamber of Commerce; the Licensing Board also admitted as interested states or municipalities pursuant to 10 CFR 2.715(c) the Commonwealth of Massachusetts, the State of Maine, and the Tow of South Hampton. *Memorandum and Order* dtd Sep. 13, 1982. Subsequently, the Licensing Board dismissed the Coastal Chamber of Commerce as a party, and admitted as interested municipalities the Towns of Hampton, Brentwood, Kensington, Rye, Hampton Falls, Portsmouth, Newbury, Amesbury, Newburyport, Exeter, Seabrook, Salisbury, and North Hampton.

Evidentiary hearings on contentions advance by the parties will be conducted in two phases. The first phase hearings will be held on August 17 to August 19, August 23 to August 26, and August 30 to September 2, at the Strafford County Superior Court, County Farm Road, Dover, New Hampshire; those hearings will commence at 9:30 a.m. each day, and will address technical safety issues and on-site emergency planning issues. The second phase will commence in December, 1983 (the exact time and location to be specified in a later notice), and will address off-site emergency planning issues.

The public is invited to attend the hearings and observe, but members of the public may not participate in the evidentiary hearings. Instead, any person who wishes to make an oral or written statement in this proceeding, but who has not filed a petition to intervene, may request permission to make a limited appearance pursuant to 10 CFR 2.715. Limited appearances during the first phase will be entertained only at the following times and locations:

Saturday, August 20, 9:30 a.m.–12:30 p.m., Town Hall, Exeter, NH
Tuesday, August 23, 9:30 a.m.–12:00 noon, Strafford County Superior Court, County Farm Road, Dover, NH
Friday, August 26, 2:30 p.m.–5:30 p.m., Hampton Academy Junior High School, Hampton, NH
Wednesday, August 31, 7:00 p.m. to 9:30 p.m., Seabrook Fire Station, Seabrook, NH

Limited appearance statements need not be limited to technical safety or on-site emergency planning issues, but must address issues relevant to the application. In addition, oral statements by a person making a limited appearance must be limited to 10 minutes.

Persons desiring to make a limited appearance are requested to inform the Licensing Board in advance, by writing to: David R. Lewis, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. The Licensing Board will give priority to those limited appearances of which it has advance notice; persons who have not informed the Board in advance that they wish to make a limited appearance will be heard if time permits.

For further details, see the application for the facility operating license (including the Final Safety Analysis Report and the Environmental Report) forwarded October 1, 1981; the Nuclear Regulatory Commission staff's Safety Evaluation Report and Final Environmental Statement; the pleadings of the parties, interested States, and interested municipalities; and the Memoranda and orders of the Licensing Board, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C 20555, and at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

Issued at Bethesda, Maryland this 11th day of July, 1983.

For the Atomic Safety and Licensing Board.

Helen F. Hoyt,

Chairperson, Administrative Judge.

[FR Doc. 83-19167 Filed 7-14-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, 50-296]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR-33, DPR-52 and DPR-68, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Power Plant, Units 1, 2 and 3 located in Limestone County, Alabama.

The amendments would revise the Technical Specifications of the operating licenses to change the required surveillance interval for testing the Standby Gas Treatment System from once per year to once per operating cycle to be consistent with the requirements in the BWR Standard Technical Specifications (NUREG–0123).

The proposed change would also require concurrent demonstration of the operability of the Standby Gas Treatment System with the Primary Containment Isolation logic circuitry rather than testing of the Standby Gas Treatment System alone. The change would resolve ambiguities in the present wording of the specifications regarding the scope and frequency of the testing.

These revisions to the Technical Specifications would be made in response to the licensee's application dated June 13, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: "(i) A purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature"; and "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan * * *"

The first change proposed by the licensee to decrease the surveillance frequency from once per year to once per operating cycle could be considered a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a

safety margin. However, the staff has concluded that the results of the proposed change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The Standard Review Plan (NUREG–0800) is used by the staff in performing safety reviews of applications to construct or operate nuclear power plants. The Standard Review Plan presents acceptable design and performance characteristics for systems and components. The Standard Technical Specifications are recognized by the staff as an acceptable means of implementing NRC requirements as specified in the Standard Review Plan regarding operability and surveillance testing of these systems and components. The change in the Technical Specifications proposed by the licensee is in accordance with the BWR Standard Technical Specifications and thus is within the acceptance criteria specified in the Standard Review Plan. Thus, the first change regarding surveillance frequency falls within example (vi) of changes that are not likely to involve significant hazards considerations and on this basis the staff proposes to find that this change does not involve significant hazards considerations.

The second change to the Technical Specifications requested by the licensee would replace the wording in the requirement for surveillance testing the Standby Gas Treatment System with the language in Section 4.6.5.1 of the BWR Standard Technical Specifications. The change would resolve ambiguities in the present wording as to whether a logic functional test is required, how much of the total system is to be tested and the frequency of the testing. The proposed change is considered to be an administrative change since the change only clarifies existing requirements and does not alter either their intent or frequency.

Thus, this change falls within example (i) of changes that are not likely to involve significant hazards considerations and on this basis the staff proposes to find that this change does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

By August 7, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700).

The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B 33C, Knoxville, TN 37902.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document, Room 1717 H Street, N.W., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated at Bethesda, Maryland, this 7th day of July 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief Oeprating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-19166 Filed 7-14-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Data Collection for OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of information collection submitted to OMB for extension of a clearance.

SUMMARY: In accordance with the "Paperwork Reduction Act of 1980" (44 U.S.C. ch. 35), this notice announces a request submitted to OMB to extend a clearance for collecting data via OPM Form 1312 from ten Federal agencies for utilization in the Report of Federal Civilian Employment by Geographic Area. Every two years the respondents submit data on the duty stations of their workforce that are not otherwise available to the Office of Personnel Management. The data will be used by the Office of Personnel Management and other central management agencies to manage personnel programs and evaluate policy alternatives. For copies of this clearance package, call John P. Weld, Agency Clearance Officer on (202) 632-7720.

DATE: Comments on this data collection should be received within ten working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, N.W., Room 6410, Washington, D.C. 20415

and

Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Room 3235, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-19043 Filed 7-14-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13379; (812-5049)]

The Mexico Fund, Inc.; Filing of Application

July 8, 1983.

Notice is hereby given that the Mexico Fund, Inc. ("Applicant"), 633 Third Avenue, New York, New York 10017, a closed-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 18, 1981, and amendments thereto on December 16, 1982 and May 26, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, granting exemption from the provisions of Section 17(f) of the Act and Rule 17f-4 thereunder to the extent necessary to permit Applicant to make use of the generally accepted procedures for the centralized custody of securities in Mexico provided by the Instituto para el Deposito de Valores ("Indeval"), a Mexican government entity. 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, and to the Act and rules thereunder for the complete text of Section 17(f) and Rule 17f-4.

According to the application, Applicant invests solely in Mexican securities listed and traded on the Bolsa Mexicana de Valores, S.A. de C.V. ("Mexican Stock Exchange"). Because of Mexican legal restrictions on the ownership of Mexican securities by non-Mexicans, Applicant's securities and other assets are held for the benefit of Applicant in a Mexican trust ("Trust") of which Nacional Financiera, S.A., the Mexican national development bank controlled by the Mexican government, is Trustee ("Trustee").

Applicant represents that by decree of April 28, 1978, the Mexican Securities Law was amended to create Indeval. Indeval acts as a central securities depository and maintains formal physical possession of all securities traded on the Mexican Stock Exchange in its vaults. Indeval provides a book-entry system for recording securities transactions and holdings, thereby eliminating the physical delivery of securities. Applicant represents that since the creation of Indeval in 1978, no depositor has ever incurred a loss with respect to a security maintained in Indeval's book-entry system due to any loss, theft or damage. Pursuant to Indeval's contract with every depositor, Indeval assumes strict liability with respect to any damage to, or loss or theft of, any security maintained in Indeval's book-entry system. In addition, Applicant represents that Indeval's has instituted procedures to assure the safeguarding of securities and funds and the prompt and accurate settlement of securities transactions, and maintains a plan of physical security, supplemental measures to assure software integrity, and a written contingency plan. For these and other reasons, Indeval provides a degree of physical protection for securities held by it which Applicant represents to be comparable to that afforded by a U.S. depository system.

Applicant further represents that Indeval acts as a clearing house for securities transactions, balancing all transactions effected through brokers on the Mexican Stock Exchange. Transactions are settled on a two day basis, thereby, it is claimed, making Indeval's depository role even more important to expedite settlement. Applicant states that all issuers must give Indeval notice of shareholders' meetings and of any stock rights that are declared at those meetings. The issuer also must distribute rights, dividends and interest to Indeval on the first day

that the right can be exercised or the dividends or interest coupon may be presented. Indeval credits its accounts on the day following the day it receives payment, but it need not surrender the coupons representing such rights until 60 days following payment by the issuer. In this manner, according to the application, shareholders whose securities are deposited in Indeval are assured of immediate receipt of their rights, dividends, and interest.

Applicant asserts that all securities held by the Trust for Applicant's benefit are presently physically held by the Mexican City Branch Office of Citibank, N.A. ("Citibank"), a national banking association organized and existing under the laws of the United States, pursuant to a Custody Agreement among the Trustee, Applicant and Citibank. All instructions to Citibank with respect to securities transactions require the authorization of both Applicant's investment adviser, Impulsora del Fondo Mexico, S.A. de C.V. ("Adviser"), and the Trustee. Applicant's securities are held in a separate vault, leased from Indeval at Indeval's premises, which is under the exclusive control of Citibank. Applicant represents that when a broker executes a sale transaction on its behalf, a Citibank employee must locate the certificate and physically deliver it to Indeval. Before the transaction can be settled, the security must then be processed (i.e., counted, microfilmed, recounted and shelved). A similar procedure is followed when a purchase transaction is executed on behalf of Applicant and the certificate is physically delivered into Citibank's custody. Indeval generally holds only "jumbo" certificates for all securities of particular issuers. Therefore, Applicant's transactions require Indeval to obtain new separate certificates for Applicant and for itself, at considerable inconvenience and expense to the issuers and to Indeval (which it passes on to Citibank—and to Applicant—in transaction charges).

Applicant also represents that it pays Citibank fees based upon the market value of the securities held for Applicant plus transaction charges for every purchase or sale transaction and every presentation to an issuer of a coupon to receive and dividends, interest or rights. During its initial fiscal year ended May 31, 1982, Applicant is represented to have paid Citibank 3,386,025 pesos ($116,983). Effective June 1, 1982, Citibank further increased its custodial fees so that, for the nine months ended February 28, 1983, Applicant paid Citibank 4,393,369 pesos ($63,847). Applicant has been advised of still another proposed increase. Applicant represents that if the Commission grants the relief requested to permit it to use Indeval directly, Indeval's charges to Applicant will be computed at the monthly rate of 0.625% of the market value of Appliant's securities deposited in Indeval, substantially less than that which otherwise is anticipated would be required to be paid to Citibank. In addition to direct custody fees, Applicant represents that use of Citibank as custodian can result in delays in Applicant's receipt of dividends. Citibank must present coupons for dividends and interest to the issuers, which often delay payment for 7 to 15 days, thereby depriving Applicant of the use of this money for that period.

Section 17(f) of the Act, in relevant part, provides that every registered management investment company shall maintain its securities in the custody of a bank having the qualifications prescribed in Section 26(a)(1) of the Act for the trustees of unit investment trusts. Neither Indeval nor any Mexican bank (except Citibank) falls within the Act's definition of a "bank". Accordingly, Section 17(f) prevents Applicant from utilizing the depository system maintained by Indeval unless the Commission by order exempts Applicant from the provisions of Section 17(f) of the Act.

Applicant states that as a system for the central handling of securities, where all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookeeping entry without physcial delivery of the securities, Indeval is a "securities depository" as defined in Rule 17f–4(a) under the Act. Nevertheless, it is further stated, that Rule does not permit Applicant to use the system maintained by Indeval since Indeval is not a clearing agency registered with the Commission under Section 17A of the Securities Exchange Act of 1934.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant assets that the exemption requested is appropriate and in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is claimed that approval of the application is both necessary and appropriate in the public interest because, in addition to the reasons discussed above, securities traded on the Mexican Stock Exchange generally have been bearer instruments. Because these securities are not registered in Applicant's name, the issuer does not know the identity of the persons interested in its securities and cannot provide individual notice of any corporate action affecting interests in these securities. Indeval is alleged to be uniquely situated to collect and disseminate information concerning corporate action affecting Applicant's interests in its securities. Additionally, in view of the unique trust arrangement maintained for the benefit of the Applicant by the Truste, it is claimed to be not even theoretically possible for the Trustee to hold securities of Mexican issuers for Applicant's benefit with a custodian, in another country, which is eligible under Section 17(f).

An exemption would be consistent with the protection of investors because, in addition to the reasons discussed above, Applicant claims that its fidelity bond coverage is sufficient to guard against even the remote risk of misappropriation, and, further, Applicant has agreed that it will comply with all of the provisions of Rule 17f–4 under the Act to the extent that that Rule would be applicable if Indeval was a U.S. depository:

(1) Applicant, the Adviser and the Trustee will maintain the current procedures which are designed to prevent unauthorized officer's instructions. Under these procedures, it is asserted, the Trustee and the Adviser each act as a check on unauthorized purchase and sale instructions.

(2) In the event that Applicant ceases to maintain its securities in Indeval, it promptly will deliver the securities to Citibank.

(3) Applicant's board of directors will, by resolution, approve Applicant's participation in the book-entry system maintained by Indeval with respect to securities traded on the Mexican Stock Exchange and, at least annually, will review and approve Applicant's continued participation in Indeval as being in the best interest of Applicant and its shareholders. As a part of this annual review, Applicant's board of directors will consider, among other factors:

(a) Whether Mexican law offers Applicant and its shareholders adequate protection for the assets maintained in Indeval;

(b) Whether continued utilization of Indeval is advisable based upon the experience of Applicant during the previous year;

(c) Whether the cost to Applicant is less than it would be if Citibank were re-employed as custodian; and

(d) Whether the risks of expropriation, nationalization or confiscation of Applicant's assets could be mitigated by obtaining insurance on behalf of Applicant.

In addition, Applicant represents that Indeval has agreed that Applicant's independent public accountants shall be afforded access to such of the records of Indeval in respect of Applicant's securities as shall be required by the accountants in connection with their examination of the books and records pertaining to Applicant's affairs. As Applicant may reasonably request from time to time, Indeval has also agreed to furnish to Applicant and the Trustee its auditor's reports. Thus, Applicant asserts that its board of directors and the Trustee will be in a position regularly to monitor Indeval's services with respect to Applicant's securities.

Finally, it is asserted that an exemption would be consistent with the purposes of the Act. The application states that the Commission has previously granted applications for exemptive orders under Section 17(f) to permit funds to maintain their portfolio securities in foreign banks pursuant to sub-custodian agreements between a U.S. bank and the foreign institutions and has also approved applications for exemptive orders under Section 17(f) and Rule 17f-4 to permit a registered company and a bank, acting as the custodian or sub-custodian of the securities of the company, to deposit or to cause or permit the deposit of securities in selected foreign banks and foreign securities depositories. Applicant contends that its application is based upon the same general policy considerations, but contemplates elimination of the custodian requirement in the unique situation where the securities of only one foreign country are involved and the practical need for and the expense of a U.S. bank custodian has been eliminated. Further, it is asserted that the Commission itself has recognized the potential benefits of an investment company's direct access to a foreign securities depository in proposed Rule 17f-5, ICA Release No. 12354 (April 5, 1982), which, if adopted in its proposed form, would allow Applicant to operate in the proposed manner without obtaining the relief requested. When Rule 17f-5 is adopted, Applicant agrees that it will comply with its provisions.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 1, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Divison of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-19070 Filed 7-14-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549

New

Attorney Supplement to SF 171

No. 270-277

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance the Commission's Attorney Supplement to Standard Form 171.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 11, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19170 Filed 7-14-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549

Revision

Form S-18

No. 270-119

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed revisions to Form S-18; the simplified Securities Act of 1933 registration form currently available to certain nonreporting issuers for the registration of securities not exceeding an aggregate amount of $5 million.

The form provides a basis for the Commission to fulfill its statutory responsibility of requiring the filing of a registration statement making publicly available information regarding securities being publicly sold.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: July 11, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19170 Filed 7-14-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19951; SR-Amex-83-15]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

July 8, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 27, 1983, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would reduce the contract size and widen certain exercise price intervals for a new option contract to be traded on the Amex Market Value Index.[1] The

[1] The Commission previously authorized the Amex to trade options on the index in Securities

proposed amendments would change the dollar value of the contract to the index value times $100. The contract is currently established at 10 percent of the index value times $100. In conjunction with this rule change proposal, Amex is cutting its index base value in half.[2]

Amex is also proposing to establish ten point exercise price intervals for index values, as adjusted, above 200. At lower values the exercise prices would remain based upon five point index value intervals.

The Amex indicated it proposed the changes to the Market Value Index in order to establish a contract better designed to suit the needs of investors. It believes that combining an index value with a $100 multiplier will also result in a product that is more easily understood. Its proposcal to widen exercise price intervals for index values above 200 is intended to reflect, as do stock option exercise price intervals, that at higher values larger point changes are required to reflect percentage changes comparable to those effected by smaller point changes at lower values. The Amex has previously not specified different exercise intervals for index values above 200.

Amex believes the proposed contract revisions to be consistent with the Act and the applicable rules and regulations thereunder and in particular with Section 6(b)(5), in that they are consistent with the maintenance of a fair and orderly market and the protection of investors and the public interest.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–Amex–83–15.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission has already authorized the Amex to list and trade options on the Amex Market Value Index and the contract specification adjustments presently proposed are principally of a technical nature and are designed to result in contract value more comparable to index option contracts already trading. Similarly, the adoption of a two-tiered approach to exercise price intervals is consistent with current practices with respect to stock options.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–19172 Filed 7–14–83; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–12564]

Atlantic Richfield Co.; Application and Opportunity for Hearing

July 11, 1983.

Notice is hereby given that Atlantic Richfield Company (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Morgan Guaranty Trust Company of New York ("Morgan") under three indentures, two heretofore qualified under the Act and the other not requiring qualification under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under of any such indentures.

The Applicant alleges that:

(1) Morgan has entered into an indenture dated as of May 15, 1967 with Applicant (the "1967 Indenture"), pursuant to which Thirty Year 5⅝% Debentures Due 1997 were issued, of which $30,948,000 principal amount is presently outstanding (the "1997 Debentures"). The 1967 Indenture was qualified under the Act.

(2) Morgan has entered into a First Supplemental Indenture dated as of February 1, 1976 with ARCO Pipe Line (the "1976 ARCO Indenture"), pursuant to which ARCO Pipe Line's 8% Guaranteed Notes Due 1984 were issued, of which $20,000,000 principal amount is presently outstanding (the "ARCO 1984 Notes"). The ARCO 1984 Notes are fully guaranteed by Applicant. The 1976 ARCO Indenture supplements an indenture dated as of November 1, 1974 (the "1974 ARCO Indenture"), which provided for the issuance of securities of ARCO Pipe Line in an unlimited aggregate principal amount. No other securities issued under the 1974 ARCO Indenture are presently outstanding. Both the 1974 and 1976 ARCO Indentures were qualified under the Act.

(3) Morgan has entered into a Trust agreement dated as of April 19, 1983 with Kuparuk (the "Kuparuk Indenture"), pursuant to which Kuparuk's short-term promissory notes in an aggregate amount of $200,000,000 may be issued (the "Kuparuk Notes"). Kuparuk is wholly-owned by Kuparuk Transportation Company, an Alaskan general partnership (the "Partnership"), which was formed by wholly-owned subsidiaries of Applicant, the British Petroleum Company ("BP"), and the Standard Oil Company ("Sohio"). Kuparuk has entered into a Financing Agreement with the Partnership pursuant to which Kuparuk will, at the Partnership's request, issue Kuparuk Notes and lend the proceeds thereof to the Partnership. Such loans will be evidenced by a master note (the "Partnership Note"). The principal of, premium, if any, and interest on the Partnership Note will be equal to the principal of, premium, if any, and interest on the Kuparuk Notes.

(4) The Partnership has entered into a Throughput and Deficiency Agreement (the "Throughput Agreement") with other wholly-owned subsidiaries of Applicant, BP and Sohio (the subsidiaries hereinafter referred to as "Throughput Obligors"), pursuant to which, if the Partnership has a cash deficiency on the date that any payment under the Partnership Note is due, each Throughput Obligor is severally and unconditionally obligated to advance in

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Exchange Act Release No. 19264 (November 22, 1982), 47 FR 53981 (November 30, 1982).

[2] For example, on Thursday, July 7, 1983, the Amex Market Index as adjusted closed at 246.91, which would result in a contract size of $24,691.

cash its proportionate share of such cash deficiency. Pursuant to a Performance Guaranty Agreement (the "Performance Guaranty"), Applicant, BP and Sohio has each severally and unconditionally guaranteed its subsidiary's obligation under the Throughput Agreement.

(5) Kuparuk Notes were first issued on May 31, 1983 and have not been registered under the Securities Act of 1933 in reliance upon the exemption provided by Section 3(a)(3) thereof. The Kuparuk Indenture has not been qualified under the Act in reliance upon Section 304 thereof.

(6) The Performance Guaranty, if enforced against Applicant, would rank on a parity with Applicant's obligations under the 1967 Indenture and the 1976 ARCO Indenture, and the obligations of Applicant under the Performance Guaranty, the 1967 Indenture and the 1976 ARCO Indenture are wholly unsecured.

(7) Applicant is not in default in any respect under the 1967 Indenture, the 1976 ARCO Indenture, the Performance Guaranty, or any other existing indenture to which it is a party.

(8) In the opinion of Applicant, the differences between the 1967 Indenture, the 1976 ARCO Indenture and the Kuparuk Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as trustee under any of such indentures.

(9) Applicant has waived notice of hearing, any right to a hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, no later than August 5, 1983, submit to the Commission his views or any substantial facts bearing on this application or request that a hearing be held on such matter. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission. Persons who request a hearing or advice as to whether the hearing is ordered will receive all notices and order issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

(FR Doc. 83-19171 Filed 7-14-83; 8:45 am)

BILLING CODE 8010-01-M

[Release No. 34-19952; File No. SR-MSTC-83-6]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.; Eligibility of Units at MSTC

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 15, 1983 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Exhibit A, in Commission File No. SR-MSTC-83-6, is the MST System New Service Announcement, "Units Eligible for Depository Services". The announcement includes procedures which provide for the deposit and handling of units at MSTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change makes units eligible at MSTC. A unit is a combination of two or more component securities, such as common stock and warrants, which are initially issued and transferred as though they were one. The units are traded and transferred as a unit for a period of time after issuance, usually anywhere from one day to six months. At the end of this period (referred to as Separation Date), its components become separately transferrable. Although the unit itself is no longer transferrable as a unit, it may continue to be traded as a unit by market makers and arbitrageurs. If the market in the unit remains active after Separation Date, it may be desirable to continue to carry the unit as a unit record in a depository position; or the opportunity to separate the unit into its component parts may be desired. MSTC's program will offer participants the flexibility to combine positions into units, separate units into their components, and transfer units within the depository book-entry system. The deposit and withdrawal of units and/or their components further enables participants to more efficiently manage their depository and physical holdings of units for compatibility with their internal accounting records.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, in that it facilitates and encourages the immobilization of securities. The proposed rule change will be implemented consistent with the existing safeguarding of securities and funds in MSTC's custody or control or for which MSTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the date of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal officer of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 8, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-19174 Filed 7-14-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2092 Amdt. No 3]

Mississippi; Declaration of Disaster Loan Area

The above numbered declaration (48 FR 27172), Amendment No. 1 (48 FR 28384), and Amendment No. 2 (48 FR 30508) are amended in accordance with the Presidents, declaration of June 1, 1983, to include Jefferson and Wilkinson Counties, Mississippi, as a result of damage caused by severe storms, tornadoes and flooding beginning on or about May 18, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on August 1, 1983, and for economic injury until the close of business on March 1, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 20, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-19155 Filed 7-14-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area 2083; Amdt. 4]

Utah; Declaration of Disaster Loan Area

The above numbered Declaration (48 FR 21699), Amendment #1 (48 FR 23740), Amendment #2 (48 FR 28385), and Amendment #3 (48 FR 30508) are amended by extending the filing date for physical damage until the close of business on August 2, 1983, and for economic injury until the close of business on January 30, 1984.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 23, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-19156 Filed 7-14-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On July 12, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearnace Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Comptroller of the Currency

OMB Number: 1557–0081
Form Number: Office 031, 032, 033, 034
Title: Interagency Call Report

OMB Number: 1557–0139
Form Number: None
Title: Adjustable-Rate Mortgages

OMB Number: 1557–0140
Form Number: None
Title: Financial Report for Collective Investment Fund

Bureau of Government Financial Operations

OMB Number: 1510–0027
Form Number: POD 1681
Title: Application for Payment of a Decreased Depositor's Savings Certificate

Customs Service

OMB Number: 1515–0089
Form Number: None
Title: Records of Transaction of Licensed Customhouse Brokers
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Rita A. DeNagy,

Departmental Reports Management Office.

July 12, 1983.

[FR Doc. 83-19147 Filed 7-14-83; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

[T.D. 83-149]

Customhouse Broker's License—Cancellation; Cancellation of Customhouse Broker's License No. 4747

Notice is hereby given that the Commissioner of Customs on July 7, 1983, pursuant to section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and Part III of the Customs Regulations, as amended (19 CFR Part III), canceled with prejudice the individual customhouse brokers' license No. 4747 issued to David R. McIntyre, Houston, Texas for the Customs District of Houston, Texas. The Commissioner's decision is effective as of July 7, 1983.

William von Rabb,

Commissioner of Customs.

[FR Doc. 83-19132 Filed 7-14-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

[Delegation Order No. 200]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order will provide the Assistant Commissioner (Examination) with the authority, pursuant to temporary income tax regulations to issue a notice to a taxpayer that a conflicting claim to the investment tax credit allowable on motion picture films and video tapes has been asserted by another party in court. Under this temporary treasury regulation, such taxpayer is to make all reasonable efforts to join in, or intervene in, such court action or suffer revocation of the manner in which it elected to have its investment tax credit determined by the Commissioner.

EFFECTIVE DATE: June 29, 1983.

FOR FURTHER INFORMATION CONTACT: John H. Menzel, Director, CC:TL, 1111 Constitution Ave., NW., Room 4052, Washington, D.C. 20224; (202) 566-3303 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Dated: June 29, 1983.

John H. Menzel,

Director, Tax Litigation Division.

[Order No. 200]

Effective date: June 29, 1983.

Authority to Issue Notices Indicating the Existence of a Conflicting Claim to the Investment Tax Credit Under Section 804(c)(2)(D) of the Tax Reform Act of 1976.

1. Pursuant to the authority granted to the Commissioner of Internal Revenue or his/her delegate by 26 CFR 7.48-2(b)(3), the authority to issue a notice pursuant to Temp. Treas. Reg. § 7.48-2(b)(3) and Temp. Treas. Reg. § 7.48-3(b)(2) relating to notification of the existence of a conflicting claim to the investment tax credit for a film or tape being asserted by another person, is hereby delegated to the Assistant Commissioner (Examination).

2. The authority delegated herein may not be redelegated.

Dated: June 29, 1983.

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-19151 Filed 7-14-83; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 77 (Rev. 17)]

Delegation of Authority; Tax Examiner

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to provide that there is delegated to each Tax Examiner (grade GS-5 and higher) in the Service Center Processing and Tax Accounts Divisions, the authority to sign and send to the taxpayer by registered or certified mail any notice of deficiency, granted by Section 6212 of the Internal Revenue Code of 1954. The text of the delegation order appears below.

EFFECTIVE DATE: July 14, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Moore, D:R:R:IM, 1111 Constitution Avenue NW., Room 7429, Washington, D.C. 20224, telephone number: (202) 566-6296 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Fredric F. Perdue,

Director, Returns Processing and Accounting Division.

Order No. 77 (Rev. 17)

Effective date: August 24, 1982.

Authority to Issue Notices of Deficiency

1. The authority granted to the Commissioner of Internal Revenue and District Directors, by 26 CFR 301.7701-9, 26 U.S.C. 6212, 26 CFR 301.6212-1, Treasury Department Order 150-37, and 26 CFR 301.6861-1 to sign and send to the taxpayer by registered or certified mail any notice of deficiency is hereby delegated to the following officials:

a. Chief Counsel;

b. Regional Counsel;

c. Regional Directors of Appeals;

d. Chiefs and Associate Chiefs of Appeals Offices;

e. Appeals Team Chiefs as to their respective cases;

f. Service Center Directors;

g. Reviewers, (grade GS-12 and higher), in Employee Plans and Exempt Organizations Divisions;

h. Revenue Agents and Tax Examiners, (Reviewers), (grade GS-6 and higher), in the Examination Divisions;

i. Revenue Agents, (grade GS-11 and higher), in streamlined districts Examination Sections and/or groups;

j. Chiefs of Correspondence and Processing Sections; and

k. Examination Tax Examiners/Revenue Agents, (grade GS-6 and higher), in Service Center Compliance Divisions.

1. Tax Examiners, (grade GS-5 and higher), in Service Center Processing and Tax Accounts Divisions.

2. Delegation Order No. 77 (Rev. 16), effective August 24, 1982, is superseded.

Dated: June 28, 1983.

James I. Owens,

Deputy Commissioner.

[FR Doc. 83-19152 Filed 7-14-83; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 4 (Rev. 14)]

Delegation of Authority; Regional Counsel, et al.

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order is revised to delete reference to a preissuance legal review of a John Doe Summons by the Regional Counsel, Deputy Regional Counsel, District Counsel or the Director, General Litigation Division. The text of the delegation order appears below.

EFFECTIVE DATE: July 14, 1983.

FOR FURTHER INFORMATION CONTACT: Harvey Fishman, OP:EX:D:T, 1111 Constitution Ave., N.W., Room 2005, Washington, D.C. 20224, telephone number: (202) 566-4308 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

William Roth,

Director, Office of District Examination Programs.

Order No. 4 (Rev. 14)

Effective date: July 14, 1983.

Authority to Issue Summonses, To Administer Oaths and Certify, and To Perform Other Functions

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602-1(b), 301.7603-1, 301.7604-1 and 301.7605-1(a) and the authorities contained in Section 7609 of the Internal

Revenue Code of 1954 and vested in the Commissioner of Internal Revenue Service by Treasury Department Order No. 150–37 to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; to enforce summonses; to apply for court orders approving the service of John Doe Summonses issued under Section 7609(f) of the Internal Revenue Code; and to apply for court orders suspending the notice requirements in the case of summonses issued under Section 7609(g) of the Internal Revenue Code, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), and 6 of this Order.

(b) The authorities to issue summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order, are delegated to all District Directors and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Criminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(4) District Examination: Chief of Division, except this authority in streamined districts is limited to the District Director.

(5) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs Technical and Office Compliance Branches and Groups and Group Managers.

(4) District Examination: Chiefs of Branches, Case Managers, Group Managers and, in streamined districts Chiefs, Examination Section.

(5) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summons and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officer's case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and title of the authorizing official and the date of authorization.

(1) Foreign Operations District: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS–9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection: Revenue Officers, GS–9 and above.

(4) District Examination: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

(f) Revenue Representatives, GS–5 and above, and Revenue Officers, who are assigned to the District Collection Activity and to International Operations may serve any summons issued by the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order.

2. Each of the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602–1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603–1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c) of this Order even though Internal Security Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(a), and 301.7605–1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragaphs 4(b), and 4(c) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations:

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors; Investigators (Internal Security); and Internal Security Assistants.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) Foreign Operations District: Director, Assistant Director; Chief of Divisions and Branches; Special Agents; Case Managers; Group Managers, Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chiefs and Assistant Chiefs of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs, Technical and Office

Compliance Branches; Chiefs, Collection Section; Chiefs, Technical and Office Compliance Branches and Groups; Group Managers; Revenue Officers; Revenue Representatives and Office Collection Representatives.

(5) District Examination: Chiefs of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; Estate Tax Examiners.

(6) District Employee Plans and Exempt Organization: Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the correspondence examination function; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, and the Chief of Investigation Branch may redelegate the authority under 4(a) of this Order to Law Clerks (Estate Tax), aides or trainees, respectively, for the positions of Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialists, Revenue Officer, Internal Auditor, Internal Security Inspector, Investigator (Internal Security), Internal Security Assistant, Attorney (Estate Tax) and Special Agent, provided that each such Law Clerk (Estate Tax), aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialist Revenue Officer, Special Agent, Internal Auditor or Internal Security Inspector or Attorney (Estate Tax).

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622-1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations *except* that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(b)(4) of this Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph, except that Revenue Representatives, GS-5 and above, are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and duties contained in paragraph 1(f) of this order.

6. The authority delegated herein may not be redelegated except as provided in paragraph 4(c).

7. Delegation Order No. 4 (Rev. 13), effective March 21, 1982, is superseded.

Dated: June 13, 1983.

James I. Owens,

Acting Commissioner.

[FR Doc. 83-19150 Filed 7-14-83; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 137
Friday, July 15, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, July 19, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room 200, second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-04-FOIA-084-MK, concerning a request for documents from an open age discrimination charge file.
4. Freedom of Information Act Appeal No. 83-2-FOIA-17-OK, concerning a request for a copy of a Title VII file.
5. Compliance Manual Section 618, Segregting, Limiting and Classifying Employees.
6. Compliance Manual Section 605, Jurisdiction.
7. Proposed Amicus Curiae Participation Procedures.
8. Management Directive 707A, Instructions for the Annual Accomplishment Reports and Plan Updates of the Affirmative Action Programs for Minorities and Women.
9. Notice of Proposed Rulemaking: Revision of 29 CFR 1613, Enforcement of Commission Decisions.

Closed:

1. Litigation Authorization; General Counsel Recommendatons.
2. Proposed Revision of EEOC Order 960—Review and Appeals.
3. Proposed Withdrawal of Commissioners Charges.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This Notice Issued July 13, 1983.

[S-1033-83 Filed 7-13-83; 11:36 am]

BILLING CODE 6750-06-M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 14th Open Meeting

July 12, 1983.

The following item has been deleted at the request of the Office of the Managing Director from the list of agenda items scheduled for consideration at the July 14, 1983 Open Meeting and previously listed in the Commission's Notice of July 7, 1983.

Agenda, Item No., and Subject

General—1—*Title:* Budget Estimates for FY 1985—Submission to the Office of Management and Budget (OMB). *Summary:* The Commission will consider the Managing Director's recommendations for the Fiscal Year 1985 Budget Estimates to be presented to the Office of Management and Budget on September 1, 1983.

Issued: July 12, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1036-83 Filed 7-13-83; 3:14 pm]

BILLING CODE 6712-01-M

3

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Wednesday, July 20, 1983.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED:

Continuation of prior discussion at the meeting of June 13, 1983.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded message: (202) 523-3806.

[S-1032-83 Filed 7-13-83; 9:35 am]

BILLING CODE 6750-01-M

4

[USITC SE-B3-31B]

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 27884, June 17, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, July 13, 1983.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

3. Reconsideration of the vote in Investigation 701-TA-184 (Final) (Frozen Concentrated Orange Juice from Brazil).

In conformity with 19 CFR 201.37(b), Commissioner Eckes, Stern, and Haggart determined by recorded vote that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1034-83 Filed 7-13-83; 1:04 pm]

BILLING CODE 7020-02-M

5

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meeting on July 8, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its next meeting, scheduled for August 1, 1983, in Minneapolis, Minnesota. Each of the members of the Board voted in favor of closing the meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, McKean, Ryan, Sullivan and Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Morris; and Counsel to the Governors Califano.

The meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1981 National Agreements between the Postal Service and four labor organizations representing certain postal employees, which are scheduled to expire in July of 1984. The discussion is likely to involve information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code.

The Board of Governors is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(9)(B) of title 5, United States Code, and section 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and (9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and section 7.3(c) and 7.3(i) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[S-1035-83 Filed 7-13-83; 3:14 pm]

BILLING CODE 7710-12-M

federal register

Friday
July 15, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

District of Columbia: DC82-3031	Nov. 12, 1982.
Illinois: ILL83-2043	June 3, 1983.
Louisiana:	
LA82-4021	May 7, 1982.
LA82-4053	Nov. 5, 1982.
New Jersey:	
NJ83-3015	June 17, 1983.
NJ83-3016	June 17, 1983.
New Mexico: NM83-4032	Apr. 15, 1983.
New York:	
NY81-3024	Apr. 3, 1981.
NY81-3030	May 1, 1981.
NY81-3045	July 17, 1981.
NY81-3048	July 17, 1981.
North Carolina: NC82-1027	Apr. 30, 1982.
Texas: TX83-4042	June 3, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas: AR83-4040 (AR83-4049)	May 13, 1983.
Colorado: CO82-5103 (CO83-5113)	Feb. 12, 1982.
Iowa: IA82-4048 (IA83-4050)	Oct. 1, 1982.
Missouri: MO81-4055 (MO83-4051)	July 10, 1981.
New Jersey NJ80-3017 (NJ83-3024)	Feb. 29, 1980.
Wyoming: WY82-5106 (WY83-5114)	Mar. 12, 1982.

Signed at Washington, D.C., this 8th day of July 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. DC82-3031-MOD. #11 (47 FR 51304-November 12, 1982) District of Columbia:Maryland Montgomery & Prince Georges Counties; DC Training School Virginia-Independent City of Alexandria;Arlington; & Fairfax Counties CHANGE:	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.67	2.88
BRICKLAYERS: APARTMENT BUILDINGS OVER FOUR STORIES	11.15	.85
LIGHT COMMERCIAL:NEW BUILDINGS & ADDITIONS-LIMITED TO 50,000 SQ. FT. IN FLOOR SPACE & NOT TO EXCEED FOUR STORIES IN HEIGHT ABOVE GROUND; SCHOOLS,CHURCHES,WAREHOUSES,CHAIN FOOD STORES; SHOPPING MALLS-EXCLUDING ALL STORES OVER 50,000 SQ. FT. IN FLOOR SPACE	13.00	2.91
ALL OTHER WORK	16.05	2.91
IRONWORKERS: REINFORCING	14.61	2.51
PAINTERS (EXCLUDING FAIRFAX COUNTY) BRUSH,SPRAY,PAPERHANGERS, TAPERS	16.57	2.35
STEEL,SANDBLASTING,SWING STAGE,POWER BRUSHING	17.07	2.35
BOILERMAKERS	17.575	3.015
LATHERS	14.92	1.56

DECISION NO. LA82-4021 - MOD. #11 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana CHANGE:	Basic Hourly Rates	Fringe Benefits
Asbestos workers	$16.71	2.935
Ironworkers	13.60	2.36

DECISION NO. LA82-4053 - MOD. #16 (47 FR 50421 - 11/5/82) Statewide Louisiana CHANGE:	Basic Hourly Rates	Fringe Benefits
Ironworkers - Zone 3	13.60	2.36
Plasterers - Zone 4	15.80	.01

MODIFICATION P. 2

DECISION NO. IL83-2043 - MOD. #2 (48 FR 25096 - June 3, 1983) Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazewell, & Warren Counties, Illinois Omit: Power Equipment Operators: Area 1 Add: Power Equipment Operators: Area 1:	Basic Hourly Rates	Fringe Benefits
Group 1	$17.29	$2.35
Group 2	16.14	2.35
Group 3	14.43	2.35

Group 1 - Cranes; Hydro Crane; Shovels; Crane Type Backfiller; Tower Cranes - Mobile & Crawler & Stationary; Derricks & Hoists (3 Drum); Draglines; Drott Yumbo & Similar types considered as Cranes; Backhoe; Derrick Boats; Pile Driver and Skid Rigs; Clam Shell; Locomotive - Cranes; Road Pavers - Single Drum - Dual Drum - Tri-Batcher; Motor Patrol & Power Blades - Dumore - Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Operator; Asphalt Batch Plant Operators and Plant Engineers; Gradall; Caisson Rigs; Skimmer Scoop - Koehring Scooper; Dredges; Hoptoe; All Cherry Pickers; Work Boat; Ross Carrier; Helicopter; Dozer; Tournadozer; Tournapulls - all and Similar types; Multiple Unit Earth Movers: 25¢ per hr. for each scoop over one (1) Scoops; Pushcats; Endloaders; Asphalt Surfacing Machine; Slip Form Paver; Rock Crusher; Heavy Equipment Greaser (top greaser on spread); CMI, Auto Grade, CMI Belt Placer & 3 Track and Similar types; Side Booms; Starting Engineer on Pipeline; Asphalt Heater & Planer Combination (used to plane streets); Wheel Tractors (with dozer, hoe or endloader attachments); F.W.D. and Similar types; Blaw Knox Spreader and Similar types; Trench Machines; Pump Crete - Belt Crete - Squeeze Crete - screw type pumps and gypsum (operator will clean); Formless Finishing Machines; Flaherty Spreader or similar types; Screed Man on Laydown Machine; Vermeer Concrete Saw; Escalated Rate on Crane and Derrick Booms: .01¢ per hr., per ft. over 80 ft. including jib, $1.00 per hour over scale when crane or derrick boom is positioned 50' or more adjacent ground level or water level

Group 2 - Bulker & Pump; Power Launches; Boring Machine & Pipe Jacking Machine; Dinkeys; P-H One Pass Soil Cement Machines and similar types; Wheel Tractors (Industry or farm type - other); Back Fillers; Euclid Loader; Fork Lifts; Jeep w/Ditching Machine or other attachments; Tuneluger; Automatic Cement & Gravel Batching Plants; Mobile Drills - Soil Testing and similar types; Pugmill with Pump; All (1) and (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-Seeder; Boring Machine; Hydro-Boom; Bump Grinders (self-propelled); Assistant Heavy Equipment Greaser; Apsco Spreader; Tractors (track-type) without Power Units Pulling Rollers; Rollers on Asphalt - Brick or Macadam; Concrete Breakers; Concrete Spreaders; Cement Strippers; Cement Finishing Machines & CMI Texture & Reel Curing Machines; Vibro-Tampers (all similar types self-propelled);

DECISION NO. IL83-2043 (Cont'd) MODIFICATION P. 3

Power Equipment Operators (Cont'd):

Group 2 (Cont'd):
Mechanical Bull Floats; Mixers-over three (3) bags to 27E; Winch and Boom Trucks; Tractor Pulling Power Blade or Elevating Grader; Porter Rex Rail; Clary Screed; Mule Pulling Rollers; Pugmill without Pump; Barber Green or similar Loaders; Track Type Tractor w/Power Unit attached; Fireman; Spray Machine on Paving; Curb Machines; Paver Ditch Machine; Power Broom; Self-Propelled Conveyors; Power Subgrader; Oil Distributor; Straight Tractor; Truck Crane Oiler; Truck Type Oilers; 3-4 Pieces Small Equipment; Oiler and 1 Piece Small Equipment

Group 3 - Trac Air Machine (without attachments); Herman Nelson Heater, Dravo Warner, Silent Glo & similar types. One Engineer will operate 1-5 and after 5 two Operators required; Self-Propelled Concrete Saws; Rollers - five ton and under on earth and gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Air Compressor (1) or (2); Conveyor (1) or (2) - Operator will clean; Welding Machine (1) or (2); Mixer - 3 bags and under; Bulk Cement Plant; Oilers

MODIFICATION P. 4

DECISION NO. NY81-3024 - MOD. #8 (46 FR 20442 - April 3, 1981) BRONX, KINGS, NEW YORK, QUEENS, RICHMOND COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	19.50	29.2%+ b+c
Jobbing, maintenance, repair work; alterations and new work up to a contract price of $50,000	8.75	19%+a+ b+c
DECISION NO. NY81-3048 - MOD. #3 (46 FR 37193 - July 17, 1981) NASSAU & SUFFOLK COUNTIES, NEW YORK		
CHANGE:		
ELECTRICIANS		
Building	18.55	37%+ .70
Wiring of single or multiple family dwellings & apartments up to and including 2 stories	12.20	34%+ .70

DECISION NO. NY81-3038 - MOD. #10 (46 FR 24850 - May 1, 1981) CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS		
Erie County (Remainder of County), Chautauqua County (townships of Dunkirk, Portland, Pomfret, Sheridan, Arkwright, Hanover, & Villanova), & Cattaraugus County (townships of Perrysburg, Dayton, Persia, Otto, Ashford, Yorkshire, East Otto & Machias)		
Base	15.65	3.94
Wallcovering, paper hanging epoxy or similar, spray, sandblasting, swing and scaffold	15.90	3.94
Taping	16.15	3.94
Bridges 35' in depth or 35' from road level	17.565	3.94
Skeleton Steel, Radio-TV Towers, Flagpoles, Water Towers, Stacks	16.40	3.94

DECISION NO. NJ83-3015 - MOD. #2
(48 FR 27991 - June 17, 1983)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers, Cement Masons, Plasterers and Stonemasons:		
Zone 2	$16.99	2.82
Zone 4:		
Bricklayers and Stone-Masons:	16.80	3.55
Cement Masons and Plasterers:	18.05	2.15
Zone 6	15.70	2.82

DECISION NO. NJ83-3016-Mod. #2
(48 FR 28003 - June 17, 1983)
Atlantic, Burlington, Camden, Cumberland, Gloucester, Mercer, Ocean and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters, Insulators and Millwrights:		
Zone 1	$17.36	20.5%
Ironworkers, Ornamental and Structural:		
Zone 2	14.93	7.20

DECISION NO. NC82-1027 - MOD. #2
(April 30, 1982 in 47 FR 18752)
Highway Construction
Statewide, North Carolina

	Basic Hourly Rates	Fringe Benefits
ADD:		
Chain Saw Operator	$4.50	

DECISION #NM83-4032-Mod.#7
48FR16413-April 15, 1983
STATEWIDE, NEW MEXICO

	Basic Hourly Rates	Fringe Benefits
OMIT:		
PAINTERS CLASSIFICATION DEFINITIONS AND WAGE RATES FOR "ZONE III", Luna, Otero & Dona Ana Counties.		
ADD:		
PAINTERS CLASSIFICATION DEFINITIONS AND WAGE RATES FOR "ZONE III", LUNA, OTERO & DONA ANA COUNTIES as follows:		
CLASS A		
Brush, roller, tapers and paperhangers	$8.79	1.19
CLASS B		
Steel after erection, power driven, tools and ames tools	8.935	1.19
CLASS C		
Spray, sandblast, swing stage, stripping machine	9.21	1.19

DECISION NO. NY81-3045 - MOD. #3
(46 FR 37204 - July 17, 1981)
NIAGARA COUNTY, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS		
Twps. of Somerset, Hartland, Royalton, New Fane, Lockport, Pendleton and the eastern half of Cambria, Wilson and North and North Tonawanda		
Base	15.65	3.94
Wallcovering, Paperhanging, Sandblasting, Swing and Scaffold, Epoxy, Spray	15.90	3.94
Taping	16.15	3.94
Bridges 35' high or in depth of 35' from road level	17.565	3.94
Cranes, Steel, Tanks, Towers, Stacks, Bridges, Flag Poles, Radio & TV Towers	16.40	3.94

DECISION NO. TX83-4042 - MOD. #2
(48 FR 25106 - 6/3/83)
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas

		Basic Hourly Rates	Fringe Benefits
CHANGE:			
Painters:			
Zone 1 -	Group 1	$15.48	1.80
	Group 2	15.73	1.80
	Group 3	15.605	1.80
	Group 4	15.855	1.80
Power equipment ops.:			
Zone 2 -	Group 1	7.265	2.30
	Group 2	15.17	2.30
	Group 3	15.77	2.30

SUPERSEDEAS DECISION

STATE: Arkansas

COUNTIES: Sebastian, Crawford & Washington

DECISION NO.: AR83-4049

DATE: Date of Publication

SUPERSEDES DECISION No. AR83-4040 dated May 13, 1983 in 48 FR 21772

DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

SEBASTIAN AND CRAWFORD COS.	Basic Hourly Rates	Fringe Benefits
ASSESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	14.15	.69
CARPENTERS:		
Carpenters	11.19	1.54
Millwrights-Piledrivermen	12.65	1.54
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	14.79	3-1/4% +1.35
Cable splicers	15.04	3-1/4% +1.35
ELEVATOR CONSTRUCTORS	13.19	2.69+A
ELEVATOR CONSTRUCTORS HELPERS	70%JR	2.69+A
ELEVATOR CONSTRS. PROBATIONARY HELPERS	50%JR	
IRONWORKERS	14.60	2.37
LINE CONSTRUCTION:		
Linemen-Operator	14.04	3-1/4% +1.35
Cable splicers	14.29	3-1/4% +1.35
Powderman	90%JR	3-1/4% +1.35
Truck Driver	75%JR	3-1/4% +1.35
Groundman	65%JR	3-1/4% +1.35
PAINTERS:		
Roller work, sheetwork, finishing by machinery	9.15	
Brush	8.65	
Spray	9.65	
Swing stage work	9.15	
Sandblasting-steam cleaning	9.65	
PLASTERERS	12.50	.64
PLUMBERS-STEAMFITTERS	13.66	1.24
ROOFERS	11.91	.30
SHEET METAL WORKERS	14.08	3% + 1.93
SPRINKLER FITTERS	14.57	2.83

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group I	$8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.24	1.40
Group III	11.76	1.40
Group IV	9.76	1.40
WASHINGTON COUNTY:		
BRICKLAYERS	9.00	
CARPENTERS	7.92	
CEMENT MASONS	7.67	
ELECTRICIANS	9.51	
GLAZIERS	7.60	
IRONWORKERS	6.87	
LABORERS:		
Common	5.23	
Mason tenders	5.67	
Plasterers tender	7.45	
PAINTERS	8.00	
PLASTERERS	11.22	
PLUMBERS-PIPEFITTERS	11.46	1.14
ROOFERS	7.50	
SHEET METAL WORKERS	7.51	
TILE SETTERS	10.00	
TRUCK DRIVERS	6.05	12%
POWER EQUIPMENT OPERATORS:		
Asphalt finishing	6.15	12%
Asphalt pavers	6.05	12%
Asphalt rakers	6.39	
Asphalt Dist. operators	5.82	11%
Bulldozers	5.95	16%
Backhoe	6.65	
Cranes	6.87	
Rollers	6.52	
Motor patrol operator	6.88	
Foundation drill operator	7.29	
Scrapers	5.75	15%

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado

COUNTIES: Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit, and Weld

DECISION NUMBER: CO83-5113

DATE: Date of Publication

Supersedes Decision No. CO82-5103 dated February 12, 1982, in 47 FR 6549

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$13.27	$2.98
BOILERMAKERS	14.97	2.575
BRICKLAYERS; Stonemasons:		
Area 1	14.49	2.01
Area 2	14.35	2.00
Area 3	14.05	1.96
Area 4	12.29	2.00
Area 5	14.49	2.01
CARPENTERS:		
Area 1:		
Zone 1	15.145	3.46
Zone 2	17.04	3.46
Zone 3	18.93	3.46
Area 2:		
Zone 1	13.105	3.20
Zone 2	14.74	3.20
Zone 3	16.38	3.20
Area 3:		
Zone 1	13.105	3.20
Zone 2	14.74	3.20
Zone 3	16.38	3.20
Area 4	13.105	3.20
Area 5:		
Zone 1	12.22	3.20
Zone 2	12.72	3.20
Zone 3	12.97	3.20
Area 6:		
Zone 1	14.87	3.57
Zone 2	15.37	3.57
Zone 3	15.62	3.57
Area 7:		
Zone 1	15.145	3.36
Zone 2	17.04	3.36
Zone 3	18.93	3.36
CEMENT MASONS:		
Cement Masons	13.79	2.32
Working with composition materials and color	14.29	2.32
Working on scaffold, swing stage, or temporary platform over 25'	14.04	2.32
DRYWALL INSTALLERS	$14.87	$3.16
ELECTRICIANS:		
Area 1:		
Electricians	12.75	1.385
Area 2:		
Electricians	19.10	2.35+ 3-3/10%
Cable Splicers	19.35	2.35+ 3-3/10%
Area 3:		
Electricians	17.85	2.10+ 3-3/10%
Cable Splicers	18.10	2.10+ 3-3/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.97	a+2.69
Helpers	12.58	a+2.69
Probationary Helpers	8.985	
GLAZIERS	13.80	b+1.52
IRONWORKERS:		
Structural, Ornamental, and Reinforcing	14.35	2.71
LATHERS	13.44	.01
MARBLE SETTERS:		
Area 1	13.31	1.55
Area 2	15.53	2.79
MILLWRIGHTS	14.66	2.39
PAINTERS:		
Area 1:		
Brush and Roll; Hardwood Finishers; Sandblast, Pot Tenders	12.19	1.88
Drywall Finishers (hand)	12.44	1.88
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous Work; Paperhangers; Drywall Finishers (tool)	12.79	1.88
Sandblast (interior); Steeplejack	14.11	1.88

DECISION NO. CO83-5113

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Area 2:		
Brush and Roll; Hardwood Finishers; Sandblast, Pot Tenders	$15.89	$2.33
Drywall Finishers (hand)	16.14	2.33
Spray; Swing Stage and Chair; Sandblast (exterior); Hazardous work; Paperhanger; Drywall Finishers (tool)	16.49	2.33
Sandblast (interior); Steeplejack	17.81	2.33
PLASTERERS	13.44	.01
PLUMBERS; Steamfitters:		
Area 1	12.90	3.60
Area 2	15.15	3.65
Area 3	17.27	3.13
ROOFERS	13.32	1.43
SHEET METAL WORKERS	18.03	3.36+ 3%
SOFT FLOOR LAYERS	13.14	3.23
SPRINKLER FITTERS	16.67	2.83
TERRAZZO WORKERS	15.53	2.79
TILE LAYERS:		
Area 1	13.31	1.55
Area 2	15.53	2.54
TILE, MARBLE AND TERRAZZO FINISHERS:		
Finishers	9.55	3.00
Floor Grinders	9.70	3.00
Base Grinders	10.25	3.00

	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2
LABORERS:		
Group 1	$9.95	$10.45
Group 2	10.05	10.55
Group 3	10.35	10.85
FRINGE BENEFITS: $2.69		
POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):		
Group 1	13.40	14.15
Group 2	13.75	14.50
Group 3	14.10	14.85
Group 4	14.25	15.00
Group 5	14.40	15.15
Group 6	14.55	15.30
(For work in Tunnels, Shafts, and Raises):		
Group 1	13.65	14.30
Group 2	13.90	14.65
Group 3	14.00	14.75
Group 4	14.25	15.00
Group 5	14.40	15.15
Group 6	14.80	15.55
Group 7	14.55	15.30
FRINGE BENEFITS: $3.20		

	Basic Hourly Rates ZONE 1	Basic Hourly Rates ZONE 2
TRUCK DRIVERS:		
Group 1	$12.91	$13.41
Group 2	13.01	13.51
Group 3	13.11	13.61
Group 4	13.16	13.66
Group 5	13.21	13.71
Group 6	13.26	13.76
Group 7	13.31	13.81
Group 8	13.36	13.86
Group 9	13.46	13.96
Group 10	13.51	14.01
Group 11	13.61	14.11
Group 12	13.76	14.26
Group 13	13.81	14.31
Group 14	13.91	14.41
Group 15	14.01	14.51
Group 16	14.11	14.61
Group 17	14.21	14.71
Group 18	14.41	14.91
FRINGE BENEFITS: $2.64		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. 15 days Paid Vacation after 1600 hours

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Eagle County
Area 2: Boulder and Grand Counties
Area 3: Elbert, Lake and Park Counties
Area 4: Larimer County
Area 5: Remaining Counties

CARPENTERS:
Area 1: Adams, Arapahoe, Boulder, Douglas, Denver, and Jefferson Counties:
Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over
Area 2: Clear Creek, Elbert, Grand, and Gilpin Counties; Park County (northern area):
(a) Denver Metropolitan Area including Louisville, Golden, Boulder, and Longmont basing points:
Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over
Area 3: Morgan County:
(b) Denver Northeastern Area of Colorado including Greeley, Loveland, and Fort Morgan basing points:
Zone 1: 0 to 20 miles
Zone 2: 20 to 50 miles
Zone 3: 50 miles and over
Area 4: Larimer County (southeastern portion within Loveland basing point, Zone 1)
Area 5: Larimer (Remainder of County); Lake and Park Counties (south 40 miles):
Zone 1: 0 to 40 miles from Post Office in Leadville or Fort Collins
Zone 2: 40 to 75 miles from Post Office in Leadville or Fort Collins
Zone 3: All work outside of the 75 mile radius from Post Office in Leadville or Fort Collins
Area 6: Summit and Eagle Counties
Area 7: Weld County

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS:
Area 1: Elbert and Park Counties
Area 2: Denver and Jefferson Counties
Area 3: Remaining Counties

MARBLE SETTERS:
Area 1: Elbert, Lake, and Park Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Park County (southern half)
Area 2: Remaining Counties including northern half of Park County

PLUMBERS; Steamfitters:
Area 1: Southern portions of Douglas, Elbert, and Park Counties
Area 2: Boulder County
Area 3: Remaining Counties (including northern portions of Douglas, Elbert, and Park Counties)

TILE LAYERS:
Area 1: Elbert, Lake and Park Counties
Area 2: Remaining Counties

LABORERS

Cities within Zones 1 and 2:

Boulder	Denver	Leadville	Littleton	
Fort Morgan	Golden	Dillon	Eagle	Vail
		Fort Collins	Greeley	Granby

Zone 1: That area encompassed by 0 to 30 driving miles from the Main Post Office
Zone 2: That area encompassed by 30 or more driving miles from the Main Post Office

Group 1: Building Construction Laborer

Group 2: Laborers - underpinning and shoring (eight (8) ft. or more below working surface; Power Tool Operators of all mechanical, air, gas and electrical tools, including self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of tilt-up panels. Burners on demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction; Jackhammer Operator for underpinning and shoring over twelve (12) ft. below working surface, Bellers and Stemmers on Caisson work; Tenders, Mason and Plaster

POWER EQUIPMENT OPERATORS

A. Counties entirely within Zone 1:

Boulder	Denver	Douglas	Clear Creek
Gilpin	Jefferson	Larimer	Morgan
Weld			

B. Counties entirely within Zone 2:

Grand	Lake	Park	Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 8th Guide Meridian West; and all of Eagle County lying West of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59 and R60W of the 8th Guide Meridian West, and all of Eagle County lying East of the Township line between R80W & R81W of the 9th Guide Meridian West

(Other than for work in Tunnels, shafts and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light Plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a Spray Bar; Screening Plants, with Classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond and Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and Service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable Crusher, with or without Washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on Truck

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises) (Cont'd)

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer Mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without Washer; Piledriver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 ton carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl including pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS

A. Counties entirely within Zone 1:
Boulder Denver Douglas Clear Creek Weld
Larimer Gilpin Jefferson Morgan

B. Counties entirely within Zone 2:
Grand Lake Park Summit

C. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 1, as follows:
All of Adams, Arapahoe, Elbert Counties lying west of the Township line between R59W and R60W of the 8th Guide Meridian West; and all of Eagle County lying west of the Township line between R80W and R81W of the 10th Guide Meridian West

D. Legal description of the portions of Adams, Arapahoe, Eagle and Elbert Counties which are included within Zone 2, as follows:
All of Adams, Arapahoe, Elbert Counties lying East of the Township line between R59 and R60W of the 8th Guide Meridian West; and all of Eagle County lying East of the Township line between R80W and R81W of the 9th guide Meridian West

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers; single axle

Group 3: Dump trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, Tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, Dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

TRUCK DRIVERS (Cont'd)

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Tireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classificatins needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Woodbury
DECISION NO.: IA83-4050 DATE: Date of Publication
Supersedes Decision No. IA82-4048, dated October 1, 1982 in 47 FR 43517
DESCRIPTION OF WORK: Building Projects (excluding single family homes & apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.70	$2.15
BOILERMAKERS	16.12	2.825
BRICKLAYERS & STONEMASONS	12.58	1.02
CARPENTERS:		
On projects of $750,000 and under:		
Carpenters, drywall hangers, lathers	10.50	2.02
Millwrights & pile-drivermen	11.00	2.02
On projects over $750,000:		
Carpenters, drywall hangers, lathers	12.00	2.02
Millwrights & pile-drivermen	12.50	2.02
CEMENT MASONS:		
On projects $750,000 and under	12.50	
On projects over $750,000	13.78	
ELECTRICIANS	15.43	1.98+ 3-3/4%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.31	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS	15.51	
IRONWORKERS	12.19	1.795
LABORERS:		
Group 1 - Common laborers	8.00	2.36
Group 2 - Mortar mixers; plasterers' mixers; air tool ops.; mechanical tampers; concrete saw; gunnite nozzle; chain saw; wrecking torch; sandpot & blasting	8.15	2.36
LINE CONSTRUCTION:		
Group 1- Lineman; all rigs setting assembled "H" fixtures, steel & concrete transmission structures	15.65	.65+b+ 7-1/2%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont'd):		
Group 2 - Special equipment operations (hole digging machines, all tractors, trans-missionline pole hauling & setting equipment other than assembled "H" fixtures	12.99	.65+b+ 7-1/2%
Group 3 - Blaster	12.52	.65+b+ 7-1/2%
Group 4 - Groundman	10.17	.65+b+ 7-1/2%
Group 5 - Groundman, truck driver	10.33	.65+b+ 7-1/2%
Group 6 - Pole treating truck driver	10.02	.65+b+ 7-1/2%
Group 7 - Pole treating specialist	12.05	.65+b+ 7-1/2%
MARBLE & TERRAZZO WORKERS	12.58	1.02
PAINTERS:		
Group 1 - Brush & dry-wall finishers	13.03	2.20
Group 2 - Spray, all swing work; all work higher than 40 ft.; scaffolds, jacks, ladders; pressure roller; sandblasting; structural steel over 25 ft.	13.58	2.20
PLUMBERS & PIPEFITTERS	16.17	1.84
POWER EQUIPMENT OPERATORS:		
Group 1	12.25	2.25
Group 2	11.70	2.25
Group 3	10.15	2.25
Group 4	9.00	2.25
ROOFERS:		
Roofers	11.95	
Kettlemen	10.57	
SHEET METAL WORKERS	12.00	2.16
SPRINKLER FITTERS	16.47	2.83

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a-Employer contributes 8% of basic hourly rate for over 5 yrs. service & 6% of basic hourly rate for 6 mos. to 5 yrs. of service as Vacation Pay Credit. Seven Paid Holidays A - G
b-Seven Paid Holidays A - G

PAID HOLIDAYS
A-New Yrs.' Day;B-Memorial Day;C-Independence Day;D-Labor Day;E-Thanksgiving Day;F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Cranes including those being used as backhoe,dragline,clamshell,etc.,tower cranes; truck cranes & cherry pickers 12½ ton & over rated capacity;derrick;piledrivers & extractors; caisson rigs;side boom & winch truck used for erection of structural steel & moving & setting of heavy machinery;3 drum hoist;welders;mechanics;locomotive;dredge(levermen)
GROUP 2 - 1 & 2 drum hoist;air & electric tuggers (on power plants or setting steel or grating); economobiles;plant mixer;farm type tractors(with loaders,backhoes,attachments,etc.);scrapers (tournapull,etc.);endloaders;dredge(engineer);side boom & winch truck other than Group 1; Motor patrol;bulldozers;push cat;truck cranes & cherry pickers(under 12½ ton);concrete mixers (1 yd. & over);ditching machine(8" & over);fork lifts(on steel erection & machinery moving or hoisting above 1 complete story);concrete pump;dewatering pump;temporary hoist cage operated;second man on locomotive;vibrating concrete spreader(gomaco,C-450 or equal)
GROUP 3 - Tractors(under 35 HP);with or without attachments;endloaders(under 35 HP) with or without attachments;air compressors(1 or combination of 250 CFM or more);pumps 3" or over; welding machines 600 amps or combination thereof;conveyors;firemen(boiler);generator 75 KW & over);fork lifts (other than above Group 2);gunnite machine;self-propelled rollers;stump chippers;self-propelled tampers;air & electric tuggers(other than above);Ditching machine under 8"
GROUP 4 - Oilers,mechanical heaters;truck crane drivers;permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Pulaski
DECISION NO.: MO83-4051 DATE: Date of Publication
Supersedes Decision No. MO81-4055 dated July 10, 1981 in 46 FR 35884
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.44	$1.75
BOILERMAKERS	16.27	2.825
BRICKLAYERS, STONEMASONS & TILE LAYERS	14.00	.50
CARPENTERS:		
Projects under $500,000.00	13.81	2.45
Projects $500,000.00 and over	14.31	2.45
CEMENT MASONS	14.53	1.70
ELECTRICIANS:		
Electricians	15.04	9%+ 1.89
Cable Splicers	15.44	9%+ 1.89
IRONWORKERS, STRUCTURAL, ORNAMENTAL, REINFORCING	15.325	2.77
LABORERS:		
Laborers, general	11.80	1.65
Plumbers laborers, hod carriers, plaster tenders & mason tenders	12.15	1.65
Powderman	12.80	1.65
PAINTERS:		
Brush & roller	12.00	2.60
Taping, paperhanging & floor work	12.50	2.60
Spray, structural steel & sandblasting	13.25	2.60
PIPEFITTERS	16.85	4.875
PLUMBERS	16.005	3.65
SHEET METAL WORKERS	15.16	3%+ 3.35
TRUCK DRIVERS:		
GROUP 1	11.35	1.75
GROUP 2	11.75	1.75
GROUP 3	11.82	1.75
GROUP 4	11.87	1.75
GROUP 5	12.02	1.75
GROUP 6	12.85	1.75
ROOFERS	12.00	.66
PLASTERERS	15.555	1.62

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Ft. Leonard Wood Only:		
GROUP 1	$12.35	$1.75
GROUP 2	12.50	1.75
GROUP 3	12.57	1.75
GROUP 4	12.62	1.75
GROUP 5	12.77	1.75
GROUP 6	13.10	1.75
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.17	3.00
GROUP 2	15.17	3.00
GROUP 3	13.92	3.00
GROUP 4	13.47	3.00
GROUP 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
GROUP 6	17.07	3.00
GROUP 7	17.57	3.00
GROUP 8	18.07	3.00

TRUCK DRIVER CLASSIFICATION DEFINITIONS

GROUP 1 - Flat bed drivers; pick-ups and station wagons; tireman & station attendant; dump, single axle

GROUP 2 - Flat bed, tandem axle; dump, tandem; tank trucks, single axle

GROUP 3 - Agitator & transit-mix

GROUP 4 - Winch trucks; steel haulers, derrick & A-trucks; distributors drivers & operators; tank truck; tandem & semi-tractors; wheel tractors; oilers, greasers & mechanic helpers; heavy excavating & hauling euclids, dumpsters, etc.

GROUP 5 - Fork lifts & high lifts, etc., when unloading or carrying

GROUP 6 - Mechanics

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or cruiser mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley

GROUP 2 - Air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bull-float; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; crane, hydraulic rough terrain, self-propelled; crane, hydraulic truck or cruiser mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand drills obtaining power from other sources including concrete breakers, jackhammers & barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; fork lift; grader, road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower mobile, or similar equipment); hoist, stack; hydro hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP 3 - Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled) conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine;elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 3 CONTD:
KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more; mixer,with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p. & under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop

GROUP 4 - Boat operator outboard motor (job site); conveyors, such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP 5 (a) - Air pressure; oiler engineer operating under ten pounds
(b) - Air-pressure, oiler engineer operating over ten pounds
(c) - Air pressure engineer operating under ten pounds
(d) - Air pressure oiler engineer operating over ten pounds
(e) - Crane, climbing (such an linden); crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150" or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler, tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 feet

GROUP 6 - Crane, boom (including jib) 150 feet to 200 feet

GROUP 7 - Crane, boom (including jib) 200 feet to 250 feet

GROUP 8 - Crane, boom (including jib) 250 feet to 300 feet

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: NEW JERSEY COUNTY: MONMOUTH
DECISION NO.: NJ83-3024 DATE: DATE OF PUBLICATION
Supersedeas Number NJ80-3017 dated February 29, 1980 in 45 FR 13592
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
Bricklayers	$13.80	1.83
Carpenters	14.75	15.5%
Cement Masons	8.00	
Drywall - Sheetrock Mechanics	13.00	
Electricians	16.075	10%+ 2.26
Insulation Mechanics	7.24	
Ironworkers, Structural	13.35	3.81
Laborers:		
Laborers	6.44	.95
Mason Tenders	9.40	2.95
Painters	12.05	1.30
Plumbers & Pipefitters	15.31	2.32
Roofers	11.75	1.65
Sheet Metal Workers	14.09	28%+ .21
Soft Floor Layers	12.73	16%
Tile Setters	12.92	.70
Power Equipment Operators:		
Backhoe	8.00	
Bulldozer	9.00	
WELDER - RATE FOR CRAFT TO WHICH THE WELDING IS INCIDENTAL		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY83-5114
Supersedes Decision No. WY82-5106 dated March 12, 1982, in 48 FR 10968
DATE: Date of Publication

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.39	$2.44
BOILERMAKERS	14.97	2.575
BRICKLAYERS; Stonemasons:		
Area 1	14.24	.57
Area 2	12.90	1.25
CARPENTERS:		
Carpenters	12.75	2.57
Piledrivermen	13.00	2.57
CEMENT MASONS:		
Cement Masons	13.15	.75
Working on Swinging Stage or temporary platform over 20 ft. high	13.65	.75
Composition Material, Epoxy	13.65	.75
ELECTRICIANS:		
Area 1:		
Electricians; Technicians	16.50	1.50+ 3-3/4%
Area 2:		
Contracts $250,000 and under:		
Electricians	14.75	1.75+ 3-3/4%
Contracts over $250,000:		
Electricians	15.70	1.50+ 3-3/4%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.97	2.69+a
Helpers	12.58	2.69+a
Probationary Helpers	8.985	
IRONWORKERS:		
Structural; Ornamental; Reinforcing	14.15	2.80
MARBLE, TILE and TERRAZZO WORKERS:		
Area 1	11.10	.75
MILLWRIGHTS	16.16	2.39
PAINTERS:		
Brush and Roller	$13.31	$2.18
Spray, Swing Stage and Hazardous	13.91	2.18
Sandblaster (interior)	15.23	2.18
Paperhanger	13.91	2.18
Drywall Finishers	13.56	2.18
Finishers (Machine)	13.91	2.18
PLUMBERS; Steamfitters:		
Area 1	13.32	3.58
Area 1-A	16.32	3.58
Area 2:		
Zone 1	15.03	4.60
Zone 2	15.90	4.60
Zone 3	16.75	4.60
Zone 4	18.06	4.60
Zone 5	19.05	4.60
ROOFERS	11.44	4.60
SHEET METAL WORKERS:		
Area 1	14.18	2.43
Area 2	10.92	1.69
SPRINKLER FITTERS	16.67	2.83
LABORERS:		
Group 1	8.58	2.75
Group 2	8.83	2.75
Group 3	9.08	2.75
Group 4	9.08	2.75
Group 5	9.13	2.75
Group 6	8.98	2.75
Group 7	8.88	2.75
Group 8	8.73	2.75
Group 9	9.48	2.75

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding or rigging is incidental

FOOTNOTE:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Goshen, Laramie and Platte Counties
Area 2: Converse, Natrona and Niobrara Counties

ELECTRICIANS:
Area 1: Goshen, Laramie, Niobrara and Platte Counties
Area 2: Converse and Natrona Counties

MARBLE, TILE and TERRAZZO WORKERS:
Area 1: Converse, Natrona and Niobrara Counties

PLUMBERS; STEAMFITTERS:
Area 1: Cheyenne Only
Area 1-A: Goshen, Platte, Laramie Counties, excluding Cheyenne
Area 2: Converse, Natrona and Niobrara Counties:
Zone 1: 10 miles radius from Post Office in Casper
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 20 miles radius beyond Zone 2
Zone 4: 40 miles radius beyond Zone 3
Zone 5: Jurisdiction beyond Zone 4

SHEET METAL WORKERS:
Area 1: Converse, Natrona and Niobrara Counties
Area 2: Goshen, Laramie and platte Counties

LABORERS CLASSIFICATIONS

Group 1: General Laborers;: All work pertaining to pre-watering, pre-irrigation, and pre-wetting); Axeman and Hand Faller; Bin Wall Installer; Bituminous Curb Builder; Burner (cutting torch); Car and Truck Loader; Carpenter Tender; Cement Mason Tender; Chuck Tender; Concrete Saw; Concrete Worker (wet or dry)(curing and drying); Creosote Material Handler (corrosive enamel or its equal); Dumpman; Erector and Installer (includes the installation of all fences, right of way, median fences, snow fences, etc., guard rails, section rails, reference posts, guide posts, signs and right of way markers); Form Setter (paving); Form Setter Tender (paving); Form Stripper; General Laborer; Gunnite Tender; Hand Operated Vibrator Roller; Jackhammer and Pavement Breaker; Landscaper; Landscraper Tender; Material Handler (lumber, rods, cement, concrete); Mechanical Form Cleaner; Mortar Man on Stone Riprap; Nozzleman (air and water); Operator on pneumatic, electric, gas Tamper and similar mechanical tools; Pipe Setter (corrugated, culvert pipe multi-plate, sectional plate and similar type); Pipe Wrapper; Powderman Tender; Power Saw Operator (clearing); Power type Concrete Buggy (push); Power type Concrete Buggy (ride); Riprap Man; Rodman; Sandblaster Pot Tender; Shoring and Lagging Open Ditch; Signalman, grade, concrete, etc.; Scissorman or Hopper Man; Stake Jumper for equipment; Tar and Asphalt Pot Tender; Unloading and packing of steel rods and mesh (reinforcing); Vibrator - concrete; Wrecking & Demolition Crews; Heat Tender and Pilot Car Operator

Group 2: Semi-skilled Laborers: Asphalt Raker and Tamper; Gunnite Nozzleman; High Scaler (using air tool from bos'n chair, swing stage life belt, or block and tackle, shall recieve 20¢ per hour more than the classified rate); Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker)

Group 3: Drilling - Blasting: Powderman and Blaster; Wagon drill, Air Track, Diamond and other drills for blasting powder or grouting

Group 4: Tenders: Fork Lift Operator (masonry work); Hodcarriers; Mason Tenders; Plasterer Tenders; Scaffold Builders; Terrazzo Tenders; Tile Setter Tenders

Group 5: Tunnel - underground: Drill Doctors; Finishers; Form Setters and Movers; Jackhammer Man; Machine Man; Miners (Drillers); Piling and/or Caisson Workers; Rebar Man; Spaders; Steelman; Timberman; Tuggers

Group 6: Chuck Tender; Nipper; Top Man or Top Lander

Group 7: Brakeman; Vibrator Man

Group 8: Bull Gang Laborer; Mucker

Group 9: Shifter

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

[FR Doc. 83-18908 Filed 7-14-83; 8:45 am]

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federal register

Friday
July 15, 1983

Part III

Environmental Protection Agency

Electroplating and Metal Finishing Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 413 and 433

[OW-FRL-2383-7]

Electroplating and Metal Finishing Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation limits the pollutants that electroplating/metal finishing facilities may discharge to waters of the United States or to publicly owned treatment works (POTW). The Metal Finishing Regulations provide effluent limitations based on "best practicable technology" and "best available technology" and establish new source performance standards and pretreatment standards under the Clean Water Act. In addition, this rule amends the pretreatment standards for existing sources for the Electroplating Point Source Category.

The preamble summarizes the legal authority, background, technical and economic bases, and other aspects of the regulation as well as a summary of comments on the proposed regulation and on the record supporting the proposed regulation. The abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A. (See "Supplementary Information" below for complete table of contents).

The final rule is supported by EPA's technical conclusions detailed in the *Development Document for Effluent Limitations Guidelines, and Standards for the Metal Finishing Point Source Category*, June, 1983. The Agency's economic analysis is found in *Economic Analysis of Effluent Standards and Limitations for the Metal Finishing Industry*, June 1983. Further supporting materials are filed in the record supporting this rulemaking.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048) this regulation shall be considered issued for the purposes of judical review at 1:00 p.m. Eastern time on July 29, 1983. These regulations shall become effective August 29, 1983.

The compliance date for the BAT regulations is as soon as possible, but no later than July 1, 1984.

The compliance date for New Source Performance Standards (NSPS) and Pretreatment Standards for New Sources (PSNS) is the date the new source begins operations. The compliance date for Metal Finishing Pretreatment Standards for Existing Sources (PSES) is February 15, 1986 for metals and cyanide. Metal Finishing PSES establishes two levels of toxic organic control; the less stringent must be met by June 30, 1984 for most plants and by July 10, 1985 at plants also subject to Part 420 (Iron and Steel); the more stringent must be met by February 15, 1986. In addition, Electroplating PSES requires toxic organic control by July 15, 1986.

Under Section 509(b)(1) of the Clean Water Act judicial review of this regulation can be obtained only by filing a petition for review in the United States Court of Appeals within 90 days after these regulations are considered issued for the purposes of judicial review. Under Section 509(b)(2) of the Clean Water Act, the requirements of the regulations may not be challenged in later civil or criminal proceedings brought by EPA to enforce these requirements.

Reporting provisions in 40 CFR 413.03 and 433.12 will be reviewed by OMB under the paperwork reduction act and are not effective until approved.

ADDRESS: Technical information may be obtained by writing to Mr. Richard Kinch, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Metal Finishing Rules. Approximately two weeks from publication, the record for this rulemaking will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213 (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying. Copies of the technical and economic documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-4650). Copies of both documents will be available for review in the public record at EPA headquarters and regional libraries.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Kinch, Effluent Guidelines Division (WH-552), EPA, 401 M Street, S.W., Washington, D.C. 20460, or by calling (202) 382-7159. Economic information may be obtained by writing Ms. Kathleen Ehrensberger, Economics Branch (WH-586), Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, or by calling (202) 382-5397.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217) (the "Act") and as further amended. This regulation is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v.

Train, 8 ERC 2120 (D.D.C. 1976), as modified, 12 ERC 1833 (D.D.C. 1979), modified by Order dated October 26, 1982.

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a).

- Section 301(b)(1)(A) set a deadline of July 1, 1977, for existing industrial direct dischargers to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT").
- Section 301(b)(2)(A) set a deadline of July 1, 1983, for those dischargers to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT").
- Section 306 required that new industrial direct dischargers comply with new source performance standards ("NSPS"), based on best available demonstrated technology.
- Sections 307 (b) and (c) required pretreatment standards for new and existing dischargers to publicly owned treatment works ("POTW"). The Act made pretreatment standards enforceable directly against dischargers to POTW's (indirect dischargers), unlike the requirements for direct dischargers which were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402.
- Section 402(a)(1) allows requirements for direct dischargers to be set case-by-case. However, Congress intended control requirements to be based for the most part on regulations promulgated by the Administrator of EPA.
- Section 304(b) required regulations that establish effluent limitations reflecting the ability of BPT and BAT to reduce effluent discharge.
- Sections 304(c) and 306 of the Act required regulations for NSPS.
- Sections 304(g), 307(b), and 307(c) required regulations for pretreatment standards.
- In addition to these regulations for designated industry categories, Section 307(a) required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants.
- Section 308 gave the Administrator authority to collect information necessary to develop and enforce regulations.
- Finally, Section 501(a) authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the deadlines contained in the Act, and as a result—in 1976, EPA was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This agreement required EPA to develop a program and meet a schedule for controlling 65 "priority" pollutants and classes of pollutants. In carrying out this program EPA must promulgate BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified, 12 ERC 1833 (D.D.C. 1979), modified by Order dated October 26, 1982.

Several of the basic elements of the Settlement Agreement program were incorporated into the Clean Water Act of 1977. This law also makes several other important changes in the Federal water pollution control program.

- Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now set July 1, 1984 as the deadline for industries to achieve effluent limitations requiring application of BAT for "toxic" pollutants. "Toxic" pollutants here includes the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act.
- Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at controlling toxic pollutants.
- To strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe certain "best management practices" ("BMPs"). These BMPs are to prevent the release of toxic and hazardous pollutants from: (1) Plant site runoff, (2) spillage or leaks, (3) sludge or waste disposal, and (4) drainage from raw material storage if any of those events are associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants.

- For "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform and pH), the new Section 301(b)(2)(E) requires "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT")—instead of BAT—to be achieved by July 1, 1984. The factors considered in assessing BCT for an industry are the relationship between the cost of attaining a reduction in effluents and the effluent reduction benefits attained, and a comparison of the cost and level of reduction of such pollutants by publically owned treatment works and industrial sources. For non-toxic, nonconventional pollutants, Sections 301 (b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or by July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of this regulation is to establish BPT, BAT, NSPS, PSES, and PSNS for the Part 433 Metal Finishing Point Source Category, and to amend the Part 413 Electroplating PSES.

B. Prior EPA Regulations

On March 28, 1974, EPA promulgated BPT limitations for the electroplating industry but suspended them on December 3, 1976. Interim final pretreatment standards for the electroplating industry were issued on July 12, 1977, and suspended on May 14, 1979. On September 7, 1979, EPA promulgated the Part 413 PSES for the electroplating industry. Amended PSES were promulgated on January 28, 1981 (40 FR 9462).

Currently only those Electroplating PSES are in effect. Nonintegrated indirect discharging facilities must comply with those standards by April 27, 1984. See 47 FR 42698, September 28, 1982. A non-integrated facility is one which does not discharge significant process wastewater, other than from electroplating operations, through a treatment system (or proposed treatment system).

Integrated indirect discharging facilities are also currently covered by the electroplating PSES. These facilities, which prior to treatment combine electroplating waste streams with significant process waste streams not covered by the Electroplating Category, must comply with its provisions by June 30, 1984 (see 48 FR 2774, January 21, 1983).

C. Overview of the Industry

There are 13,500 plants in the electroplating/metal finishing industry. Many discharge wastewaters from

several metal finishing operations other than, and in addition to, electroplating. Part 413 (electroplating) currently applies only to flows from the six specified electroplating processes. These Part 433 (metal finishing regulations) will apply to those electroplating streams and also to wastestreams from most other metal finishing operations within the same plants. The Part 433 PSES will apply only to plants already covered by Part 413; however Part 433 will often cover additional wastewater within the same plants. Thus the Part 433 limits on discharge of toxic metals, toxic organics, and cyanide will apply to most facilities in the electroplating/metal finishing industry.

The industry can be divided into the sectors indicated on Table I. Facilities are either "captives" (those which in a calendar year own more than 50% (area basis) of the materials undergoing metal finishing); or "job shops" (those which in a calendar year do not own more than 50% (area basis) of material undergoing metal finishing).

Captives can be further divided by two definitions: "integrated" plants are those which, prior to treatment, combine electroplating waste streams with significant process waste streams not covered by the electroplating category; "non-integrated" facilities are those which have significant wastewater discharges only from operations addressed by the electroplating category. Many captives (50%) are "integrated" facilities. Whereas captives often have a complex range of operations, job shops usually perform fewer operations. In theory job shops can be divided like captives; in actuality, however, approximately 97% of all job shops in this industry are "non-integrated".

Finally, the entire industry can be divided into "direct" and "indirect" dischargers. "Directs" discharge wastewaters to waters of the United States and are subject to NPDES permits incorporating BPT, BAT, and BCT limitations or NSPS. "Indirects" discharge to POTWs and are subject to PSES or PSNS.

As discussed above, the electroplating/metal finishing industry is currently covered by Part 413 PSES for the Electroplating Category promulgated on September 7, 1979, and amended on January 28, 1981. The effect of today's amendments is to create a new category—Metal Finishing (Part 433)—and to shift *most* electroplaters to it, replacing their current PSES with new limits which apply uniformly to discharges from their electroplating and other metal finishing operations. This meets industry's requests for equivalent limits for process lines often found together and greatly reduces the need to rely on the Combined Waste Stream Formula for integrated metal finishing facilities. Direct discharger and new source requirements are also being issued as part of the metal finishing regulations.

Indirect discharging job shop electroplaters and independent printed circuit board manufacturers, however, would be left under the existing Part 413 PSES for Electroplating and are exempted from Part 433. This is consistent with a 1980 Settlement Agreement in which the National Association of Metal Finishers (NAMF), and the Institute for Interconnecting and Packaging Electronic Circuits (IIPEC) agreed not to challenge the Part 413 PSES in return for the 1981 amendments and EPA's commitment that the Agency did not intend to develop significantly more stringent standards for those plants for the next several years.

TABLE I.—BREAKDOWN OF THE ELECTROPLATING/METAL FINISHING INDUSTRY

(Number of plants per sector 13,470)

	Job shops and IPCBM [1] (3,470)	Captive facilities (10,000)	
		Nonintegrated	Integrated
Indirect dischargers (10,561).	3,061 job & IPCBM indirect.	3,750 nonintegrated captive.	3,750 integrated captive
Direct dischargers (2,909).	409 job & IPCBM directs.	[2]	[2].

[1] Independent printed circuit board manufacturers.
[2] 2,500 captive directs.

The Metal Finishing Category covers plants which perform one or more of the following six operations: electroplating, electroless plating, anodizing, coating (phosphating, chromating, and coloring), chemical etching and milling, or printed circuit board manufacture. If a plant performs any of those six operations then discharges from the 46 operations listed in Appendix C are covered by these standards.

In some cases another industrial category may cover wastewater discharges from a metal finishing operation. In such cases the more specific standards of the other Part(s) will apply to those wastewater streams which appear to be covered by both regulations. For example, if a plant performs coating operations in preparation for painting and also performs electroless plating as part of a porcelain enameling process, then these Part 433 standards would apply to discharges from the coating operation; while Part 466 (porcelain enameling) would apply to discharges from the second operation.

The following regulations will take precedence over metal finishing (Part 433) and electroplating (Part 413) when such an overlap occurs:

Nonferrous metal smelting and refining (40 CFR Part 421)
Coil coating (40 CFR Part 465)
Porcelain enameling (40 CFR Part 466)
Battery manufacturing (40 CFR Part 461)
Iron and steel (40 CFR Part 420)
Metal casting foundries (40 CFR Part 464)
Aluminum forming (40 CFR Part 467)
Copper forming (40 CFR Part 468)
Plastic molding and forming (40 CFR Part 463)

In addition, EPA is excluding from the metal finishing (Part 433) regulation: (1) Metallic platemaking and gravure cylinder preparation conducted within printing and publishing facilities; and (2) existing source job shops and independent printed circuit board manufacturers which introduce pollutants into a publicly owned treatment works. As noted above, the standards do not apply to facilities unless they perform at least one of the following: electroplating, electroless plating, anodizing, coating, chemical etching and milling, or printed circuit board manufacture.

The most important pollutants of concern found in metal finishing industry wastewaters are: (1) toxic metals (cadmium, copper, chromium, nickel, lead, and zinc); (2) cyanide; (3) toxic organics (lumped together as total toxic organics); and (4) conventional pollutants (TSS and oil and grease). These and other chemical constituents degrade water quality, endanger aquatic life and human health, and in addition corrode equipment, generate hazardous gas, and cause treatment plant malfunctions and problems in disposing of sludges containing toxic metals.

These plants manufacture a variety of products that are constructed primarily of metals. The operations, which involve meterials that begin as raw stock (rods, bars, sheet, castings, forgings, etc.), can include the most sophisticated surface finishing technologies. These facilities include both captives and job shops. They vary greatly in size, age, number of employees, and number and type of operations performed. They range from very small job shops with less than 10 employees to large facilities employing thousands of production workers. Because of differences in size and processes, production facilities are custom tailored to the individual plant. Some complex products may require the

use of nearly all of the 46 unit operations metioned above; a simple product may require only one.

Many different raw materials are used by these plants. Basis materials (or "workpieces") are mostly metals; from common copper and steel to extremely expensive high-grade alloys and precious metals. They can also include plastics. Solutions used in unit operations can contain acids, bases, cyanide, metals, complexing agents, organic additives, oils, and detergents. All these materials may enter waste streams during production.

Water use within the metal finishing industry is discussed fully in Section V of the development document (see summary above). Plating and cleaning operations are typically the biggest water users. While most metal finishing operations use water, some may use none at all. Water use depends heavily on the type—and the flow rate—of the rinsing used. Product quality requirements often dictate the amount of rinsing needed for specific parts. Parts involving extensive surface preparation will generally require larger amounts of water in rinsing.

III. Scope of this Rulemaking

This regulation establishes Part 433 BPT, BAT, NSPS, PSES, and PSNS for the Metal Finishing Point Source Category and amends Part 413 PSES for the Electroplating Point Source Category. The BAT goal is to achieve, by July 1, 1984, the best available technology economically achievable that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. This regulation does not alter the existing metal and cyanide standards for job shop electroplaters and printed circuit board manufacturers discharging to POTWs.

EPA first studied the electroplating/metal finishing industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water use, wastewater constituents, or other factors required separate effluent limitations and standards for different industry subcategories. This study involved a detailed analysis of wastewater discharge and treated effluent characteristics, including, (a) the sources and volume of water, the processes, and the sources of pollutants and wastewater in the plant and (b) the constituents of wastewaters, including toxic pollutants. This analysis enabled the Agency to determine the presence and concentrations of toxic pollutants on the major wastewater discharges.

EPA also identified several distinct control and treatment technologies (both in-plant and end-of-pipe), including those with potential use in the electroplating/metal finishing industry. The Agency analyzed both historical and newly generated data on the performance of these technologies, including their non-water quality environmental impacts on air quality, solid waste generation, water scarcity, and energy requirements.

Cost curves were used to estimate the cost of each control and treatment technology. These cost curves were developed by applying standard engineering analyses to metal finishing wastewater characteristics. Unit process costs were than derived by applying model plant characteristics (production and flow) to the unit cost curve of each treatment process. These unit process costs were added together to yield the total cost at each treatment level.

By considering these factors, EPA was able to characterize the various control and treatment technologies used as the bases for effluent limitations, new source and pretreatment standards. However, the regulations do not require any particular technology. Rather, they require plants to achieve effluent limitations (mg/1) which reflect the proper operation of these technologies or equivalent technologies. Some facilities are already successfully using technologies other than those relied on by the Agency, such as dragout control, recycle, and recovery, to achieve these values.

IV. Data Gathering Efforts

To develop the regulation, EPA began with a review of previous work on the electroplating/metal finishing industry. The major source of information on this is the *Draft Development Document for Effluent Limitations and Standards for the Metal Finishing Point Source Category* (June 1980). Several studies completed before this development document was published also contributed technical information to the metal finishing data base for the following segments of the industry:

- Machinery and Mechanical Products Manufacturing.
- Electroplating.
- Electroless Plating and Printed Circuit Board Manufacturing (Segments of the Electroplating Category).
- Mechanical and Electrical Products.

We also gathered data on the metal finishing industry from literature surveys, inquiries to professional contacts, seminars and meetings, and the survey and evaluation of manufacturing facilities.

We contacted all Federal EPA regions, several State environmental agencies, and numerous suppliers and manufacturers for the metal finishing industry to collect information on: (1) Permits and monitoring data, (2) the use and properties of materials, (3) process chemical constituents, (4) waste treatment equipment, (5) waste transport, (6) and various process modifications to minimize pollutant generation.

Under the authority of Section 308 of the Clean Water Act, the Agency sent three different data collection portfolios (DCPs) to various industries within the Metal Finishing Point Source Category. The first DCP obtained data from 339 of 1,422 plants originally contacted from the machinery and mechanical products industry. The data included general plant information on raw materials consumed, specific processes used, composition of effluent streams, and wastewater treatment. The second DCP obtained data from 365 of the 900 plants originally contacted in the mechanical and electrical products industries. These data covered general plant characteristics, unit operations performed, plating type operations, wastewater treatment facilities, and waste transport. We sent the third DCP to 1,883 companies involved in electroplating. Approximately 1190 plants sent back economic analysis data and information on general plant characteristics, production history, manufacturing processes, process and waste treatment, wastewater characteristics, and treatment costs.

EPA and its contractors also visited 210 manufacturing facilities to collect wastewater samples and pertinent technical information on manufacturing processes and various treatment techniques.

V. Sampling and Analytical Program

EPA focused its sampling and analysis on the toxic pollutants designated in the Clean Water Act. However, we also sampled and analyzed conventional and nonconventional pollutants. Prior to undertaking sampling programs in support of rulemaking actions, EPA had to identify specific toxic pollutants that would be appropriate subjects for investigation. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific compounds, the analyses of which could overwhelm private and government laboratory resources. To make the task more manageable, therefore, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for

choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

In addition to the original 129 toxic pollutants (of which three are now considered nonconventional pollutants), EPA checked for the presence, frequency, and concentration of xylenes, alkyl epoxides, gold, fluoride, phosphorus, oil and grease, TSS, pH, aluminum, barium, iridium, magnesium, molybdenum, osmium, palladium, platinum, rhodium, ruthenium, sodium, tin, titanium, vanadium, yttrium, and total phenols.

The criteria used to select plants for sampling visits were: (1) A large percentage of the plant's effluent discharge should result from the manufacturing processes listed in Appendix C; (2) the physical layout of plant plumbing should facilitate sampling of the wastewater type under study; (3) the plant must have waste treatment in place; (4) the mix of plants visited should contain discharges to both surface waters and publicaly owned treatment works; and (5) the selected plants should provide a representative geographical distribution to avoid a data base that concentrates on a unique geographical condition. EPA sampled 210 facilities to identify pollutants in plant wastewaters. Before visiting a plant, EPA reviewed all available data on manufacturing processes and waste treatment. We selected representative points at which to sample the raw wastewater entering the treatment systems and the final treated effluents. Finally, we prepared, reviewed, and approved a detailed sampling plan showing the selected sample points and the overall sampling procedure.

Based on this sampling plan, we then took samples at each sample point for 1, 2 or 3 consecutive days. The samples were divided into two analytical groups. Within each group the samples were subjected to various analyses, depending on the stability of the pollutants to be analyzed. The various levels of analysis were conducted at: (1) Local laboratories, (2) EPA's Chicago laboratory, (3) contracted gas chromatography/mass spectrometry (GC/MS) laboratories, and (4) the sampling contractor's central laboratory. The sampling and analysis methods are outlined in the Development Document.

The acquisition, preservation, and analysis of the water samples followed the relevant methods set forth in 40 CFR 136. Although the Agency has not promulgated analytical methods for many organic toxic pollutants under Section 304(h) of the Act, a number of these methods have been proposed for 40 CFR 136 (44 FR 69464, December 3, 1979; 44 FR 75028, December 18, 1979).

VI. Industry Subcategorization

In developing this regulation, the Agency considered whether different effluent limitations and standards are appropriate for different segments of the metal finishing industry. The Act requires EPA to consider a number of factors to determine if subcategorization is needed. These factors include raw materials, final products, manufacturing processes, geographical location, plant size and age, wastewater characteristics, non-water-quality environmental impacts, treatment costs, energy costs, and solid waste generation.

The metal finishing industry comprises 45 unit operations. These processes generate wastewater that falls into five waste groups, each requiring different treatment to reduce the discharge of pollutants. The five groups are metals, cyanide, hexavalent chromium, oils, and solvents, with significant toxic organics pollutants potentially present in the last two.

These wastes occur in a wide variety of combinations. Throughout the industry, however the wastestreams are alike in one critical sense; they all respond similarly to the treatment system which is already most widely used in the industry. That system was selected as EPA's model technology. Its major components, i.e., precipitation and clarification, are used for all waste streams. After isolated treatment of hexavalent chromium, cyanide, and oil and grease, pollutants in these waste streams are further reduced by passage through the precipitation-clarification system which is also used for metal-bearing wastes.

The Agency has determined that the Metal Finishing Point Source Category need not be subcategorized for regulation. A set of concentration based limitations, based on the performance capabilities of the model technology, can be applied to all metal finishing process effluents.

EPA has, however decided to exempt indirect discharging job shops and independent printed circuit board manufacturers from the Part 433 PSES. This has an effect similar to placing them in a separate subcategory. As noted above, this is consistent with the 1980 Settlement Agreement in which the National Association of Metal Finishers promised to withdraw its legal challenge to those Part 413 PSES if EPA did not, for the next several years, make them significantly more stringent.

The Agency considered, but decided against production based standard. With the wide range of operations, product quality requirements, existing process configurations, and difficulties in measuring production, no consistent production normalizing relationship could be found. Concentration based limits, however, can be consistently attained throughout the industry.

VII. Available Wastewater Control and Treatment Technology

A. Status of In-Place Technology

Installed control and treatment technologies in the metal finishing industry generally consist of some form of alkaline precipitation and clarification installed at "end-of-pipe" to remove metals. When cyanide or hexavalent chromium wastes are present, these wastewaters are generally segregated and treated upstream.

B. Control Treatment Options

We examined the following control treatment options:

Option 1: Precipitation and clarification. Stream segregation for cyanide, hexavalent chromium and concentrated oily wastes followed by cyanide destruction, chromium reduction and emulsion breaking skimming as necessary. Solvent waste segregation and removal by hauling.

Option 2: Option 1 plus filtration.

Option 3: Option 1 plus in-plant control for cadmium.

VIII. General Criteria for Effluent Limitations

A. BPT Effluent Limitations

The factors considered in defining best practicable control technolgy currently available (BPT) include: (1) The total cost of applying the technology relative to the effluent reductions that result, (2) the age of equipment and facilities involved, (3) the processes used, (4) engineering aspects of the control technology, (5) process changes, (6) non-water-quality environmental impacts (including energy requirements), (7) and other factors, as the Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants within the industry of various ages, sizes, processes, or other common characteristics. When existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. BPT focuses on

end-of-pipe treatment rather than process changes or internal controls, except when these technologies are common industry practice.

The cost/benefit inquiry for BPT is a limited balancing of costs versus benefits, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See e.g., *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir. 1975). In balancing costs against the benefits of effluent reduction, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required level of pollution control. The Act does not require or permit consideration of water quality problems attributable to particular point sources, or water quality improvements in particular bodies of water. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978).

B. BAT Effluent Limitations

The factors considered in defining best available technology economically achievable (BAT) include the age of the equipment and facilities involved, the processes used, engineering aspects of the control technology, process changes, non-water-quality environmental impacts (including energy requirements), and the costs of applying such technology (Section 304(b)(2)(B)). The BAT level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. As with BPT, uniformly inadequate performance within a category or subcategory may require transfer of BAT from a different subcategory or category. Unlike BPT, however, BAT may include process changes or internal controls, even when these technologies are not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle*, *supra*). In developing BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary factor for determining BAT is the effluent reduction capability of the control technology. The Clean Water Act of 1977, establishes the achievement of BAT as the principal national means of controlling toxic water pollution from direct discharging plants.

C. BCT Effluent Limitations

The 1977 amendments added Section 301(b)(2)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Section 304(B)(4) specified the following as conventional pollutants: BOD, TSS, fecal coliform, and pH. The Administrator designated oil and grease as "conventional" on July 30, 1979, 44 FR 44501.

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F. 2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979, (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required).

BCT limitations for this industry were proposed on October 29, 1982 (47 FR 49176). They were accompanied by a proposed methodology for the general development of BCT limitations. BCT limits for this industry will be promulgated with, or soon after, the promulgation of the final methodology for BCT development. At that time EPA will respond to relevant comments filed in either that rulemaking or in this one.

D. New Source Performance Standards

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient metal finishing processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

E. Pretreatment Standards for Existing Sources

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which industry must achieve within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTW's.

The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. The General Pretreatment Regulations which serve as the framework for the final metal finishing pretreatment standards are in 40 CFR Part 403, 46 FR 9404 (January 28, 1981).

EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removal by the BAT model treatment system. A study of 40 well-operated POTW's with biological treatment and meeting secondary treatment criteria showed that regulated metals are typically removed at rates varying from 20 to 70%. POTWs with only primary treatment have even lower rates of removal. In contrast, BAT level treatment by metal finishing industrial facilities can achieve removals of approximately 97% or more. Thus it is evident that metals from this industry do pass through POTW's. As for toxic organics, data from the same POTWs illustrate a wide range of removal, from 0 to greater than 99%. Overall POTW's have removal rates of toxic organics which are less effective than the metal finishing TTO technology basis of no dumping of toxic organic wastes. The POTW's effluent discharge of specific toxic pollutants ranged from 0 to 4.3 milligrams/liter. Many of the pollutants present in metal finishing wastes, at sufficiently high concentrations, can inhibit biodegradation in POTW operations. In addition, a high concentration of toxic pollutants in the sludge can limit POTW use of sludge management alternatives, including the beneficial use of sludges on agricultural lands.

Section 307 of the Clean Water Act provides that POTW's may grant credit to indirect dischargers, based on the degree of removal actually achieved at the POTW. EPA has General Pretreatment Regulations regulating POTWs' authority to grant such credits.

A Federal Register notice of September 28, 1982 explained EPA's latest data and proposed national removal credits for well operated POTW's achieving the national secondary treatment limits. See 47 FR 42698. That proposal is not being relied on in this rulemaking; however if such credits are available the costs of today's standards could be sustantially reduced.

F. Pretreatment Standards for New Sources

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. These standards are intended to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with a POTW. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies—including process changes, in-plant controls, and end-of-pipe treatment technologies—and to select plant sites that ensure the treatment system can be adequately installed. Therefore, the Agency sets PSNS after considering the same criteria considered for NSPS. PSNS will have effluent reduction benefits similar to NSPS.

IX. Summary of Final Regulations

In the electroplating/metal finishing industry, the pollutants of concern are cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide, toxic organics, TSS, oil and grease, and pH. The treatment option selected for each effluent limitation, pretreatment standard and new source performance standard is based on the criteria specified in the Clean Water Act. The technologies are discussed in more detail in the Development Document for this rulemaking.

A. Part 433

The pollutants being regulated under BPT limitations are cadmium, copper, chromium, nickel, lead, silver, zinc, total cyanide, TSS, oil and grease and pH. Total toxic organics (TTO) is also being regulated. Compliance with the TTO limit basically involves not dumping concentrated toxic organic wastes, e.g., solvent degreasers and paint strippers. Other sources are generally small, infrequent, and of low concentrations.

For BPT, EPA is setting limits achievable by technology based on precipitation and clarification for all metal finishing effluents. In addition, for cyanide or hexavalent chromium the technology basis incorporates techniques to destroy cyanide and reduce hexavalent chromium to its trivalent state. These effluent limitations reflect the average of the best existing control technologies widely used in the industry and remove approximately 97.6 percent of the raw waste of toxic metals and cyanide, and 99 percent of the toxic organics discharged. The technology is consistent with that used as a basis for PSES for the electroplating industry (January 28, 1981, 40 FR 9462) and the March 28, 1974, suspended, BPT limitations. The limitations are derived in the manner discussed in the following section. They are generally more stringent than those found in currently effective electroplating pretreatment regulations, because EPA is now using a revised and updated data base.

For BAT, EPA is establishing limitations for the toxic pollutants and at a level equivalent to BPT. The Agency seriously considered setting BAT and BAT-level PSES limitations based on BPT level technology plus filtration. Filtration would have led to an additional capital cost of almost $1.2 billion. In light of the statutory mandate to consider cost in setting BAT, EPA decided to reject the filtration option, because of its very high aggregate cost on a nationwide basis. We did not select in-plant cadmium control because it can require significant re-engineering of process water flow and of product and equipment handling, on a plant-by-plant basis. The changes vary widely and in many cases could be difficult for existing plants to apply. The compliance date for BAT is no later than July 1, 1984, the maximum time allowed by the Act.

For NSPS, EPA is establishing limitations based on BPT/BAT technology plus in-plant control of cadmium. This additional control takes advantage of a new plant's ability to achieve effluent reductions of 69% beyond BAT cadmium levels. The pollutants regulated under NSPS are the same as those regulated under BPT limitations.

For PSES in the Metal Finishing Category, limitations are based on technology equivalent to BAT and BPT. The pollutants regulated under this PSES are the same as the toxic pollutants regulated under BPT (BAT) limitations. A study of 40 well-operated POTWs with biological treatment and meeting secondary treatment criteria showed that regulated metals and cyanide are typically removed at rates varying from 20 to 70%. POTWs with primary treatment have even lower rates of removal. In contrast, metal finishing PSES-level treatment can achieve removals of approximately 97%. Thus it is evident that metals and cyanide from this industry do pass through POTWs. As for toxic organics, data from the same POTWs illustrates a wide range of removal, from 0% to greater than 99%. Overall POTWs have removal rates of toxic organics which are less effective than the metal finishing TTO technology basis of no dumping of toxic organic wastes. The POTWs effluent discharge of specific toxic pollutants ranged from 0 to 4.3 mg/l. Many of the pollutants present in metal finishing wastes at sufficiently high concentrations can inhibit biodegradation in POTW operations. In addition, a high concentration of toxic pollutants in the sludge can limit POTW use of sludge management alternatives, including the beneficial use of sludges on agricultural lands.

The compliance date for the metal finishing PSES is February 15, 1986 for metals, cyanide, and TTO. Agency analysis indicates that facilities can plan, design, and install the necessary equipment in 31 months, which will be allowed by the specified compliance date. There is also a June 30, 1984 compliance date for an interim toxic organic limit, which can be met by in-house management and handling controls.

For PSNS, limitations are based on technology equivalent to NSPS. The pollutants regulated under PSNS are the same as the toxics regulated under NSPS. As with PSES, these pollutants are necessary for control in PSNS to prevent pass through, interference, and sludge contamination.

B. Part 413

Indirect discharging job shops and independent printed circuit board manufacturers will continue to be regulated under the existing PSES for Electroplating. This is consistent with a 1980 Settlement Agreement in which the National Association of Metal Finishers and the Institute for Interconnecting and Packaging Electronic Circuits agreed not to challenge the Part 413 pretreatment standards for existing source electroplaters, in return for the 1981 amendments and an EPA commitment that, in light of their economic vulnerability, EPA did not plan to develop significantly more stringent standards for those plants for the next several years.

Control of toxic organics is being added to the requirements for facilities under the Electroplating PSES. Examination of the technology requirements, costs, economic impact, and timing indicates that requiring control of toxic organics is consistent with the Settlement Agreement.

First, it will not increase the economic vulnerability of job shops or independent printed circuit board manufacturers. Compliance with the toxic organic standards can be achieved by good management practices (i.e., not dumping waste solvents into the wastewaters). No additional end-of-pipe technology (beyond that already required by Part 413) is necessary. Economic analyses reveal that control of toxic organics does not impose significant additional costs or impacts.

Second, these facilities are being allowed 3 years to comply with the toxic organic standard. Thus, even if control of TTO were considered "more stringent", the time allowed for compliance will amount to 6 years from the date of the Settlement Agreement. That fulfills the Agency's obligation not to develop more stringent standards for these facilities in the next several years.

X. Derivation of the Limitations

EPA began development of these standards by building on the information obtained in developing the Electroplating Pretreatment Standards. For Metal Finishing, 2783 companies were contacted as part of two surveys (one of 1190 plants and the other of 365 plants) and 1555 useable questionaire responses were obtained. The Agency also selected 322 plants for visits and/or obtained long term self-monitoring data on them.

The data gathering effort was the basis for the Agency's first two critical determinations. First, pursuant to Section 307(b) of the Act, EPA identified those pollutants that would pass through or interfere with a POTW, or its sludge. Second, EPA discovered that a basic and "classic" pollution control technology was widely practiced in the industry. The system is designed to remove toxic metals from raw wastestreams and it has two principal components—precipitation and clarification. Of 1190 surveyed plants, 689 reported treatment present, of these, 426 facilities practiced the precipitation of metals through pH adjustment of wastewater.

EPA then analyzed the data to discover what those classic and commonly used treatment devices could achieve. For each regulated pollutant EPA looked for two key figures: The average concentration that properly operated technology would achieve over time, and the variability from that average that would be inevitable even at well-operated plants.

To find long-term concentration averages, EPA examined its file of 322 plants which had been visited and/or had sent long-term self-monitoring data to EPA. Of these plants EPA had sampled 72 with precipitation and clarification. After deletions for improper treatment, dilution, and low raw waste concentrations, 30 plants (sampled by EPA from 1 to 6 days) were used for developing the long-term concentration averages. For these plants, EPA had obtained detailed information on treated and untreated (raw) wastewater characteristics.

For most pollutants the average of this data was used for the long term average. EPA sampled data for cadmium and lead appeared too low to represent the range of raw wastes in the industry. For these parameters EPA used available self-monitoring data to calculate the long-term average. Although the Agency has less information on which to judge the adequacy of treatment in the self-monitoring data, these higher values were used by the Agency to compensate for the relatively low raw waste cadmium and lead at EPA sampled plants. The average of the self-monitoring data for lead and cadmium was used for the long-term average.

The regulations specify daily and monthly average maximums. Thus, the limits are developed from the Agency assessment of long term concentration averages multiplied by variability factors. If a plant intends to consistently comply with the regulatory limit it should use the long term concentration average as the basis for design and operation. The following long-term concentration averages were found to be attainable by the technology EPA assessed, and were costed in this rulemaking. They are presented here as guidance to dischargers and control authorities:

Long Term Concentration Averages

Pollutant of pollutant property	Long term concentration average milligrams per liter (mg/l)
Cadmium (T)	0.13
Chromium (T)	0.572
Copper (T)	0.815
Lead (T)	0.20
Nickel (T)	0.942
Silver (T)	0.096
Zinc (T)	0.549
Cyanide (T)	0.18
Cyanide, A	0.06
Oil & Grease	11.8
TSS	11.16.8
TTO (raw waste)	1.08
TTO (effluent)	0.434

Variability factors were determined by looking at variations that have occurred in the past. This requires multiple observations at single treatment systems. The self-monitoring data collected by EPA provided approximately 12,000 self-reporting observations which were used to derive variability factors. The variability factors were derived by estimating 99th percentiles based on a lognormal distribution, and then dividing those numbers by the average. These Part 433 metal finishing standards are based on the variability expected for one-day and one-month time periods. The monthly variability factors were derived assuming the monthly average was comprised of ten daily observations.

Finally, the Agency multiplied the resulting variability factor by the expected long-term concentration averages. The results were effluent concentration limits based on actual observations of well-operated plants which allowed for the variability observed at all types of reporting facilities. EPA has assessed the cost of this regulation on the assumption that plants design and operate to meet these long term concentration averages. The final limits represent limits which a well-designed and operated plant should meet approximately 99% of the time. If a plant designs and operates its treatment system to achieve the long-term concentration average and reasonable control fluctuations, then it should have very little expectation of exceeding the promulgated limit for each sampling of the discharge.

XI. Changes From the Proposed Limits

As previously stated the limitations are derived using long-term averages and variability factors. Both of these items underwent some changes between proposal and promulgation.

With regard to long-term concentration averages only slight changes were made. Additional data were added to the data base for lead and zinc, and one plant's data for cadmium were excluded due to complexing problems. The long-term concentration average for lead changed

from 0.17 to 0.20 mg/1, zinc changed from 0.582 to 0.549 mg/1, and cadmium changed from 0.19 to 0.13 mg/1.

The derivation of the proposed TTO limit did not distinguish differences between plants. Comments suggested that plants with certain processes should be allowed a higher limit. EPA in response, examined grouping of plants by sources of TTO; e.g. those that perform solvent degreasing, and/or painting. Plants which performed both solvent degreasing *and* painting had higher raw waste TTO than any other process group. The final TTO limit is based on that process grouping, which is a conservative assumption since it had the highest background concentration. Furthermore, EPA is now promulgating two TTO limits for plants covered by Part 433. The first is based solely on background levels found prior to end-of-pipe treatment. It must be met by June 30, 1984, except that plants covered by Part 420 (iron and steel) need not meet it until July 10, 1985. The second TTO limit is based on effluent data and takes into account the additional removals achieved by end-of-pipe treatment. This second limit must be met by February 15, 1986. Most facilities should be able to meet this limit after installing end-of-pipe treatment to meet the electroplating PSES of Part 413. However Part 433 allows the period until February 15, 1986 in case additional process streams present special compliance problems.

For PSES, job shops and independent printed circuit board manufacturers are regulated only under Part 413. They will have until July 15, 1986 to comply with TTO. Thus "several years" will have followed the Settlement Agreement of 1980.

In calculating variability factors, changes were made to both the daily maximum variability and thirty day variability. First, the daily maximum variability was calculated in the proposal by using lognormal statistics for plants with less than 100 sampling days and a nonparametric procedure for plants reporting 100 or more observations. For the final regulation the Agency found that the larger data sets had a good fit to the lognormal distribution. Thus the Agency is using the lognormal procedure for all data sets. Second, 30 day limits based on the average of 30 samples have been replaced with a monthly average based on 10 samples per reporting period. This is consistent with other recent Effluent Guidelines for similar industrial categories.

In addition, the Agency responded to comments that the statistical methodology used in proposal did not predict percent exceedances of the 30 day limits consistently with the 99% criterion used to derive the limits. The main reason for this was that day to day dependence in the data was not accounted for in deriving the proposed limits. In deriving the 10 sample monthly limits, the Agency examined data dependence in three ways. First, by fitting the data to a statistical time series model; second, by incorporating direct computations of auto-correlations into derivations of the limits; and third, by fitting observed sequences of 10 day averages to a lognormal distribution. The final monthly limits were determined by fitting observed sequences of 10 day averages to a lognormal distribution because this provided the most satisfactory fit to the data. The general effect of these statistical changes was to raise some limits.

Another change is that an alternative amenable cyanide limit is made available to facilities with significant forms of cyanide (i.e., iron cyanides) not controllable by the technology basis.

XII. Pollutants and Subcategories not Regulated

Paragraph 8 of the Settlement Agreement contains provisions authorizing EPA to exclude toxic pollutants and industry categories and subcategories from regulation under certain circumstances.

A. Exclusion of Toxic Pollutants

Paragraph 8 (a) (iii) of the Settlement Agreement authorizes the Administrator to exclude from regulation toxic pollutants:

- Not detectable by Section 304(h) analytical methods or other state-of-the-art methods; or
- Present in amounts too small to be effectively reduced by available technologies; or
- Present only in trace amounts and neither causing nor likely to cause toxic effects; or
- Detected in the effluent from only a small number of sources within a subcategory and uniquely related to those sources; or
- That will be effectively controlled by technologies on which other effluent limitations and standards are based.

Appendix B to this notice indicates the reason for the exclusion of each toxic pollutant excluded from regulation on the basis of the paragraph 8 criteria.

B. Exclusion of Subcategories

In selecting effluent limitations for the Metal Finishing category as a whole, EPA has not established subcategories and, therefore, has not excluded any subcategories from toxic pollutant regulation. However, as discussed above, job shops and IPCBMs which are existing indirect dischargers remain subject to the less stringent Part 413 requirements.

XIII. Costs, Effluent Reduction Benefits, and Economic Impact

A. Cost and Economic Impacts

The economic impact assessment of this regulation is presented in *Economic Impact Analysis of Effluent Standards and Limitations for the Metal Finishing Industry*. The analysis details the investment and annual costs that the industry will incur as a result of this regulation. The report assesses the impact of effluent control costs in terms of plant closures, unemployment effects, and increases in the costs of production.

Since proposal, the economic impact analysis has been revised to reflect changes warranted on the basis of comments received and as a result of continued EPA review. Monitoring and compliance costs associated with the control of the regulated pollutants have been estimated for each industry sector and are presented below. Also, the economic analysis has been revised to reflect a current nominal cost of capital of 13 percent versus the 10 percent originally used. In addition, the Economic Analysis was revised to more clearly present supporting data from elsewhere in the record. Finally, the indirect discharging captive facilities with flows less than 10,000 gallons per day have been included in the analysis. Costs and impacts for this group are presented separately below. This industry group was inadvertently omitted from the earlier economic impact analysis.

In order to measure the potential economic impact, EPA reviewed its incremental effect on each of the sectors of the industry (described above in the "Overview of the Industry," and Table 1). These impacts are presented separately below for direct and indirect discharging facilities by job shop, independent printed circuit board shop and captive shop facilities. The incremental combined investment and annual costs, which include interest and depreciation, for all metal finishing facilities incurring costs are $351 million and $118 million respectively. These costs are in 1982 dollars, as are those presented below. No plant closures or employment effects are projected. Increases in the cost of production average 0.02 percent. If all 10,409 facilities using end-of-pipe treatment technologies are required by the

municipalities and permit writers to monitor 10 days per month, the total annual costs increase by $61 million from $118 million to $179 million. No closures or employments effects are projected to result from this level of monitoring; the average increase in cost of production would be 0.03 percent versus the 0.02 percent presented above. The Agency has determined that this regulation would be economically achievable even if all facilities are required to monitor 10 days a month. No measureable balance of trade effect is expected from this regulation due to the estimated small change in the price of metal finishing products.

BPT

Direct discharging facilities are not expected to incur costs to comply with the metals and cyanide limitations because these facilities are already covered by NPDES permits which set BPT limits on case-by-case best engineering judgments. A 1981 survey of randomly selected permits indicates that nearly all existing permits specify limits equivalent to, or more stringent than, those contained in this regulation.

Direct discharging facilities may incur costs to comply with the limitation on total toxic organics. EPA assessed TTO compliance costs on the assumption that all plants would incur baseline monitoring costs of $1,904 on a one time basis. EPA believes that almost all plants will then comply through the certification process. Nevertheless, EPA assumed that those facilities which currently dump would not be able to use the certification process and would incur annual compliance costs. (This same procedure was used for TTO compliance under PSES.) EPA has assumed that the annual BPT compliance costs could be $29,000 for job shops, $34,700 for independent printed circuit board manufacturers and $468,000 for captive shop facilities. These costs apply to 10 out of 365 direct discharging job shops, 12 out of 44 direct discharging independent printed circuit board manufacturers, and 162 out of 2,500 direct discharging captive shop facilities. Increases in the cost of production resulting from the control of TTO are not expected to exceed 0.9 percent. No closure or employment effects are projected for these sectors.

BAT

Since the BAT limitations are the same as the BPT limitations, there is no incremental cost or impact associated with compliance with the BAT limitations.

PSES

Indirect discharging job shop and independent printed circuit board facilities are expected to incur costs only to comply with the TTO limitation which is being added to the electroplating pretreatment standards in Part 413. This TTO limitation is included in the regulation because compliance will significantly reduce toxic organic pollution and will cause negligible economic impacts on these industry sectors. EPA is not imposing metals and cyanide limitations more stringent than those specified in the existing applicable pretreatment standards despite evidence that such limits can be reliably achieved by the technology that forms the basis of the current standards. This is consistent with a March 1980 Settlement Agreement in which the relevant trade associations agreed not to challenge the Part 413 pretreatment standards for existing source electroplaters.

Approximately 77 of an estimated 2,734 indirect discharging job shops and 88 of the 327 indirect independent printed circuit board manufacturers are assumed to incur costs to comply with the TTO standard. Annual costs of $222,500 and $254,300 respectively are projected for the two sectors. The average annual cost per facility to comply with the TTO limitations is approximately $2900, primarily for sampling and analysis. No closures or employment effects are projected for these sectors. Production cost increases are expected not to exceed 0.03 percent for the two sectors.

Non-integrated indirect discharging captive facilities with effluent flows greater then 10,000 gallons per day are assumed to incur additional costs to comply with the TTO standard. Control of metals and cyanide can be achieved through capital investment already required by currently effective electroplating regulations. Although the metals and cyanide standards promulgated today are more stringent than those in the currently effective electroplating regulations, they can be met through use of the same pollution control equipment relied on to meet the electroplating pretreatment standards. The $167,600 of annual costs associated with control of TTO applies to 58 of the 900 nonintegrated captive indirect dischargers with flow greater than 10,000 gpd. No closure or divestitures are expected to occur.

Non-integrated indirect discharging captive facilities with flows less than 10,000 gallons per day will incur costs from both the metals and cyanide standards and the TTO standards. Unlike the prior group with flows greater than 10,000 gpd, this group was generally exempt from Part 413's precipitation/clarification based pretreatment standards. Their inclusion in the metal finishing standard could necessitate investments in both end-of-pipe and in-plant treatment technologies. The cost for these facilities to comply with the metals and cyanide standards totals $11.8 million annually. These costs apply to 912 out of an estimated 2850 nonintegrated indirect discharging captive facilities with flows less than 10,000 gpd. Data indicate that the remainder of these plants already have adequate treatment in place. The annual cost to comply with the TTO standard is $534,600; this applies to 185 facilities. The average increase in the cost of production is approximately one percent. No closure or employment impacts are projected.

Of the 3,750 facilities in the last industry sector, integrated indirect discharging captives, 1,200 may incur aggregate costs of $104 million annually to comply with the metals and cyanide standards and 243 of these facilities may incur costs of approximately $705,000 annually to comply with the TTO standard. Integrated shops perform metal finishing operations in addition to electroplating processes. Thus, they are affected by the existing electroplating standards as well as by today's regulation. EPA anticipates that the integrated facilities will comply with the metal finishing standards by treating their total process discharge through a single treatment system that would be more costly than the one required solely to treat electroplating wastewaters.

The costs indicated above reflect the additional costs of complying with the metal finishing standard; the electroplating costs were reviewed in an earlier regulation 40 CFR Part 413, 44 FR 52590, September 7, 1979 and they serve as the baseline for determining the impacts of the metal finishing regulation. To determine the baseline costs required to comply with the electroplating pretreatment standards, EPA first revised its earlier estimates, based on updated surveys of treatment in place, improved estimates of the population of affected captive shops, and calculated costs attributed to the electroplating flow of integrated captive indirect dischargers. The revised estimate (in 1982 dollars) indicates that this sector's costs for compliance with the electroplating pretreatment standards are $512 million in capital costs and $169 million in annual costs, including interest and depreciation. EPA now estimates that the major economic

effects of that regulation would be 24 plant closures and six electroplating divestitures which could result in 896 job losses and 84 job transfers.

In estimating the economic impact of today's metal finishing regulation, EPA assessed the costs of treating the additional flows covered by today's regulation at the model plants used in the electroplating analysis. The costs used in conducting the economic impact analysis reflect the cost of treating all process flows, expect for the six electroplating process streams specified in Part 413. To the extent these flows include processes not regulated under metal finishing, the costs and resulting impacts overstate the effect of the metal finishing regulation.

EPA's estimates of the effects of these regulations are based on a sample of approximately 1,100 plants. The results have been extrapolated to the full population of 3,750 plants in this sector. For each model plant the analysis determines the incremental increase in the costs of production to comply with the metal finishing standards. If a plant's compliance costs relative to sales are high, the analysis projects metal finishing process line divestitures or plant closures. Additional impacts, thus, are those due to today's metal finishing regulation only. Investment costs are expected to total approximately $351 million, while annual costs are projected to be approximately $118 million, including interest and depreciation. The annual costs represent approximately 0.20 percent of the $60 billion annual value of shipments from integrated indirect captive plants. EPA's analysis projects that this would lead to no plant closures or process line divestitures, and that no employment disruption would result. The TTO portion of these total annual costs shown above is approximately $705,000. TTO costs apply to 243 of the 3750 integrated indirect discharging captive facilities.

Finally, EPA assessed the combined impact of today's regulation and the electroplating pretreatment regulation on the captive integrated indirect discharging sector of the industry. This analysis, like those for electroplating and metal finishing alone, was based on costs for the treatment technology used for the development of the limitations. Some plants may receive removal credits or install less expensive technology. In addition, EPA has deferred the compliance date for integrated facilities, thereby allowing plants additional time to plan for compliance and not be subject to treatment costs. This analysis indicated that the combined investment for the captive integrated indirect discharging sector for both regulations was $827 million, with annual costs of $274 million, including interest and depreciation. Thirty plants (out of 3,750) might divest their electroplating lines or close, and 980 jobs (out of 450,000) could be lost or displaced. These impacts are the same as those due to the electroplating pretreatment standards alone. No additional closures, divestitures, or unemployment effects are expected from the more stringent standards promulgated today.

NSPS and PSNS

Finally, the requirements for new sources are the same as those for existing sources, except that cadmium must be controlled more stringently. The incremental cost of compliance with the cadmium control ranges from $14,000 to $24,000 per facility depending on the water flow. These costs represent between 0.02 and 2.0 percent of projected value of sales for these facilities. Since cadmium plating occurs at only about 15% of the facilities and in-plant controls can be designed into new facilities, there is expected to be no competitive disadvantage for new sources seeking to enter the industry.

Total Toxic Organics

EPA's economic analysis of the TTO limit had its own costing methodolgy. Its results were incorporated into the impact analyses for the other specified limits. EPA believes, however, that a certification procedure will make these costs unnecessary in almost all cases.

The Agency is offering the certification procedure as an alternative to self-monitoring because frequent monitoring for toxic organics could be expensive. Under the certification procedures facilities can identify the toxic organics used and certify that the resultant wastes are being properly disposed, i.e., recovered or contract hauled. The Agency expects that almost all plants will certify.

Some plants may still be required to monitor. However, estimating the number of facilities that may still be required to monitor TTO must be accomplished indirectly, because there is no history to indicate how control authorities will apply toxic organic requirements and certification alternatives to monitoring. The Agency examined two indicators of the need to require monitoring. The first was the percentage of plants that currently dump waste solvent degreasers. This percentage may approximate the population size that control authorities need to check. Only 24% of the captives use solvent degreasing, which is the primary source of potential toxic organic violations in these wastewaters. Comparable figures are 10.3% for job shops and 100% for printed circuit board manufacturers.

These wastes can profitably be recovered by the plant and some waste haulers, who pay for waste solvents, have been identified, and are cited in the public record. Approximately 73% of the facilities which utilize solvent degreasers, already properly dispose of this waste. However even the 27% of the population who now dump their solvents will probably stop that practice and be eligible for certification. In addition some of the solvent degreasers that these plants use do not contain any toxic organics. Other sources of toxic organics present at metal finishing plants may compensate for the Agency's conservative assessment on degreasing but this should not be significant since dumped solvent degreasers are clearly the single most significant source of TTO in wastewaters. Thus this approach leads to a conservative overestimation by the Agency.

The second approach was to examine the percentage of EPA sampled data which exceeded the TTO limit and to consider this as a measure of the fraction of facilities needing monitoring. This was 2.6 percent of the data (i.e., 97.4% of sampled data already complies with the TTO limit). The 2.6 percent exceedance rate of the TTO limit during EPA's sampling supports the need for certification and for control authorities to establish reasoned plant specific monitoring frequencies.

For purposes of economic analyses the number of facilities costed for TTO monitoring was estimated to be equivalent to the number of facilities currently dumping solvents. The economic impact analysis also performed two sensitivity analyses. The first was with a greater number of plants monitoring for TTO. The second assumed that plants monitored for TTO monthly instead of quarterly. Both changes led to only slightly different impacts. All scenarios were found to be acceptable and economically achievable.

Summary

The Agency concludes that the final regulation is economically achievable, and the impacts are justified in light of the effluent reductions achieved. The metal finishing regulation will remove an additional 20 million pounds per year of metals and cyanide and 10 million pounds per year of toxic organics.

B. Executive Order 12291

Under Executive Order 12291 the Agency must determine whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. Based on the Agency's estimates this regulation could have an annual effect on the economy of more than $100 million, making it a major regulation.

Executive Order 12291 does not require a Regulatory Impact Analysis where its consideration would conflict with the development of regulations pursuant to a court order, as with this metal finishing regulation. EPA has prepared, however, an analysis that contains many of the elements of a Regulatory Impact Analysis. A copy of the analysis can be obtained from Alec McBride, Monitoring and Data Support Division, WH-553, U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460.

C. Regulatory Flexibility Analysis

Pub. L. 96-354 requires that a Regulatory Flexibility Analysis be prepared for regulations that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with, or as part of, any other analysis conducted by the Agency.

A small business analysis is included in the economic impact analysis. This analysis shows that there will not be a significant impact on any segment of the industry, large or small. Therefore a formal Regulatory Flexibility Analysis was not required.

D. SBA Loans

The agency is continuing to encourage small plants—including circuit board manufacturers—to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) net assets less than $6 million, and (b) an average annual after-tax income of less than $2 million, and (c) fewer than 250 employees.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235-2902.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-backed debentures that are brought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382-5373.

XIV. Non-Water-Quality Environmental Impacts

The elimination or reduction of one form of pollution may aggravate other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water-quality environmental impacts (including energy requirements) of certain regulations. To comply, EPA considered the effect of this regulation on air, noise, radiation, and solid waste generation. While balancing pollution problems against each other and against energy use is difficult, EPA believes that the final regulation best serves overall national goals.

The following are the non-water-quality environmental impacts (including energy requirements) associated with today's regulation.

A. Air Pollution

Compliance with the BPT, BAT, NSPS, PSES, and PSNS will not create any substantial air pollution problems. Alkaline chlorination for cyanide destruction and chromium reduction using sulfur dioxide may produce some emissions to the atmosphere. Precipitation and clarification, the major portion of the technology basis, should not result in any air pollution problems. In addition, control of total toxic organics at the source will result in a decrease in the volatilization of solvents from streams and POTWs.

B. Noise

None of the wastewater treatment processes cause significant objectionable noise.

C. Radiation

None of the treatment processes pose any radiation hazards.

D. Solid Waste

EPA has considered the effect these regulations would have on the accumulation of hazardous waste, as defined under Section 3001 of the Resource Conservation and Recovery Act (RCRA). EPA estimates that the BPT and BAT limitations will not contribute to additional solid or hazardous wastes. However, PSES will increase the solid wastes from these plants by approximately 165,000 metric tons per year. This sludge can be hazardous because it will necessarily contain additional quantities (and concentrations) of toxic metal pollutants. Disposal of these wastes was costed as though they were hazardous.

EPA's Office of Solid Waste has analyzed the solid waste management and disposal costs required by the industry's compliance with RCRA requirements. Some results were published in 45 FR 33066 (May 19, 1980). In addition, RCRA costs have been included in the costs and economic impact analysis during the development of this regulation. However, since November 1980, EPA has received 196 petitions to delist wastes from metal finishing facilities. Seventy-seven have been granted, 104 are pending and 15 have been rejected. Thus it appears that the decision to cost all solid waste disposal as hazardous probably overstated likely costs. Furthermore, the Agency has not assessed the savings likely to occur because of reduced contamination of POTW sludges. Those savings are likely to be considerable.

E. Energy Requirements

EPA estimates that achieving the BPT and BAT effluent limitations will not increase electrical energy consumption.

The Agency estimates that PSES will increase electrical energy consumption by approximately 142 million kilowatt-hours per year. For a typical existing indirect discharger, this will increase energy consumption less than one percent of the total energy consumed for production.

The energy requirements for NSPS and PSNS are estimated to be similar to energy requirement for BAT. However, this can only be quantified in kwh/year after projections are made for new plant construction.

XV. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"). EPA may develop BMPs that apply to all industrial sites or to a designated industrial category, and may offer guidance to permit authorities in

establishing management practices required by unique circumstances at a given plant.

Although EPA is not prescribing them at this time, future BMPs could require dikes, curbs, or other measures to contain leaks and spills, and could require the treatment of toxic pollutants in these wastes.

XVI. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include provisions that authorize noncompliance during "upset" or "bypasses." An upset, sometimes called an "excursion," is unintentional noncompliance beyond the reasonable control of the permittee. EPA believes that upset provisions are necessary, because upsets will inevitably occur, even if the control equipment is properly operated. Because technology-based limitations can require only what technology can achieve, many claim that liability for upsets is improper. When confronted with this issue, courts have been divided on the questions of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir. April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).

Unlike an upset—which is an unintentional episode—a bypass is an intentional noncompliance to circumvent waste treatment facilities during an emergency.

EPA has both upset and bypass provisions in NPDES permits, and the NPDES regulations include upset and bypass permit provisions. See 40 CFR Part 122.41, 48 FR 14151, 14168 (April 1, 1983). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Since permittees in the metal finishing industry are entitled to the upset and bypass provisions in NPDES permits, this regulation need not repeat these provisions. Upset provisions are also contained in the general pretreatment regulation.

XVII. Variances and Modifications

Federal and State NPDES permits to direct dischargers must enforce these effluent standards. The pretreatment limitations apply directly to indirect dischargers.

The only exception to the BPT effluent limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train, supra; Weyerhaeuser Co.* v. *Costle, supra.* This variance recognizes characteristics of a particular discharger in the category regulated that are fundamentally different from the characteristics considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it need not be included in this regulation. See 40 CFR Part 125.30.

Dischargers subject to the BAT limitations are also eligible for EPA's "fundamentally different factors" variance. BAT limitations for nonconventional pollutants may be modified under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations and standards. See 43 FR 40859 (Sept. 13, 1978). These Part 413 and Part 433 regulations do not regulate any non-conventional, non-toxic, pollutants. If any of the regulated pollutants are declared non-toxic, and non-conventional in the future, then dischargers may seek 301(c) or 301(g) modifications.

Indirect dischargers subject to PSES are eligible for the "fundamentally different factors" variance and for credits for toxic pollutants removed by POTW. See 40 CFR 403.7; 403.13; 46 FR 9404 (January 28, 1981). Indirect dischargers subject to PSNS are only eligible for the credits provided for in 40 CFR 403.7. New sources subject to NSPS are not eligible for EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *E. I. duPont de Nemours* v. *Train, supra.*

XVIII. Implementation of Limitations and Standards

A. Relation to NPDES Permits.

The BPT, BAT, and NSPS in this regulation will be applied to individual metal finishing plants through NPDES permits issued by EPA or approved State agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of this regulation on NPDES permits, except when variances and modifications are expressly authorized. This section adds more detail on the relation between this regulation and NPDES permits.

EPA has developed the limitations and standards in this regulation to cover the typical facility for this point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on toxic pollutants that are not covered by this regulation. This regulation does not restrict the power of any permit-issuing authority to comply with law or any EPA regulation, guideline, or policy. For example, if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis, when such action conforms with the purposes of the Act. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permit-issuing authority *must* apply those limitations.

B. Indirect Dischargers

For indirect dischargers, PSES and PSNS are implemented under National Pretreatment Program procedures outlined in 40 CFR Part 403. The table below may be of assistance in resolving questions about the operation of that program. A brief explanation of some of the submissions indicated on the table follows:

A "request for category determination request" is a written request, submitted by an indirect discharger or its POTW, for a certification on whether the indirect discharger falls within a particular subcategory listed in a categorical pretreatment standard. This assists the indirect discharger in knowing just which PSES or PSNS limits it will be required to meet. See 40 CFR 403.6(a).

A "request for fundamentally different factors variance" is a mechanism by which a categorical pretreatment standard may be adjusted, making it more or less stringent, on a case-by-case basis. If an indirect discharger, a POTW, or any interested person believes that factors relating to specific indirect discharger are fundamentally different from those factors considered during development of the relevant categorical pretreatment standard and that the existence of those factors justifies a different discharge limit from that specified in the categorical standard, then they may submit a request to EPA for such a variance. See 40 CFR 403.13.

A "baseline monitoring report" is the first report an indirect discharger must file following promulgation of a standard applicable to it. The baseline report includes: an indentification of the indirect discharger; a description of its operations; a report on the flows of regulated streams and the results of sampling analyses to determine levels of regulated pollutants in those streams; a statement of the discharger's compliance or noncompliance with the standard; and a description of any additional steps required to achieve compliance. See 40 CFR 403.12(b)

A "report on compliance" is required of each indirect discharger within 90 days following the date for compliance with an applicable categorical pretreatment standard. The report must indicate the nature and concentration of all regulated pollutants in the facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance and/or pretreatment is necessary to achieve compliance. See 40 CFR 403.12(d)

A "periodic compliance report" is a report on continuing compliance with all applicable categorical pretreatment standards. It is submitted twice per year (June and December) by indirect dischargers subject to the standards. The report shall indicate the precise nature and concentrations of the regulated pollutants in its discharge to the POTW; the average and maximum daily flow rates of the facility; the methods used by the indirect discharger to sample and analyze the data, and a certification that these methods conformed to those methods outlined in the regulations. See 40 CFR 403.12(e)

TABLE 2.—INDIRECT DISCHARGERS SCHEDULE FOR SUBMITTAL AND COMPLIANCE

Item/event	Applicable sources	Date or time period	Measured from	Item submitted to
Request for category determination.	Existing	60 days	From effective date of standard.	Director [1]
		or 60 days	From FEDERAL REGISTER Development Document Availability.	
	New	Prior to commencement of discharge to POTW.		
Request for fundamentally different factors variance.	All	180 days	From effective date of standard.	Director [1]
		or 30 days	From final decision on category determination.	
Baseline monitoring report	All	180 days	From effective date of standard or final decision on category determination.	Control authority [2]
Report on compliance	Existing	90 days	From date for final compliance.	Control authority [2]
	New	90 days	From commencement of discharge to POTW.	
Periodic Compliance Reports	All	June and December		Control authority [2]

[1] Director = a) Chief Administrative Officer of a State water pollution control agency with an approved pretreatment program or b) EPA Regional Water Division Director, if State does not have an approved pretreatment program.
[2] Control Authority = a) POTW if its pretreatment program has been approved or b) Director of State water pollution control agency with an approved pretreatment program or c) EPA Regional Administrator, if State does not have an approved pretreatment program.

C. Applicability and Compliance Dates

In the electroplating/metal finishing industry some facilities are subject to the Electroplating Category (Part 413) and/or the Metal Finishing Category (Part 433). Table 3 below illustrates which of the regulations are applicable to the various types of facilities. Facilities are subject only to Part 433 (metal finishing) for BPT, BAT, NSPS, and PSNS. For PSES, facilities generally fall within the applicability of both Parts, although, for each pollutant, only one Part will apply at a given time. There are two exceptions: (1) Existing indirect discharging job shops and IPCBMs have been exempted from the Part 433 Metal Finishing PSES, and (2) metal finishing wastewaters at iron and steel mills are exempted from the Part 413 Electroplating PSES.

TABLE 3.—APPLICABILITY

	Job shops	IPCBM	Captives	Metal finishing at iron and steel mills [1]
PSES:				
Electroplating (Part 413)	x	x	x	
Metal Finishing (Part 433)			x	x
BPT, BAT, NSPS, PSNS:				
Metal Finishing	x	x	x	x

[1] Electroplating process wastewater at iron and steel mills was excluded from the Electroplating PSES by 40 CFR 413.01. Flows from the metal finishing processes at those plants are covered by 40 CFR 433.

The compliance dates for the two categories are presented in Table 4. BPT, BAT, PSNS, and NSPS compliance dates are specified by the Clean Water Act. The compliance dates for Electroplating PSES were set in the **Federal Register** on September 28, 1982. See 47 FR 42698. Today's regulation allows facilities 3 years to comply with the Electroplating PSES for toxic organics consistent with the Settlement Agreement with NAMF. For metal finishing, the Agency is allowing 31 months for compliance with all parameters. In addition an interim TTO limit has been established for compliance by June 30, 1984; except for metal finishing wastewaters from plants which are also subject to Part 420 (iron and steel), which must comply by July 10, 1985. This last exception is pursuant to a settlement agreement with the steel industry in which EPA agreed that pretreatment requirements would apply to steel discharges in July 1985. It is possible that control of TTO in metal finishing waste streams could, in some cases, lead steel facilities to install treatment technology on the discharge from their steel processes. Therefore, EPA has decided to allow plants covered by Part 420 until June, 1985 to comply with the TTO limit.

TABLE 4.—COMPLIANCE DATES

Regulation	Compliance date
Electroplating PSES for	April 27, 1984 (for nonintegrated plants).
Metals and Cyanide (Part 413).	June 30, 1984 (for integrated plants).
Electroplating PSES (Part 413) for TTO.[2]	July 15, 1986.
Metal Finishing BPT (Part 433).	As soon as possible.
Metal Finishing BAT	July 1, 1984.
Metal Finishing PSES for TTO.[1]	June 30, 1984 (except for plants covered by Part 420); July 10, 1985 (for plants covered by Part 420).
Metal Finishing PSES for Metals, Cyanide and TTO.[2]	February 15, 1986.
Metal Finishing NSPS and PSNS.	From commencement of discharge.

[1] For these facilities the first TTO limit is based on management practices only.
[2] This TTO limit is based on management practices followed by precipitation/clarification.

D. Enforcement

A final topic of concern is the operation of EPA's enforcement program. This was an important consideration in developing this regulation. EPA deliberately sought to avoid standards which would be exceeded by routine fluctuations of well-designed and operated treatment systems. These standards were developed so as to represent limits which such a plant would meet approximately 99% of the time.

The Clean Water Act is a strict liability statute. EPA emphasizes, however, that it can exercise discretion in deciding to initiate enforcement proceedings (*Sierra Club* v. *Train*, 557 F. 2d 485, 5th Cir., 1977). EPA has exercised, and intends to exercise, that discretion in a manner that recognizes and promotes good-faith compliance.

XIX. Summary of Public Participation

At the time of publication of the proposed metal finishing regulation (August 31, 1982), EPA solicited comments on the proposed rules and, in particular, on six specific issues. Ninety-one commenters responded to these and other issues relating to the electroplating and metal finishing standards. The following parties submitted comments:

Air Transport Association of America
Alpha Industries Inc.
The Aluminum Association Incorporated
American Airlines
American Foundrymen's Society
American Hot Dip Galvanizers
American Metal Stamping Association
Anerock Corporation
Anaconda Aluminum Company
Ansul Fire Protection
Apollo Metals, Inc.
American Telephone and Telegraph Company
Atwood
Babcock and Wilcox
Bausch and Lomb
California Metal Enameling Co.
Caterpillar Tractor Company
Charles A. Frawley
Chrysler Corp.
Control Data Corporation
County Sanitation Districts of Los Angeles County
Cumberland Corporation
D.A.B. Industries, Inc.
Deere and Company
Delta Airlines, Inc.
Department of the Air Force
Eaton Corporation
E. I. DuPont de Nemours and Co.
Eltech Systems Corp.
EMP Laboratories, Incorporated
EPA Region V
ERC-Lancy
Federal-Mogul Corporation
Ferro Corporation
Ford Motor Co.
General Electric Company
General Motors Corporation
Goodyear Aerospace Corporation
Goodyear Tire and Rubber Co.
Gould Electronics and Electrical Products
GTE Services Corporation
GWS Technology, Inc.
Harris Corporation
Harvey Hubbell Incorporated
Hofmann Industries Incorporated
Honeywell
Halogenated Solvent Industry Alliance
Huntington Alloys
Imperial Clevite, Inc.
Institute for Interconnecting and Packaging Electronic Circuits
ITT Telecommunications Corporation
Jenn-Air Corporation
Jayto Corporation
Kaiser Aluminum and Chemical Corporation
Masco Corporation
Manufacturing Association of Central New York
Maytag
Metal Finishing Association of Southern California
Metro Municipality of Metropolitan Seattle
Midland Ross Corporation
Milwaukee Metropolitan Sewerage District
3M Company
Mobay Chemical Corporation
Modine Manufacturing Company
National Association of Metal Finishers
National Electrical Manufacturers' Association
New York State Department of Environmental Conservation
Northern Telecom
Ozark Airlines
PCK Technology Division
PEC Industries
Pioneer Metal Finishing, Inc.
Porcelain Enamel Institute
Porcelain Metals Corporation
Praegitzer Industries Inc.
Raytheon Company
Republic Airlines
Rexnord
Reynolds Aluminum
Rockford Area Chambers of Commerce
R.R. Donnelley and Sons
Sanders Associates Inc.
Sanitary District of Rockford
Sperry Corporation
Square D Company
State of Connecticut Department of Environmental Protection
State of Vermont Agency of Environmental Conservation
State of Wisconsin Department of Natural Resources
United Airlines

Whirlpool Corporation
York Metal Finishing Co.

The major issues raised by commenters are addressed in this section. A summary of all comments received and of our responses is included in the public record for this regulation.

1. Comment: Many commenters objected to the certification language EPA proposed as an alternative to TTO Monitoring. One commenter pointed out that EPA had recently proposed new certification language for signatories to permit applications and reports (40 CFR 122.6) as part of a settlement agreement in the consolidated permits litigation. (*NRDC* v. *EPA*, and consolidated cases, No. 80–1607, D.C. Cir.) and suggested that EPA adopt that language here.

Response: EPA agrees that changes in the certification language are warranted. First, we believe it is appropriate to modify the proposed language to accord more closely with the certification language agreed to in the consolidated permits settlement agreement concerning 40 CFR § 122.22, formerly § 122.6, 47 FR 25548, 25553 (June 14, 1982). We do not see a significant enough difference between this regulation and § 122.22 to justify substantially different language. Thus, we have adapted the proposed settlement language with minor differences reflecting the particular nature of the TTO certification requirement. This language is substantially similar to that now available for the electrical and electronics industry (Phase I). *See* 48 *FR* 15382, April 8, 1983.

Second, we have amended the language to allow the discharger to certify that "no dumping of concentrated toxic organics into the wastewater has occurred since filing the last discharge monitoring report." The proposed language appeared to require the discharger to certify that he is in compliance with the limit; we recognize that it may be difficult to certify to this language in the absence of monitoring. Now, the discharger will be allowed to certify as to his toxic organic management practices. However, because the new wording is less precise (i.e., no "dumping of concentrated toxic organics") and because some commenters pointed to the need for more specificity about certification procedures, we are adding more explicit language requiring the discharger to describe his toxic organic management plan. The proposed language would have required the discharger to specify the toxic organic compounds used and the procedure used to prevent excessive wastewater discharge of toxic organics, whereas the final language requires the discharger to submit a toxic organic management plan that specifies to the permitting or control authority's satisfaction the toxic organic compounds used; the method of disposal used instead of dumping, such as resale, reclamation, contract hauling, or incineration; and procedures for assuring that toxic organics do not routinely spill or leak into the wastewater. The discharger must also certify that the facility is implementing the toxic organic management plan.

Finally, for direct dischargers, the solvent management plan will be incorporated as a condition of their NPDES permits. A similar requirement does not exist for indirect dischargers because under the Clean Water Act permits are not issued for them by the control authority. However, the pretreatment standard does require indirect dischargers to implement the plan which they submit to the control authority. Both these requirements reinforce the discharger's responsibility to implement his certification statement.

Addition of certification language is intended to reduce monitoring burdens. It does not in any way dimish the discharger's liability for noncompliance with the TTO limitation.

2. Comment: Several commenters questioned EPA's estimate of minimal costs for TTO control stating that signficant costs would be incurred from solvent disposal and from compliance monitoring. A number of commenters questioned the statement that costs for solvent disposal could be offset by reclamation of these wastes.

Response: The Agency recognizes that costs can be associated with proper solvent management and compliance monitoring. However, the Agency does not believe these costs will be significant for the majority of the facilities in the industry. 24% of the captives, 10.3% of the job shops and 100% of the printed circuit board facilities perform solvent degreasing. An estimated 73 percent of the facilities using solvent degreasing are already practicing proper disposal of these wastes and would, therefore, not be expected to incur additional costs to comply with the electroplating or metal finishing TTO limits. Facilities not presently practicing proper solvent management would need to implement practices such as contractor removal and/or reclamation.

Costs of proper solvent disposal can be offset by solvent reclamation. In response to comments, the Agency contacted representatives of national solvent reclamation associations. These representatives indicated that solvent reclamation is a widespread, readily available, and growing practice. In addition to the numerous plants with on-site reclamation facilities, it is estimated that more than 100 independent reclaimers are in operation throughout the country and that reclaimers will pay for spent solvents especially if the solvents are segregated and there is a market demand for the particular solvents.

The Agency recognizes that frequent monitoring for TTO can be expensive. The Agency has attempted to reduce the cost by establishing the certification alternative and by allowing monitoring, when necessary, to be limited to those toxic organics likely to be present in the wastewater of a plant. The Agency believes that almost all facilities will be able to certify in lieu of monitoring. However, in response to comments on the cost of compliance monitoring, the Agency has re-assessed its cost estimate to consider quarterly monitoring for TTO. This frequency is reflective of a common monitoring frequency required by control authorities. For the reasons explained in section IX, above, EPA believes that its economic analyses of the impacts of the TTO limit are conservative and fully state or overstate the likely actual economic impacts.

3. Comment: Some commenters pointed out that the new source limits for cadmium were not supported by historical performance data. However, no commenters submitted data on performance capabilities of new source technology.

Response: New source standards for cadmium are based on control technology which is designed to reduce cadmium in wastewater discharge from cadmium sources, e.g. cadmium plating, chromating of cadmium plated parts, and acid cleaning of cadmium plated parts. The new source standards for cadmium are based on the amounts of cadmium expected as a background level to be found in wastewaters from plants not involved with cadmium plating. The standards were determined from data on concentrations observed in untreated wastewater from metal finishing plants that do not plate cadmium. It represents the amount of cadmium present from incidental sources, when the principal cadmium sources are full controlled. The data consist of 61 observations from 27 plants. The data were divided into statistically homogeneous groups by plant. The average upon which the standards were based was taken from the group with the highest average cadmium concentration. Estimates of

variability used in determining the limits were obtained from the two highest groups. This was somewhat conservative, because precipitation/clarification systems should achieve significant further removals from these raw waste streams.

The Agency also checked the consistency of the limit with data from EPA sampled precipitation/clarification systems. These data indicated that the new source limit could be achieved alternatively by using precipitation/clarification, rather than total control of the principal cadmium source. This review included plants with cadmium raw wastes of from 0.012 to 1.88 mg/l. The Agency also reviewed the data base used to develop the cadmium limit to verify that it included all available data from non-cadmium plating plants. Prior to promulgation costs were also re-examined to include expenses for control of chromating and acid cleaning of cadmium plated parts, in addition to controlling cadmium plating which was assessed in the proposal.

4. Comment: Commenters suggested various averaging times as the basis for monthly limitations, including 4-day, 30-day, and "N" day averages.

Response: The Agency has evaluated the merits of the suggested alternatives and decided that an average of ten samples (obtained within a one-month period) would provide a reasonable basis for monthly limitations, minimizing the number of samples necessary.

Although it is not anticipated that a monitoring frequency of 10 times per month will always be required, the cost of this frequency of monitoring is presented in the economic impact analysis to the metal finishing regulation. That frequency was selected because if facilities sample 10 times per month they can expect a compliance rate of approximately 99 percent, if they are operating at the expected mean and variability. Plant personnel, in agreement with the control authority, may choose to take fewer samples if their treatment system achieves better long term concentrations or lower variability than the basis for the limits, or if plant personnel are willing to accept a statistical possibility of increased violations. The 10 sample monthly limit is consistent with other regulations and recent proposals for other metals industries, e.g., porcelain enameling, coil coating, batteries, copper, and aluminum forming.

The 4-day average is an inadequate measure of treatment system performance over extended periods. This basis was used for the electroplating rules only under the special circumstances of a Settlement Agreement.

The N-day average suggested by two commenters was considered by the Agency but was rejected as unnecessarily complex and likely to create confusion for both dischargers and control authorities.

5. Comment: Commenters disagreed on the desirability or need to rescind the electroplating regulations for captive electroplaters upon the compliance date of the metal finishing PSES.

Response: The Part 413 Electroplating PSES will no longer be applicable to captive electroplating when they must comply with the Metal Finishing PSES for metals and cyanide is reached. Captive electroplaters will then be regulated under the Part 433 Metal Finishing PSES. There is no need to maintain two sets of requirements for the same pollutants at the same plants. If, for some reason, Part 433 should become inapplicable, then Part 413 will apply to them.

6. Comment: The majority of commenters responding to the question of the PSES compliance date stated that March 30, 1984 would not provide sufficient time for compliance.

Response: To allow facilities sufficient time to install or upgrade the necessary treatment systems, the Agency is establishing the compliance date of the metal finishing PSES for metals and cyanide to be 31 months from the date of promulgation. This extension is based on an Agency study which showed that 31 months is required to plan, design, and install the recommended treatment technology.

This extension does not apply to compliance with the toxic organics limit, however. For Metal Finishing PSES, an interim TTO level must be achieved by June 30, 1984, based on no end-of-pipe treatment, and the final TTO limit based on end-of-pipe treatment must be achieved 31 months from the date of promulgation. For Electroplating PSES, the TTO compliance date is 3 years from promulgation of this rulemaking. That allows the job shop and IPCBM sectors the maximum allowable time for compliance under the Clean Water Act (CWA).

7. Comment: Commenters stated that the proposed lead limit was not achievable based on the technology recommended. Some argued that plants with high raw waste lead values were not adequately represented in the data base. One commenter submitted additional data.

Response: The Agency reviewed the lead data base to assure that all usable data from plants having a lead source were included. EPA did consider some additional self-monitoring data that were found to be applicable and excluded data from an originally-considered plant which was not adequately controlling wastewaters. The revised EPA data base was used to derive a final lead limit. The daily maximum for lead has been changed slightly from 0.67 mg/l to 0.69 mg/l. The Agency also examined data submitted during the comment period. These data were not included because of inadequate treatment design and/or operation. For example, TSS values as high as 119 mg/l were submitted, oil and grease was as high as 1395 mg/l and hexavalent chromium was as high as 1.21 mg/l. An examination of the possible effect of including the commenter's data for lead revealed that only a slight change in the limit would have occurred.

8. Comment: Some commenters suggested a small plant exemption from the Metal Finishing regulations, arguing that an exemption should be granted similar to that provided by Part 413 for plants discharging less than 10,000 gallons per day.

Response: Small indirect discharging facilities (<10,000 GPD discharge) were given less stringent requirements in the Electroplating Pretreatment Standards. Many of these facilities are job shops and for the reasons stated above will not be covered by the Part 433 requirements.

The Agency re-examined the effect of the Part 433 metal finishing regulations on small facilities, and, has determined that because job shops and IPCBMs are exempted from the metal finishing PSES there would be no significant economic impacts if the remainder were covered by the metal finishing standards. For indirect captives discharging less than 10,000 GPD, the investment cost would amount to $36 million with annual costs of $12 million. There are no estimated plant closure or divestitures. A small facility exemption is not warranted for the Metal Finishing regulation.

9. Comment: Some commenters stated that the addition of a TTO limit to the Electroplating PSES is a violation of the NAMF Settlement Agreement.

Response: Under the March 1980 Settlement Agreement the Agency agreed that:

> any further BAT analog standards will be based on treatment technology compatible with the model technology upon which these standards were based . . . . In developing BAT analog standards for the industry, EPA will take into account the cumulative impact of these "BPT" regulations in determining what is "economically achievable." * * * As to this segment of the metal finishing industry

that is economically vulnerable. EPA does not believe that more stringent regulations are now economically achievable. Therefore, EPA does not plan to develop more stringent new pretreament standards for the job shop metal finishing segment in the next several years. Nor does EPA plan to develop in the next several years more stringent standards for the independent printed circuit board segment where significant economic vulnerability also exists.

EPA is not imposing metals and cyanide limitations more stringent than those specified in the Part 413 existing applicable pretreatment standards, despite evidence that such limits can be reliably achieved by the technology that forms the basis of the current standards.

Indirect discharging job shop and independent printed circuit board facilities are expected to incur costs only to comply with the TTO limitation which is being added to the electroplating pretreatment standards in Part 413. This TTO limitation is included in the regulation because it will substantially reduce a significant toxic problem, while compliance will cause negligible economic impacts on these industry sectors. Compliance with the toxic organic standard can be achieved by good management practices (i.e., not dumping waste solvents into the wastewaters). No additional end-of-pipe technology (beyond that required for metals removed) is necessary.

Even under very conservative estimates only 77 of an estimated 2734 indirect discharging job shops and 88 of the 327 indirect independent printed circuit board manufacturers may incur costs to comply with the TTO standard. Total annual costs for all plants of $222,500 and $254,300 respectively are projected for the two sectors. The average annual cost per facility to comply with the TTO limitations is approximately $2900, primarily for sampling and analysis. No closures or employment effects are projected for these sectors. Production cost increases are expected not to exceed 0.03 percent for the two sectors.

The economic impact analysis also performed two sensitivity analyses: the first with a greater number of plants monitoring and, the second, with plants monitoring monthly instead of quarterly. Both changes led to only slightly different impacts. At most only one plant would be affected. All scenarios were found to be acceptable and economically achievable. Thus the TTO limits are not "more stringent standards" in the sense of the Settlement Agreement, which expressly tied "stringency" to "economic vulnerability".

Finally, the TTO limits need not be complied with before 1986. Thus, even if control of TTO were considered significantly more stringent the time allowed for compliance will amount to 6 years from the date of the Settlement Agreement. That fulfills the Agency's 1980 obligation not to develop significantly more stringent standards for those facilities for the next several years.

10. Comment: Some commenters stated that the proposed TTO limit could not be met using a combination of solvent management and common metals treatment. Several commenters also pointed out that plants previously in compliance with the metals limitations under Electroplating PSES may now require installation of common metals treatment to meet the TTO limit.

Response: The Agency has reviewed the TTO data base, reevaluated the mean and variability factor, and revised the effluent limit for TTO. The major factor contributing to the change was the examination of the TTO levels at certain groupings of plants. The most notable discovery was that plants that performed both solvent degreasing and painting tended to have the highest background concentrations of any process grouping. The limit has been based on these plants. Where plants are otherwise subject to a regulation whose technology basis includes precipitation/clarification for removal of metals, the TTO limit has been based on effluent data from precipitation/clarification treatment systems. We have also established a TTO limit of 4.57 mg/l based on only management practices. This limit is being used as an interim requirement prior to installation of pollution/equivalent to precipitation/clarification, and for plants discharging less then 10,000 gpd and now covered by the Part 413 Electroplating PSES. Thus today's regulation specifies an interim TTO limit for small plants (<10,000 gallons per day) because these plants may not already have common metals treatment in place. Furthermore, the Agency notes that most facilities should be capable of achieving compliance with the ultimate TTO standard even without end-of-pipe treatment, simply through strict management control of toxic organics. 89% of the TTO data *prior* to end-of-pipe treatment would comply with the final TTO limit based on the inclusion of precipitation/clarification.

11. Comment: Several commenters recommended an amenable cyanide limit as an alternative to a total cyanide limit because amenable cyanide more accurately reflects the performance of alkaline chlorination treatment.

Response: Most facilities should be able to meet the total cyanide limit. However, sufficient information has been presented on cyanide formulations and formation of complexes to support the possibility that a significant population could fail to meet the limitations. The technology basis is alkaline chlorination which destroys amenable cyanides. Thus, the final rules include an alternative cyanide limit for plants generating significant quantities of complexed cyanide. The data and basic calculations for the alternative cyanide limit were presented in the proposed development document. The Agency rejected specifying a limit only for amenable cyanide. While complexed cyanide are substantially less toxic, a review of literature indicates that significant transformatioin of complexed cyanides into amenable cyanides will occur in the aquatic environment due to the presence of sunlight. If any water quality problems occur due to the use of this alternative, the control authority should examine alternative technologies, i.e., precipitation with ferrous sulfate.

12. Comment: Several commenters suggested that fluoride, iron, and hexavalent chromium be regulated.

Response: The Agency did not establish limitations for fluorides, iron, or hexavalent chromium because it was determined that these parameters were (1) not present in sufficiently high quantities to warrant regulation or (2) would be removed by controlling a regulated parameter.

The historical performance data for flouride in effluent from plants with Option 1 treatment systems shows that the mean concentration was 6.58 mg/l; well below levels required by categorical regulations for other industries, i.e., inorganic chemicals, and electrical and electronic components (phase I).

Iron was not selected for regulation because it would be substantially reduced during proper precipitation/clarification treatment. Thus control of regulated pollutants will also effect control of iron.

A limit was not established for hexavalent chromium because it will be controlled by regulating total chromium. The technology basis does include the cost for hexavalent chromium stream segregation and reduction. As stated in the development document, chemical hexavalent chromium reduction can readily achieve final hexavalent chromium concentrations of 0.16 mg/l for a daily maximum and 0.10 mg/l for a maximum monthly average. Additionally, monitoring for total

chromium has a distinct cost advantage over monitoring for hexavalent and subsequently trivalent chromium. If any of these or other parameters cause problems with achieving local water quality requirements, then the control authority must specify further requirements on a plant-by-plant basis.

13. Comment: Several commenters stated that EPA's method for distributing costs for indirect dischargers between the Part 413 electroplating and the Part 433 metal finishing regulations is misleading and unrealistic. Electroplating compliance costs for captive indirect dischargers have not yet been incurred. When these plants do comply, it will be with both regulations in a one-time investment. Therefore, no costs should be attributed to Electroplating; rather, all costs should be considered as Metal Finishing compliance costs.

Response: The fact that a company may make a one time investment doesn't necessarily mean that all the costs should be attributed to the Part 433 Metal Finishing Standard. The compliance date for Part 433 is now generally two years after compliance is required by Part 413.

When EPA conducts its economic analysis of a guideline, it identifies the incremental costs and impacts, as well as the incremental pollutant removals, of that particular guideline. If other previously promulgated regulations pertain to the same industry, the costs and associated pollutant removals would have been identified in previous economic and environmental analyses. With the metal finishing regulation, the electroplating costs are baseline costs; the will occur even if metal finishing is not promulgated. Costs and impacts of metal finishing are incremental to electroplating; the effect of electroplating isn't negated or obviated because it may be more efficient for plants to make a one time investment.

For non-integrated captive indirect dischargers (more than 10,000 gallons per day), this incremental investment cost is zero. Non-integrated facilities discharge process wastewaters from electroplating operations only. Although these wastewaters are covered by metal finishing standards which are more stringent than electroplating standards, the treatment system installed to meet the electroplating standards will be sufficient to meet the metal finishing limits. This treatment system will be the same whether or not metal finishing is promulgated. The costs associated with installation of this treatment system have already been included in the electroplating analysis and there is no need to include them in the metal finishing regulatory costs.

For integrated captive indirect dischargers, the incremental investment cost is not zero. Integrated facilities discharge wastewaters from other types of processes in addition to electroplating. Although the facility may segregate its electroplating effluent stream for treatment, it is usually more economical to combine waste streams and build a single treatment facility. This treatment facility will be larger than the facility which would have been constructed to treat a segregated electroplating effluent stream alone. The costs assigned to metal finishing are those incremental costs over and above the amount that would have been spent for treatment of the segregated electroplating effluent stream.

Finally, as noted above, EPA did assess the combined inpact of today's regulation and the electroplating pretreatment regulations on the captive integrated indirect discharging sector of the industry, assuming both costs would be borne at the same time. The impacts are the same as those due to the electroplating pretreatment standards alone. No additional closures, divestitures, or unemployment effects are expected from the more stringent standards promulgated today.

14. Comment: Several commenters stated that the Agency should do a Regulatory Impact Analysis as required by Executive Order 12291.

Response: Executive Order 12291 does not require a Regulatory Impact Analysis where its consideration would conflict with the development of regulations pursuant to a court order, as with this metal finishing regulation. EPA has prepared, however, an analysis that contains many of the elements of a Regulatory Impact Analysis. This report is included in the public record for this regulation.

15. Comment: Several commenters stated that the Metal Finishing Guidelines are not economically achievable.

Response: EPA's *Economic Analysis of Proposed Effluent Standards and Limitations for the Metal Finishing Industry* provides an in-depth analysis of the economic impacts of the proposed guidelines. This analysis considers the compliance costs (both capital and annual) for two regulatory options. The economic impacts in terms of plant closures, process divestitures, employment losses, and cost increases are also presented for both options. Analysis results are presented for each segment of the industry that is being regulated: direct discharging job shops and captives, indirect discharging job shops and captives, and integrated printed circuit board manufactures.

Results for Option I, the selected option, are summarized on Exhibit I–4 and I–5 of the referenced report. The direct discharging segment (both job shops and captives) will incur costs to comply with the TTO limitation only. Indirect discharging job shops and independent printed circuit boards also will incur costs to comply with the TTO standard only. Annual compliance costs at these facilities are less than $2,900. No closures or employment effects are projected. Indirect discharging captives will incur a total of $116 million in annual compliance costs. The analysis indicates that this segment is composed primarily of large plants, many of which are members of diversified industrial corporations. As a result, there are no projected impacts among captive plants. The costs of production for indirect discharging captives are projected to increase from 0.2 to 1.0 percent.

The absence of closure or employment effects combined with a small increase in the cost of production ranging from 0.2 to 1.0 percent for all plants covered by the metal finishing regulation indicate that the guidelines are economically achievable.

16. Comment: Commenters questioned the assumption that captive operations have no capital availability problem. They say that the economic conditions have changed and capital availability could indeed be a problem.

Response: Changes in the availability of capital are reflected in the cost of capital. To reflect the increase in the cost of capital, EPA adjusted its nominal cost of capital assumption in the Economic Impact Analysis to 13 percent from the 10 percent cost of capital used in the proposed regulation. To the extent that an increase in the cost of capital is a problem today for metal finishers, it would show up in the impact analysis conducted under the higher cost of capital. No changes in closures or divestitures resulted from the increased cost of capital assumption.

17. Comment: Several commenters stated that EPA did not properly consider the impact on small businesses, specifically the costs of compliance and resultant economic impacts for captive indirect dischargers whose electroplating process flow is less than 10,000 gpd. EPA implicitly assumed that all of these plants are in compliance with the Electroplating Pretreatment Standards, but in fact these Standards exempted plants from compliance whose flow were less than 10,000 gpd. Therefore, they will incur costs and

economic impacts to comply with Metal Finishing Guidelines.

Response: The commenters are correct. The agency has since analyzed the impact on indirect discharging captives with metal finishing process flows of less than 10,000 gpd. The analysis concluded that a total of 912 plants will incur compliance costs. The total capital cost of compliance for this universe is estimated at $35 million with annual costs of $12 million. No closures or employment effects are projected for this industry segment.

18. Comment: Commenters questioned the assumption that the metal finishing demand curve is inelastic.

Response: Metal finished products face a wide range of demand elasticities. However, there are no good substitutes for metal finishing due to the quality it imparts on materials. As a result, an increase in the cost of metal finishing will not bring a more than proportional decrease in the use of metal finishing. The analysis assumed that demand for metal finishing is in the inelastic range but did not assume that all cost increases could be passed through. In fact, the captive closure analysis assumes that a plant's captive operations will not be able to pass through a pollution control cost increase if it amounts to more than 5 percent of their total revenue. If the ratio of annual costs to total revenue was larger than 5 percent, the plant was projected to close.

19. Comment: Commenters stated that they thought captive facitities will be at a competitive disadvantage because job shops are exempted from metal finishing standards.

Response: Captives are very rarely in direct competition with job shops, vying for the same customers. Captive platers, by definition, service their own firm's needs. A captive firm will maintain a plating process for its cost advantages, scheduling control, and specialty processes. In the Agency's survey of captive facilities, over 64 percent indicated they performed metal finishing in-house because it was either less expensive to do so or the work flow didn't allow interruption of work. It is true that job shops will often receive a captive's overflow work, but this does not make them price competitors. Also, almost three-fourths of the indirect discharging captive facilities and all direct discharging captives and job shops already have treatment in place. To the extent there may be changes in the competitive position of captives versus job shops, most of these changes would have occurred already. Finally, indirect discharging job shops were exempted from the metal finishing regulation specifically because of their economic vulnerability. Job shops tend to be much smaller than captives; they average 26 employees and $1.3 million in sales versus over 100 employees and $14 million in sales for captives.

20. Comment: A comment was made that the definition of a job shop may force some "job shops" to be classified as captives.

Response: EPA proposed a definition of job shops based on 50% ownership of treated material. This is in accord with existing practice by an overwhelming portion of the affected industry. An examination of the survey of job shops revealed that 95% of the facilities stated that their work was either 100% job ordered or 100% captive. Only 0.26% of the facilities reported that more than 25%, but less than 50%, of their production was done on materials owned by others.

The final definition of a job shop has been modified slightly, making the measurement of "not more than 50% ownership" on a yearly basis. This responds to a commenters' fear of repeated reclassification as a result of business transactions. Now facilities will not be reclassified on a day-to-day basis.

The definition is also appropriate because, the fact that a facility is purchasing materials to be processed indicates some availability of capital. If so the less stringent Part 413 requirements are less appropriate for economic reasons.

The agency considered various job shop definitions from commentors and trade association by-laws, including:

- "As its major operation the application of a surface treatment to the products of others."
- "A shop which has purchased orders from more than 50 percent of the materials in process."
- "Parts to be finished are transported from the customer's plant to the finishers and then back."
- "As its major operation the application of a surface treatment to the products of others."
- "A metal finisher who works to other's specifications, making his services, available to the public at all times."

While some of these, notably the first, are close to the proposed and final definitions, all suggestions included substantial ambiguity. In light of the relaxed standards for job shops it is important that the definition be precise and that captive shops not evade Part 433 merely by taking on nominal outside orders. EPA therefore chose a bright-line test that clearly expressed the overwhelmingly prevailing practice in the industry.

EPA's definition is consistent with our 1978 survey of the industry, which asked for the "percent of electroplating done on materials owned by others (basis area plated)" and further defined a job shop as "a manufacturing operation performing work on materials owned by others."

XX. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in *Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Metal Finishing Point Source Category.* The Agency's economic analysis is presented in *Economic Impact Analysis of Effluent Limitations and Standards for the Metal Finishing Industry.* A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Metal Finishing Effluent Guidelines and Standards," which is part of the public record for this regulation.

Technical information may be obtained by writing to Richard Kinch, Effluent Guidelines Division (WH-552) EPA, 401 M Street, S.W., Washington, D.C. 20460 or by calling (202) 382-7159.

Additional information concerning the economic impact analysis may be obtained from Ms. Kathleen Ehrensberger, Economics Branch (WH-586), EPA, 401 M Street, S.W., Washington, D.C. 20460 or by calling (202) 382-5397.

Copies of the technical and economic documents will be available from the National Technical Information Service, Springfield, Virginia 22161, (703) 487-4650.

XXI. OMB Review

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291. No written comments were received.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting and recordkeeping provisions in 40 CFR 413.03 and 433.12 that are included in this regulation will be submitted for approval to OMB. They are not effective until OMB approval has been obtained and the public is notified

to that effect through a technical amendment to this regulation.

XXII. List of subjects

40 CFR Part 413

Electroplating, Metals, Water pollution control, Waste treatment and disposal.

40 CFR Part 433

Electroplating, Metals, Water pollution control, Waste treatment and disposal.

Dated: July 5, 1983.

William D. Ruckelshaus,

Administrator.

Authority: Secs. 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et. seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217).

[Note.—These appendices will not appear in the CFR.]

XXIII. Appendices

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMPS—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Captive—A facility which owns more than 50% (annual area basis) of the materials undergoing metal finishing.

Clean Water Act (also "the Act")—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95-217).

Development Document—*Development Document for Effluent Limitations, Guidelines, and Standards for the Metal Finishing Point Source Category*, EPA 440-1-80-091-A, June 1980.

Direct discharger—A facility that discharges or may discharge pollutants into waters of the United States.

Indirect discharger—A facility that discharges or may discharge pollutants into a publicly owned treatment works.

Job Shop—A facility which owns not more than 50% (annual area basis) of the materials undergoing metal finishing.

Integrated facility—One that performs electroplating operations (including electroplating, electroless plating, chemical etching and milling, anodizing, coating, and printed circuit board manufacturing) as only one of several operations necessary for manufacture of a product at a single physical location, and has significant quantities of process wastewater from non-electroplating operations. In addition, to qualify as "integrated," a facility must combine one or more plant electroplating process wastewater lines before or at the point of treatment (or proposed treatment) with one or more plant sewers carrying process wastewater from non-electroplating manufacturing operations.

NPDES Permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards promulgated under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges promulgated under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of direct discharges, promulgated under Section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94-580) of 1976, Amendments to Solid Waste Disposal Act, as amended.

TTO—Total Toxic Organics is the summation of all values greater than .01 milligrams per liter for each of the specified toxic organics.

Appendix B—Pollutants Excluded From Regulation

(1) Toxic Pollutants—found in only a small number of sources and effectively controlled by the technologies on which the limits are based:

Antimony
Arsenic
Asbestos
Beryllium
Mercury
Selenium
Thallium

(2) Conventional Pollutants:

BOB
Fecal Coliform

Appendix C—Unit Operations in the Metal Finishing Industry

1. @Electroplating
2. Electroless Plating
3. Anodizing
4. Coating (Chromating, Phosphating, and Coloring)
5. Chemical Etching and Milling
6. Printed Circuit Board Manufacturing
7. Cleaning
8. Machining
9. Grinding
10. Polishing
11. Tumbling
12. Burnishing
13. Impact Deformation
14. Pressure Deformation
15. Shearing
16. Heat Treating
17. Thermal Cutting
18. Welding
19. Brazing
20. Soldering
21. Flame Spraying
22. Sand Blasting
23. Other Abrasive Jet Machining
24. Electric Discharge Machining
25. Electrochemical Machining
26. Electron Beam Machining
27. Laser Beam Machining
28. Plasma Arc Machining
29. Ultrasonic Machining
30. Sintering
31. Laminating
32. Hot Dip Coating
33. Sputtering
34. Vapor Plating
35. Thermal Infusion
36. Salt Bath Descaling
37. Solvent Degreasing
38. Paint Stripping
39. Painting
40. Electrostatic Painting
41. Electropainting
42. Vacuum Metalizing
43. Assembly
44. Calibration
45. Testing
46. Mechanical Plating

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

For the reasons stated above, EPA is amending Part 413 of 40 CFR, Chapter I as follows:

1. Section 413.01 is amended by revising paragraph (a) to read as follows:

§ 413.01 Applicability and compliance dates.

(a) This part shall apply to electroplating operations in which metal is electroplated on any basis material and to related metal finishing operations as set forth in the various subparts, whether such operations are conducted in conjunction with electroplating, independently, or as part of some other operation. The compliance deadline for metals and cyanide at integrated facilities shall be June 30, 1984. The compliance date for metals and cyanide at non-integrated facilities shall be April 27, 1984. Compliance with TTO for all facilities shall be July 15, 1986.[1] These

[1] The Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979) specifies a compliance date for PSES of no later than June 30, 1984. EPA has moved for a modification of that provision of the Decree. Should the Court deny that motion, EPA will be required to modify this compliance date accordingly.

Part 413 standards shall not apply to a facility which must comply with all the pollutant limitations listed in § 433.15 (metal finishing PSES).

* * * * *

2. Section 413.02 is amended by adding a new paragraph (i), as follows:

§ 413.02 General definitions.

* * * * *

(i) the term "TTO" shall mean total toxic organics, which is the summation of all quantifiable values greater than 0.01 milligrams per liter for the following toxic organics:

Acenaphthene
Acrolein
Acrylonitrile
Benzene
Benzidine
Carbon tetrachloride (tetrachloromethane)
Chlorobenzene
1,2,4-trichlorobenzene
Hexachlorobenzene
1,2-dichloroethane
1,1,1-trichloroethane
Hexachloroethane
1,1-dichloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
Chloroethane
Bis (2-chloroethyl) ether
2-chloroethyl vinyl ether (mixed)
2-chloronaphthalene
2,4,6-trichlorophenol
Parachlorometa cresol
Chloroform (trichloromethane)
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3-dichlorobenzidine
1,1-dichloroethylene
1,2-trans-dichloroethylene
2,4-dichlorophenol
1,2-dichloropropane
(1,3-dichloropropene)
2,4-dimethylphenol
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
Ethylbenzene
Fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
Bis (2-chloroisopropyl) ether
Bis (2-chloroethoxy) methane
Methylene chloride (dichloromethane)
Methyl chloride (chloromethane)
Methyl bromide (bromomethane)
Bromoform (tribromomethane)
Dichlorobromomethane
Chlorodibromomethane
Hexachlorobutadiene
Hexachlorocyclopentadiene
Isophorone
Naphthalene
Nitrobenzene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodiphenylamine
N-nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Bis (2-ethylhexyl) phthalate
Butyl benzyl phthalate
Di-n-butyl phthalate
Di-n-octyl phthalate
Diethyl phthalate
Dimethyl phthalate
1,2-benzanthracene (benzo(a)anthracene)
Benzo(a)pyrene (3,4-benzopyrene)
3,4-Benzofluoranthene (benzo(b)fluoranthene)
11,12-benzofluoranthene (benzo(k)fluoranthene)
Chrysene
Acenaphthylene
Anthracene
1,12-benzoperylene (benzo(ghi)perylene)
Fluorene
Phenanthrene
1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene)
Indeno (1,2,3-cd) pyrene)
(2,3-o-phenylene pyrene)
Pyrene
Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride (chloroethylene)
Aldrin
Dieldrin
Chlordane (technical mixture and metabolites)
4,4-DDT
4,4-DDE (p,p-DDX)
4,4-DDD (p,p-TDE)
Alpha-endosulfan
Beta-endosulfan
Endosulfan sulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
(BHC-hexachlorocyclohexane)
Alpha-BHC
Beta-BHC
Gamma-BHC
Delta-BHC
(PCB-polychlorinated biphenyls)
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1260 (Arochlor 1260)
PCB-1016 (Arochlor 1016)
Toxaphene
2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

3. Section 413.03 is amended by adding the following:

§ 413.03 Monitoring requirements.

(a) In lieu of monitoring for TTO, the control authority may allow industrial users of POTWs to make the following certification as a comment to the periodic reports required by § 403.12(e): "Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the solvent management plan submitted to the control authority."

(b) In requesting that no monitoring be required industrial users of POTWs shall submit a solvent management plan that specifies to the control authority's satisfaction the toxic organic compounds used; the method of disposal used instead of dumping, such as reclamation, contract hauling, or incineration; and procedures for assuring that toxic organics do not routinely spill or leak into the wastewater.

(c) If monitoring is necessary to measure compliance with the TTO standard the industrial user need analyze only for those pollutants which would reasonably be expected to be present.

4. Section 413.14 is amended by adding paragraphs (f), (g), and (h), as follows:

§ 413.14 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 l (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source

submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

5. Secton 413.24 is amended by adding paragraph (f), (g) and (h), as follows:

§ 413.24 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 1 (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 1 (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

6. Section 413.44 is amended by adding paragraph (f), (g), and (h), as follows:

§ 413.44 Pretreatmont standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 1 (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 1 (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

7. Section 413.54 is amended by adding paragraph (f), (g), and (h), as follows:

§ 413.54 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 1 (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 1 (10,000 gal) or more per calendar day of electroplating process waterwater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

8. Section 413.64 is amended by adding paragraphs (f), (g), and (h), as follows:

§ 413.64 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 1 (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 1 (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

9. Section 413.74 is amended by adding paragraphs (f), (g) and (h), as follows:

§ 413.74 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 1 (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 1 (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source

submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

10. Section 413.84 is amended by adding paragraphs (f), (g) and (h), as follows:

§ 413.84 Pretreatment standards for existing sources.

* * * * *

(f) In addition to paragraphs (a) and (b) the following limitation shall apply for plants discharging less than 38,000 l (10,000 gal) per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	4.57

(g) In addition to paragraphs (a), (c), (d), and (e) the following limitation shall apply for plants discharging 38,000 l (10,000 gal) or more per calendar day of electroplating process wastewater:

Pollutant or pollutant property	Maximum for any 1 day
TTO	2.13

(h) In addition to paragraphs (a), (b), (c), (d), (e), (f), and (g) the following shall apply: An existing source submitting a certification in lieu of monitoring pursuant to § 413.03 of this regulation must implement the toxic organic management plan approved by the control authority.

In addition, for the reasons stated above, EPA is establishing a new Part 433 to Title 40 of the Code of Federal Regulations to read as follows:

PART 433—METAL FINISHING POINT SOURCE CATEGORY

Subpart A—Metal Finishing Subcategory

Sec.

Authority: Sec. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1971, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314(b) (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), 1318 and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

Subpart A—Metal Finishing Subcategory

§ 433.10 Applicability; description of the metal finishing point source category.

(a) Except as noted in paragraphs (b) and (c), of this section, the provisions of this subpart apply to plants which perform any of the following six metal finishing operations on any basis material: Electroplating, Electroless Plating, Anodizing, Coating (chromating, phosphating, and coloring), Chemical Etching and Milling, and Printed Circuit Board Manufacture. If any of those six operations are present, then this part applies to discharges from those operations and also to discharges from any of the following 40 process operations: Cleaning, Machining, Grinding, Polishing, Tumbling, Burnishing, Impact Deformation, Pressure Deformation, Shearing, Heat Treating, Thermal Cutting, Welding, Brazing, Soldering, Flame Spraying, Sand Blasting, Other Abrasive Jet Machining, Electric Discharge Machining, Electrochemical Machining, Electron Beam Machining, Laser Beam Machining, Plasma Arc Machining, Ultrasonic Machining, Sintering, Laminating, Hot Dip Coating, Sputtering, Vapor Plating, Thermal Infusion, Salt Bath Descaling, Solvent Degreasing, Paint Stripping, Painting, Electrostatic Painting, Electropainting, Vacuum Metalizing, Assembly, Calibration, Testing, and Mechanical Plating.

(b) In some cases effluent limitations and standards for the following industrial categories may be effective and applicable to wastewater discharges from the metal finishing operations listed above. In such cases these Part 433 limits shall not apply and the following regulations shall apply:

Nonferrous metal smelting and refining (40 CFR Part 421)
Coil coating (40 CFR Part 465)
Porcelain enameling (40 CFR Part 466)
Battery manufacturing (40 CFR Part 461)
Iron and steel (40 CFR Part 420)
Metal casting foundries (40 CFR Part 464)
Aluminum forming (40 CFR Part 467)
Copper forming (40 CFR Part 468)
Plastic molding and forming (40 CFR Part 463)

(c) This Part does not apply to: (1) Metallic platemaking and gravure cylinder preparation conducted within printing and publishing facilities; and (2) existing indirect discharging job shops and independent printed circuit board manufacturers which are covered by 40 CFR Part 413.)

§ 433.11 Specialized definitions.

The definitions set forth in 40 CFR and the chemical analysis methods set forth in 40 CFR 136 are both incorporated here by reference. In addition, the following definitions apply to this part:

(a) The term "T", as in "Cyanide, T", shall mean total.

(b) The term "A", as in "Cyanide A", shall mean amenable to alkaline Chlorination.

(c) The term "job shop" shall mean a facility which owns not more than 50% (annual area basis) of the materials undergoing metal finishing.

(d) The term "independent" printed circuit board manufacturer shall mean a facility which manufacturers printed circuit boards principally for sale to other companies.

(e) The term "TTO" shall mean total toxic organics, which is the summation of all quantifiable values greater than .01 milligrams per liter for the following toxic organics:

Acenaphthene
Acrolein
Acrylonitrile
Benzene
Benzidine
Carbon tetrachloride (tetrachloromethane)
Chlorobenzene
1,2,4-trichlorobenzene
Hexachlorobenzene
1,2,-dichloroethane
1,1,1-trichloroethane
Hexachloroethane
1,1-dichloroethane
1,1,2-trichloroethane
1,1,2,2-tetrachloroethane
Chloroethane
Bis (2-chloroethyl) ether
2-chloroethyl vinyl ether (mixed)
2-chloronaphthalene
2,4,6-trichlorophenol
Parachlorometa cresol
Chloroform (trichloromethane)
2-chlorophenol
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
N-nitrosodi-n-propylamine
Pentachlorophenol
Phenol
Bis (2-ethylhexyl) phthalate
Butyl benzyl phthalate
Di-n-butyl phthalate
Di-n-octyl phthalate
Diethyl phthalate
Dimethyl phthalate
1,2-benzanthracene (benzo(a)anthracene)

Benzo(a)pyrene (3,4-benzopyrene)
3,4-Benzofluoranthene (benzo(b)fluoranthene)
11,12-benzofluoranthene (benzo(k)fluoranthene)
Chrysene
Acenaphthylene
Anthracene
1,12-benzoperylene (benzo(ghi)perylene)
Fluorene
Phenanthrene
1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene
Indeno(1,2,3-cd) pyrene (2,3-o-phenlene pyrene)
Pyrene
Tetrachloroethylene
Toluene
Trichloroethylene
Vinyl chloride (chloroethylene)
3,3-dichlorobenzidine
1,1-dichloroethylene
1,2-trans-dichloroethylene
2,4-dichlorophenol
1,2-dichloropropane (1,3-dichloropropene)
2,4-dimethylphenol
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
Ethylbenzene
Fluoranthene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
Bis (2-chloroisopropyl) ether
Bis (2-chloroethoxy) methane
Methylene chloride (dichloromethane)
Methyl chloride (chloromethane)
Methyl bromide (bromomethane)
Bromoform (tribromomethane)
Dichlorobromomethane
Chlorsdibromomethane
Hexachlorobutadiene
Hexachlorocyclopentadiene
Isophorone
Naphthalene
Nitrobenzene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodimethylamine
Aldrin
Dieldrin
Chlordane (technical mixture and metabolites)
4,4-DDT
4,4-DDE (p,p-DDX)
4,4-DDD (p,p-TDE)
Alpha-endosulfan
Beta-endosulfan
Endosulfan sulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide (BHC-hexachlorocyclohexane)
Alpha-BHC
Beta-BHC
Gamma-BHC
Delta-BHC
(PCB-polychlorinated biphenyls)
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1260 (Arochlor 1260)
PCB-1016 (Arochlor 1016)
Toxaphene
2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

§ 433.12 Monitoring requirements.

(a) In lieu of requiring monitoring for TTO, the permitting authority (or, in the case of indirect dischargers, the control authority) may allow dischargers to make the following certification statement: "Based on my inquiry of the person or persons directly responsible for managing compliance with the permit limitation [or pretreatment standard] for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing of the last discharge monitoring report. I further certify that this facility is implementing the solvent management plan submitted to the permitting [or control] authority." For direct dischargers, this statement is to be included as a "comment" on the Discharge Monitoring Report required by 40 CFR 122.44(i), formerly 40 CFR 122.62(i). For indirect dischargers, the statement is to be included as a comment to the periodic reports required by 40 CFR 403.12(e). If monitoring is necessary to measure compliance with the TTO standard, the industrial discharger need analyse for only those pollutants which would reasonably be expected to be present.

(b) In requesting the certification alternative, a discharger shall submit a solvent management plan that specifies to the satisfaction of the permitting authority (or, in the case of indirect dischargers, the control authority) the toxic organic compounds used; the method of disposal used instead of dumping, such as reclamation, contract hauling, or incineration; and procedures for ensuring that toxic organics do not routinely spill or leak into the wastewater. For direct dischargers, the permitting authority shall incorporate the plan as a provision of the permit.

(c) Self-monitoring for cyanide must be conducted after cyanide treatment and befor dilution with other streams. Alternatively, samples may be taken of the final effluent, if the plant limitations are adjusted based on the dilution ratio of the cyanide waste stream flow to the effluent flow.

§ 433.13 Effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by applying the best practicable control technology currently available (BPT):

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cadmium (T)	0.69	0.26
Chromium (T)	2.77	1.71
Copper (T)	3.38	2.07
Lead (T)	0.69	0.43
Nickel (T)	3.98	2.38
Silver (T)	0.43	0.24
Zinc (T)	2.61	1.48
Cyanide (T)	1.20	0.65
TTO	2.13	
Oil & Grease	52	26
TSS	60	31
pH	(1)	(1)

[1] Within 6.0 to 9.0.

(b) Alternatively, for industrial facilities with cyanide treatment, and upon agreement between a source subject to those limits and the pollution control authority, the following amenable cyanide limit may apply in place of the total cyanide limit specified in paragraph (a) of this section:

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cyanide (A)	0.86	0.32

(c) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

§ 433.14 Effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by applying the best available technology economically achievable (BAT):

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cadmium (T)	0.69	0.26
Chromium (T)	2.77	1.71
Copper (T)	3.38	2.07
Lead (T)	0.69	0.43

BAT EFFLUENT LIMITATIONS—Continued

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
Nickel (T)	3.98	2.38
Silver (T)	0.43	0.24
Zinc (T)	2.61	1.48
Cyanide (T)	1.20	0.65
TTO	2.13	

(b) Alternatively, for industrial facilities with cyanide treatment, and upon agreement between a source subject to those limits and the pollution control authority, the following amenable cyanide limit may apply in place of the total cyanide limit specified in paragraph (a) of this section:

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cyanide (A)	0.86	0.32

(c) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

§ 433.15 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

PSES FOR ALL PLANTS EXCEPT JOB SHOPS AND INDEPENDENT PRINTED CIRCUIT BOARD MANUFACTURERS

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cadmium (T)	0.69	0.26
Chromium (T)	2.77	1.71
Copper (T)	3.38	2.07
Lead (T)	0.69	0.43
Nickel (T)	3.98	2.38
Silver (T)	0.43	0.24
Zinc (T)	2.61	1.48
Cyanide (T)	1.20	0.65
TTO	2.13	

(b) Alternatively, for industrial facilities with cyanide treatment, upon agreement between a source subject to those limits and the pollution control authority. The following amenable cyanide limit may apply in place of the total cyanide limit specified in paragraph (a) of this section:

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cyanide (A)	0.86	0.32

(c) No user introducing wastewater pollutants into a publicly owned treatment works under the provisions of this subpart shall augment the use of process wastewater as a partial or total substitute for adequate treatment to achieve compliance with this standard.

(d) An existing source submitting a certification in lieu of monitoring pursuant to § 433.12 (a) and (b) of this regulation must implement the solvent management plan approved by the control authority.

(e) An existing source subject to this subpart shall comply with a daily maximum pretreatment standard for TTO of 4.57 mg/l.

(f) Compliance with the provisions of paragraph (c), (d), and (e) of this section shall be achieved as soon as possible, but not later than June 30, 1984, however metal finishing facilities which are also covered by Part 420 (iron and steel) need not comply before July 10, 1985.[1] Compliance with the provisions of paragraphs (a), (b), (c) and (d) of this section shall be achieved as soon as possible, but not later than Feburary 15, 1986.[1]

§ 433.16 New source performance standards (NSPS).

(a) Any new source subject to this subpart must achieve the following performance standards:

NSPS

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cadmium (T)	0.11	0.07
Chromium (T)	2.77	1.71
Copper (T)	3.38	2.07
Lead (T)	0.69	0.43
Nickel (T)	3.98	2.38
Silver (T)	0.43	0.24
Zinc (T)	2.61	1.48
Cyanide (T)	1.20	0.65
TTO	2.13	
Oil and Grease	52	26
TSS	60	31
pH	(1)	(1)

[1] Within 6.0 to 9.0.

[1] The Consent Decree in *NRDC* v. *Train*, 12 ERC 1833 (D.D.C. 1979) specifies a compliance date for PSES of no later than June 30, 1984. EPA has moved for a modification of that provision of the Decree. Should the Court deny that motion, EPA will be required to modify this compliance date accordingly.

(b) Alternatively, for industrial facilities with cyanide treatment, and upon agreement between a source subject to those limits and the pollution control authority, the following amenable cyanide limit may apply in place of the total cyanide limit specified in paragraph (a) of this section:

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cyanide (A)	0.86	0.32

(c) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastwater as a partial ot total substitute for adequate treatment to achieve compliance with this limitation.

§ 433.17 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

PSNS

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cadmium (T)	0.11	0.07
Chromium (T)	2.77	1.71
Copper (T)	3.38	2.07
Lead (T)	0.69	0.43
Nickel (T)	3.98	2.38
Silver (T)	0.43	0.24
Zinc (T)	2.61	1.48
Cyanide (T)	1.20	0.65
TTO	2.13	

(b) Alternatively, for industrial facilities with cyanide treatment, and upon agreement between a source subject to these limits and the pollution control authority, the following amenable cyanide limit may apply in place of the total cyanide limit specified in paragraph (a) of this section:

Pollutant or pollutant property	Maximum for any 1 day	Monthly average shall not exceed
	Milligrams per liter (mg/l)	
Cyanide (A)	0.86	0.32

(c) No user subject to the provisions of this subpart shall augment the use of process wastewater or otherwise dilute the wastewater as a partial or total substitute for adequate treatment to achieve compliance with this limitation.

(d) An existing source submitting a certification in lieu of monitoring pursuant to § 433.12 (a) and (b) of this regulation must implement the solvent management plan approved by the control authority.

§ 433.18 [Reserved]

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July 15, 1983

Part IV

Office of Personnel Management

Airway Science Curriculum; Approval of Demonstration Project Final Plan

OFFICE OF PERSONNEL MANAGEMENT

Demonstration Project: Airway Science Curriculm

AGENCY: Office of Personnel Management.

ACTION: Notice of approval of a demostration project final plan.

SUMMARY: Title VI of the Civil Service Reform Act of 1978 authorizes the Office of Personnel Mangement to conduct demonstration projects which experiment with new and different personnel management concepts under controlled conditions. A proposed Airway Science Curriculum demonstration project plan was published in the **Federal Register** on March 18, 1983 (48 FR 11672). This is the final demonstration project plan approved by the Office of Personnel Management.

DATES: *Approval date:* The demonstration project plan was given final approval by the Office of Personnel Management on July 7, 1983.

Implementation date: The demonstration project may be implemented after the expiration of the 90-day congressional review period which ends on October 10, 1983.

FOR FURTHER INFORMATION CONTACT: (1) On technical matters concerning the demonstration project, such as development of the curricula and participation in the demonstration project by educational institutions: At FAA, Judy Branting, (202) 426–8844.

(2) On OPM demonstration project approval processes: At OPM, Donald Hill, (202) 254–6486.

SUPPLEMENTARY INFORMATION:

1. *Background.* The Federal Aviation Administration (FAA) has submitted a proposal for consideration as a demonstration project under Title VI of the Civil Service Reform Act of 1978 (92 Stat. 1185) entitled "Airway Science Curriculum Demonstration Project." The purpose of the project is to compare performance, job attitudes, and perceived potential for supervisory positions of individuals recruited for several of FAA's technical occupations who have an aviation-related college-level education, or its equivalent, with individuals recruited for the same occupations through traditional methods. In order to accomplish this purpose, FAA, with assistance from the University Aviation Association, developed a model Airway Science Curriculum which emphasizes college-level courses in aviation, science and technology, mathematics, management, and general studies. Applicants for FAA positions as air traffic controller, electronic technician, aviation safety inspector, and computer specialist who enter through the demonstration Airway Science Announcement will be rated on their possession of the knowledges, skills, abilities, and other characteristics contained in the model Airway Science Curriculum and ranked and selected from a separate register parallel to those currently in use. Additionally, applicants for air traffic controller positions must pass the air traffic control examination, and applicants for aviation safety insector must hold listed certificates and ratings.

A proposed demonstration project plan was published on March 18, 1983, in the **Federal Register** (48 FR 11672). On that same date, copies of the proposed plan were transmitted to both Houses of the Congress as required by 5 U.S.C. 4703(b)(4). The public comment period began on March 18, 1983, and ended on May 17, 1983. A public hearing was held on the proposed demonstration project plan on April 22, 1983, in the FAA auditorium in Washington, D.C.

2. *Summary of Comments.*

A. Analysis of Comments

Comments received during the comment period and at the public hearing are categorized as follows (Note: Persons who both appeared as hearing witnesses and wrote letters to OPM, the content of which was similar to the hearing testimony, are counted once as a hearing witness.):

	Hearing witnesses	Letters
Expression of overall project support, without offering suggestions or comments	2	3
Expression of overall project support, with comments or suggestions offered for improvement	6	4
Neutral to project, with comments offered	0	0
Opposition to project	0	0
Total number of witnesses and letters	8	9

B. Nature of Comments

Persons submitting comments observed or suggested that:

1. Because of the specificity of the curriculum, consideration for participation in the project should be given to those schools which have a proven demonstrated ability to produce aviation graduates.

2. Competition in the current job market for similar skills and technical requirements suggests that GS–9 is a more competitive hiring level for positions than GS–7.

3. The addition of an intern program would be helpful.

4. The five-year demonstration period is too short to effectively evaluate the program and affects adversely those students who work full time and take more than the usual time to obtain their degrees.

5. A group other than the Civil Aeromedical Institute (CAMI) should evaluate the program. CAMI had much impact on the effectiveness of technical and managerial training programs as they related to the air traffic controller work environment, but was unable to alert management to the problems within FAA, or to determine or offer a constructive resolution to the August 1981 strike of air traffic controllers.

6. FAA should be more actively involved in the approval of aviation programs.

7. The number of persons to be hired under the Aviation Safety Inspector and Computer Science tracks is questionable.

8. FAA violated is labor contract by bypassing the Professional Airways Systems Specialists Union during the development of the project.

9. FAA needs to clarify (a) its criteria for evaluating the effectiveness of each educational institution's airway science curriculum; (b) the meaning of the terms knowledges, skills, abilities, and other characteristics; and (c) the criteria used to evaluate substitute experience or training.

10. FAA should decentralize the program to its regions so that educational institutions may have easy access to FAA.

11. FAA needs more coordination with the aviation industry.

12. Civil service testing of candidates seems unnecessary after they have obtained the airway science degree and other credentials, such as flight certification.

13. The curriculum is not tied to a valid job analysis of skills and knowledges needed for the occupations.

14. The airway science curriculum needs further review and clarification:

(a) The program is inflexible in allowing for the required general educational requirements of most universities.

(b) The proposed curriculum makes questionable distinctions and separations of general education and technical courses.

(c) Problems exist with course titles, e.g., lack of specificity, misleading, duplicative with other courses, and nondescriptive.

(d) Inflexible guidelines stifle the offering of innovative and elective courses.

15. Information should be provided as to whether a master's degree program will be developed.

16. FAA should let the American Council on Education evaluate its training programs to determine whether college level credit can be given for them.

17. Students will be hard pressed financially to obtain the airway science credits needed, since the credits are in addition to what students have or are taking.

18. Since many students and existing employees are enrolled in or have completed associate degree programs, an interface between these programs and the airway science curriculum needs to be established.

19. FAA should develop incentives for students and employees to enroll in airway science programs, such as scholarships, summer jobs, internships, on-the-job training, tuition reimbursement, and work schedule coordination.

20. Students who complete nontraditional degree programs through a combination of experience, professional course work in community colleges, and transfer arrangements for a liberal arts education may be at a disadvantage when the airway science program is evaluated.

21. The project plan neglects the recruitment of present knowledgeable employees.

22. FAA should consider nontraditional off-campus programs for existing employees in addition to the mentioned correspondence courses, such as videotaping, teleconferences, and off-campus courses. The suggestor offered to help in developing such programs.

3. *Response to Comments.* Comments on the curriculum noted that (a) it is too restrictive, (b) does not permit innovative approaches to education, (c) will be difficult to implement because of existing collegate general education requirements, (d) will create dificulties for students completing non-traditional degree programs, and (e) was not job-related because a valid job analysis was not conducted. FAA intended to create a rigorous, demanding four-year program. With the advice and assistance of educators from the University Aviation Association (UAA), curricula were designed to meet the stated intent. Those institutions which are interested in participating in the project but feel that the curriculum constraints will not permit their involvement should contact the FAA. The generic curricula are recommended guidelines and there is some latitude allowed in the review process for accommodation of existing collegiate general education requirements. The actual curricula presented by educational institutions and recognized by the FAA may vary from the generic, provided the individual curriculum proposals meet the spirit and intent of the program.

The demonstration project contemplates that individuals will be graduated from accredited four-year degree granting institutions. Those individuals who do not have a four-year degree from schools whose curriculum has been recognized by FAA will be considered for employment by the FAA provided that they can show that they possess the knowledges, skills, abilities, and other characteristics (KSAOs) provided by the generic curricula. Guidelines are now being developed for two-year schools on how to participate in the program through affiliation with four-year institutions.

Specific comments were made regarding the relationship of the curricula and the KSAOs needed to perform the work of covered occupations. These comments focused on the failure to conduct valid job analyses so that the relationship of the curricula to the occupations could be shown. The purpose of the demonstration project is to test the relationship of the KSAOs provided by the curriculum against job performance and to compare the performance of Airway Science trained individuals with that of individuals recruited throught the normal hiring process. The FAA has many individuals employed currently who have been hired because of their specific job-related skills. Past FAA experience has shown that increasing the general level of education alone does not result in improved performance in some occupations. FAA has not been able to test the premise that a specific educational background, one that is related to aviation and the specific technical area, will produce a different type of employee.

The curriculum evaluation process was addressed in several comments. Some persons suggested that the FAA be more actively involved in the approval of aviation programs, that clarification be given for evaluating the effectiveness of each educational institution's airway science curriculum, and that the program be decentralized so that educational institutions may have easy access to the FAA. The FAA is actively involved in the approval of aviation programs at educational institutions by reviewing the recommendations made by the UAA curriculum evaluation committee, determining modifications necessary for FAA recognition, and providing advice and assistance to institutions during the review and FAA recognition process. This provides clarification of changes needed for curriculum recognition during the evaluation process. Further, the FAA has revised the demonstration prject plan to eliminate duplications in the curricula and clarify some of the course requrements. As the demonstration project progresses, much wider use will be made of regional resources and interested institutions will be able to work directly with knowledgeable individuals at the regional level. National program direction will continue to be exercised on such issues as project framework, curriculum recognition, hiring guidelines and announcements, and evaluation.

Several comments dealt with the implementation of airway science opportunities for current FAA employees and to the development of a master's degree program. A related comment suggested that FAA let the American Council on Education evaluate its internal training programs to determine whether college level credit can be given for them. Those individuals in the FAA who are now employed in positions other than the occupations covered by the program may apply for consideration for employment as a demonstration project participant in the same manner as any outside candidate. Their success in competition for employment under the demonstration project authority will depend on the extent to which they possess the desired KSAOs. Moreover, FAA is developing a program which will provide an opportunity for existing employees who do not have an airway science background to pursue the necessary education. All employees will be encouraged to participate, especially those in the technical occupations who do not have a bachelor's degree. A master's degree program may be developed for those employees who already possess an undergraduate degree. However, neither of these programs would be a part of the demonstration project. As to the evaluation of FAA's training programs, the American Council on Education has already completed a review of FAA's technical and managerial training for the purpose of evaluating its college credit equivalency.

A labor organization alleged during the hearing that FAA violated its labor management contract responsibilities by bypassing the organization during the development of the project. FAA states

that it informed all affected labor organizations and requested comments on the draft project plan prior to its publication in the **Federal Register.** No response was received by the end of the requested comment period.

Other comments referred to miscellaneous matters. The FAA established the GS–7 entry level for individuals presenting the KSAOs sought. The GS–7 level was selected as an incentive for graduates to pursue the stringent airway science curriculum. Entry into the covered occupations above this level was not contemplated because of the relationship of the skills presented to the requirements of higher level work.

A structured internship program was not envisioned as part of the demonstration project. Inclusion of work periods in a Federal position for all participants in the curriculum would create confusion for the identity of the program and increase the cost of the project. One of the larger purposes in the creation of the airway science curricula was development of a common recruiting source for Federal, State, and private aviation-related employment opportunities. The FAA will make every effort to employ some individuals enrolled in airway science courses in summer employment programs and when other temporary employment opportunities arise.

FAA agrees that the five-year demonstration period is too short but five years, with extensions permitted for evaluation purposes only, is the maximum time the law permits for demonstration projects. Examining, whether using assembled or unassembled procedures, is still considered necessary to determine whether all candidates have the desired qualifications, and to rank candidates for selection consideration.

The expertise for evaluating the project resides among the staff at the Civil Aeromedical Institute and CAMI will remain as the organization responsible for evaluating the project. Additionally, OPM will monitor CAMI's evaluation activities on the demonstration project.

4. *Demonstration Project Changes.* No individuals or organizations oppose the approval of the demonstration project. Hearing testimony and letters are very supportive of the project and most of the comments would be considered as helpful suggestions for improving the project. Therefore, changes to the project plan, which are explained below, are few. The referenced page numbers refer to the pages of the proposed project plan which was published in the **Federal Register** on March 18, 1983.

A. On page 11674, under "Waiver of Law or Regulation Required," the waiver of 5 U.S.C. 3308 has been deleted from the project plan since this waiver is not needed. A minimum educational requirement does not exist, since substitution of other training and experience is permitted for the prescribed education.

B. On page 11675, the chart in column 1 under "Positions/Employees Affected," and the text under "Duration," have been changed to reflect the fact that no employees will enter the demonstration program during 1983 and that the program will run through 1988.

C. On page 11679, in the charts containing the Airway Science Curriculum, changes have been made to several course titles listed under the subject areas Computer Science, Aviation, and Aircraft Systems Management in order to eliminate duplications in the curricula and clarify some of the course requirements.

Office of Personnel Management.

Donald J. Devine,

Director.

The final demonstration project plan as approved by the Office of Personnel Management reads as follows:

Federal Aviation Administration

Airway Science Curriculum Demonstration Project Plan

Background

The 1980's and beyond present the Federal Aviation Administration (FAA) with great sociotechnological challenge. The decade began with a strike by a major segment of the FAA work force as almost 12,000 air traffic controllers failed to report to duty and were subsequently terminated from the agency. A major reconstitution of that work force is now underway. Shortly thereafter, the FAA also embarked upon a program to modernize the National Airspace System (NAS) by reconfiguration and consolidation of facilities and equipment and by introduction of more sophisticated automation. This program will be implemented over the next 20 years. The combination of disrupted work force and technological change calls for a reexamination of the requirements and capabilities of the human systems upon which the NAS depends.

The Problem

The FAA is composed of a work force in which technical professions such as air traffic control and electronics technology predominate (Figure 1). Individuals in these occupations may posses limited educational backgrounds in that, for many, formal academic training concluded with high school (Figure 2). As a consequence, same FAA employees are narrowly focused in their occupational area.

The breadth of knowledge or commitment to aviation may not extend beyond the task at hand. These limitations can have serious implications for employees' ability to perceive their role within the total system and to progress to supervisory and managerial positions with the necessary leadership and human relations skills.

Air Traffic Controller	19,514
Electronics Technician	8,192
Engineering	2,239
Aviation Safety Inspector	1,875
Clerical/Secretarial	2,667
Other	9,204
Wage Grade	2,182
Total	45,873

Figure 1. FAA Employment by Occupations (As of June 30, 1982)

Of equal concern is the adaptability of such employees to an increasingly technical and automated environment such as is envisioned within the NAS Plan. Over the next 20 years, FAA jobs will envolve from a preponderance of direct interface with operational equipment to an interface characterized by sophisticted automated controls and diagnostic devices. Thus, the skills and aptitudes of today's work force will need to be enhanced since an advanced skill level and skill and mix for which there is no direct or immediate preparation will be required. Employees will have to possess the broad-knowledge base, perspective, and flexibility to accept and cope with this transition in the workplace.

Education level	Agency (percent)	Air traffic controller (percent)	Electronics technician (percent)	Aviation inspector (percent)
Non high school grad	2.0	0.7	1.2	0.0
High school grad	71.9	75.9	82.8	47.3
Associate degree	6.3	8.5	10.8	17.4
Bachelor degree	15.4	14.2	4.9	30.3
Masters degree	2.2	0.7	0.3	4.5
Doctorate	0.2	0.0	0.0	0.5

Figure 2. Educational Level of FAA Employees by Occupation (Based on information provided by employee upon entrance on duty.)

Proposed Solutions

The FAA is aware that the upgrading of a work force of 45,000 to 50,000 individuals, even over a period of time, is a tremendous undertaking. Corrective actions must be multifaceted and address current employees as well as those who will be hired in the future.

The FAA is already making plans to adjust its extensive technical training program to accommodate technological advances in equipment, systems, and configurations. The agency is also well along with its implementation of computer-based instruction which will facilitate this process.

Attention has also been focused on the FAA's supervisory and management training program. The mandatory aspects of initial training for individuals newly selected for such positions have been reinforced and the content reoriented to a greater emphasis on human relations, leadership, and accountability rather than on procedural requirements. More funds have been allocated to the training function in general, and more managers and supervisors have been urged to enroll in supplemental management training. For other employees, the agency is recommending preparatory training courses to enhance potential for first-line supervisory positions.

Lastly, but perhaps of most promise, all FAA employees will be encouraged to continue their higher education on their own initiative and, for the most part, after hours. Credit in the selection process for FAA positions will be awarded for such efforts.

Working with the academic community, the FAA has developed a specific recommended college level curriculum. The model curriculum was developed by the University Aviation Association and the FAA to respond to the needs generated by the revision of the National Airspace System. The curriculum was designed to meet normal university academic and accreditation requirements, to be easily adapted to existing aviation-related programs, to have the flexibility to allow individual educational institutions the option of offering any number of the five areas of concentration according to their individual resources, and to be attractive to students seeking careers in both Government and the aviation industry. Contacts are being made with colleges and universities to ascertain how current employees can enhance their knowledge and skills by pursuing this Airway Science curriculum through residency, correspondence, and credit for equivalent FAA training.

All the above efforts to improve the quality of the FAA work force can be accomplished within authority currently available to the FAA. Still required, however, is the means to assure that some portion of the individuals joining the agency in the coming years possess the same knowledges, skills, abilities and other characteristics (KSAO's) such as those attained by graduates of an Airway Science curriculum. It is anticipated that some, though not all, FAA or target occupation vacancies would be filled by such individuals and that this intake would contribute to overall performance within the agency. Included in this category are individuals who meet the qualification standards approved by the Office of Personnel Management (OPM) and FAA for the demonstration through substitution of other training and experience which is equivalent to all or part of the model curriculum. Examples of equivalency substitution might include associate degrees in electronics, flight certificates, and aviation-related military training. The recruitment of Airway Science trained individuals [1] is the subject of the demonstration project described below.

Demonstration Project

Objectives

The demonstration project is focused on developing alternative qualifications and recruitment sources primarily for agency technical occupations. The project is designed to compare performance of selected individuals who have an aviation-related college education or its equivalent with individuals employed through traditional recuiting methods. The specific objectives of the project are as follows:

1. Recruitment/hiring of individuals who have completed or have the equivalent of a model college-level curriculum of general studies, mathematics, science and technology, management, and aviation courses.

2. Evaluation of the concept that individuals with this background recruited for FAA occupations are better able to perform the functions of the job than individuals recruited through existing methods. If this is the case, then that background can be substituted for general and specialized experience in hiring at the GS–7 level for specific FAA occupations.

3. Assessment of the performance, job attitudes, and potential of Airway Science trained individuals versus those of individuals employed by current procedures.

4. Determination of the impact of this program on the employment and career progression of women and minority candidates.

Methodology

The project goal of development of alternative qualifications and recruitment sources for agency occupations will emphasize a coordinated effort to recruit individuals with nontraditional backgrounds, screening of individuals based on training, and selections for employment from registers existing parallel to those currently in use. The salient features of each specific change are as follows:

1. *Announcement.* The intake method for this project will be called the Airway Science Announcement for FAA positions. It would be a semiannual announcement for Airway Science occupations. Opening of the announcement would be timed to coincide with the academic year so that offers of employment could be made at the completion of school terms.

The announcement would provide for entry at the GS–7 level in all covered occupational areas. There will be four areas: air traffic control (GS–2152), airway facilities (GS–0856), aviation safety inspector-general aviation operations and maintenance (GS–1825), and computer sciences (GS–334).

The examination process would be on an unassembled basis. For each occupational area, a separate evaluation process will be jointly developed by FAA and the OPM. The rating schedule developed will be structured so that applicants who present the equivalent KSAO's provided by the courses or course equivalents specified in the model Airway Science curriculum will be placed at the top of the group. For the air traffic area, candidtates must also pass the current air traffic control examination. For the aviation safety inspector occupations, candidates must hold listed certificates and ratings. Successful candidates would be eligible for employment consideration for a one-year period with an extension of one additional year granted upon written request.

The OPM will provide consulting assistance during the term of the project and will coordinate the evaluation function to ensure compliance with laws, regulations, and policies not

[1] For the purposes of this plan, "Airway Science trained individuals" include graduates of eductional institutions offering recognized Airway Science programs and other individuals who have acquired the requisite KSAO's through experience, training and/or formal education.

waived by the project. The Special Examining Division (SED) of the Mike Monroney Aeronautical Center, located in Oklahoma City, Oklahoma, will accomplish the examination process and maintain registers of candidates for FAA use.

2. *Qualifications.* The Appendix contains the generic Airway Science curriculum outline, subject area parameters, and areas of concentration. Each area of concentration will qualify individuals for certain occupational categories in FAA. The Airway Science curriculm will be the basis for the rating guides used in the qualifications review process. Experience and training may be substituted for education to the extent that such experience and/or training is equivalent to the KSAO's provided by the curriculum. Figure 3 shows the relationship between the areas of concentration and FAA positions.

The entry at GS–7 is established as an incentive to pursue a stringent degree program and to enhance the agency's ability to recruit well-qualified individuals. The College Placement Council reported in July 1982 that liberal arts graduates received employment offers with the average salary level at approximately $17,000 per year and that engineering technology graduates received offers of $23,496 per annum. In comparison, a beginning GS–5 salary is $13,369, and at GS–7 earns $16,559.

Completion of degree requirements or presentation of a combination of education, training and experience that are judged to be substantially equivalent to the KSAO's provided by the curriculum will satisfy all general and specialized experience qualification requirements for appointment at the GS–7. Physical qualifications as well as requisite background/security investigations would be required as for current eligibles.

FAA Occupation	*Curriculum Concentration Area*
Air Traffic Control Specialist	Airway Science Management
	Airway Computer Science
	Aircraft Systems Management
Electronics Technician	Airway Electronic Systems
Aviation Safety Inspector (General Aviation Maintenance)	Aircraft Systems Management
Aviation Safety Inspector (General Aviation Operations)	Aviation Maintenance Management
Computer Systems Programmer/Analyst	Airway Computer Science

Figure 3. FAA Occupations and Curriculum Concentrations

3. *Employment.* All FAA employing jurisdictions anticipate selecting eligibles under this program. The Special Examining Division will provide certificates of eligibles to FAA personnel offices upon request. Each employment office will be responsible for arranging necessary preemployment interviews, medical examinations, and security investigations. Selection for a position in this program would result in career or career-conditional appointment. Eligibles employed would have to serve a probationary period and would be subject to the same requirements as other Federal employees. An overview of the demonstration intake process is included as Figure 4.

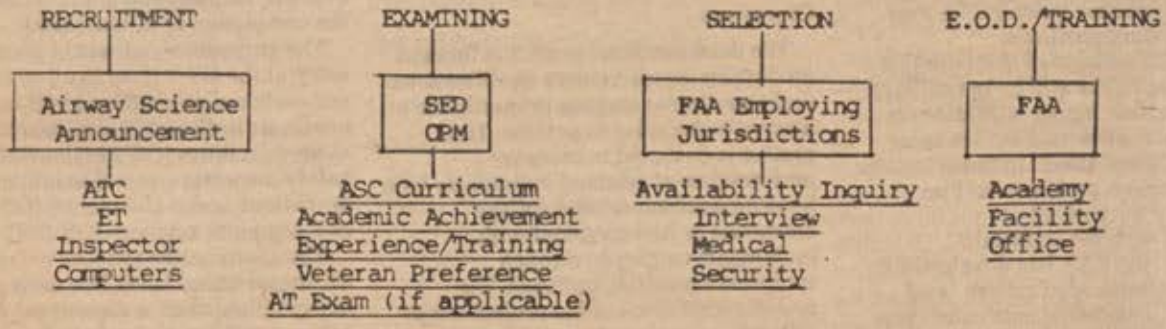

FIGURE 4. INTAKE PROCESS FOR AIRWAY SCIENCE DEMONSTRATION PROJECT

Waivers of Law or Regulation Required

In order to accomplish the demonstration project, provisions of law and regulations require waiver or modification. Included are those pertaining to entry-level qualifications for certain occupations. The specific citations are as follows:

(a) 5 CFR 300.103(a) and (b) Basic Requirements.

The law and implementing regulations require that employment practices of the Federal Government be based on a job analysis to identify: basic duties and responsibilities, knowledges, skills, and abilities required to perform the duties and responsibilities, and factors important in evaluating candidates.

In order to test the premise that the KSAO's provided in Airway Science curriculum can be substituted for general and specialized experience now required by published qualifications standards in specific occupations, the FAA must require that applicants demonstrate completion of degree requirements or have a background of training and experience substantially equivalent to the curriculum as a prerequisite for consideration under the Airway Science Announcement.

(b) 5 CFR 511.101 (b)(3) Definitions.

5 CFR 511.203 Exercise of Authority.

These sections define qualifications and limit agency authority in determining qualifications to that granted by OPM. The demonstration project is designed to employ Airway Science trained individuals in GS–7 entry level positions in the FAA. Published qualification standards exist for all of these positions. Waiver of these published qualification standards is required to permit entry at the GS–7 level to the extent that the project conflicts with pertinent provisions. These standards are promulgated under the above authorities. The following qualification standards and examining guides would be affected:

(Qualifications established under 5 U.S.C. Chapt. 51)

- Air Traffic Control Specialist (GS–2152)

Feb 76 (TS 158)
Dec 80 (TS 183)
and ATCS Examining Guide, Oct 68 (TS 88)

• Airway Safety Inspector Series (GS –1825)
January 75 (TS 114)

• Computer Specialist Series (GS 334)
March 1981 (TS 186)

• Electronics Technician Series (GS–0856)
March 66 (TS 97)
December 75 (TS 156)
and ET Examining Guide, Mar 66 (TS 65)

• Handbook x–118, Part II
Section III—Crediting Education

That portion of the qualification standards for each occupation listed above relating to general and specialized experience and substitution of education for experience would be modified so that a candidate for employment with a bachelor's degree conforming to the Airway Science curriculum or one who can demonstrate substantially equivalent KSAO's would meet the general and specialized experience requirement to qualify for the GS–7 level. For the purposes of the demonstration project, those individuals withut any related background would rate as not qualified. Existing guides would not be used, but alternative rating guides would be developed.

Postitions/Employees Affected

The subjects of the demonstration project are potential employees who can demonstrate possession of the Airway Science KSAO's. Those hired concurrently through existing intake methods and other FAA employees will not be affected.

Upon approval of the demonstration project, the FAA goal is to hire up to 500 Airway Science trained individuals a year (10–15% of total FAA hires and 20–30% in target occupations) as soon as they are available, primarily into major technical occupations. As more and more individuals obtain Airway Science related qualifications, the number accessible for recruitment will also increase. At this early stage, an estimate of the number of individuals to be hired by occupation may be illustrated as follows:

	1984	1985	1986	1987	1988
Air traffic controller	70	215	355	355	355
Electronics technician	25	72	122	122	122
Aviation safety inspector	4	10	18	18	18
Computer science	1	3	5	5	5
Total	100	300	500	500	500

Duration

It is proposed that the project begin in the fall of 1983 with the first Airway Science Announcement. The initial recruits would enter the FAA during early 1984. Hiring would continue at intervals over a 5-year period through 1988. Evaluation efforts would begin with tracking of the first Airway Science employees as they enter on duty in 1984. Since the subjects critial to the evaluation would accumulate over the life of the project and full-performance level would not be achieved for several years after entry, the evaluation phase of the demonstration will extend through 1990.

Training

No additional training is expected as an outcome of the demonstration project. Airway Science selectees will adhere to the same FAA training requirements as those established for any new entrant into the particular occupational speciality. Airway Science selectees entering into the air traffic program, as an example, will complete all phases of Academy training before proceeding to field facilities and on-the-job training. Similarly, only the timing of the training, not the specific courses, may differ for those Airway Science candidates hired as aviation safety inspectors. Since these inspectors will lack the specialized experience of usual candidates at the GS 9/11/12 levels, their courses may be administered earlier in their careers, on a group basis (with other Airway Science candidates), and within a tighter time frame.

Anticipated Benefits

The result of the demonstration project is expected to be a cadre of well-qualified individuals well-suited to the occupations necessary to support the National Airspace System of the future. The criticality of these jobs and the capability of the people that fill them to the safety of the aviation public cannot be overstated. Indeed, the beneficiaries of a highly qualified FAA work force are all those whose lives are impacted by air transportation—the public at large.

The demonstration project will also allow the FAA to resolve the question of whether a specific knowledge base or educational/experiential background lends itself to success in certain occupations and ultimately to perceived potential for supervisory positions. It will also provide data on whether extended exposure through a specified academic program, for those who enter with this background, will promote among women and minorities a greater interest in and aptitude for technical professions, such as those which are aviation-related.

Both the Airway Science group and control groups will be the objects of intensive investigations as to ability to accomplish jobs tasks, job satisfaction, relationships with peers and supervisors, perception of organizational role, etc. Information should also be available on the job needs and demands of employees with substantially different academic backgrounds. It is expected that the data obtained from these research efforts are equally valuable to numerous governmental and private organizations as to the efficacy and essentiality of this preparation to similar occupations.

Cost

The costs of the demonstration project to the Government are detailed below. Certain expenditures are associated with the curriculum itself. The cost of recruitment pertains to the screening, rating, and ranking process. Other resources are required for the travel, computer processes, and survey instruments associated with the evaluation phase.

Curriculum Development and Coordination	$35,000
Recruitment, Hiring, Employment	110,400
Evaluation	105,000
Total	[1]$250,400

[1] Compensation for FAA personnel working on the project as a portion of their regular duties is not included.

Evaluation

Introduction

For assistance in the design and conduct of an evaluation of the Airway Science Curriculum Demonstration Project, the FAA will rely heavily on research psychologists at its Civil Aeromedical Institute (CAMI) in Oklahoma City, Oklahoma. The CAMI staff has extensive experience in assessing, most particularly, the effectiveness of technical and managerial training programs and subsequent job performance and have an existing data bank, computer processes, and models which can be readily adapted to the demonstration project. The following sections describe the general form of the project evaluation model and the specific application of the model to the evaluation of the Airway Science Demonstration Project. The OPM will be involved in the planning and conduct of the evalution as necessary to meet its responsibilities under title 5, United States Code.

The General Model

The following sections described the project evaluation model. The four components of the model are: (1) Design evaluation, (2) implementation evaluation, (3) formative evaluation, and (4) summative evaluation. Program design and implementation evaluations, as the terms imply, occur at the beginning of the project. Formative and summative evaluations occur simultaneously and serve to evaluate the process and course of the project as well as its products. Each of these evaluation components uses the techniques of statistical analysis and various reporting systems.

Design Evaluation

The project design evaluaton involves ensuring the proper development of several tasks that make up the project implemetation plan. The overall objectives of the project will be clearly defined and each expected outcome of the project will be listed. The outcomes will be organized by broad categories and related to the objectives of the project. The Airway Science curriculum will be reviewed so that determination can be made as to whether curriculum content is designed in a manner as to produce the qualified employees envisioned in the design of the project. Careful documentation of every step will be made during this evaluation phase by the evaluation staff with regular reports on the progress of the design.

Implementation Evaluation

The implementation evaluation phase monitors project implementation and ensures and documents that the project is implemented strictly according to the design. Any changes made to the design during implementation will be carefully documented and the design revised. The implementation evaluation stage will ensure that the stated process is operational, intact, and stable. This evaluation will be accomplished by means of frequent status studies during the implementation stage. Data will be collected on each aspect of the process and a determination made about the state of implementation. Direct observation will also be made on a periodic schedule. The status studies will be generally be made into a report for project officials with suggestions to improve or expedite implementation. Shortcomings in implementation will be noted in each report. It is at this juncture that it is assured that candidates hired under the Airway Science Announcement meet the selection criteria anticipated in the design of the project. Figure 5 is a flow chart depicting the process of implementation evaluation.

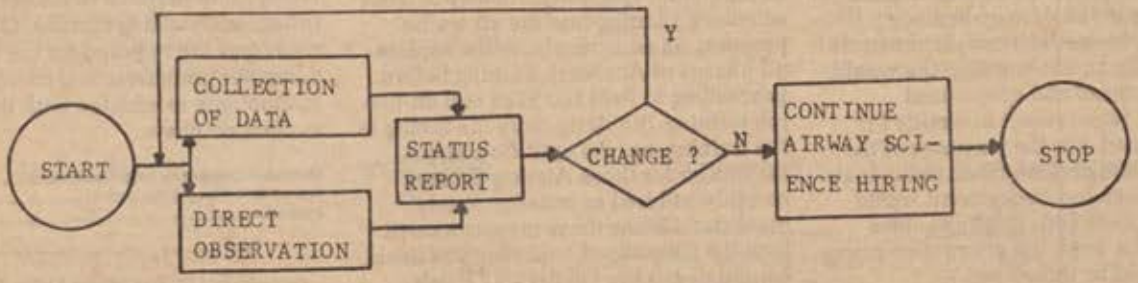

FIGURE 5. FLOW CHART OF IMPLEMENTATION EVALUATION PHASE

Formative Evaluation

When the project is determined to be operational, intact, and sufficiently stable, formative and summative evaluations will begin. The formative evaluation will be an ongoing process to ensure that the project maintains on target. It will consist of a cyclic process of collecting data and statistics related to the project criteria. This monitoring process gauges the operational stability of the project and the quality of Airway Science candidates being employed by the FAA. It is also a method for monitoring compliance with the Uniform Guideline for Employee Selection.

The date base for formative evaluation will be extensive. It will contain information on each Airway Science employee and each member of the control groups as to OPM minority status code, all pertinent attitude information such as expectation and the set/information given to them prior to coming in to the FAA, individual and composite scores for selection tests, if any, other information used for points in selection, such as education, experience, and veterans' preference, FAA training, and pass/fail information and training scores, if applicable to the occupational group under study. Similarly, item response for all tests during any FAA training phases will also be maintained.

Statistics and reports will be summarized for research purposes and for transmittal to FAA project officers. Statistics on all FAA training and job performance measures will include sample sizes, means, standard deviations, intercorrelations, and pass/fail rates. Reliabilities and tests for parallelism will be calculated for all tests and performance ratings. These statistics will be maintained on record in both computer backup files and hard copy. Administrative formative evaluation reports will include sample sizes, means and intercorrelations on all relevant measures; and pass/fail rates and performance ratings will be stratified by minority status, sex, any prior experience, predevelopmental/noncompetitive entry, veterans' preference, educational level, option, and region. These reports will be prepared semiannually.

When, based on the formative summary data, there appears to be a problem in how the project is running, the evaluators will have the responsibility to alert the appropriate FAA project officials and prepare a concise report identifying the problem areas. Isolating the exact area of concern may require some special statistical analyses. The attitude information, where appropriate, will be employed as a covariate in the analyses. If it becomes apparent that, in any stage of employment prior to journeyman/full performance level, Airway Science employees are not meeting performance expectations, the report will recommend review of the project design phase for

possible curriculum or selection adjustment.

Summative Evaluation

The summative evaluation will consist of a continual assessment of the quality of the products of the project. While formative evaluation is summarized semiannually and serves as an immediate feedback loop for ongoing project revisions, if needed, summative evaluation will occur on a larger scale across a longer time span (e.g., on a yearly basis). Formative evaluation will be concerned with internal project accuracy and stability and project reliability. Summative evaluation, however, will be a check on the quality of the output from the stabilized project by comparison of the job performance of Airway Science employees and that of control group members hired into the same occupations through existing intake methods.

The summative data base will consist of several components. It will contain a comprehensive tracking of the career progression of every Airway Science and control group entrant into the FAA. It will contain data for every individual on types of facilities/offices where the person has been employed, measures of job performance at each of these sites (criterion measures), types of attrition and why, whether a person changed job classification and why, and attitude and demographic information.

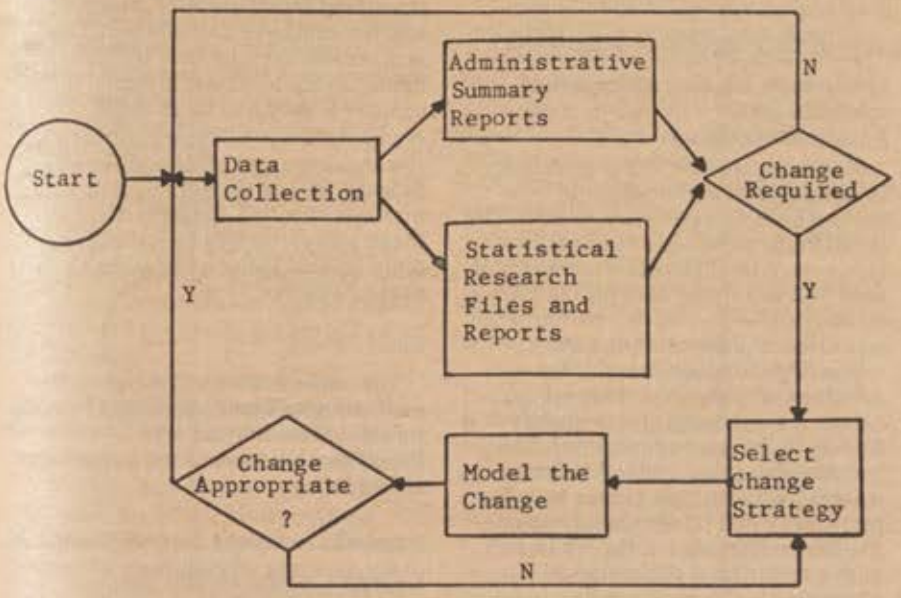

FIGURE 6. FLOW CHART OF THE GENERAL PROCESS FOR BOTH FORMATIVE AND SUMMATIVE EVALUATION

Statistics and reports will be summarized from the summative data base on a regular schedule for research and as information for decisionmaking. Statistics will include sample sizes, means, standard deviations, intercorrelations, attrition rate and analyses of variances (ANOVA) comparing the Airway Science employees with control groups. Administrative summative reports will include sample size, means, intercorrelations, and results of the ANOVA; and attrition data will be stratified by minority status, sex, prior experience, veterans' preference, training, educational level, reasons for attrition, and region.

If the summative data base demonstrates a problem in the project, a need for a major project revision may be indicated. The data will be reviewed very carefully, employing statistical analyses to isolate the source of the problem. As in the formative evaluation, the FAA management will be alerted to the problem but, in addition, in the case of summative data, OPM officials will be notified. Major project revisions require careful planning and more detailed attention than revisions based on formative data. Figure 6 flow charts the general process for both formative and summative evaluation.

Design evaluation	Implementation evaluation	Formulative evaluation	Summative evaluation
Objective: To state goals; develop, define, document project objectives.	To ensure that the design was fully and correctly implemented and is intact and stable.	To ensure that the project stays on target and to add and evaluate refinements changes to the project in a systematic manner. More concerned with project reliability.	To measure the quality of the final project product. What is the project payoff? More concerned with project validity.
Method: Careful documentation and description of major systems and subsystems of the project; use of flowcharts, PERT, tables, graphs, and general systems analysis technology.	Frequent status studies with data indicating the extent of implementation for each area of the process. Regular status reports are issued.	Maintenance of an ongoing data base that measures project stability and collection of data that would be sensitive to any change introduced. Regular reports to management.	Collection and analysis of data on career progress of Airway Science employees. Periodic reports on the data analysis.
Relation to decisionmaking: Determining the best plan of action to accomplish the project objectives.	Status reports offer suggestions for improvement and indicate where implementation is falling short.	Offers information on project stability through regular reports and information on the effects of any program change. Also offers information on EEO impact.	Offers information on the quality of the project product that is especially useful for long-term planning and needed change.

Figure 7—Summary of the Four Components of the Project Evaluation Model.

Application of the Model for Assessment of Products of the Airway Science Demonstration Project

The following design will be employed to determine project effects for the air traffic control specialists, electronics technicians, and aviation safety inspectors (computer science personnel are discussed later).

Applicants and selectees from the Airway Science program will be compared with a concurrent control group selected via the usual process. A series of ANOVAs will be performed on the: (1) Initial selection battery scores, (2) FAA training scores, (3) on-the-job performance measures, and (4) a job attitude measure, stratified by race, sex, and experimental and control group.

The ANOVA Design is illustrated in Figure 8.

	Experimental		Control	
	Men	Women	Men	Women
Minority				
Nonminority				

Figure 8. ANOVA Design for determining project effects by occupational group.

Comparisons on the frequencies within various demographic categories for the experimental and control groups, as well as between all persons who are Airway Science curriculum majors versus those Airway Science majors who apply for FAA positions, will be tested via Chi-Square statistical tests. Further demographic comparisons will not be made because of the lack of available data.

Measures Employed

Measures used for initial selection, training scores, and on-the-job performance measures are described in detail in the previously cited studies. However, a brief generic description of each will be offered here for the FAA training scores, on-the-job performance measures, and the attitude survey.

The FAA conducts training for selectees in each of the three job categories, spanning approximately 4 to 5 years to the journeyman level. The training phases cover: (1) Academic material with multiple choice tests for proficiency and (2) simulated and on-the-job performance of the job tasks with standardized performance assessments. Academic and performance data are maintained and will be used in the analyses on a structured interval basis.

Once journeyman level is achieved, a periodic (annual) performance assessment is made comparing each person to others at that level of experience on several critical performance elements. Current performance criteria have already been developed and applied in the air traffic occupation. Similar criteria will be developed for electronics technicians and aviation safety inspectors employing an abbreviated form of the critical incident method. Data from the performance assessment are also maintained and will be employed in the analyses. The employee attitude survey (to be administered annually with the performance appraisal) is a combination of the items contained in the OPM's Federal Employee Attitude Survey and several items specific to the FAA organization.

Airway Science candidates hired by the FAA into computer science positions will likely constitute a very small sample size (perhaps 5 of less annually). Such small samples preclude proper statistical comparisons with a control group. While the same data maintained for the three previously described groups will also be maintained for these personnel, a different strategy will be employed to determine project effects. On an annual basis, concurrent with their performance appraisal, an in-depth case study will be performed via a structured interview with the employee and the employee's supervisor. The elements of the interview will cover in-depth the same factors involved in the attitude survey and an in-depth comparison by the supervisor between the employee and other non-Airway Science trained employees at that level on the critical job elements. Data from these interviews will be utilized in a more clinical fashion to determine project effects.

Final Report

The entire findings of the project evaluation will be summarized in a final report written in American Psychological Association scientific report form.

Appendix.—Airway Science Curriculum

Generic Curriculum Outline

Subject Areas

General Studies

To include written and oral communication, social and behavioral sciences, humanities and the arts.

Mathematics

Basic math courses to serve as foundations for computer science, science, and areas of concentration.

Science and Technology

To include physics, geography, chemistry and appropriate technology, and/or engineering courses.

Computer Science

To include basic applied computer science courses.

Management

To include general management courses.

Aviation

To include aviation safety, law, navigation, communication, flight, meteorology, history, and operations.

Areas of Concentration

(1) Airway Science Management.
(2) Airway Computer Science.
(3) Aircraft Systems Management.
(4) Airway Electronic Systems.
(5) Aviation Maintenance Management.

Subject Area Parameters

General Studies (27 Semester Hours)

Purpose: To provide the opportunity for the extension of basic learning and communication skills, development of intellectual curiosity, and assessment of a social and historical perspective necessary for a broadly based, "well-rounded" individual.

Course Content: Courses will be designed to teach the skills that have been called "the foundations" of education. Critical thinking, cognitive and analytical skills, artistic skills, and communication skills are typical areas to be offered to satisfy this section of the curriculum.

Sample Courses: Composition, Speech, Economics, Languages, Logic, Government, and Technical Writing.

Mathematics (25 Semester Hours Math, Science, and Technology Combined)

Purpose: To offer a mathematical background specifically directed toward managerial personnel functioning in a high technology environment, including the preparation necessary for an Area of Concentration in Airway computer Science and in Airway Electronic Systems.

Course Content: Specific topics should include college level algebra, analytical geometry, trigonometric functions, exponential and logarithmic functions, vectors and vector notation, matrix theory and applications, functional notation, basic integration and differentiation, linear equations and inequalities, elementary probability and descriptive statistics, and linear programming.

Sample Courses: Algebra, Calculus, Geometry, Trigonometry, Analytjic Geometry, Statistics, and Math Methods.

Science and Technology (See Above)

Purpose: To expose the student to those scientific disciplines which foster and develop logical and in-depth thought processes particularly pertinent for managers in such a fast developing and electronically evolving working environment.

Course Content: Specific topics should include areas in the physical sciences as well as general technology that would have application to the aviation industry.

Sample Courses: Physics, Chemistry, Physical Science, Geography, Meteorology, Introduction to Engineering, and Technology and Society.

Computer Science (9 Semester Hours)

Purpose: To provide the fundamental foundations required for a manager to understand, appreciate, and effectively work with high technology personnel in a complex and dynamic computer oriented industry.

Course Content: Specific topics should include data processing, computer languages (their use and applications), data base management, micro and mini computers, computer security, office automation, societal impacts, graphic usage, and simulation.

Sample Courses: Information Systems, Introduction to Computers, Micro Computers, Systems Analysis, Data Processing, Computer Science, Computer Programming, Computer and Society, and Computer Architecture.

Management (9 Semester Hours)

Purpose: To provide an educational background in management related areas expressly directed toward understanding and interacting with the human and interpersonal relationships necessarily developed in such a diverse field as aviation.

Course Content: The student will be required to have a general understanding of basic management concerns including those topics dealing with organization, motivation, and interpersonal relations. Curriculum is to include basic supervision concepts.

Sample Courses: Business Communications, Personnel Management, Principles of Management, Techniques of Supervision, Organizational Behavior, and Administrative Problems.

Aviation (15 Semester Hours)

Purpose: This section of the curriculum will provide the student with a broad knowledge of aviation operations, the aviation industry, the problems of flight and aircraft systems, and the need to integrate these facets into a comprehensive understanding of the aviation community as a whole.

Course Content: Courses in this area are designed to create an awareness of the operational environment of flight and aircraft systems, as well as the problems of aviation as a dynamic and growth oriented industry.

Sample Courses: Aviation History, Navigation and Communication, Introduction to Aeronautics, Aviation Meteorology, Aviation Safety, and Aerospace Legislation.

Areas of Concentration

I. Airway Science Management

Coursework in this area will prepare students specifically for a variety of administrative and management positions in the aviation community. It will be oriented to the technology of aviation through the core requirements of the curriculum.

Numerous career options exist both in industry and the Government in management areas related to aviation activities to include such positions as airport manager, general aviation operation manager, air carrier management and air traffic control.

II. Airway Computer Science

This program will consist of a series of computer science courses that will prepare the individual to function in diverse areas of computer operation, design, maintenance, troubleshooting, and programming within the field of aviation.

Career options will continue to expand as flight, navigation, communication, and information processing systems increasingly become computerized and automated. It is assumed that these graduates will be capable of assuming management and supervisory positions in time.

III. Aircraft Systems Management

This area of concentration focuses on aircraft flight operations and has as its major goal the preparation of persons with qualifications as professional pilots but who have a science/technology orientation.

The Program would include courses leading to at least commercial certification and instrument and multiengine ratings. In addition, students would take advanced work in Aerodynamics, Propulsion Systems, Aircraft Structures and Systems, and Aircraft Performance. The graduates will hold a current flight instructor certificate with airplane, instrument, and multiengine ratings.

Graduates can expect to enter fields with the Government as aviation safety officers or operations pilots or in industry as professional pilots and/or flight operations managers.

IV. Airway Electronic Systems

This area of concentration will include a comprehensive study of the theories of electronics as well as

practical experiences which would prepare the graduate to assume duties for a career in Government and general aviation electronics. They will be qualified to work not only in maintenance and troubleshooting, but also in supervision, management, testing, and developmental work.

V. Aviation Maintenance Management

The area of concentration will include an in-depth coverage of the theoretical and practical aspects of airframe and powerplant maintenance. In addition to possessing the bachelor's degree, the graduates will hold a mechanics certificate with A and P ratings. They will be qualified to work not only in maintenance and troubleshooting, but also in supervision and management.

Guidelines for a Curriculum in Airway Science

[Core Sample Curriculum]

Subject Areas	
General Studies:	
English Composition	(3)
Technical Writing	(3)
Economics	(6)
Government	(3)
Psychology	(3)
Humanities	(3)
History	(3)
Speech	(3)
Total	27
Math/Science/Technology:	
Algebra/Trigonometry	(3)
Calculus	(3)
Physics	(8)
Geography	(4)
Statistics	(3)
Chemistry	(4)
Total	25
Computer Science:	
Introduction to the Computer	(3)
Computer Programming I	(3)
Computer Science Elective	(3)
Total	9
Management:	
Principles of Management	(3)
Organizational Behavior	(3)
Techniques of Supervision	(3)
Total	9
Aviation:	
Introduction to Aeronautics or Private Pilot Certification	(3)
Aviation Legislation	(3)
Flight Safety	(3)
Air Traffic Control	(3)
The National Airspace System	(3)
Total	15
Areas of Concentration Students will choose one area (see following table for areas of concentration sample cirriculums)	(40)
Total	40
Total	125

Guidelines for a Curriculum in Airway Science—Continued

[Core Sample Curriculum]

Areas of Concentration/Sample Curriculums

I. Airway Science Management:	
Introduction to Sociology	(3)
Theories of Personality	(3)
Psychology of Communication	(3)
Intro to Interpersonal Communication	(3)
Communication Theory and Models	(3)
Introduction to Administrative Problems	(3)
Air Transportation	(3)
Airport Management	(3)
Theories of Personnel Management	(3)
Concepts of Air Transport Utilization	(3)
Labor/Management Relations	(3)
Operations Management	(2)
Management Decisionmaking	(2)
Approved Electives	(3)
Total	40
II. Airway Computer Science:	
Computer Programming II	(3)
Advanced Computer Programming	(3)
Computer Operating Systems	(3)
Assembler Language Programming	(3)
Data Structures	(3)
Computer Methods and Applications I	(3)
Computer Methods and Applications II	(3)
Introduction to Microcomputers	(3)
Introduction of Office Automation	(3)
Theory of Programming Languages and Complex Construction	(3)
Mathematical modeling and Computer Simulation	(4)
Computer Architecture	(3)
Approved Electives	(3)
Total	40
III. Aircraft Systems Management:	
Commercial Pilot Certification	(5)
Instrument Rating	(5)

Guidelines for a Curriculum in Airway Science—Continued

[Core Sample Curriculum]

Multi-engine Rating	(1)
CFI-Airplane	(5)
CFI-Instruments	(3)
Advanced Aerodynamics and Aircraft Performance	(3)
Advanced Aircraft Systems	(3)
Meteorology	(3)
Weather Reporting and Analysis	(3)
Aviation Management	(3)
Air Transportation	(3)
CFI-Multiengine	(3)
Total	40

These graduates must hold a Flight Instructor Certificate with Airplane, Instrument, and Multiengine ratings.

IV. Airway Electronics Systems:	
Theory of Electronics	(3)
Calculus II	(3)
Math Analysis	(3)
Microprocessor Theory and Application	(3)
Advanced Computer Programming	(3)
Solid State Devices	(3)
Integrated Circuits	(3)
Engineering Drawing	(2)
Electrical Circuits	(3)
Digital Logic Application	(3)
Advanced Logic Analysis	(3)
Reliability and Maintainability Theory and Systems Engineering	(3)
Electrical and Power Principles	(2)
Approved Electives	(3)
Total	40
V. Aviation Maintenance Management:	
Engineering Drawing	(2)
Aircraft Materials	(2)
Propulsion	(6)
Propulsion Laboratory	(6)
Structures	(6)
Structures Laboratory	(6)
Aircraft Systems	(3)
Avionics Systems	(3)
Reliability and Maintainability Theory and Systems Engineering	(3)
Approved Electives	(3)
Total	40

These graduates must hold the Airframe and Powerplant Technicians Ratings (Mechanics).

[FR Doc. 83-18946 Filed 7-14-83; 8:45 am]

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federal register

Friday,
July 15, 1983

Part V

Environmental Protection Agency

Noise Emission Standards; Truck-Mounted Solid Waste Compactors

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 205

[AH-FRL 2370-6]

Noise Emission Standards: Truck-Mounted Solid Waste Compactors

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document rescinds the noise emission regulation for Truck-Mounted Solid Waste Compactors (Subpart F of 40 CFR Part 205) issued under the authority of Section 6 of the Noise Control Act of 1972 (42 U.S.C. 4905). Notice of Intent to rescind this regulation was published in the **Federal Register** on December 1, 1982 (44 FR 54111).

This action is being taken based on a consideration of the costs this regulation imposes on the compactor manufacturing industry, prevailing conditions of the national economy in general, and the compactor manufacturing industry in particular, and the President's policy to reduce the burdens of Federal regulation.

DATE: This document is effective August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Louise P. Giersch, Office of Air, Noise and Radiation (ANR-445), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2935.

SUPPLEMENTARY INFORMATION:

1.0 Regulatory History

In accordance with Section 5(b)(1) of the Noise Control Act of 1972, the Administrator of the Environmental Protection Agency, on May 28, 1975 (40 FR 23105) identified Truck-Mounted Solid Waste Compactors (TMSWC), more commonly referred to as "garbage trucks" or "compactors," as a major source of noise. This identification was made, in part, on the basis that, as special auxiliary equipment for trucks, the regulation of compactors would complement the existing Federal noise emission regulation for medium and heavy trucks (40 CFR Part 205, Subpart B).

Under the authority of Section (6)(a)(1) of the Act, the Administrator published, on August 26, 1977, a Notice of Proposed Rulemaking that specified "not-to-exceed" noise emission levels for newly manufactured compactor vehicles (42 FR 43226). The Agency published a Notice of Final Rulemaking on October 1, 1979 (44 FR 56524).

In late 1980, several compactor manufacturers informed the Agency that the regulation placed testing and reporting requirements upon them that, in their opinion, were excessively burdensome and costly. Based on meetings with the industry, as well as information obtained through practical experience with this regulation by several compactor manufacturers and by EPA's enforcement personnel, the Agency agreed it should explore alternative testing and compliance provisions. Accordingly, on February 12, 1981, the Adminstrator issued a Notice of Reconsideration (46 FR 12975) that suspended all enforcement of the regulation until EPA could reassess the testing and reporting requirements. However, after full consideration of the issues involved, the Agency proposed to rescind the regulations.

2.0 Considerations for Rescission

As outlined in detail in the proposed rescission notice, since promulgation of the compactor regulation a number of developments have occurred, including: (a) The economic position of the TMSWC industry has weakened substantially since promulgation of the regulation, unit sales having declined nearly 25 percent between 1979 and 1981; (b) discussions with the industry have revealed that many compactor manufacturers regard each combination of compactor body and truck chassis as unique, which results in significantly higher testing costs than were originally anticipated by the Agency; (c) a major portion of the TMSWC industry has indicated that it no longer desires the protection of national uniformity of treatment provided by the preemption provisions of the Act; and (d) bills to amend the Noise Control Act passed both the House and Senate which would explicity remove the Agency's authority to regulate this product. However, no bill was enacted into law before the end of the Congressional session.

Section 6(c)(1) of the Noise Control Act directs the Administrator to take into consideration, among other factors, the cost of compliance in the establishment of regulations for products which have been identified as major sources of noise. Accordingly, the Administrator has concluded that economic considerations are relevant in deciding to rescind the noise emission regulation for truck-mounted solid waste compactors. Based on the above considerations as discussed in more detail in the proposal, EPA has concluded that the costs of compliance with this regulation are excessive.

3.0 Environmental Considerations

In taking this action, the Administrator has taken into consideration the nature of compactor noise impacts and the substantial growth in local noise control programs and ordinances since this product was identified as a major noise source for Federal regulation. For the most part, noise impacts from compactors are highly localized, occurring primarily along local roads and streets. Approximately 50% of the compactors in use are under the direct control of State and local governments through government waste collection services, and much of the private waste collection sector is subject to controls on routing, hours of operation, and number of trucks in operation.

The Administrator believes that, absent the industry's need for uniform national noise control standards, the control of compactor noise by State and local governments through regulatory initiatives and programs such as "Buy-Quiet" has the potential to mitigate any adverse environmental impacts that might result from rescission of the TMSWC noise emission regulation.

4.0 Docket Summary

There were a total of 13 responses to the Agency's proposed rescission; 7 comments were received from the industries affected and their trade association, and 6 comments were received from State or local governments or their respective associations. The 13 commenters were all in agreement with the proposed rescission. The Administrator believes that the unanimous concurrence by respondents and the rather limited response to this action per se further indicates that a decision to rescind this regulation is the proper course by the Agency.

In summary, State and local respondents to the proposal basically felt that regulation of these noise sources is a State and local problem which can best be handled at that level, and that State and local governments have the means, in cooperation with industry, to mitigate any adverse environmental impacts that might result. Some of the State and local respondents indicated that Federal cooperative involvement in noise control should continue in order to help provide either technical or financial assistance.

Industry responses reiterated the Agency's rationale in the proposal to rescind the regulation. The trade association for the industry did express concern that the Agency should not be

supportive of a "Buy-Quiet" program for State and local governments. The Agency, however, feels that a "Buy-Quiet" program is a viable non-regulatory alternative through which State and local governments can, working cooperatively with industry and their counterpart State and local governments, effect the purchase of quieter products. The Agency remains in full support of such a voluntary program.

5.0 List of Subjects in 40 CFR Part 205

Labeling, Motor vehicles, Noise control, Reporting and recordkeeping requirements.

6.0 Conclusions

It is the Administrator's judgment that the Federal Noise Emission Regulation for Truck-Mounted Solid Waste Compactors (40 CFR Part 205, Subpart F) should be rescinded.

This action is expected to save societal resources estimated at $33 million in equivalent annual costs, and enable the compactor manufacturing industry to avoid an estimated $15 million annually in engineering and testing costs. Further, the Administrator believes that it is within the ability of State and local governments to control the noise of these products, and thereby substantially mitigate any adverse environmental effects that might result from the rescission of this regulation.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory Impact Analysis. This action is not a major regulation as it proposes to rescind a regulation, and because:

(1) It will not have an annual adverse effect on the economy of $100 million or more;

(2) It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(3) It will not cause 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.

Pursuant to the provisions of 5 U.S.C. 601, *et seq.* I hereby certify that this action will not have a significant economic impact on a substantial number of small entities, because it withdraws the need for small entities to implement noise control features on Truck-mounted Solid Waste Compactors.

This final action was submitted to the Office of management and Budget (OMB,) for review as required by Executive Order 12291. Any written comments from OMB, and any EPA response to those comments, are included in the public docket for this action.

For the reasons set forth in the preamble, EPA, hereby removes the Federal Noise Emission regulation for Truck-Mounted Solid Waste Compactors (Subpart F of 40 CFR Part 205).

Authority: Section 6 of the Noise Control Act of 1972, 42 U.S.C. 4905.

Dated: July 11, 1983

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-19163 Filed 7-14-83; 8:45 am]

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federal register

Friday
July 15, 1983

Part VI

Department of the Interior

Office of the Secretary

Bureau of Land Management
Fish and Wildlife Service
National Park Service

Transportation and Utility Systems in and Across, and Access Into, Conservation System Units in Alaska; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 36

Bureau of Land Management

Fish and Wildlife Service

50 CFR Part 36

National Park Service

36 CFR Part 13

Transportation and Utility Systems in and Across, and Access Into, Conservation System Units in Alaska

AGENCY: Department of the Interior.

ACTION: Proposed rule.

SUMMARY: These regulations implement the provisions of title XI of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, Pub. L. 96-487, concerning transportation and utility systems in Alaska when any portion of the route of the system will be within any conservation system unit, national recreation area or national conservation area. They detail the procedures that must be followed to obtain any needed Federal approval for these systems. In addition, the regulations address special access, temporary access and access to inholdings.

DATES: Comments must be received on or before November 14, 1983. Hearings on the proposed regulations will be held in Juneau on September 12, in Fairbanks on September 14, and in Anchorage on September 16. The specific times and locations will be announced later in the **Federal Register** and local publications.

ADDRESSES: Comments on the proposed regulations should be directed to William P. Horn, Deputy Under Secretary, Room 6116, Department of the Interior, Washington, D.C. 20240. Comments relating to collection of information requirements contained in this rule should be directed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of the Interior, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Brian C. Koula, Office of the Solicitor, Room 6546, Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343-7957.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1980, the Alaska National Interest Lands Act (ANILCA) was signed into law as Public Law 96-487 (94 Stat. 2371, 16 U.S.C. 3101 *et seq.*). Title XI of ANILCA which is entitled "Transportation and Utility Systems in and Across, and Access into, Conservation System Units," establishes procedures, and in some instances substantive authority, for the consideration of applications for transportation and utility systems in Alaska when any portion of the route of the system will be within any conservation system unit, national recreation area or national conservation area. In addition, the title authorizes special access, temporary access, and access to inholdings.

On June 3, 1981, the Secretary of the Interior, along with the Secretaries of Agriculture and Transportation published a notice in the **Federal Register** of a consolidated application form for use in applying for Federal approval of transportation and utility systems under the provisions of title XI, Standard Form 299, "Application for Transportation and Utility Systems and Facilities on Federal Lands." Title XI requires that this form be used when seeking authorization by a Federal agency of any of the listed transportation or utility systems in the title. No authorization will have any force or effect unless the consolidated application form is used in compliance with the provisions of title XI.

Interim regulations were promulgated by the National Park Service and the Fish and Wildlife Service to implement those portions of title XI relating to special access, temporary access, and access to inholdings. None of the bureaus of this Department has promulgated regulations implementing the remainder of title XI. Accordingly, it is the purpose of these regulations to specify regulations to implement the title XI provisions for this Department: the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service. Concurrently, those interim regulations which were promulgated by the National Park Service and the Fish and Wildlife Service relating to special access, temporary access, and access to inholdings, are proposed to be repealed and replaced by these Departmental regulations, so that all Departmental title XI implementing regulations will be codified in a single part.

Section-by-Section Analysis

Section 36.1 Applicability and Scope.

The proposed regulations apply to any application for a transportation or utility system in the State of Alaska if any portion of the route of this system would be within any conservation system unit administered by the Bureau of Land Management, the Fish and Wildlife Service, or the National Park Service. They also apply to the White Mountains National Recreation Area and the Steese National Conservation Area, both administered by the Bureau of Land Management.

The conservation system units in Alaska to which these regulations apply are as follows:

Administered by National Park Service

Aniakchak National Monument and Preserve
Bering Land Bridge National Preserve
Cape Krusenstern National Monument
Gates of the Arctic National Park and Preserve
Kenai Fjords National Park
Kobuk Valley National Park
Lake Clark National Park and Preserve
Noatak National Preserve
Wrangell-Saint Elias National Park and Preserve
Yukon-Charley Rivers National Preserve
Glacier Bay National Park and Preserve
Katmai National Park and Preserve
Denali National Park and Preserve
Alagnak National Wild River
Alatna National Wild River
Aniakchak National Wild River
Charley National Wild River
Chilikadrotna National Wild River
John National Wild River
Kobuk National Wild River
Mulchatna National Wild River
Noatak National Wild River
North Fork of the Koyukuk National Wild River
Salmon National Wild River
Tinayguk National Wild River
Tlikakila National Wild River

Administered by Fish and Wildlife Service

Alaska Peninsula National Wildlife Refuge
Becharof National Wildlife Refuge
Innoko National Wildlife Refuge
Kanuti National Wildlife Refuge
Koyukuk National Wildlife Refuge
Nowitna National Wildlife Refuge
Selawik National Wildlife Refuge
Tetlin National Wildlife Refuge
Yukon Flats National Wildlife Refuge
Alaska Maritime National Wildlife Refuge
Arctic National Wildlife Refuge
Kenai National Wildlife Refuge
Kodiak National Wildlife Refuge
Togiak National Wildlife Refuge
Yukon Delta National Wildlife Refuge
Izembek National Wildlife Refuge
Andreafsky National Wild River
Ivishak National Wild River
Nowitna National Wild River
Selawik National Wild River
Sheenjek National Wild River
Wind National Wild River

Administered by Bureau of Land Management

Beaver Creek National Wild River
Birch Creek National Wild River
Delta National Wild River
Fortymile National Wild, Scenic and Recreational River
Gulkana National Wild River
Unalakleet National Wild River

In addition, the proposed regulations address special access and access to inholdings within these areas. These sections also apply to those public lands administered by the Bureau of Land Management which are designated wilderness study areas. Temporary access provisions cover all of the aforementioned areas, as well as the National Petroleum Reserve—Alaska, and public lands administered by the Bureau of Land Management that are designated as wilderness study areas or that are managed to maintain the area's wilderness character.

Finally, except as specifically provided in the proposed regulations, applicable agency law and regulations concerning transportation and utility systems, such as statutory authorizations and implementing regulations pertaining to rights-of-way, apply with respect to the authorization and administration of these systems.

Section 36.2 Definitions.

The term "appropriate Federal agency" is used throughout the proposed regulations and is defined to include the agency official to whom the authority is delegated to grant any necessary authorization to construct or operate a transportation or utility system. Since the delegation vary among the three Interior bureaus and may differ within a bureau for the various agency actions specified under this part, the specific official to whom a particular authority has been delegated has not been identified. For example, within the National Park Service, the delegation of authority for compliance with the National Environmental Policy Act differs from the delegation for the issuance of a right-of-way permit. An applicant interested in knowing the identity of the responsible official may make an inquiry during the preapplication agency contact encouraged in § 36.3.

"Transportation or utility system" ("TUS") is defined in § 36.2(r). This definition includes a listing of the specific systems to which the term applies. Related structures and facilities, which are reasonably necessary for the construction, operation and maintenance of the transportation or utility system, and which are listed on the consolidated application form, are also included. Storage facilities, reservoirs and refineries are not included within the definition of TUS, and they may be applied for as part of the TUS only when they are clearly related facilities.

Section 36.3 Preapplication.

This section encourages potential applicants to establish early contact with each appropriate Federal agency from which approval must be obtained. Early contact with each appropriate Federal agency is intended to result in applications which are complete when intially filed, to allow expeditious processing. For many small TUS projects, the applicant may be able simultaneously to complete Standard Form 299 at the preapplication meeting.

This section also provides for certain preapplication activities to be conducted on potential TUS sites within the areas when needed to obtain information to complete the consolidated application form. Taking soil samples or charting maps are activities which might occur under this authorization. For those areas administered by the National Park Service and the Fish and Wildlife Service, potential applicants must obtain a permit prior to engaging in these types of preapplication activities. Permits will be issued for necessary preapplication activities unless the appropriate Federal agency determines either that significant or permanent damage to the values for which the area was established, or unreasonable interference with other authorized uses or activities would result.

Section 36.4 Filing of Application.

For any system qualifying as a transportation or utility system under the provisions of these regulations, a consolidated application form, Standard Form 299, must be filed by the applicant with each appropriate Federal agency. If the applicant fails to use the consolidated application form, the application will be summarily returned to the applicant.

The consolidated application form should be filed with all appropriate agencies on the same day. However, this section allows an exception in those instances when the application must be filed at more than one geographic location. Under these circumstances, all applications should be filed as soon as possible, and must be filed within 15 days from the time the initial application is filed. The date that the last of the applications is received will be deemed the official filing date. This date begins the running of the time limitations imposed by title XI of ANILCA for compliance with the National Environmental Policy Act and for issuance of a decision on the application.

A lead agency will be designated when more than one appropriate Federal agency will review the application. Among other things, the lead agency will determine the official filing date and will so inform the appropriate Federal agencies.

Section 36.5 Application Review.

This section establishes specific time periods during which applications must be reviewed. Within 60 days of the official filing date, each agency with which the application is filed must inform the applicant that the application is complete or request specific additional information. The applicant must furnish the additional information within 30 days of receipt of the notification of deficiency. If the 30 day period is inadequate, the applicant may request additional time. This request may be granted if accompanied by the applicant's agreement to change the official filing date to the date of filing of the additional information. Unless an extension is granted, failure to supply additional information within 30 days will result in return of the application without further processing.

Upon receipt of the additional information, the appropriate Federal agency will provide written notification to the applicant informing the individual whether the supplemental information is sufficient. If the information is insufficient, the application will be returned. If the sufficient information is subsequently submitted to the appropriate Federal agency, the date that the final supplemental information is actually received by the agency will become the official filing date. The lead agency will inform all appropriate Federal agencies of any such change.

Section 36.6 NEPA Compliance and Lead Agency.

This section establishes a method for determining which of the appropriate Federal agencies will be the lead agency for both the purposes of compliance with National Environmental Policy Act and of coordination among the appropriate Federal agencies in the review and processing of the consolidated application form.

This section is intended to set time deadlines, not to revise the current provisions or requirements relating to compliance with NEPA. Under these provisions, an environmental assessment or a draft environmental impact statement, whichever is appropriate, must be completed within nine months of the official filing date. Agencies are encouraged to complete the environmental assessment in the shortest possible time, and in the majority of cases significantly less than nine months should be adequate.

The nine-month period may be extended only upon a determination of good cause by the lead Federal agency, and a notification in the **Federal Register**, along with the reasons for the extension, at least 30 days prior to the end of the nine-month period. This time extension provision wil be used only under exceptional circumstances which are beyond the control of the appropriate Federal agencies, such as weather conditions which prevent the gathering of on-site information.

If an environmental impact statement is not required, a finding of no significant impact wil be prepared. If an environmental impact statement is necessary, it must be completed within three months of completion of the draft environmental impact statement or within one year of the filing of the application, whichever is later. Notice of its availability must be published in the **Federal Register.**

The regulations also provide for reimbursement of costs associated with preparation of the environmental impact statement. Other application processing costs, such as filing fees, will be reimbursed according to the applicable law and regulations of the appropriate Federal agency incurring the cost, and nothing in these regulations is intended to revise these cost reimbursement requirements. Specific regulations relating to cost reimbursement for environmental statement preparation and review are included in these regulations because ANILCA makes applicable the provisions of section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), relating to cost reimbursement for NEPA compliance, to title XI applications. Accordingly, this section is similar to the Bureau of Land Management regulations implementing section 304 of FLPMA.

In light of a recent decision of the United States Court of Appeals for the 10th Circuit, *Nevada Power Co.* v. *Watt, et al.*, No. 81–1944 (June 16, 1983), the Bureau of Land Management may be revising cost reimbursement regulations, promulgated under the authority of section 304. If revisions are made, the cost reimbursement provisions proposed in these regulations would be revised accordingly. In brief, the court found that the Department of the Interior must take into consideration the several factors listed in section 304(b) in determining "reasonable costs." The Department of the Interior has taken the position that for section 304 purposes, "reasonable costs" equal actual costs. The court held that the other section 304(b) factors were not properly considered, and requires a reconsideration of how "reasonable costs" are to be considered.

Section 36.7 Decision Process.

Title XI of ANILCA establishes two separate decisionmaking processes. The first applies when the appropriate Federal agencies have applicable law pertaining to the proposed system, and the area over which the system is to cross is not within a unit of the National Wilderness Preservation System. The second decision process applies when the proposed system would cross an area within the National Wilderness Preservation System or an appropriate Federal agency has no applicable law pertaining to all or any part of the proposed transportation or utility system.

When the decision is based on applicable law, each appropriate Federal agency must make a decision within four months of the date of either the notice of availability of the final environmental impact statement or of the finding of no significant impact. Before an application will be approved, all appropriate Federal agencies must approve the transportation or utility system. If any Federal agency disapproves a portion of the proposed transportation or utility system, the application in its entirety is disapproved. The procedure for appeal of denials when the decision is based on applicable law is detailed in section 1106(a) of ANILCA (16 U.S.C. 3166(a)).

Under the second process, each appropriate Federal agency must determine whether the agency tentatively approves or disapproves each authorization within its jurisdiction and make notification pursuant to section 1106(b) of ANILCA (16 U.S.C. 3166(b)). This notification must be made within four months of the date of the publication of the notice of availability of the final environmental impact statement or the finding of no significant impact. If there is applicable law for a portion of a TUS which is outside the National Wilderness Preservation System, the applicable law shall be used in making the determination whether tentatively to approve that portion of the TUS. Any agency without applicable law must apply the standards of § 36.7(b).

Agencies having jurisdiction over a TUS, any portion for which there is no applicable law, shall recommend approval of that portion if it is determined that: (a) Such system would be compatible with the purposes for which the area was established; and (b) there is no economically feasible and prudent alternative route for the system. "Compatible with the purposes for which the unit was established" is defined by the regulations to mean that the system will not interfere with or detract from the purposes for which the unit was established. "Economically feasible and prudent alternative route" is defined to mean a route either within or outside an area that is based on sound engineering practices and is economically practicable but does not necessarily mean the least costly alternative route. These terms are defined in § 36.2.

Section 36.8 Administrative Appeals.

This section informs an applicant of the appellate procedure available when a request for a TUS has been denied by an agency having applicable law (and the area is not a part of the National Wilderness Preservation System). That procedure is found in section 1106(a) of ANILCA.

Section 36.9 Issuing Permit.

Once an application is approved, the appropriate right-of-way permit or permits will be issued according to each agency's authorizing statutes and regulations; or, if there are no authorizing statutes or regulations, according to the provisions of Title V of the Federal Land Policy Management Act of 1976 or other applicable law. All fees and other charges must be paid according to applicable law, prior to permit issuance.

Section 36.10 Access to Inholdings.

This section replaces the provisions of 36 CFR 13.15 and 50 CFR 36.23, promulgated on an interim basis by the National Park Service and the Fish and Wildlife Service respectively, to implement the provisions of section 1110(b) of ANILCA. Section 1110(b) applies to State-owned land, privately owned land or any other valid occupancy which is within or effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study areas. It provides that the Secretary must give the State or private owner or occupier such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the non-federal land.

In the interim regulations promulgated by the National Park Service and the Fish and Wildlife Service, the 1110(b) access right is limited to pedestrian or vehicular transportation economically practicable for achieving the use or development desired by the applicant. This access right is defined to *exclude*

other rights-of-way to the inholding, such as for pipelines or transmission lines. Under this previous regulatory scheme, other rights-of-way, even if necessary for achieving the desired use of the applicant on the inholding, are interpreted as excluded from the section 1110(b) access right. Accordingly, the current National Park Service and Fish and Wildlife Service regulations provide that any other permanent improvement application be processed according to the provisions of sections 1104–1107 of ANILCA.

Further review of the legislative history of section 1110(b) has led to the reconsideration that this interpretation of the access right is too narrow and does not provide the full right of access intended by Congress. Accordingly, these proposed regulations expand the section 1110(b) access right to include all rights-of-way that are necessary for the inholder's desired land use. Section 36.2 of the proposed regulations defines "adequate and feasible access" to mean a route or method of access that is shown to be reasonably necessary and economically practicable for achieving the use or development desired by the applicant on the applicant's non-federal land or occupancy interest. The route or method need not necessarily be the least costly alternative. Comments on this interpretation of the section 1110(b) access right are requested.

Under this proposed section, a valid occupier of an inholding must file a consolidated application form, Standard Form 299, with the appropriate Federal agency. "Inholding" is defined to include State-owned or privately owned land or other valid occupancies that are within or effectively surrounded by one or more areas. "Area" means a conservation system unit, a national recreation area, a national conservation area or public lands designated as a wilderness study area in Alaska. The applicant must include a detailed description of the intended use of the inholding for which the right-of-way permit is required and, if applicable, rationale demonstrating that the inholding is effectively surrounded by an area. The application is to be filed in accordance with § 36.4 and is reviewed and processed in accordance with §§ 36.5 and 36.6(a)–(c). Assuming that the applicant qualifies as an occupier of an inholding, the appropriate Federal agency must specify in a right-of-way permit the routes and methods of access across the area desired by the applicant unless it is determined that:

1. The route or method of access would cause significant adverse impacts on natural or other values of the area;

2. The route or method of access would jeopardize public health and safety;

3. The route or method of access is inconsistent with the management plans for the area or the purposes for which the area was established; or

4. The method of access is unnecessary to accomplish the applicant's land use objective.

The proposed route or method of access by the applicant may be denied for the reasons listed in 1–3 above, only if adequate and feasible access otherwise exists. In other words, even if the appropriate Federal agency makes one of the findings listed in 1–3, unless adequate and feasible access otherwise exists the applied for route or method may not be denied. The fourth listed reason for denying the applied for method, that it is unnecessary to accomplish the applicant's land use objective, is intended to apply only in those situations when the requested access method is clearly in excess of that need by the applicant. An extreme example of this situation might be a request for a four-lane highway to a recreational cabin. If such a request were made, the appropriate Federal agency would offer an alternative method of access. The applicant would then have the option of accepting that method, filing an application under the general provisions of these regulations for a right-of-way permit, or filing an appeal, as discussed below. In all instances, when the route or method of access requested by the applicant is denied for any of the reasons in 1–4, above, the appropriate Federal agency will consult with the applicant prior to designating an alternate route or method which will provide adequate and feasible access.

All permits issued under this section will be subject to terms and conditions in the same manner as right-of-way permits issued pursuant to § 36.9 of this part, so that the area will be protected to the greatest extent possible. An applicant denied a right of access may appeal the denial pursuant to the general Department of the Interior regulations found in 43 CFR 4.700 *et seq.*

Finally, an applicant for an access permit under the provisions of this section will not be required to pay any fees or other charges associateid with the filing or processing of the application, NEPA compliance, permit issuance, or use of area lands. Coment is specifically requested on this provision.

There is one additional issue related to the provisions of this section on access to inholdings. A question has arisen whether the right-of-way should be for the exclusive use of the applicant if multiple use is possible, or whether the right-of-way should be open to public use and/or the use by other inholders when permits are issued to them under the terms of this section. Non-exclusive permits could result in obvious benefits in the management of the areas, such as reducing adverse impacts to the resource and lowering costs to the Federal government when government uses may be made of permanent improvements. It is recognized that the construction of access routes to inholdings may be highly costly, and it would perhaps be inequitable to require the inholder who assumes the expense of construction to share the benefits of that construction with the general public or with another inholder or inholders. Compensation to the original permit recipient may be required. If multiple use of a permanent improvement for access purposes is determined to be appropriate, provisions may be included in this section to require arbitration if the applicants cannot agree on the allocation of the costs for the permanent improvement. For two or more private applicants, binding arbitration could be required. If the Federal government proposes to use the permanent improvement, advisory arbitration might be appropriate. Accordingly, public comment is requested on this issue.

Section 36.11 Special Access.

This section implements the provisions of section 1110 (a) of ANILCA. Except for some editorial revisions, the provisions of this section are taken from the interim regulations published by the National Park Service and the Fish and Wildlife Service on June 17, 1981. Those sections were codified as 50 CFR 36.21–36.22 for the Fish and Wildlife Service and 36 CFR 13.10–13.14 for the National Park Service, which are proposed for repeal by this section.

Paragraph (a) defines the terms "area" and "adequate snow cover" as used in this section. Paragraph (b) tracks the ANILCA section 1110 (a) language authorizing snowmachine use in park areas for "traditional activities" and "travel to and from villages and homesites." Snowmachine use is authorized during periods of adquate snow cover or frozen river conditions only for traditional activities which are still permitted in CSUs, travel to and from villages and homesites, pursuant to an access permit, and for subsistence purposes.

Paragraph (c) authorizes general motorboat use within CSUs.

Paragraph (d) authorizes the use of nonmotorized surface transportation such as domestic dogs, horses and other pack or saddle animals.

Paragraph (e) authorizes general fixed wing aircraft use. Helicopter use will be allowed only by permit, as specified in paragraph (f).

It should be noted that the downed aircraft provisions of paragraph three of this section apply only to areas administered by the Fish and Wildlife Service and the National Park Service, and not to areas administered by the Bureau of Land Management. Paragraph (g) prohibits the use of off-road vehicles in locations other than established roads and parking areas, except on routes or in areas designated by the appropriate Federal agency or pursuant to a valid permit.

Since it is not intended substantively to change the provisions as they were promulgated by the National Park Service and the Fish and Wildlife Service, reviewers may also want to read the explanation of these provisions contained in the preambles of the regulations published on January 19, 1981 and June 17, 1981 for further discussion of these provisions. *See* 46 FR 5642–5683 and 46 FR 31818–31864.

Closure procedures are also included in this section. There are three types of closures: emergency, temporary, and permanent. Emergency closures are not to exceed 30 days, and may not be extended. Temporary closures are not to exceed 12 months, are effective after notice and hearing, and may also not be extended. Permanent closures must be published as a rulemaking in the **Federal Register** with a minimum public comment period of 60 days.

A standard penalty provision is included for purposes of this section only, since it is believed this enforcement tool is needed by the Department.

Section 36.12 Temporary Access.

This section implements section 1111 of ANILCA by establishing a permit mechanism for obtaining temporary access across areas in Alaska for purposes of survey, geophysical, exploratory or other temporary uses of non-federal lands located outside Federals areas. A temporary access permit is to be obtained only where it is not provided for affirmatively in §§ 36.10 and 36.11 of these proposed regulations, the provisions on access to inholdings and special access. Unlike the provisions concerning access to inholdings under § 36.10, temporary access can be denied when there would be permanent harm to area resources. Except for editorial revisions, this section is substantially the same as 36 CFR 13.16 for the National Park Service and 50 CFR 36.24 for the Fish and Wildlife Service. These regulations propose to repeal the current bureau provisions on temporary access and reissue them in this Departmental regulation.

Section 36.13 Special Provisions.

In other titles of ANILCA, Congress considered certain possible transportation and utility systems and provided either specific direction or consideration. This section applies that Congressional action in four cases to these general regulations § 36.1 to § 36.9).

(a) This paragraph reflects the provisions of section 201(4) (b) through (d) of ANILCA where Congress found need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve.

The granting of such access is non-discretionary; upon application notice will be given allowing other parties to file access applications for concurrent consideration; an environmental and economic analysis by the Secretaries of Interior and Transportation is substituted for any other investigations, including any which might be required by NEPA; and the Secretaries have 60 days following completion of the analysis to agree as to the route to be permitted. Otherwise, the provisions of title XI of ANILCA and these regulations apply.

(b) This paragraph reflects section 1419(d) of ANILCA, where Congress directs approval of applications by Doyon, Ltd., from its landholdings in the Kandik and Nation River watersheds across the Yukon River in the Yukon-Charley National Preserve.

Any such applications will be processed in accordance with §§ 36.1 to 36.9, and will be approved unless an economically feasible or otherwise reasonable available alternative route exists. No such access route will be permitted within or across the Charley River watershed portion of the Preserve.

The wording of section 1419(d) leads us to the conclusion that Congress did not intend such applications to be treated as Access to Inholdings, § 36.10 of these regulations.

(c) This paragraph reflects section 1431(j) of ANILCA. Upon the filing of Standard Form 299, the appropriate Federal agency and Arctic Slope Regional Corporation shall mutually agree to an oil and gas pipeline system(s) running east-west between the Kurupa Lake area and the Trans-Alaska Pipeline corridor. Decision on final alignment rests with the appropriate Federal agency.

No environmental assessment under NEPA is required. As such, cost recovery under § 36.6 of these regulations will not apply.

(d) This paragraph incorporates section 605(b) of ANILCA allowing necessary access across segments of the Fortymile River classified as a wild river area where such access is necessary for commercial development of asbestos deposits in the North Fork drainage of the Fortymile River basin. Any such applications will otherwise be processed in accordance with §§ 36.1 through 36.9.

Drafting Information

The primary authors of these proposed regulations are Brian C. Koula, Division of Conservation and Wildlife, Office of the Solicitor, Washington, D.C.; Sheryl L. Katz, Division of Energy and Resources, Office of the Solicitor, Washington, D.C.; Maureen Finnerty, Division of Visitor Services, National Park Service, Washington, D.C.; Theodore Bingham, Division of Rights-of-Way, Bureau of Land Management, Washington, D.C.; and Richard Corthell, Division of Realty, fish and Wildlife Service, Washington, D.C.

Paperwork Reduction Act

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3504(h). The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This finding is based on the minimal positive economic impact on salvage aircraft companies, local repair shops, filling stations, parts stores and retail outlets for access vehicles. Small entities will also be minimally impacted by the various permit provisions regarding access.

An environmental assessment has been prepared by the Department on the proposed regulatons. Copies of the environmental assessment are available upon request at the address listed above under "For Further Information."

Public Participation

Active public participation in the development of these regulations is encouraged. Interested persons may submit written comments, suggestions or objections about the proposed regulations to the address noted at the beginning of this rulemaking. To aid the Department in the review and analysis of public comments, any person wishing to comment should address each regulation separately, preferably in a separate paragraph. Draft or revised regulatory language is specifically requested in the instances where the proposed regulation is judged to be inadequate, or on issues on which the proposed rule is silent. Comments relating to the collection of information requirements contained in this rule are also requested and should be forwarded to the address noted at the beginning of this rulemaking.

List of Subjects

43 CFR Part 36

Alaska, Transportation, Utilities, Access, Rights-of-Way, Conservation system units.

36 CFR Part 13

Aircraft, Alaska, National parks, Penalties, Traffic regulations.

50 CFR Part 36

Alaska, Recreation and recreation areas, Traffic regulation, Wildlife refugees.

Title 36—[Amended]

PART 13—[AMENDED]

§§ 13.10–13.16 [Removed and Reserved]

In consideration of the foregoing, Title 36 of the Code of Federal Regulations is proposed to be amended by removing and reserving §§ 13.10–13.16.

Title 50—[Amended]

PART 36—[AMENDED]

§§ 36.21—36.24 [Removed and Reserved]

Title 50 of the Code of Federal Regulations is proposed to be amended by removing and reserving §§ 36.21—36.24.

Title 43—[Amended]

Title 45 of the Code of Federal Regulations is proposed to be amended by adding a new Part 36 as follows:

PART 36—TRANSPORTATION AND UTILITY SYSTEMS IN AN ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA

Sec.

Authority: Title XI of the Alaska National Interest Lands Conservation Act, 94 Stat. 2371, Pub. L. 96–487, 16 U.S.C. 3101 *et seq.*; Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 1, 3); R.S. 2478, 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 FR 7876, 60 Stat. 1100, 43 U.S.C. 1201; the National Wildlife Refuge System Administration Act, as amended, 16 U.S.C. 668dd *et seq.*

§ 36.1 Applicability and scope.

(a) The regulations in this part apply to any application for a transportation or utility system (TUS) in the State of Alaska if any portion of the route of the system will be within any conservation system unit, national recreation area or national conservation area which is administered by the Bureau of Land Management, Fish and Wildlife Service, or National Park Service, and the system is not one which the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area. The regulations also provide for special access and access to inholdings within these areas, as well as within public lands administered by the Bureau of Land Management designated as a wilderness study area. In addition, this part addresses temporary access within these areas, as well as the National Petroleum Reserve—Alaska and public lands administered by the Bureau of Land Management designated as wilderness study areas or managed to maintain the wilderness character or potential thereof.

(b) Except as specifically provided in this part, applicable law shall apply with respect to the authorization and administration of transportation or utility systems.

§ 36.2 Definitions.

As used in this part, the term:

(a) "Adequate and feasible access" means a route and method of access that is shown to be reasonably necessary and economically practicable for achieving the use or development desired by the applicant on the applicant's non-federal land or occupancy interest. The route or method of access must be economically practicable, but not necessarily the least costly alternative.

(b) "ANILCA" means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96–487).

(c) "Applicable law" means a law or regulation of general applicability, other than title XI of the ANILCA, under which a Federal department or agency has jurisdiction to grant an authorization (including but not limited to, a right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part, be established or operated.

(d) "Applicant" means an individual, partnership, corporation, association or other business entity, and a Federal, State or local government entity, including a municipal corporation submitting an application under this part.

(e) "Appropriate Federal agency" means a Federal agency (or the agency official to whom the authority has been delegated) that has jurisdiction to grant any authorization without which a TUS cannot in whole or in part, be established or operated.

(f) "Area" means a Conservation System Unit, a National Recreation Area, or a National Conservation Area in Alaska, administered by the National Park Service, the Fish and Wildlife Service or the Bureau of Land Management.

(g) "Compatible with the purposes for which the unit was established" means that the system will not interfere with or detract from the purposes for which the unit was established.

(h) "Conservation System Unit" or "CSU" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or the National Wilderness Preservation System, administered by the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management.

(i) "Economically feasible and prudent alternative route" means a route either within or outside an area that is based on sound engineering practices and is economically practicable but does not necessarily mean the least costly alternative route.

(j) "Improved rights-of-way" means routes which are of a permanent nature and would involve substantial alteration of the terrain or vegetation such as grading and gravelling of surfaces, or

other such construction. Trail rights-of-way which are annually or periodically marked, brushed, or broken for off-road vehicles are excluded.

(k) "Incident to its management of the unit or area" means a type of TUS which is used directly or indirectly in support of authorized activities, and which is built by or for the Federal agency which has jurisdiction over the unit or area.

(l) "Other system of general transportation" means private and commercial transportation of passengers and/or shipment of goods or materials.

(m) "Public values" means those values relating to the purposes for which the unit was established as defined by the enabling legislation for the area.

(n) "Related structures and facilities" means those structures, facilities and rights-of-way which are reasonably and minimally necessary for the construction, operation and maintenance of a TUS, and which are listed as part of the TUS on the consolidated application form, Standard Form 299, "Application for Transportation and Utility Systems and Facilities on Federal Lands." Production and storage facilities such as mineral production and processing operations, electric generating plants, reservoirs, tank farms, and terminal facilities, are excluded.

(o) "Right-of-way permit" means a right-of-way, permit, lease, license, certificate, or other authorization for all or part of a TUS in an area.

(p) "Road" means a designed, constructed, and permanently maintained improved surface over which travel by a standard passenger vehicle, intended for highway and street travel, is normally possible.

(q) "Secretary" means the Secretary of the Interior.

(r) "Transportation or utility system" or "TUS" means any of the sustems listed in paragraphs (r) (1) through (7) of this section, if a portion of the route of the system will be within an area and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area. The systems shall include related structures and facilities.

(1) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water. Reservoirs, dams and similar water impoundments are not included.

(2) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom. Storage and processing facilities like tank farms and oil refineries are excluded.

(3) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials. Solid material storage facilities are excluded.

(4) Systems for the transmission and distribution of electric energy. Electric generating plants are excluded.

(5) Systems for transmission or reception of radio, television, telephone, telegraph and other electronic signals and other means of communication.

(6) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(7) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

§ 36.3 Preapplication.

(a) Anyone interested in obtaining approval of a TUS is encouraged to establish early contact with each appropriate Federal agency so that filing procedures and details may be discussed, potential constraints may be identified, the proposal may be considered in agency planning, preapplication activities may be discussed, and processing of an application may be tentatively scheduled.

(b) Reasonable preapplication activities in areas shall be permitted following a determination by the appropriate Federal agency that the activities are necessary to obtain information for filing the consolidated application form, and that the activities would not cause significant or permanent damage to the values for which the area was established or unreasonably interfere with other authorized uses or activities. In areas administered by the National Park Service or the Fish and Wildlife Service, a permit shall be obtained from the appropriate agency prior to engaging in any preapplication activities.

§ 36.4 Filing of application.

(a) A consolidated application form, Standard Form 299, "Application for Transportation and Utility Systems and Facilities on Federal Lands," which may be obtained from an appropriate Federal agency, shall be completed by the applicant according to the instructions on the form. the form shall be filed on the same day (except in compliance with paragraph (c) of this section) with each appropriate Federal agency from which an authorization, such as a permit, license, lease or certificate is required for the TUS. Any filing fee required by the appropriate Federal agency pursuant to applicable law must be paid at the time of filing.

(b) Prior to filing the consolidated application form, the applicant shall determine whether additional information to that requested on the form is required by the appropriate Federal agencies. If so, the applicant shall file the additional information as an attachment to Standard Form 299.

(c) When, because of separate filing points, an applicant is not able to file with each appropriate Federal agency on the same day, the applicant shall file all applications as soon as possible. All applications must be filed within a 15 calendar day period. For purposes of the time requirements provided for in this part, the application shall not be considered to have been filed until the last appropriate Federal agency receives the application. The lead agency, determined pursuant to § 36.6(a), shall determine the date of filing, or that the application was not filed within the 15 day period, and inform all appropriate Federal agencies.

(d) Filing with any appropriate Federal agency of the Department of the Interior's agencies in Alaska shall be considered to be a filing with all of its agencies.

§ 36.5 Application review.

(a) Upon receipt of an application, the appropriate Federal agency will review it and determine the filing date pursuant to § 36.4. If the lead agency determines that the applicant has not met the 15 calendar day filing deadline, pursuant to § 36.4(c) of this part, each appropriate Federal agency shall return the application to the applicant without further action.

(b) Within 60 days of the date of filing, each appropriate Federal agency shall inform the applicant, in writing, whether the application, on its face:

(1) Contains the required information; or

(2) Is insufficient, together with a specific listing of the additional information the applicant must submit.

(c) When the application is insufficient, the applicant must furnish the specific information requested within 30 days of receipt of notification of deficiency.

(1) If the applicant needs more time to obtain information, additional time may be granted by the appropriate Federal agency upon request of the applicant, provided the applicant agrees that the application filing date will change to the date of filing of the specific additional information.

(2) Unless extended pursuant to the provisions of paragraph (c)(1) of this

section, failure of the applicant to respond within 30 day period will result in return of the application without further action.

(d) Within 30 days of the receipt of additional information requested by the appropriate Federal agency, the applicant shall be notified in writing whether the supplemental information is sufficient.

(1) If the applicant fails to provide all the requested information, the application shall be rejected, and returned to the applicant along with a list of the specific deficiencies.

(2) When the applicant furnishes the additional information, the application will be reinstated, and it will be considered filed as of the date the final supplemental information is actually received by the appropriate Federal agency.

(e) If an application is returned to the applicant pursuant to paragraphs (a), (c), or (d) of this section, the lead agency shall notify all appropriate Federal agencies, which shall immediately return the application.

§ 36.6 NEPA compliance and lead agency.

(a) When there is more than one appropriate Federal agency, those agencies shall determine which will be the lead agency for the purpose of compliance with the provisions of the National Environmental Policy Act, 42 U.S.C. 4321*et. seq.* (NEPA), as well as for the purpose of coordinating appropriate Federal agency actions in the review and processing of the consoliated application form.

(1) If the agencies cannot agree which will be the lead agency, the lead agency shall be determined according to Council on Environmental Quality (CEQ) NEPA regulations, 40 CFR 1501.5.

(2) Upon identification of the lead agency, other involved agencies will provide assistance as requested by the lead agency.

(3) If there is only one appropriate Federal agency, it shall comply with this part in the same manner as the lead agency.

(b) The provisions of NEPA and the CEQ NEPA regulations (40 CFR Parts 1500–1508) will be applied to determine whether an environmental assessment (EA) only, or an environmental impact statement (ES) is required.

(1) The lead agency, with cooperation of all appropriate Federal agencies, shall complete an EA or a draft environmental impact statement (DES) within nine months of the date the consolidated application form was filed.

(2) If the lead agency determines, for good cause, that the nine-month period is insufficient, it may extend such period for a reasonable specific time. Notification of the extension, together with the reasons therefor, shall be provided to the applicant and published in the **Federal Register** at least 30 days prior to the end of the nine-month period.

(3) If an ES is determined to be necessary, the lead agency shall hold a public hearing on the joint DES in the District of Columbia and at least one location in Alaska. The appropriate Federal agencies shall also solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(4) The lead agency shall ensure compliance with the procedures of section 810 of ANILCA (16 U.S.C. 3120).

(5) If the lead agency determines that an ES is not required, a Finding of No Significant Impact (FONSI) will be prepared and no public hearings are required under subparagraph (3) of this paragraph.

(c) When an ES is determined to be necessary, within three months of completing the DES or within one year of the filing of the application, whichever is later, the lead agency shall complete the ES and publish a notice of its availability in the **Federal Register.**

(d) *Cost Reimbursement.* (1) The costs to the United States of application processing, other than costs for ES preparation [and review], shall be reimbursed by the applicant, if such reimbursement is required, pursuant to the applicable law and procedures of the appropriate Federal agency incurring the costs.

(2) The full actual administrative and other costs to the United States of ES preparation [and review] shall be reimbursed by the applicant in the following manner:

(i) Upon determination that an ES is required, the lead agency shall estimate the costs expected to be incurred in preparing the ES and require the applicant to make periodic payments of the estimated reimbursable costs prior to such costs being incurred by the United States.

(ii) If the payments required by paragraph (d)(2)(i) of this section exceed the actual costs to the United States, the responsible lead agency may adjust the billing to reflect the overpayment, or make a refund from applicable funds under the authority fo 43 U.S.C. 1734. An applicant may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the lead agency.

(iii) Prior to approval of a TUS, an applicant subject to paragraph (d)(2)(i) of this section shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (d)(2)(i) of this section.

(iv) An applicant subject to subparagraph 2(i) of this paragraph whose application is denied is responsible for costs incurred by the United States in preparing the ES and such amounts as have not been paid in accordance with paragraph (d)(2)(i) of this section are due within 30 days of receipt of notice from the lead agency of the amount due.

(v) An applicant subject to paragraph (d)(2)(i) of this section who withdraws an application before the ES is completed is responsible for costs incurred by the United States in preparing the ES up to the date the lead agency receives written notice of the withdrawal, and for costs subsequently incurred in terminating the ES preparation process. Such amount as have not been paid in accordance with subparagraph 2(i) of this paragraph are due within 30 days of receipt of notice from the lead agency of the amount due.

(vi) When two or more applications for TUS's are filed which the lead agency determines to be in competition with each other, and they require an ES, each applicant shall reimburse the United States as required by paragraph (d)(2)(i) of this section, and each applicant shall be responsible for the ES costs identifiable with each application. Costs that are not readily identifiable with one of the applications, such as costs for portions of an ES that relate to all of the proposals generally, shall be paid by each of the applicants in equal shares.

(vii) When, through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity apply together for a TUS, and an ES is required, each such applicant shall be jointly and severally liable for costs under this paragraph.

(viii) When two or more noncompeting applications for TUS's ar received for what, in the judgment of the lead agency, is one TUS and an ES is required, all of the applicants shall be jointly and severally liable for costs under this paragraph for the entire TUS, subject, however, to the provisions of paragraph (d)(2)(vii) of this section.

(3) The reimbursement requirement of paragraph (d)(2) of this section does not apply to:

(i) Federal agencies;

(ii) State or local governments or agencies or instrumentalities thereof where the area will be used for governmental purposes and such area will continue to serve the general public, except as to TUS's sought by State or local governments or agencies or instrumentalities thereof or a municipal utility or cooperative whose principal source of revenue is derived from charges levied on customers for services rendered that are similar to services rendered by a profit making corporation or business enterprise; or

(iii) Road use agreements or reciprocal road agreements.

§ 36.7 Decision process.

There are two separate decision processes. The first is used when the appropriate Federal agencies have applicable law and the area involved is outside the National Wilderness Preservation System. The second is used is used when an area involved in the application is within the National Wilderness Preservation System or an appropriate Federal agency has no applicable law with respect to all or any part of a TUS application.

(a) When the appropriate Federal agencies have applicable law and the area involved is outside the National Wilderness Preservation System:

(1) Within four months of the date of the notice of the availability of the Final ES or of a Finding of No Significant Impact (FONSI), each appropriate Federal agency shall make a decision based on applicable law to approve or disapprove the TUS and so notify the applicant in writing.

(2) Each appropriate Federal agency in making its decision shall consider, and make detailed findings supported by substantial evidence, as to the portion of the TUS within that agency's jurisdiction, with respect to:

(i) The need for, and economic feasibility of, the TUS;

(ii) Alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to routing the system through or within an area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the area;

(iii) The feasibility and impacts of including different TUS's in the same area;

(iv) Short-and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;

(v) The impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for the TUS;

(vi) Any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(vii) Measures which should be instituted to avoid or minimize negative impacts; and

(viii) The short- and long-term public values which may be adversely affected by approval of the TUS versus the short- and long-term public benefits which may accrue from such approval.

(3) Each appropriate Federal agency will also ensure compliance with the procedures of section 810 of ANILCA (16 U.S.C. 3120).

(4) To the extent the appropriate Federal agencies agree, the decisions may be developed jointly, singularly, or in some combination thereof.

(5) If an appropriate Federal agency disapproves any portion of the TUS, the application in its entirety is disapproved, and the applicant may file an adminsistrative appeal, pursuant to Section 1106(a) of ANILCA (16 U.S.C. 3166(a)).

(b) When an area involved is within the national Wilderness Preservation System or an appropriate Federal agency has not applicable law with respect to all or any part of a TUS application.

(1) Within four months of the date of publication the notice of the availability of the Final ES or of the Finding of No Significant Impact, each appropriate Federal agency shall determine whether to tentatively approve or disapprove each authorization within its jurisdiction that applies with respect to the TUS, and make notification pursuant to Section 1106(b) of ANILCA (16 U.S.C. 3166(b)).

(i) The appropriate Federal agency having jurisdiction over a portion of a TUS for which there is no applicable law shall recommend approval of that portion of the transportation or utility system if it is determined that:

(A) Such system would be compatible with the purposes for which the area was established; and

(B) There is no economically feasible and prudent alternative route for the system.

(ii) If there is applicable law for a portion of the TUS which is outside the National Wilderness Preservation System, the applicable law shall be applied in making the determination on whether to approve or disapprove tentatively that portion of the TUS.

(2) The notification shall be accompanied by a statement of the reasons and findings supporting each appropriate Federal agency's position The findings shall include, but are not limited to, the findings required in § 36.7(a)(2). The notification shall also be accompanied by the Final ES or the EA and any comments of the public and other Federal agencies.

(3) Each appropriate Federal agency shall also ensure compliance with the procedures of Section 810 of ANILCA (16 U.S.C. 3120).

§ 36.8 Administrative appeals.

(a) If any appropriate Federal agency disapproves a TUS application pursuant to § 36.7(a), the applicant may appeal the denial pursuant to Section 1106(a) of ANILCA. Upon receipt of the copy of the naotice of appeal, the disapproving agency shall provide the ES or EA, a summary of public comments recieved, the detailed findings required in § 36.7(a)(2), the reason(s) for its denial, and the findings and recommendations of any other appropriate Federal agency that rendered a decision on the application.

(b) There is no administrative appeal for a denial issued under the provisions of § 36.7(b).

§ 36.9 Issuing permit.

(a) Once an application is approved under the provisions of § 36.7, a right-of-way permit will be issued by the appropriate Federal agency or agencies, according to that agency's authorizing statutes and regulations or, if approved pursuant to the provisions of § 36.7(b), according to the provisions of Title V of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701) or other applicable law. The permit shall not be issued until all applicable fees and other charges have been paid in accordance with applicable law.

(b) All TUS rights-of-way permits shall include, but not be limited to, the following terms and conditions:

(1) Requirements to ensure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected area was established or is managed;

(2) Requirements for restoration, revegetation, and curtailment of erosion of the surface of the land;

(3) Requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) Requirements, including the maximum and minimum necessary width, designed to control or prevent—

(i) Damage to the environment (including damage to fish and wildlife habitat),

(ii) Damage to public or private property; and

(iii) Hazards to public health and safety;

(5) Requirements to protect the interests of individuals living in the general area of the right-of-way permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) Requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(c) Any TUS approved pursuant to this part which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the TUS is located and constructed in an environmentally sound manner.

(d) In the case of a pipeline described in section 28 (a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this part shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this part.

§ 36.10 Access to inholdings.

(a) As used in this section, the term

(1) "Area" also includes public lands administered by the Bureau of Land Management designated as a wilderness study area.

(2) "Inholding" means State-owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy, that is within or is effectively surrounded by one or more area.

(b) A right-of-way permit for access to an inholding pursuant to this section is required only when this part or other applicable law does not provide for adequate and feasible access without a right-of-way permit. It is the purpose of this section to ensure adequate and feasible access across area lands for any person who has a valid inholding.

(c) Applications for a right-of-way permit for access to an inholding shall be filed with the appropriate Federal agency on Standard Form 299. Applicants should ensure that the following information is provided:

(1) Documentation of the property interest held by the applicant including, for claimants under the General Mining Law of 1872, as amended (30 U.S.C. 21–54), a copy of the location notice and recordations required by 43 U.S.C. 1744;

(2) A detailed description of the use of the inholding for which the applied for right-of-way permit is to serve; and

(3) If applicable, rationale demonstrating that the inholding is effectively surrounded by an area(s).

(d) The application shall be filed in accordance with § 36.4 and shall be reviewed and processed in accordance with § 36.5 and § 36.6(a)–(c).

(e)(1) For any applicant who meets the criteria of paragraph (b) of this section, the appropriate Federal agency shall specify in a right-of-way permit the route(s) and method(s) of access across the area(s) desired by the applicant, unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the area and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety and adequate and feasible access otherwise exists; or

(iii) The route or method is inconsistent with the management plan(s) for the area or purposes for which the area was established and adequate and feasible access otherwise exists; or

(iv) The method is unnecessary to accomplish the applicant's land use objective.

(2) If the appropriate Federal agency makes one of the findings described in paragraph (e)(1) of this section, another alternative route(s) and/or method(s) of access that will provide the applicant adequate and feasible access shall be specified by the appropriate Federal agency in the right-of-way permit after consultation with the applicant.

(f) All right-of-way permits issued pursuant to this section shall be subject to terms and conditions in the same manner as right-of-way permits issued pursuant to § 36.9.

(g) An applicant denied a right of access under the provisions of this section, may appeal such denial pursuant to the provisions of 43 CFR 4.700 *et seq.*

(h) Notwithstanding any other provision in the regulations, an applicant for access under the provisions of this section shall not be required to pay any fees of other charges for application filing or processing, permit issuance, NEPA compliance, or use of area lands.

§ 36.11 Special access.

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

(1) "Area" also includes public lands administered by the Bureau of Land Management and designated as a wilderness study.

(2) "Adequate snow cover" shall mean snow of sufficient depth to protect the underlying vegetation and soil.

(b) The use of snowmachines (during periods of adequate snow cover or frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites and other valid occupancies, is permitted within the areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency. Nothing in this paragraph affects the use of snowmobiles by local rural residents engaged in subsistence uses.

(c) Motorboats may be operated on all area waters, except where such use is prohibited or otherwise restricted by the appropriate Federal agency. Nothing in this paragraph affects the use of motorboats by local rural residents engaged in subsistence uses.

(d) The use of nonmotorized surface transportation such as domestic dogs, horses and other pack or saddle animals is permitted in areas except where such use is prohibited or otherwise restricted by the appropriate Federal agency. Nothing in this paragraph affects the use of nonmotorized surface transportation by local rural residents engaged in subsistence uses.

(e) *Aircraft.* (1) Fixed-wing aircraft may be landed and operated on lands and waters within areas, except where such use is prohibited or otherwise restricted by the appropriate Federal agency in accordance with this paragraph. The use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish and wildlife for subsistence uses therein is prohibited, except as provided in 36 CFR 13.45, and the operation of aircraft, at altitudes and in flight paths resulting in the herding, harassment, hazing or driving of wildlife is prohibited.

(2) In imposing any prohibitions or restrictions on fixed-wing aircraft use the appropriate Federal agency shall:

(i) Comply with established procedures;

(ii) Publish notice of prohibitions or restrictions as "Notices to Airman"

issued by the Department of Transportation; and

(iii) Publish permanent prohibitions or restrictions as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska."

(3) For areas administered by the Fish and Wildlife Service and National Park Service, except as provided in paragraph (e)(3)(i) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the appropriate Federal agency. In establishing a removal procedure, the appropriate Federal agency is authorized to establish a reasonable date by which aircraft removal operations must be complete; and determine times and means of access to and from the downed aircraft.

(i) The appropriate Federal agency may waive the requirements of this paragraph upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life; or the removal of a downed aircraft would result in extensive resource damage; or the removal of a downed aricraft is otherwise impractible or impossible.

(ii) Salvaging, removing, possessing, or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under this paragraph.

(f) The use of a helicopter in any area, other than at designated landing areas pursuant to the terms and conditions of a permit issued by the appropriate Federal agency, is prohibited.

(g) *Off-road vehicles.* (1) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the appropriate Federal agency or pursuant to a valid permit as prescribed in paragraph (g)(3) of this section or in § 36.10 or § 36.12. Such designations shall be made in accordance with procedures in this paragraph. Nothing in this paragraph affects the use of off-road vehicles by local rural residents engaged in subsistence.

(2) Closures, restrictions, or openings of routes or areas shall be in accordance with the provisions of paragraph (h) of this section. Notice of permitted routes or areas shall be published in the **Federal Register.**

(3) The appropriate Federal agency is authorized to issue permits for the use of off-road vehicles on existing off-road vehicle trails located in areas (other than in areas designated as part of the National Wilderness Preservation System) upon a finding that such off-road vehicle use would be compatible with the purposes and values for which the area was established. The appropriate Federal agency shall include in any permit such stipulations and conditions as are necessary for the protection of those purposes and values.

(h) *Closure procedures.* (1) The appropriate Federal agency may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(2) Emergency closures or restrictions. (i) In determining whether to close an area or restrict an activity on an emergency basis, the area manager shall be guided by factors such as public health and safety, fire danger, resource protection, protection of cultural or scientific values, subsistence uses, and endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the area was established.

(ii) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by a notice and hearing.

(iii) Other emergency closures shall become effective upon notice, as prescribed in paragraph (h)(5) of this paragraph.

(iv) An emergency closure or restrictions shall not exceed 30 days and may not be extended.

(3) Temporary closures or restriction. (i) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate.

(ii) Other temporary closures shall be effective upon notice as prescribed in subparagraph (5) of this paragraph.

(iii) A temporary closure or restriction shall not extend for a period exceeding 12 months and may not be extended.

(4) Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall not be effective until after a public hearing(s) is held in the affected vicinity and other locations as deemed appropriate by the appropriate Federal agency.

(5) Emergency, temporary and permanent closures or restrictions shall be: (1) Published at least once in a newspaper of general circulation in Alaska and in a local newspaper, if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the appropriate Federal agency and other places convenient to the public; or (ii) Designated by posting the area with appropriate signs; or (iii) Both.

(6) In determining whether to open an area to public use or activity otherwise prohibited, the appropriate Federal agency shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(i) Except as otherwise specifically permitted under the provisions of this section, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

(j) Any person convicted of violating any provision of the regulations contained in this section, or as the same may be amended or supplemented, may be punished by a fine not exceeding $500 or by imprisonment not exceeding six months or both, and may be adjudged to pay all costs of the proceedings.

§ 36.12 Temporary access.

(a) For the purposes of this section, the term

(1) "Area" also includes public lands administered by the Bureau of Land Management designated as wilderness study or managed to maintain the wilderness character or potential thereof, and the National Petroleum Reserve—Alaska.

(2) "Temporary access" means limited, short-term (*i.e.*, up to one year from issuance of the permit) access, which does not require permanent facilities for access, to undeveloped State or private lands.

(b) This section is applicable to State and private landowners who desire temporary access cross an area for the purposes of survey, geophysical, exploratory and other temporary uses of such non-federal lands, and where such temporary access is not affirmatively provided for in §§ 36.10 and 36.11. State and private landowners meeting the

criteria of § 36.10(b) are directed to utilize the procedures of § 36.10 to obtain temporary access.

(c) A landowner requiring temporary access across an area for survey, geophysical, exploratory or similar temporary activities shall apply to the appropriate Federal agency for an access permit by providing the relevant information requested in Standard Form 299.

(d) The appropriate Federal agency shall grant the desired temporary access whenever it is determined that such access will not result in permanent harm to the area resources. The area manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purposes for which the area was established and to ensure that no permanent harm will result to the area's resources.

§ 36.13 Special provisions.

(a) *Gates of the Arctic National Preserve.* (1) Access for surface treansportation purposes across Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) shall be permitted in accordance with the provisions of this section.

(2) Upon the filing of an application in accordance with § 36.4 for a right-of-way across the western (Kobuk River) unit of the preserve, including the Kobuk Wild and Scenic River, the Secretary shall give notice in the **Federal Register**, and other such notice as may be appropriate, of a thirty-day period for other applicants to apply for access. The original application and any additional applications received during the thirty-day period will be reviewed in accordance with § 36.5.

(3) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act. This analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. This analysis shall be prepared in accordance with the procedural requirements of § 36.6.

(4) The Secretaries , in preparing this analysis, shall consider the following:

(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer, or less severe, adverse impacts upon the preserve.

(ii) The environmental and social and economic impact of the right-of-way including impact upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(5) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve.

(b) *Yukon-Charley Rivers National Preserve.* (1) Any application filed by Doyon, Limited, for a right-of-way to provide access in a southerly direction from its landholdings in the watershed of the Kandik and National Rivers across the Yukon River shall be processed in accordance with this part.

(2) No right-of-way shall be granted which would cross the Charley River or which would involve any lands within the watershed of the Charley River.

(3) An application shall be approved by the appropriate Federal agency if it is determined that there exists no economically feasible or otherwise reasonably available alternative route.

(c) *Oil and Gas Pipelines—Arctic Slope Regional Corporation.* (1) Upon the filing by Arctic Slope Regional Corporation for an oil and gas TUS across lands identified in § 1431(j) of ANILCA the appropriate Federal agency shall review the filing, determine the alignment and location of facilities across/on Federal lands, and issue such authorizations as are necessary with respect to the establishment of the TUS.

(2) No environmental document pursuant to the NEPA shall be required.

(3) Investigations as to the proper final alignment of the pipeline and location of related facilities are at the discretion of the Federal agency and the costs associated with such investigations are not recoverable under § 36.6.

(d) *Fortymile Component of National Wild and Scenic Rivers System.* The classification of segments of the Fortymile Componet as Wild Rivers shall not preclude access across those river segments where the appropriate Federal agency determines such access is necessary to pemit commerical development of asbestos desposits in the North Fork drainage.

J. J. Simmons III,

Under Secretary, Department of the Interior.

[FR Doc. 83-19066 Filed 7-14-83; 8:45 am]

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federal register

Friday
July 15, 1983

Part VII

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Cowania subintegra (Arizona cliffrose)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Cowania subintegra* Kearney (Arizona cliffrose), as an Endangered species under the authority contained in the Endangered Species Act of 1973, as amended. Critical Habitat would not be determined at this time. The plant is endemic to Arizona and only two widely separated populations are known to exist. Both areas are subject to cattle grazing; one population could be additionally impacted by mining and highway maintenance. This action, if made final, will provide protection under the Endangered Species Act of 1973, as amended. The Service is requesting comments on this action.

DATES: Comments from all interested parties must be received by September 13, 1983. Public hearing requests must be received by August 29, 1983.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, and request for a public hearing, should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours at the above address, by appointment.

FOR FURTHER INFORMATION CONTACT: Dr. Russell L. Kologiski, Botanist, Region 2, Endangered Species Staff (see Address above) (505/766–3972). Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

Cowania subintegra was first collected by Danon and Crooks on April 20, 1928, and described by Kearney in 1943. The first population discovered was in southeastern Mohave County, Arizona. The second known population is in Graham County, Arizona. *Cowania subintegra* is a evergreen shrub reaching 75 centimeters in height. The bark is pale gray and shreddy. The leaves, twigs, and flowers are covered with dense, short white hairs. The leaves are entire to lobed with one prominent vien. The rose like flowers are yellow. This species grows in shallow gravelly loams over limestone bedrock.

The most closely related species may be *Cowania ericaefolia* which grows in the Chihuahuan Desert of Trans-Pecos, Texas, and Coahuila, Mexico. The two widely disjunct Arizona populations of *Cowania subintegra* may be relicts of a once widespread distribution for an ancestral Pleistocene (Ice Age) species. *Cowania subintegra* and other limestone endemics are valuable in the study of the biogeography and evolution of Southwestern floras.

Cowania subintegra grows in limestone or gypsum siols on low rolling hills in the Arizona upland subdivision of the Desert Fromation. The vegetation of the area is dominated by *Larrea tridentata* (cresote bush), *Chrysothamnus nauseosus* (rubber rabbit brush), *Canotia holocantha* (false palo verde), and *Acacia greggii* (cat claw acacia).

Previous governmental action involving this species began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be Endangered, Threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the meaning of Section 4(c)(2) of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to section 4 of the Act. The lsit of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Cowania subintegra* was included in the 1975 Smithsonian Report, the 1975 notice, and the 1976 proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn, although a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal, along with four other proposals which had expired. A revised notice for plants was published in the December 15, 1980, **Federal Register** (45 FR 82480–82569) and included *Cowania subintegra*. The Service is now reproposing *Cowania subintegra*.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et. seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. A species may be determined to be an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factors A and C are most critical for *Cowania subintegra*. All of the factors and their application to *Cowania subintegra* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat destruction through mining is a threat to this taxon. At present, there are nine Bureau of Land Management mining claims in the area of the Burro Creek population in Mohave County, but it is not known to what extent the mineral resources of the area will be developed. Areas within the population have been bladed, destroying habitat, apparently to expose subsurface formations for mineral exploration.

A graded road and a portion of the Mohave-El Paso Natural Gas pipeline pass through the Burro Creek population. Maintenance work for both involves occasional blading which prevents any plant establishment in these areas. A high voltage power line also passes through the Burro Creek population and some habitat destruction occurred during construction. A highline pole storage area is also in the vicinity of the Burro Creek population and effectively removes that area from habitation by the plant.

The second population occurs in Graham County, Arizona. A portion of this population occurs on U.S. Highway 70 right-of-way on top of a hill, through which the highway cuts. Protection of this species would involve not destroying the plants on the hill or the hill itself. Widening of the highway would be the greatest threat to *Cowania subintegra*. Herbicides, if sprayed on top of the hill (8–20 feet above the road) could also harm the plants. Fortunately, current maintenance procedures do not threaten the *Cowania* or its habitat and there are no plans to widen the highway. The State of Arizona Department of

Transportation has been contacted concerning protection of this species and has agreed to notify the Service if future construction or maintenance activities could adversely impact the *Cowania* population. To ensure continuation of these conditions, management and protection plans for this site are needed.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Cowania subintegra* is not currently sought after widely for horticultural or scientific purposes. The low numbers of plants however, makes this species very vulnerable and any future taking for these two purposes would be detrimental. The populations of this species are easily accessible to collectors and vandals.

C. *Disease or predation* (including grazing). The Burro Creek population of *Cowania subintegra* is heavily grazed by cattle, mule deer, and feral burros. The site has been given a range rating of fair condition with a static trend, indicating overutilization of the range. Individual plants are in fair to poor condition, and are usually hedged. There is no evidence of reproduction except in Graham County, on the U.S. 70 right-of-way, where there are immature plants (Butterwick, 1979; Phillips *et al.*, 1980). Further studies to determine if this situation is due to grazing pressure are needed. Grazing by domestic livestock is a threat to both populations, together with additional grazing from feral burros and mule deer at the Burro Creek site. Possible results of grazing are poor plant vigor, poor reproduction, and a lack of seedling establishment.

D. *Inadequacy of existing regulatory mechanisms.* Presently, there is no Federal or Arizona State law protecting *Cowania subintegra*, nor is there a management plan in effect for either population. Restrictions concerning the removal of plants from Federal lands are also extremely hard to enforce, especially when the habitat is as easily accessible as with *Cowania*.

E. *Other natural or manmade factors affecting its continued existence.* Seeds collected from the Burro Creek population appeared to be nonviable. The low rate of fertile seeds and low number of seedlings at either locality suggests that reproduction in this species is inadequate to maintain population size. Further studies are needed to determine the cause of the poor reproduction.

Critical Habitat

The Endangered Species Act requires that Critical Habitat be determined at the time a species is listed to the maximum extent prudent and determinable. The Service considers it not prudent to determine Critical Habitat for *Cowania subintegra* at this time. The Endangered Species Act does not protect Endangered plants from taking or vandalism on non-Federal lands and the restrictions that do apply on lands under Federal jurisdiction are hard to enforce. This would be especially true for *Cowania subintegra*, whose habitat is located along a highway and is easily accessible. Determining Critical Habitat for this species may make it more vulnerable to taking by collectors and to vandalism and would not prove beneficial at this time.

Available Conservation Measures

The effects of this proposal, if published as a final rule, would include those mentioned below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this species, that is, as a proposed species, agencies are required under Section 7(a)(4) to informally confer with the Service on any action that is likely to jeopardize *Cowania subintegra*. When species are listed, Section 7 requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of listed species.

The Act and implementing regulations published at 50 CFR 17.61 set forth a series of general trade prohibitions, which apply to all Endangered plant species. With respect to *Cowania subintegra* all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered and Threatened species, under certain circumstances. International and interstate commercial trade in *Cowania subintegra* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This new prohibition applies to *Cowania subintegra*. Most of its habitat is on Federal lands administered by the Bureau of Land Management and by the San Carlos Indian Reservation, Bureau of Indian Affairs.

Permits for exceptions to this prohibition are available through Section 10(a) of the Act, following the general approach of 50 CFR 17.62 and 17.63 until revised regulations are promulgated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will now review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Regional Office (see Addresses section), and may be examined, by appointment, during regular business hours. This assessment will form the basis for a decision at final rule stage as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted, if any, will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspects of these proposed rules are hereby solicited.

Comments are particularly sought concerning:

1. Biological or other relevant data concerning any threat (or the lack thereof) to *Cowania subintegra:*

2. The location of any additonal populations of *Cowania subintegra:* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species; and

4. Current or planned activities in the plant's habitat.

Final promulgation of the regulations on *Cowania subintegra:* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal or to a decision not to promulgate a final regulation.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be in writing and received within 45 days of the date of the proposal. Such requests should be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Authors

The primary author of this proposed rule is Ms. Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972). Status information and a preliminary listing package were provided under contract to the Service by Dr. Arthur M. Phillips III, Dr. Barbara C. Phillips, L.T. Green, Ms. Jill Mazzoni, and Ms. Elaine M. Peterson, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001 (603/774–5211, Extension 68). Ms. E. LaVerne Smith of the Service's Washington Office of Endangered Species served as editor.

References

Butterwick, M. 1979. Report on the status of *Cowania subintegra:* Phoenix District Office, Bureau of Land Management, Phoenix, Arizona.

Kearney, T.H. 1943. A new cliffrose from Arizona. *Madrono* 7:15–18.

Phillips, A.M. III, B.G. Phillips, L.T. Green, J. Mazzoni, and E.M. Peterson. 1980. Status Report: *Cowania subintegra:* Contracted for by the Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

Phillips, A.M. III. Personal communication by letter, August 26, 1981.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulation, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, the following to the list of Endangered and Threatened plants:

* * * * *

Species		Historical range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Rosaceae-Rose Family *Cowania subintegra*	Arizona cliffrose	U.S.A. (AZ)	E		N/A	N/A

Dated: June 13, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19111 Filed 7-14-83; 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Pedate Checker-Mallow (Sidalcea Pedata) and Slender-Petaled Mustard (Thelypodium Stenopetalum)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list two plant species, the pedate checker-mallow and the slender-petaled mustard, as Endangered species. Historic distribution of both species is limited to wet, alkaline meadows in the Big Bear Basin of San Bernardino County, California. After documented loss of more than 85 percent of previous meadowland, the checker-mallow survives in only about 15 acres at three localities, and the mustard in only about 16 acres at four localities. Loss of habitat resulted from residential and commercial land development, and man-made changes in water levels and drainage patterns. All remaining colonies of both plants are very small and fragile, and face prospects of additional habitat loss. If made final, this proposed rule will implement the protection provided by the Endangered Species Act of 1973, as amended, for these species. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and the State of California must be received by September 13, 1983. A public hearing on this proposal will be held if requested before August 29, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments and request for a public hearing to: Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours in the Portland Regional Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, Endangered Species Coordinator, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232, (503/231–6131), or Mr. John L. Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235–2771).

SUPPLEMENTARY INFORMATION: The pedate checker-mallow (*Sidalcea pedata*) is a multi-stemmed, perennial member of the mallow family. The slender-petaled mustard (*Thelypodium stenopetalum*) is an herbaceous short-lived perennial. Both of these plant species are localized in the moist alkaline meadows of the Big Bear Basin of San Bernardino County, California.

Although these species were once more abundant locally, the construction of Big Bear Lake in the late 1800's and subsequent urbanization have eliminated nearly all of the natural meadowlands of Big Bear Valley, an

estimated reduction from more than 7,000 acres to about 1,000 acreas. Many hundreds, if not thousands, of checker-mallow and mustard plants were destroyed by these activities. Almost all of the former wet meadow habitats necessary to the continued existence of these species have been eliminated. Both species now exist as very reduced populations having severely restricted distributions.

Recent studies supported by the U.S. Forest Service estimated total occupied acreage for the pedate checker-mallow (including scattered, residual plants) in 1979 at less than 10 acres. Total acreage of checker-mallow populations considered viable and recoverable was estimated at approximately 5.1 acres, divided among three sites (Krantz, 1979). A similiar study estimated total acreage for the mustard in 1980 at about 13 acres, distributed among four locations (Krantz, 1980). Additional colonies of both species have been found subsequently at two nearby sites in the same general localities, increasing the known acreage to about 14.5 acres of pedate checker-mallow and about 16 acreas of slender-petaled mustard (Krantz, 1982).

At present the pedate checker-mallow remains in significant numbers only at three locations: near Bluff Lake, Baldwin Lake, and the south shore of Big Bear Lake. Scattered individuals can also be found in a few other areas, mostly vacant lots or remnant meadows surrounded by housing or commercial developments. Such scattered plants apparently do not reproduce, and are expected to die soon (Krantz, pers. comm.).

The slender-petaled mustard is now known from only four locations, the south shore of Big Bear Lake, near Baldwin Lake, Erwin Lake and in Holcomb Valley. Three of these are under consideration for additional development. The fourth site, Holcomb Valley, which is on National Forest land, was threatened by encroaching off-road vehicle (ORV) use. The Forest Service is aware of this population and has implemented protective measures at the site.

Background

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of Section 4(c)(2) of the 1973 Act, and of its intention thereby to review the status of the plant taxa named within. *Sidalcea pedata* and *Thelypodium Stenopetalum* were included in that notice. The July 1, 1975, notice was replaced on December 15, 1980, by the Service's publication in the **Federal Register** (45 FR 82479) of a new notice of review for plants, which included these species. On July 28, 1982, Tim Krantz petitioned the Service to list both these species, and furnished information about their current status.

Summary of Factors Affecting the Species.

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revisions to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. A species may be determined to be an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act.

These factors and their application to the pedate checker-mallow and slender-petaled mustard are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* These two plant species are restricted within their ranges to the few remaining wet alkaline meadows of the Big Bear Lake Basin. Both species occur in very low numbers and most of the former wet meadows critical to their continued existence have been eliminated by urban and commercial developments. About 80 percent of the remaining habitat is subject to development, much of it anticipated in the next few years. In a few areas, off-road vehicle activity has also eliminated colonies and damaged habitat.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not applicable to these species.

C. *Disease or predation.* Historically, cattle grazing in the Big Bear Lake basin probably affected the species composition of many of the meadow areas formerly supporting these plants. A few of the remaining colonies still suffer possible adverse impacts from cattle grazing, but this threat appears less imminent than the development threats mentioned in Factor A above.

D. *Inadequacy of existing regulatory mechanisms.* Although the pedate checker-mallow and the slender-petaled mustard are listed by the State of California as Endangered, State law has not successfully removed the threats facing the species in their natural habitat. Federal listing would provide some additional protection for the species and provide new options (including recovery programs) for their protection and management.

E. *Other natural or manmade factors affecting its continued existence.* None known.

Critical Habitat

Section 4(a)(3) of the Act requires the Secretary to designate Critical Habitat for a species, to the maximum extent prudent and determinable, concurrent with the determination that such species is an Endangered or treatened species. Critical Habitat designation is not now considered prudent for the pedate checker-mallow or the slender-petaled mustard.

All known colonies of pedate checker-mallow and all but one colony of slender-petaled mustard occur on private lands, where direct Federal involvement is minimal and Critical Habitat designation would likely focus attention upon the listed plants and their rare and vulnerable status, and might encourage incidental takings or taking for collections or commercial ends. The danger to the species thus posed outweighs the minimal protections which would be given. Designation of Critical Habitat under these circumstances would not be prudent.

Effects of the Rule

If published as a final rule this proposal would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the pedate checker-mallow and slender-petaled mustard. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Each Federal agency is also required under Section 7(a)(4) to informally confer with the Secretary on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under Section 4. No current or proposed Federal programs that would adversely affect the habitats of these species are known.

If, in the future, any federally authorized or funded programs may affect these species, consultation with the Fish and Wildlife Service would be necessary. Such consultation is designed to insure that proposed activities do not jeopardize the continued existence of listed species. In addition, the consultation process may provide recommendations for conservation measures which the action agency may wish to adopt.

The Act and implementing regulations published in the June 24, 1977, **Federal Register** set forth a series of general trade prohibitions and exceptions, which apply to all Endangered plant species. The regulations pertaining to Endangered plants are found at 50 CFR 17.61 and are summarized below:

With respect to these two plant species all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell these species or offer them for sale in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species, under certain circumstances. International and interstate commercial trade in these species is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since these plants are not common in the wild and are not presently known to be cultivated.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This new prohibition will apply to the slender-petaled mustard on U.S. Forest Service lands in the Holcomb Valley area. Permits for exceptions to this prohibition are available through Sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.72 until revised regulations are promulgated.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903). It is anticipated that few taking permits for these species will ever be requested.

The Service will now review these species to determine whether they should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether they should be considered for other appropriate international agreements.

The Service will now review these species to determine whether they should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservtion in the Western Hemisphere, and whether they should be considered for other appropriate international agreements.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, and in the Service's Regional Office (see **ADDRESSES** section) and may be examined, by appointment, during regular business hours. This assessment will form the basis for a decision as to whether this is or is not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities in the subject areas and

(5) The probable impact of such activities on the pedate checker-mallow and the slender-petaled mustard.

Final promulgation of regulations on these two species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

Author

The primary author of this rule is Monty Knudsen, U.S. Fish and Wildlife Service, Sacramento Endangered Species Office, Sacramento, California (916/440–2791). George E. Drewry of the Service's Washington Office of Endangered Species served as editor.

References

Krantz, Timothy P. 1979. A Botanical Investigation of *Sidalcea pedata*. Prepared for the San Bernardino National Forest. 24 pp. unpubl. rept.

———. 1980. *Thelypodium stenopetalum*, the slender-petaled mustard: a botanical survey of the species throughout its range. Prepared for the San Bernardino National Forest. 43 pp. and appendices, unpubl. rept.

———. 1982. Petition for listing as Endangered—*Sidalcea pedata* and *Thelyodium stenopetalum*. Petition to U.S. Fish and Wildlife Service, OES, dated 22 July 1982, 10 pp.

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order by family and genus, the following to the list of Endangered and Threatened plants:

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

Species		Historic range	Status	When listed	Critical Habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family						
Thelypodium stenopetalum	Slender-petaled mustard	U.S.A. (CA)	E	N/A	N/A	N/A
Malvaceae—Mallow family						
Sidalcea pedata	Pedate checker-mallow	U.S.A. (CA)	E	N/A	N/A	N/A

Dated: June 9, 1983.

J. Craig Potter,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 83-19112 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Jatropha costaricensis (quemador del Pacifico)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Jatropha costaricensis* (quemador del Pacifico) to be an Endangered species. Only one population of this shrub to small tree occurs on a steep hillside above the Pacific Ocean in tropical dry forest habitat. Dry season fires, trampling by cattle, timber cutting and the negative genetic effects of small population size threaten the plant with extinction. The quemador del Pacifico occurs near sea level near Playas del Coco, Guanacaste Province, Costa Rica. This proposal, if made final, would implement U.S. Federal protection provided by the U.S. Endangered Species Act of 1973, as amended. Comments from the public are solicited.

DATES: Comments from the public and the Government of Costa Rica must be received by October 13, 1983. Requests for a public hearing must be received by August 29, 1983.

ADDRESSES: Comments and materials concerning this proposal and request for a public hearing should be sent to the Director, U.S. Fish and Wildlife Service (OES), Washington, D.C. 20240. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia, U.S.A.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, U.S.A. (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

Jatropha costaricensis (quemador del Pacifico) is a member of the spurge family (Euphorbiaceae). This is a primarily tropical family, although a number of species occur in the U.S. It includes many plants of horticultural value, such as the poinsettia. *Jatropha costaricensis* is a shrub to small tree (2–5 m tall) with gray leaves and inconspicuous green flowers. It is a member of the maritime tropical dry forest community growing on steep rocky limestone slopes (Webster and Poveda, 1978).

The small population of the species, consisting of fewer than 50 individuals, occurs on a steep, east facing-slope, and a single fire or incidence of trampling by livestock could cause irreversible harm to the species.

The Service was petitioned in 1979 by Sr. Luis J. Poveda of the Museo Nacional, San Jose, Costa Rica, on behalf of *Jatropha costaricensis*. The petitioner indicated that this plant is a phytogeographically significant relict remnant from drier climatic conditions in the past, and that its habitat is being destroyed by nearby housing, trampling by cattle, and the cutting of trees.

In response to the petition, the Service published a status review notice in the July 31, 1979, **Federal Register** (44 FR 44916). Three professional botanists commented in support of the need to list and protect *Jatropha costaricensis*. The Organization of American States and the Missouri Botanical Garden commented that they had no information in their files upon which to base a decision. No one provided data to controvert the need to propose the species for listing.

On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted, in accord with Section 4(b)(3)(A) of the Act as amended in 1982. We now find that the petitioned action is warranted, and hereby publish the proposed rule to implement the action, in accord with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors in Section 4(a)(1). These factors and their application to *Jatropha costaricensis* Webster et Poveda (quemador del Pacifico) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Trampling by cattle, cutting of trees, and development of housing are modifying and could potentially modify further this species' habitat. A village is within ¼ mile of the habitat, and cattle trails run through it.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not applicable to this species.

C. *Disease or predation.* Not applicable to this species.

D. *The inadequacy of existing regulatory mechanisms.* Costa Rican law provides no protection for this plant. It is not included on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, to which Costa Rica is a party.

E. *Other natural or manmade factors affecting its continued existence.* Dry season fires, often kindled by vandals, are frequent in the affected part of Costa Rica, and such a fire might destroy the entire plant population. In addition, small population size might have a deleterious effect on the *Jatropha* through weakening of its genetic variability. Fewer than 50 individuals of

the species are known to exist in a single population.

Available Conservation Measures

The Act and implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373–32381) set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. The regulations are found at Section 17.61 of 50 CFR and are summarized below.

With respect to the quemador del Pacifico, all trade prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered plant species, under certain circumstances. However, because trade in this species is not known, it is anticipated that few permits involving the species would ever be requested.

If this plant is listed as an Endangered species, certain conservation authorities would become available and protective measures might be undetaken for it. These could include the development of a recovery plan for the species as specified in Section 4(f), and cooperation with Costa Rican authorities for the plant's protection under Section 8 of the Act, or through the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, implemented in the United States through Section 8A(e) of the Act.

If this species is listed under the Act, the Service will review it to determine whether it should be recommended to Costa Rica for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia, U.S.A. A decision will be made at the time of any final rule as to whether this is a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of each Endangered or Threatened species.

Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to *Jatropha costaricensis;* and

2. Additional information concerning the range and distribution of this species.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Final promulgation of the regulations on *Jatropha costaricensis* will take into consideration any comments and additional information received by the Service, and such communications may lead it to adopt a final rule that differs from this proposal.

Author

The primary author of this proposed rule is Dr. Paul A. Opler, then in the Office of Endangered Species and now in the Division of Biological Services, U.S. Fish and Wildlife Service, Washington, D.C. 20240, U.S.A. Dr. Bruce MacBryde of the Office of Endangered Species served as editor.

Reference

Webster, G. L., and L. J. Poveda. 1978. A phytogeographically significant new species of *Jatropha* (Euphorbiaceae) from Costa Rica. Brittonia 30:265–270.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority. Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order within Euphorbiaceae the following to the List of Endangered and Threatened Plants:

PLANTS

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Euphorbiaceae—spurge family						
Jatropha costaricensis	Quemador del Pacifico	Costa Rica	E		N/A	N/A

Dated: June 13, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19113 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Yaqui Chub, Proposed Threatened Status and Critical Habitat for the Beautiful Shiner and the Yaqui Catfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Yaqui chub (*Gila purpurea*) to be an Endangered species and the beautiful shiner (*Notropis formosus*) and the Yaqui catfish (*Ictalurus pricei*) to be Threatened species. Critical Habitat on the San Bernardino National Wildlife Refuge is proposed for these three fishes. A special rule to allow take in accordance with State law is proposed for the Threatened species. This action is being taken because populations of these species have been seriously reduced by habitat modifications including arroyo cutting, water diversion, impoundment construction, development of canal systems for irrigated agriculture, and excessive pumping of underground aquifers. An imminent threat to the remaining populations of Rio Yaqui fishes is the possible release of exotic fish such as the red shiner and channel catfish which may result in intense competition and/or genetic swamping. The Rio Yaqui fishes occur in the Rio Yaqui Basin which drains western Sonora, portions of eastern Chihuahua, and the extreme southeastern corner of Arizona. The Yaqui club also has been recorded from the Rio Sonora and Rio Matape on the Pacific slope, and the beautiful shiner formerly inhabited small drainages in the closed Guzman Basin, including Rio Mimbres (New Mexico), Casas Grandes, Santa Maria, and Del Carmen, just east of the Rio Yaqui. This action would provide protection to wild populations of these species. Comments and information are sought from the public.

DATE: Comments from the State of Arizona and the public must be received by September 13, 1983. Public hearing requests must be received by August 29, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments and requests for a public hearing to the Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials relating to this proposed rule are available for public inspection by appointment during normal business hours at the Service's Regional Office in Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: For further information on the proposal, contact Mr. Conrad Fjetland, Assistant Regional Director, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766–2321 or FTS 474–2321) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

All of the Rio Yaqui fishes addressed in this proposal were first collected and described from San Bernardino Creek just south of the Arizona-Sonora border in the latter half of the 19th century. Adult Yaqui chubs are known to inhabit pools and undercut banks in permanent streams. The beautiful shiner is found in a variety of habitats, but the largest populations occur in the riffles of small streams. Yaqui catfish are usually found in large rivers in areas of medium to slow current. Besides the above information on basic habitat preferences, little is known about the biology of the Rio Yaqui fishes. The biology of the beautiful shiner and the Yaqui catfish is thought to be similar to that of the red shiner and the channel catfish, respectively.

In the past, these fishes were found throughout the Rio Yaqui basin and in a few smaller adjacent drainages. The range of these species has been significantly reduced, primarily due to habitat destruction. Remaining populations are in danger of being subjected to intense competition and genetic swamping through the indiscriminate release of closely related exotics (e.g., red shiner and the channel catfish).

The Yaqui chub was recommended for listing in 1966 and 1973, but no action was taken because its status in Mexico was undetermined (Bur. Sport Fish. Wildl. Res. Publs. 34 and 114). A list published in March of 1979 by the Endangered Species Committee of the American Fisheries Society recommended special concern for the status of the beautiful shiner and the Yaqui catfish, and described the Yaqui chub as endangered (Fisheries 4:29–44).

In 1978, the Fish and Wildlife Service contracted with biologists from Arizona State University and the University of Michigan to survey the status of fishes in the Rio Yaqui system of Mexico. These workers found only one specimen of the Yaqui chub after extensive collection efforts throughout the Rio Yaqui drainage. Their final report, *Fishes of the Rio Yaqui, Mexico and United States, 1979*, also noted range reductions for the beautiful shiner and the Yaqui catfish and expressed concern for these species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions at 50 CFR Part 424.11(b) (under revision to accommodate 1982 amendments to the Act) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is Endangered or Threatened due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to these species are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—All three species of Rio Yaqui fish are seriously affected by a variety of habitat modifications. These species existed in San Bernardino Creek, Arizona, until the spring flows supporting the creek diminished and the remaining aquatic habitat was destroyed by cattle. Arroyo cutting, diverting stream headwaters, construction of impoundments, and excessive pumping of underground aquifers are responsible for the reduction of permanent stream habitat and failing springs. The remaining United States populations of Yaqui chub are limited to a few springs on the San Bernardino Ranch and Leslie Creek, both in southeastern Arizona, and are threatened by a gradually dwindling spring flow. The shiner and catfish have been extirpated from the United States. Many river systems in Mexico, especially in lowlands areas, have been highly modified into canal systems for irrigation agriculture. These alterations destroy pool habitats and have adverse impacts on fish populations.

B. *Overutilizaton for commercial, recreational, scientific, or educational purposes.*—These fishes are not used for any commercial purposes, and past scientific collecting has had no impact on existing populations.

C. *Disease or predation.*—Introduced exotics, such as largemouth bass, bluegill, and black bullhead, would probably prey on the Yaqui chub and beautiful shiner if they had the opportunity. There are no plans to introduce any fishes within the Critical Habitat of this species.

D. *The inadequacy of existing regulatory mechanisms.*—The Yaqui chub is listed as a Group II species on the threatened and unique wildlife list of Arizona. Species listed as Group II are defined as being endangered of being eliminated from the State. Arizona law requires persons to obtain a scientific collecting permit before taking specimens of Group II species. The beautiful shiner and the Yaqui catfish are listed in Group I (species extirpated from Arizona that may possibly be reestablished) of the Arizona list of threatened and unique wildlife. Because Group I species do not exist in the State, Arizona law does not officially protect them. However, if reestablished, these fishes would probably be relisted as Group II species and permits would be required to collect them. Arizona law does not provide protection of essential habitat. The Yaqui fishes receive no protection in Mexico.

E. *Other natural or manmade factors affecting its continued existence.*—Extant populations of the beautiful shiner and the Yaqui catfish are seriously threatened by the introduction of closely related exotic species. Future releases of the red shiner (currently widely established in Arizona) into the rio Yaqui system may reduce beautiful shiner populations through competition or by genetic swamping. The Yaqui catfish may be similarly affected by expanding populations of the channel and blue catfish that have already been established in the Rio Yaqui drainage. The rapid elimination of native Yaqui topminnow (listed as Endangered and found in the same drainage) populations after introductions of the closely related common mosquitofish (*Gambusia affinis*) has been documented by Dr. W. L. Minckley (1973) and others. The introduction of exotics in Mexico is expected to continue at an increased rate as the interior portions of Sonora and Chihuahua are developed. The establishment of exotic species in Mexico may also result in intense competitive pressure on existing populations of the Yaqui chub.

Critical Habitat

50 CFR Part 424 defines "Critical Habitat" to include areas within the geographical area occupied by the species at the time the species is listed which are essential to the conservation of the species and which may require special management considerations or protection and specific areas outside the geographic area occupied by the species at the time of listing, upon a determination by the secretary that such areas are essential for the conservation of the species.

Proposed Critical Habitat for the Rio Yaqui fishes is as follows:

Arizona, Cochise County: All aquatic habitats of San Bernardino National Wildlife Refuge in S ½ Sec. 11; Sec. 14; S½ and NE ¼ Sec. 15; T24S R30E.

Subsection 4(b)(8) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. Any activity which would lower the groundwater level to the extent that the water flow from springs on San Bernardino National Wildlife Refuge would be reduced could adversely impact the proposed Critical Habitat. The activities include but are not limited to pumping of goundwarter for irrigation and/or livestock and drilling activities associated with geothermal exploration. The other activity which could adversely impact Critical Habitat is the release of exotic or nonnative fishes. Predation and competition from these introductions could reduce or eliminate populations of the Endangered and Threatened fishes.

The aquatic habitats of San Bernardino National Wildlife Refuge, proposed as Critical Habitat, provides habitat for one of the two existing populations of Yaqui chubs. Additionally, the aquatic habitats on San Bernardino Refuge provide expansion habitat for the Yaqui chub and are considered prime reintroduction sites for the beautiful shiner and Yaqui catfish.

Available Conservation Measures

Regulations already published in Title 50, §§ 17.21 and 17.31, of the U.S. Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to Endangered and Threatened species. With respect to the Yaqui chub, beautiful shiner, and Yaqui catfish, all prohibitions of the Act, as implemented by 50 CFR 17.21 and 17.31 will apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations codified at 50 CFR 17.22, 17.23, and 17.32 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered and Threatened species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available. The two species proposed as Threatened, Yaqui catfish and beautiful shiner, have a proposed special rule which would allow take in accordance with applicable State law. Any violation of State law would be a violation of the Endangered Species Act. This special rule will allow these fishes to be managed as Threatened species. Without the special rule, all prohibitions of an Endangered species status would apply.

If published as a final rule, this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Yaqui chub, beautiful shiner and Yaqui catfish, but also would require them to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have been determined by the Secretary. Provisions for interagency cooperation are codified at 50 CFR Part 402.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Secretary may adversely modify such habitat if undertaken or may be impacted by such designation.

The only proposed activity with Federal involvement that may potentially affect the proposed Critical Habitat is geothermal exploration. This activity beyond the boundary of the San Bernardino National Wildlife Refuge, could possibly affect underground aquifers supplying surface waters to this proposed Critical Habitat. These activities in the San Bernardino Valley will be regulated and licensed primarily by the Bureau of Land Management. They will be allowed to proceed in the Critical Habitat vicinity as long as artesian and surface water supplies at San Bernardino Ranch are adequately protected.

Subsection 4(b)(4) requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Listing these species as Endangered and Threatened does not

specifically preclude geothermal development in the area. It should be emphasized that Critical Habitat designation may not affect the Federal activity previously mentioned. If appropriate, the impact will be addressed during conferral or consultation with the Service as required by Section 7 of the Endangered Species Act of 1973, as amended. Consultation is presently required for actions that may affect the waters of the San Bernardino Wildlife Refuge because populations of the Endangered Gila Topminnow are currently found there.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions form the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities which may adversely modify the subject area which are being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designations on federally funded or authorized projects.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and in the Regional Office (see address section) and may be examined, by appointment, during regular business hours. This assessment will be used as a basis for a decision whether this is or is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1069 (implemented at 40 CFR Parts 1500–1508).

Primary Author

The primary author of this rule is Mr. Jim Bednarz and Dr. Jim Johnson, U.S. Fish and Wildlife Service, Regional Office, Albuquerque, New Mexico (505/766–2321 or FTS 474–3974).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h), subchapter B of Chapter I, Title 50 of the

U.S. Code of Federal Regulations, by adding the following entry alphabetically to the table under the heading "FISHES" as set forth below.

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Catfish, Yaqui	Ictalurus pricei	U.S.A. (AZ), Mexico (Sonora & Chihuahua).	Entire	T		17.95(e)	17.44(g)
Chub, Yaqui	Gila purpurea	U.S.A. (AZ), Mexico (Sonora).	Entire	E		17.95(e)	N/A
Shiner, beautiful	Notropis formosus	U.S.A. (AZ), Mexico (Sonora & Chihuahua).	Entire	T		17.95(e)	17.44(g)

BILLING CODE 4310-55-M

§ 17.95 [Amended]

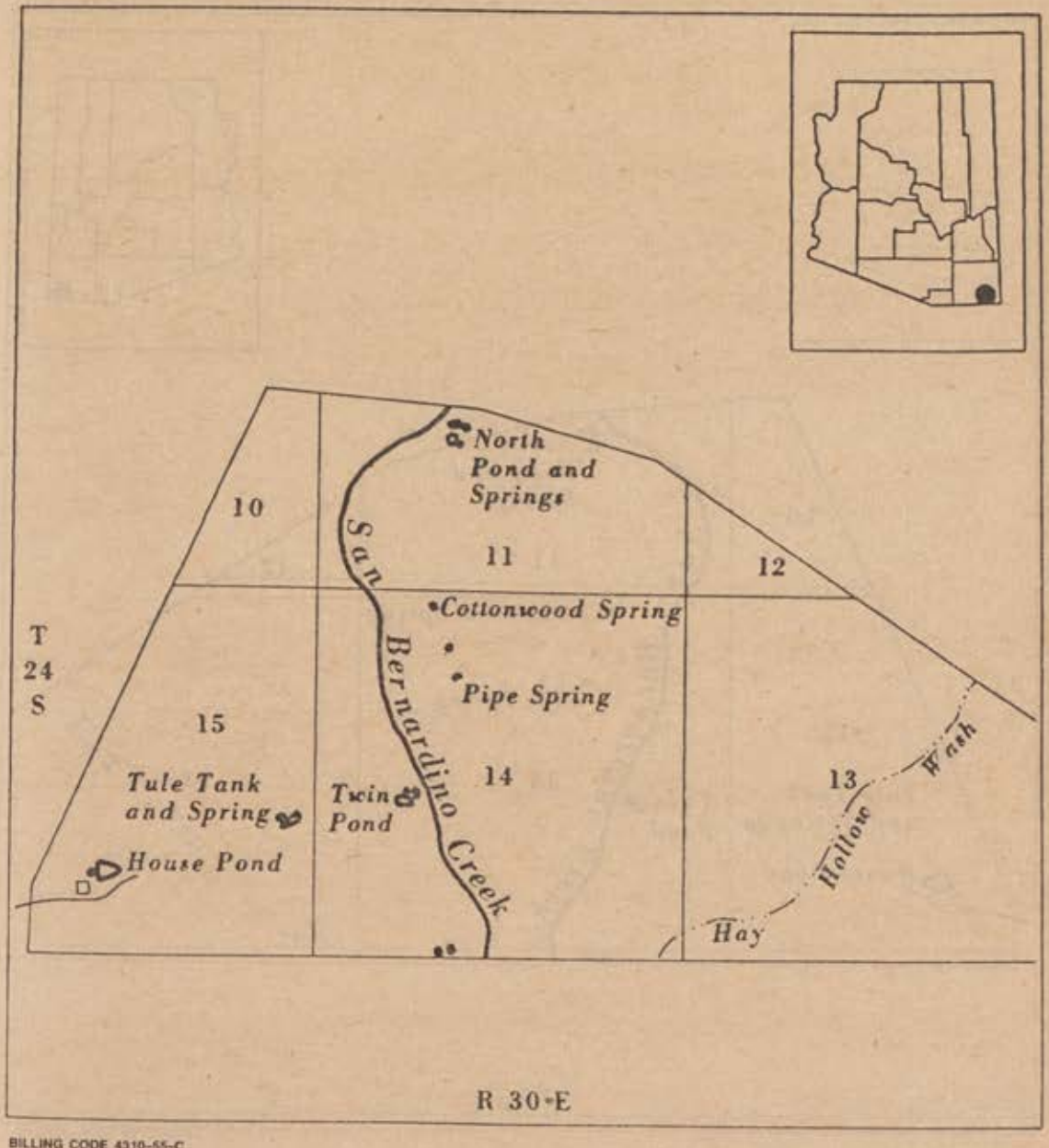
3. It is further proposed that Title 50 CFR Section 17.95(e), fishes, be amended by adding Critical Habitat of the Yaqui chub after that of the Spotfin chub as follows:

Yaqui Chub

(Gila purpurea)

Arizona. Cochise County: All aquatic habitats of San Bernardino National Wildlife Refuge in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E. Known primary constituent elements include clean permanent water with deep pools and intermediate riffle areas, areas of detritus or heavy overgrown cut banks in the Rio Yaqui drainage, and absence of introduced exotic fishes.

BEAUTIFUL SHINER
YAQUI CATFISH
YAQUI CHUB
Cochise County, ARIZONA



BILLING CODE 4310-55-C

4. The Service further proposes that § 17.95(e), fishes, be amended by adding Critical Habitat of the beautiful shiner after that of the Yaqui chub as follows:

Beautiful Shiner

(Notropis formosus)

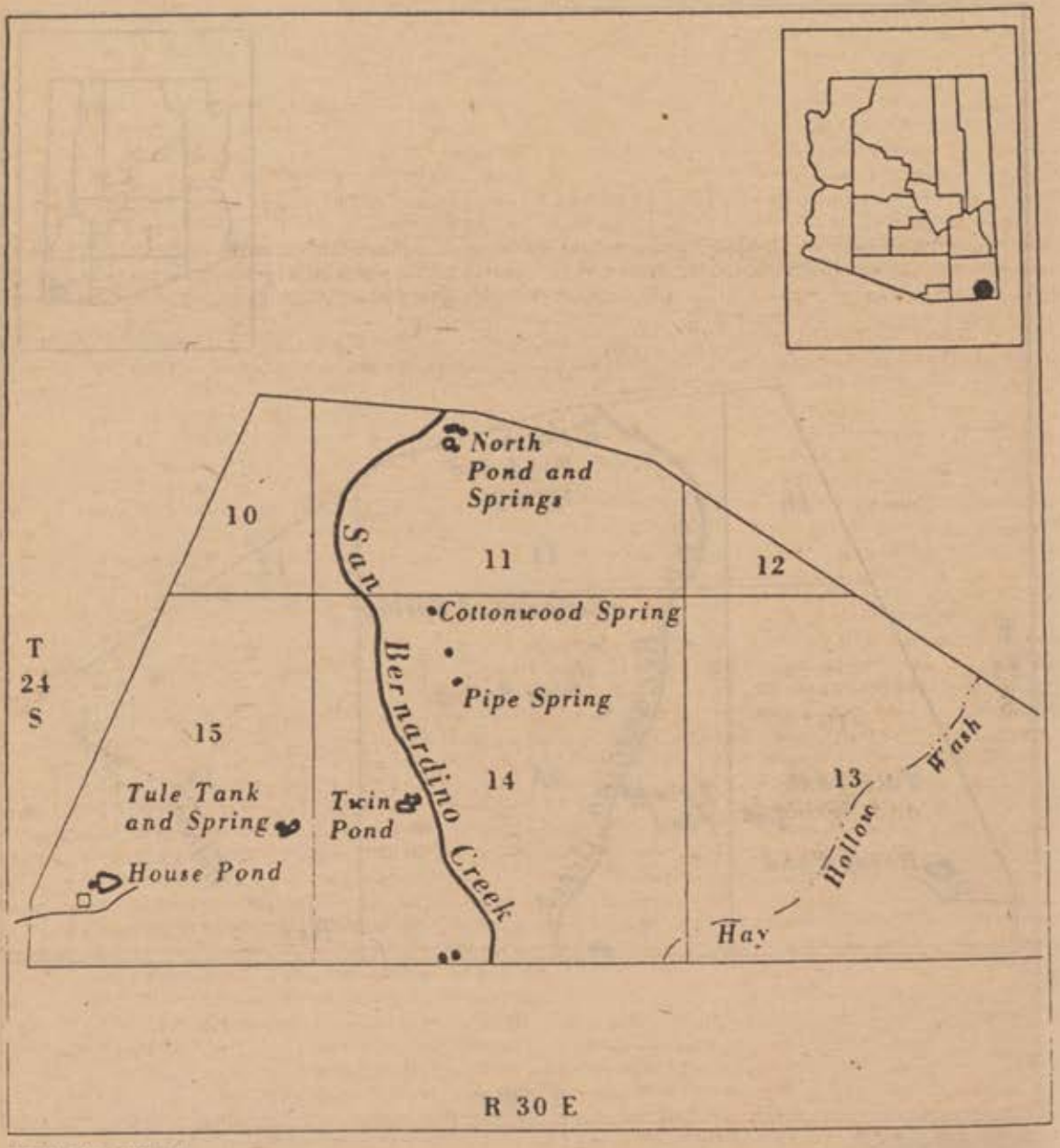
Arizona, Cochise County: All aquatic habitats of San Bernardino National Wildlife Refuge in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E. Known primary constituent elements include small permanent streams with riffles or intermittent creeks with pools and riffles in the Rio Yaqui drainage with clean water. These waters should be free of introduced exotic fishes.

BEAUTIFUL SHINER

YAQUI CATFISH

YAQUI CHUB

Cochise County, ARIZONA



BILLING CODE 4310-55-C

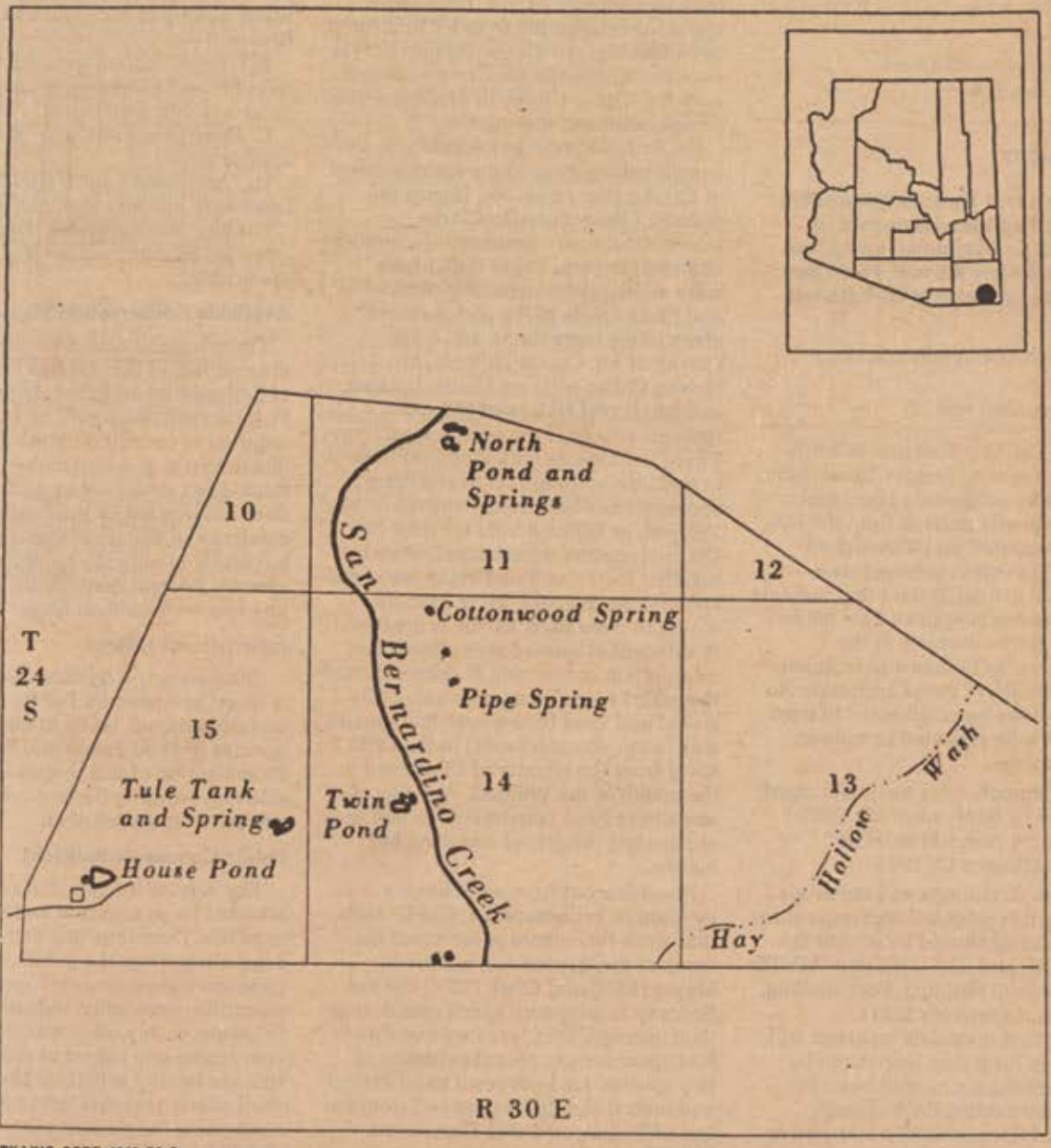
5. The Service further proposes that § 17.95(e), fishes, be amended by adding Critical Habitat of the Yaqui catfish after that of the beautiful shiner as follows:

Yaqui Catfish

(Ictalurus pricei)

Arizona, Cochise County: All aquatic habitats of San Bernardino National Wildlife Refuge in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E. Known primary constituent elements include clean streams of medium current with clear pools in the Rio Yaqui drainage without introduced exotic fishes.

BEAUTIFUL SHINER
YAQUI CATFISH
YAQUI CHUB
Cochise County, ARIZONA



BILLING CODE 4310-55-C

§ 17.44 [Amended]

6. It is further proposed that Title 50 CFR § 17.44 be amended by adding a new paragraph (g) to read as follows:

* * * * *

(g) Yaqui catfish (*Ictalurus pricei*) and beautiful shiner (*Notropis formosus*).

(1) All provisions of Section 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Endangered Species Act.

Dated: May 20, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19114 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Removal of Epioblasma (=Dysnomia) sampsoni, Sampson's Pearly Mussel, From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to remove *Epioblasma (=Dysnomia) sampsoni* (Lea, 1861), Sampson's pearly mussel, from the U.S. List of Endangered and Threatened Wildlife. This action is based on a review of all available data that indicate that this species is extinct. This mussel was restricted to portions of the Wabash River in Illinois and Indiana, and the Ohio River near Cincinnati. No specimens have been collected in over 50 years despite repeated sampling within its range.

DATES: Comments from the public must be received by September 123, 1983. Public hearing requests must be received by August 29, 1983.

ADDRESSES: Comments and materials concerning this proposal and request for a public hearing should be sent to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection by appointment during normal business hours by contracting the Regional Endangered Species Staff at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Johnson, Jr., U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276).

SUPPLEMENTARY INFORMATION:

Background

Epioblasma sampsoni was described by Lea (Lea, Isaac. 1861. Proceedings of the Academy of Natureal Sciences of Philadelphia 13:392) and was originally listed as Endangered on June 14, 1976 (41 FR 24064). The Service's listing regulations at 50 CFR 424.20 state: At least once every 5 years the Director shall conduct a review of each listed species to determine whether it should be removed from the list, be changed from an endangered to a Threatened status, or be changed from a Threatened to an Endangered status. As part of this review process, the Service contracted with Dr. Arthur Clarke to determine the present status of this species.

Dr. Arthur Clarke has recently completed a survey of the historic range of *Epioblasma sampsoni*. During the course of the survey Dr. Clarke interviewed many commercial clammers and shell buyers. These individuals were shown specimens of *E. Sampsoni* and illustrations of the species were given to the individuals. Mr. Virgil Carroll of Mt. Carmel, Illinois, Mr. Nelson Cohen of Terre Haute, Indiana, and Mr. David Nelson of Newport, Indiana, provided the most information. These individuals indicated that to their knowledge nothing even resembling *E. sampsoni* has been seen from the Wabash or White Rivers for decades. Other clammers were consulted and together their combined expertise covered the Wabash River from its mouth to more than 350 miles upstream. A substantial reward was offered for information concerning *E. sampsoni* and this effort was also unsuccessful. The gravel and sand bars where this species was found no longer exist in the Ohio River from the vicinity of Cincinnati to the mouth of the Wabash. A series of sams have been constructed in this area eliminating the gravel and sand bar habitat.

Records exist from an unknown location in Tennessee. Dr. Clarke feels that since this record is far out of the range of the species it is incorrect. Meyer (1974) and Clark (1976) did not find any *E. sampsoni* specimens during their surveys. Dr. Clarke was unable to find specimens or recent evidence of this species. He believes it to be extinct and feels it should be removed from the List of Endangered and Threatened Wildlife.

Summary of Factors Affecting the Species

50 CFR 17 Part 424.11 requires that certain factors must be considered before a species can be listed, reclassified or delisted. These factors and their effects on *E. sampsoni* are as follows:

A. *Present or threatened destruction, modification, or curtailment of its habitat or range.* This species has not been collected alive for over 50 years and is believed to be extinct. The gravel and sand bars that were the primary habitat of this species in the Ohio River have been destroyed by siltation that resulted from the construction of a number of dams. Chemical pollutants have also contributed to a decrease in water quality in the Ohio and Wabash Rivers.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* Not applicable.

Available Conservation Measures

The proposed action would result in the removal of this species from the List of Endangered and Threatened Wildlife. Federal agencies would no longer be required to consult with the Secretary to insure that any action authorized, funded or carried out by such agency does not jeopardize the continued existence of Sampson's pearly mussel or adversely modify the habitat of this species. Federal restrictions on taking this species would no longer apply.

International Effects

Epioblasma (=Dysnomia) sampsoni is listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Promulgation of this proposal as a final rule may result in the removal of this species from Appendix I.

Public Comments Solicited

The Service intends that rules finally adopted be as accurate and effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. The Service particularly requests information concerning the present range and distribution of this species.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

All comments and additional information received will be considered by the Service in any further actions on this proposal.

National Environmental Policy Act

A draft Environmental Assessment has been prepared and is on file in the Regional Office, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, and may be examined by appointment during regular business hours. This assessment will form the basis for a decision on whether any final action on this proposal would be a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Author

The primary author of this proposal is Robert F. Johnson, Jr., U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276).

References

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Meyer, E.R., 1974. Unioid mussels of the Wabash, White and East Fork of the White Rivers, Indiana. *Virginia Journal of Science*. 25(1):20–25.

List of Subjects in 59 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed that Part 17, Subpart B of Chapter I, Title 50 of the U.S. Code of Federal Regulations be amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

§ 17.11 [Amended]

2. It is proposed to amend § 17.11(h) by removing the entry for Sampson's pearly mussel *(Epioblasma (=Dysnomia) sampsoni)* from the List of Endangered and Threatened Wildlife.

Dated: June 10, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–19115 Filed 7–14–83; 8:45 am]

BILLING CODE 4310–55–M

federal register

Friday
July 15, 1983

Part VIII

Department of Labor

Office of the Secretary

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 18

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: The Office of the Secretary is issuing final regulations which set forth the rules of practice and procedure that will generally govern administrative hearings before the Office of Administrative Law Judges. Prior to this there were no uniform rules, and hearing procedures were provided by statute or implementing regulation. These rules will ensure that proceedings conducted before the administrative law judges under a variety of programs for which hearings are held are as uniform as possible.

EFFECTIVE DATE: This final rulemaking is effective July 15, 1983.

FOR FURTHER INFORMATION CONTACT: Everette E. Thomas, Deputy Chief, Administrative Law Judge, Office of Administrative Law Judges, 1111 20th Street, N.W., Washington, D.C. 20036, Phone 202–653–5057.

SUPPLEMENTARY INFORMATION: These Rules of Practice and Procedure generally govern administrative hearings before the Office of Administrative Law Judges. This Office conducts hearings for the Department of Labor under numerous statutes, Executive Orders and regulations, including the Longshoremen's and Harbor Workers' Compensation Act, the Black Lung Benefits Reform Act of 1977, the Job Training Partnership Act, the Fair Labor Standards Act, the McNamara-O'Hara Service Contract Act, the Davis-Bacon Act, Migrant and Seasonal Agricultural Worker Protection Act, the Occupational Safety and Health Act, the Federal Mine Health and Safety Act, the Walsh-Healey Public Contract Act, the Immigration and Naturalization Act, the District of Columbia Compensation Act, the Talmadge Amendments to the Social Security Act, the Water Pollution Control Act, the Safe Drinking Water Act, the Clean Air Act, the Solid Waste Disposal Act, the Toxic Substance Control Act, and the Energy Reorganization Act, and the executive orders governing union conduct and worker antidiscrimination. With few exceptions, hearings are required to be conducted in accordance with the Administrative Procedure Act.

Due to the variety of programs under which hearings are conducted, and the intended scope of review, all of these rules are not intended to apply to all cases. Although these rules are designed to make proceedings before the Office of Administrative Law Judges as uniform as possible, they must yield to special program requirements. Therefore, to the extent that any rule herein is inconsistent or at conflict with a rule or procedure required by statute, executive order, or regulation, the latter is controlling.

Parties should refer first to any specific rules for the program in which the matter arose prior to applying these general Rules of Practice and Procedure.

Publication In Final

These rules are being issued in final because they are rules of agency procedure and practice for which notice and comment is not required. See 5 U.S.C. 553(b)(A).

Effective Date

This final rulemaking is effective upon publication. This Rule is procedural and is designed to make more uniform the Rules of Practice and Procedure in Departmental administrative hearings. Accordingly, the Secretary has determined that good cause exists for waiving the customary requirement of delaying the effective date of a final rule for at least 30 days after its publication. 5 U.S.C. 553(d).

E.O. 12291, Regulatory Flexibility Act and Paperwork Reduction Act

This rule is procedural in character. It is not classified as a "major rule" under E.O. 12291 on Federal Regulations because it is not likely to 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. Accordingly, no regulatory impact analysis is required.

The Department believes that the rule will have no "significant economic impact on a substantial number of small entities" within the meaning of section 3 (a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the rule, which is procedural in character, will effect a substantial uniformity in administrative proceedings, with a resulting economy in such proceedings. Accordingly, no regulatory flexibility analysis is required.

Lists of Subjects in 29 CFR Part 18

Administrative practice and procedure, Labor.

For the reasons set out in the Preamble, Title 29, Code of Federal Regulations, is amended by adding a new part 18 to read as set forth below.

Signed at Washington, D.C., on this 12th day of July, 1983.

Raymond J. Donovan,

Secretary of Labor.

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

Sec.

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553.

§ 18.1 Scope of rules.

(a) *General application.* These rules of practice are generally applicable to adjudicatory proceedings before the Office of Administrative Law Judges, United States Department of Labor. Such proceedings shall be conducted expeditiously and the parties shall make every effort at each stage of a proceeding to avoid delay. To the extent that these rules may be inconsistent with a rule of special application as provided by statute, executive order, or regulation, the latter is controlling. The Rules of Civil Procedure for the District Courts of the United States shall be applied in any situation not provided for or controlled by these rules, or by any statute, executive order or regulation.

(b) *Waiver, modification, or suspension.* Upon notice to all parties, the administrative law judge may, with respect to matters pending before him or 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. These rules may, from time to time, be suspended, modified or revoked in whole or part.

§ 18.2 Definitions.

For purposes of these rules:

(a) "Adjudicatory proceeding" means a judicial-type proceeding leading to the formulation of a final order;

(b) "Administrative law judge" means an administrative law judge appointed pursuant to the provisions of 5 U.S.C. 3105 (provisions of the rules in this part which refer to administrative law judges may be applicable to other Presiding Officers as well);

(c) "Administrative Procedure Act" means those provisions of the Administrative Procedure Act, as codified, which are contained in 5 U.S.C. 551 through 559;

(d) "Complaint" means any document initiating an adjudicatory proceeding, whether designated a complaint, appeal or an order for proceeding or otherwise;

(e) "Hearing" means that part of a proceeding which involves the submission of evidence, either by oral presentation or written submission;

(f) "Order" means the whole or any part of a final procedural or substantive disposition of a matter by the administrative law judge in a matter other than rulemaking;

(g) "Party" includes a person or agency named or admitted as a party to a proceeding;

(h) "Person" includes an individual, partnership, corporation, association, exchange or other entity or organization;

(i) "Pleading" means the complaint, the answer to the complaint, any supplement or amendment thereto, and any reply that may be permitted to any answer, supplement or amendment;

(j) "Respondent" means a party to an adjudicatory proceeding against whom findings may be made or who may be required to provide "relief or take remedial action;"

(k) "Secretary" means the Secretary of Labor and includes any administrator, commissioner, appellate body, board, or other official thereunder for purposes of appeal of recommended or final decisions of administrative law judges;

(l) "Complainant" means a person who is seeking relief from any act or omission in violation of a statute, executive order or regulation;

(m) The term "petition" means a written request, made by a person or party, for some affirmative action;

(n) The term "Consent Agreement" means any written document containing a specified proposed remedy or other relief acceptable to all parties;

(o) "Commencement of Proceeding" is the filing of a request for hearing, order of reference, or referral of a claim for hearing.

§ 18.3 Service and filing of documents.

(a) *Generally.* Copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of the matter. If the matter involves a program administered by the Office of Workers' Compensation Programs (OWCP), the document should contain the OWCP number in addition to the docket number. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges, Suite 600, 1111 Twentieth Street, NW., Washington, D.C. 20036, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *By parties.* All motions, petitions, pleadings, briefs, or other documents shall be filed with the Office of Administrative Law Judges with a copy, including any attachments, to all other parties of record. When a party is represented by an attorney, service shall be made upon the attorney. Service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The person serving the document shall certify to the manner and date of service.

(c) *By the Office of Administrative Law Judges.* Service of notices, orders, decisions and all other documents, except complaints, shall be made by regular mail to the last known address.

(d) *Service of Complaints.* Service of complaints or charges in enforcement proceedings shall be made either: (1) By delivering a copy to the individual, partner, officer of a corporation, or attorney of record; (2) by leaving a copy at the principal office, place of business, or residence; (3) by mailing to the last known address of such individual, partner, officer or attorney. If done by certified mail, service is complete upon mailing. If done by regular mail, service is complete upon receipt by addressee.

(e) *Form of pleadings.*. (1) Every pleading shall contain a caption setting forth the name of the agency under which the proceeding is instituted, the title of the proceeding, the docket number assigned by the Office of Administrative Law Judges, and a designation of the type of 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 party or person representing the party. Although there are no formal specifications for documents, they should be typewritten when possible on standards size (8½ × 11) paper legal size (8½ × 14) paper will not be accepted after July 31, 1983.

(2) Illegible documents, whether handwritten, typewritten, photocopied, or otherwise will not be accepted. Papers may be reproduced by any duplicating process, provided all copies are clear and legible.

§18.4 Time computations

(a) *Generally.* In computing any period of time under these rules 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 case the time period includes the next business day. When the period of time prescribed is

seven (7) days or less, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) *Date of entry of orders.* In computing any period of time involving the date of the entry of an order, the date of entry shall be the date the order is served by the Chief Docket Clerk.

(c) *Computation of time for delivery by mail.* (1) Documents are not deemed filed until received by the Chief Clerk at the Office of Administrative Law Judges. However, when documents are filed by mail, five (5) days shall be added to the prescribed period.

(2) Service of all documents other than complaints is deemed effected at the time of mailing.

(3) Whenever a party has the right or is required to take some action within a prescribed period after the service of a pleading, notice, or other document upon said party, and the pleading, notice or document is served upon said party by mail, five (5) days shall be added to the prescribed period.

§ 18.5 Responsive pleadings—answer and request for hearing.

(a) *Time for answer.* Within thirty (30) days after the service of a complaint, each respondent shall file an answer.

(b) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the administrative law judge to find the facts as alleged in the complaint and to enter an initial or final decision containing such findings, appropriate conclusions, and order.

(c) *Signature required.* Every answer filed pursuant to these rules shall be signed by the party filing it or by at least one attorney, in his or her individual name, representing such party. The signature constitutes a certificate by the signer that he or she has read the answer; that to the best of his or her knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

(d) *Content of answer.* (1) Orders to show cause. Any person to whom an order to show cause has been directed and served shall respond to the same by filing an answer in writing. Arguments opposing the proposed sanction should be supported by reference to specific circumstances or facts surrounding the basis for the order to show cause.

(2) Complaints. Any respondent contesting any material fact alleged in a complaint, or contending that the amount of a proposed penalty or award is excessive or inappropriate or contending that he or she is entitled to judgment as a matter of law, shall file an answer in writing. An answer shall include:

(i) A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny each allegation; a statement of lack of information shall have the effect of a denial; any allegation not expressly denied shall be deemed to be admitted;

(ii) A statement of the facts supporting each affirmative defense.

(e) *Amendments and supplemental pleadings.* If and whenever determination of a controversy on the merits will be facilitated thereby, the administrative law judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to complaints, answers, or other pleadings; provided, however, that a complaint may be amended once as a matter of right prior to the answer, and thereafter if the administrative law judge determines that the amendment is reasonably within the scope of the original complaint. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. The administrative law judge may, upon reasonable notice and such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleadings and which are relevant to any of the issues involved.

§ 18.6 Motions and requests.

(a) *Generally.* Any application for an order or any other request shall be made by motion which, unless made during a hearing or trial, shall be made in writing unless good cause is established to preclude such submission, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Motions or requests made during the course of any hearing or appearance before an administrative law judge shall be stated orally and made part of the transcript. Whether made orally or in writing, all parties shall be given reasonable opportunity to state an objection to the motion or request.

(b) *Answers to motions.* Within ten (10) days after a motion is served, or within such other period as the administrative law judge may fix, any party to the proceeding may file an answer in support or in opposition to the motion, accompanied by such affidavits or other evidence as he or she desires to rely upon. Unless the administrative law judge provides otherwise, no reply to an answer, response to a reply, or any further responsive document shall be filed.

(c) *Oral arguments or briefs.* No oral argument will be heard on motions unless the administrative law judge otherwise directs. Written memoranda or briefs may be filed with motions or answers to motions, stating the points and authorities relied upon in support of the position taken.

(d) *Motion for order compelling answer; sanctions.* (1) A party who has requested admissions or who has served interrogatories may move to determine the sufficiency of the answers or objections thereto. Unless the objecting party sustains his or her burden of showing that the objection is justified, the administrative law judge shall order that an answer be served. If the administrative law judge determines that an answer does not comply with the requirements of these rules, he or she may order either that the matter is admitted or that an amended answer be served.

(2) If a party or an officer or agent of a party fails to comply with a subpoena or with an order, including, but not limited to, an order for the taking of a deposition, the production of documents, or the answering of interrogatories, or requests for admissions, or any other order of the administrative law judge, the administrative law judge, for the purpose of permitting resolution of the relevant issues and disposition of the proceeding without unnecessary delay despite such failure, may take such action in regard thereto as is just, including but not limited to the following:

(i) Infer that the admission, testimony, documents or other evidence would have been adverse to the non-complying party;

(ii) Rule that for the purposes of the proceeding the matter or matters concerning which the order or subpoena was issued be taken as established adversely to the non-complying party;

(iii) Rule that the non-complying party may not introduce into evidence or otherwise rely upon testimony by such party, officer or agent, or the documents or other evidence, in support of or in opposition to any claim or defense;

(iv) Rule that the non-complying party may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents, or other evidence should have shown.

(v) Rule that a pleading, or part of a pleading, or a motion or other submission by the non-complying party, concerning which the order or subpoena was issued, be stricken, or that a decision of the proceeding be rendered against the non-complying party, or both.

§ 18.7 Prehearing statements.

(a) At any time prior to the commencement of the hearing, the administrative law judge may order any party to file a prehearing statement of position.

(b) A prehearing statement shall state the name of the party or parties on whose behalf it is presented and shall briefly set forth the following matters, unless otherwise ordered by the administrative law judge:

(1) Issues involved in the proceeding;

(2) Facts stipulated pursuant to the procedures together with a statement that the party or parties have communicated or conferred in a good faith effort to reach stipulation to the fullest extent possible;

(3) Facts in dispute;

(4) Witnesses, except to the extent that disclosure would be privileged, and exhibits by which disputed facts will be litigated;

(5) A brief statement of applicable law;

(6) The conclusion to be drawn;

(7) Suggested time and location of hearing and estimated time required for presentation of the party's or parties' case;

(8) Any appropriate comments, suggestions or information which might assist the parties in preparing for the hearing or otherwise aid in the disposition of the proceeding.

§ 18.8 Prehearing conferences.

(a) *Purpose and Scope.* (1) Upon motion of a party or upon the administrative law judge's own motion, the judge may direct the parties or their counsel to participate in a conference at any reasonable time, prior to or during the course of the hearing, when the administrative law judge finds that the proceeding would be expedited by a prehearing conference. Such conferences normally shall be conducted by conference telephonic communication unless, in the opinion of the administrative law judge, such method would be impractical, or when such conferences can be conducted in a more expeditious or effective manner by correspondence or personal appearance. Reasonable notice of the time, place and manner of the conference shall be given.

(2) At the conference, the following matters shall be considered:

(i) The simplification of issues;

(ii) The necessity of amendments to pleadings;

(iii) The possibility of obtaining stipulations of facts and of the authenticity, accuracy, and admissibility of documents, which will avoid unnecessary proof;

(iv) The limitation of the number of expert or other witnesses;

(v) Negotiation, compromise, or settlement of issues;

(vi) The exchange of copies of proposed exhibits;

(vii) The identification of documents or matters of which official notice may be requested;

(viii) A schedule to be followed by the parties for completion of the actions decided at the conference; and

(ix) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) *Reporting.* A prehearing conference will be stenographically reported, unless otherwise directed by the administrative law judge.

(c) *Order.* Actions taken as a result of a conference shall be reduced to a written order, unless the administrative law judge concludes that a stenographic report shall suffice, or, if the conference takes place within 7 days of the beginning of the hearing, the administrative law judge elects to make a statement on the record at the hearing summarizing the actions taken.

§ 18.9 Consent order or settlement.

(a) *Generally.* At any time after the commencement of a proceeding, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing 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 such factors as the nature of the proceeding, the requirements of the public interest, the representations of the parties and the probability of reaching an agreement 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 or any part thereof 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, order of reference or notice of administrative determination (or amended notice, if one if filed), as appropriate, and the agreement;

(3) A waiver of any further procedural steps before the administrative law judge; and

(4) A waiver of any right to challenge or contest the validity of the order entered into in accordance with the agreement.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their authorized representative or their counsel may:

(1) Submit the proposed agreement containing consent findings and an order for consideration by the administrative law judge, or

(2) Notify the administrative law judge that the parties have reached a full settlement and have agreed to dismissal of the action, or

(3) 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 therefor, the administrative law judge, within thirty (30) days thereafter, shall, if satisfied with its form and substance, accept such agreement by issuing a decision based upon the agreed findings.

§ 18.10 Parties, how designated.

(a) The term "party" whenever used in these rules shall include any natural person, corporation, association, firm, partnership, trustee, receiver, agency, public or private organization, or governmental agency. A party who seeks relief or other affirmative action shall be designated as "plaintiff," "complainant" or "claimant," as appropriate. A party against whom relief or other affirmative action is sought in any proceeding shall be designated as a "defendant" or "respondent," as appropriate. When a party to the proceeding, the Department of Labor shall be either a party or party-in-interest.

(b) Other persons or organizations shall have the right to participate as parties if the administrative law judge determines that the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings and their interest is not adequately represented by existing parties.

(c) A person or organization wishing to participate as a party under this section shall submit a petition to the administrative law judge within fifteen (15) days after the person or organization has knowledge of or should

have known about the proceeding. The petition shall be filed with the administrative law judge and served on each person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his or her participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) If objections to the petition are filed, the administrative law judge shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the administrative law judge may request all such petitioners to designate a single representative, or he or she may recognize one or more of such petitioners. The administrative law judge shall give each such petitioner written notice of the decision on his or her petition. If the petition is denied, he or 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.

§18.11 Consolidation of hearings.

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters at issue at each such hearing, the Chief Administrative Law Judge or the administrative law judge assigned may, upon motion by any party or on his or her own motion, order that a consolidated hearing be conducted. Where consolidated hearings are held, a single record of the proceedings may be made and the evidence introduced in one matter may be considered as introduced in the others, and a separate or joint decision shall be made, at the discretion of the administrative law judge as appropriate.

§18.12 Amicus Curiae.

A brief of an amicus curiae may be filed only with the written consent of all parties, or by leave of the administrative law judge granted upon motion, or on the request of the administrative law judge, except that consent or leave shall not be required when the brief is presented by an officer of an agency of the United States, or by a state, territory or commonwealth. The amicus curiae shall not participate in any way in the conduct of the hearing, including the presentation of evidence and the examination of witnesses.

§ 18.13 Discovery methods.

Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; production of documents or other evidence for inspection and other purposes; and requests for admission. Unless the administrative law judge orders otherwise, the frequency or sequence of these methods is not limited.

§ 18.14 Scope of discovery.

(a) Unless otherwise limited by order of the administrative law judge in accordance with these rules, the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

(b) It is not ground for objection that information sought will not be admissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) A party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (a) of this section and prepared in anticipation of or for the hearing by or for another party's representative (including his or her attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his or her case and that he or she is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the administrative law judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the proceeding.

§ 18.15 Protective orders.

(a) Upon motion by a party or the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) The discovery not be had;

(2) The discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) The discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) Certain matters not relevant may not be inquired into, or that the scope of discovery be limited to certain matters;

(5) Discovery be conducted with no one present except persons designated by the administrative law judge; or

(6) A trade secret or other confidential research, development or commercial information may not be disclosed or be disclosed only in a designated way.

§ 18.16 Supplementation of responses.

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except as follows:

(a) A party is under a duty to supplement timely his response with respect to any question directly addressed to:

(1) The identity and location of persons having knowledge of discoverable matters; and

(2) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which he or she is expected to testify and the substance of his or her testimony.

(b) A party is under a duty to amend timely a prior response if he or she later obtains information upon the basis of which:

(1) He or she knows the response was incorrect when made; or

(2) He or she knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(c) A duty to supplement responses may be imposed by order of the administrative law judge or agreement of the parties.

§ 18.17 Stipulations regarding discovery.

Unless otherwise ordered, a written stipulation entered into by all the parties and filed with the Chief Administrative Law Judge or the administrative law judge assigned may: (a) Provide that depositions be taken before any person, at any time or place, upon sufficient notice, and in any manner and when so taken may be used like other depositions, and (b) modify the

procedures provided by these rules for other methods of discovery.

§ 18.18 Written interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories to be answered in writing by the party served, or if the party served is a public or private corporation or a partnership or association or governmental agency, by any authorized officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be served on the administrative law judge and upon all parties to the proceeding.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers and objections shall be signed by the person making them. The party upon whom the interrogatories were served shall serve a copy of the answer and objections upon all parties to the proceeding within thirty (30) days after service of the interrogatories, or within such shorter or longer period as the administrative law judge may allow.

(c) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the administrative law judge may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

§ 18.19 Production of documents and other evidence; entry upon land for inspection and other purposes; and physical and mental examination.

(a) Any party may serve on any other party a request to:

(1) Produce and permit the party making the request, or a person acting on his or her behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, photographing, testing, or for other purposes as stated in paragraph (a)(1).

(3) Submit to a physical or mental examination by a physician.

(b) The request may be served on any party without leave of the administrative law judge.

(c) The request shall:

(1) Set forth the items to be inspected either by individual item or by category;

(2) Describe each item or category with reasonable particularity;

(3) Specify a reasonable time, place, and manner of making the inspection and performing the related acts;

(4) Specify the time, place, manner, conditions, and scope of the physical or mental examination and the person or persons by whom it is to be made. A report of examining physician shall be made in accordance with Rule 35(b) of the Federal Rules of Civil Procedure, Title 28, U.S. Code, as amended.

(d) The party upon whom the request is served shall serve on the party submitting the request a written response within thirty (30) days after service of the request.

(e) The response shall state, with respect to each item or category:

(1) That inspection and related activities will be permitted as requested; or

(2) That objection is made in whole or in part, in which case the reasons for objection shall be stated.

(f) A copy of each request for production and each written response shall be served on all parties and filed with the Office of Administrative Law Judges.

§ 18.20 Admissions.

(a) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant matter of fact.

(b) Each matter of which an admission is requested is admitted unless, within thirty (30) days after service of the request or such shorter or longer time as the administrative law judge may allow, the party to whom the request is directed serves on the requesting party:

(1) A written statement denying specifically the relevant matters of which an admission is requested;

(2) A written statement setting forth in detail the reasons why he or she can neither truthfully admit nor deny them; or

(3) Written objections on the ground that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part.

(c) An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that he or she has made reasonable inquiry and that the information known or readily obtainable by him or her is insufficient to enable the party to admit or deny.

(d) The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the administrative law judge determines that an objection is justified, he or she shall order that an answer be served. If the administrative law judge determines that an answer does not comply with the requirements of this section, he or she may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

(e) Any matter admitted under this section is conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission.

(f) Any admission made by a party under this section is for the purpose of the pending action only and is not an admission by him or her for any other purpose nor may it be used against him or her in any other proceeding.

(g) A copy of each request for admission and each written response shall be served on all parties and filed with the Office of Administrative Law Judges.

§ 18.21 Motion to compel discovery.

(a) If a deponent fails to answer a question propounded or a party upon whom a request is made pursuant to §§ 18.18 through 18.20, or a party upon whom interrogatories are served fails to respond adequately or objects to the request, or any part thereof, or fails to permit inspection as requested, the discovering party may move the administrative law judge for an order compelling a response or inspection in accordance with the request.

(b) The motion shall set forth:

(1) The nature of the questions or request;

(2) The response or objections of the party upon whom the request was served; and

(3) Arguments in support of the motion.

(c) For purposes of this section, an evasive answer or incomplete answer or response shall be treated as a failure to answer or respond.

(d) In ruling on a motion made pursuant to this section, the administrative law judge may make and enter a protective order such as he or

she is authorized to enter on a motion made pursuant to § 18.15(a).

§ 18.22 Depositions.

(a) *When, how, and by whom taken.* The deposition of any witness may be taken at any stage of the proceeding at reasonable times. Depositions may be taken by oral examination or upon written interrogatories before any person having power to administer oaths.

(b) *Application.* Any party desiring to take the deposition of a witness shall indicate to the witness and all other parties the time when, the place where, and the name and post office address of the person before whom the deposition is to be taken; the name and address of each witness; and the subject matter concerning which each such witness is expected to testify.

(c) *Notice.* Notice shall be given for the taking of a deposition, which shall be not less than five (5) days written notice when the deposition is to be taken within the continental United States and not less than twenty (20) days written notice when the deposition is to be taken elsewhere.

(d) *Taking and receiving in evidence.* Each witness testifying upon deposition shall be sworn, and any other party shall have the right to cross-examine. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing; read by or to, and subscribed by the witness; and certified by the person administering the oath. Thereafter, such officer shall seal the deposition in an envelope and mail the same by certified mail to the administrative law judge. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and which would have been valid if the witness were personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof.

(e) *Motion to terminate or limit examination.* During the taking of a deposition, a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the administrative law judge for a ruling on his or her objections to the deposition conduct or proceedings. The administrative law judge may then limit the scope or manner of the taking of the deposition.

§ 18.23 Use of depositions at hearings.

(a) *Generally.* At the hearing, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof in accordance with any one of 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 expert witnesses, particularly the deposition of physicians, may be used by any party for any purpose, unless the administrative law judge rules that such use would be unfair or a violation of due process.

(c) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or duly authorized agent of a public or private corporation, partnership, or association which is a party, may be used by any other party for any purpose.

(4) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds: (i) That the witness is dead; or (ii) that the witness is out of the United States or more than 100 miles from the place of hearing unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend to testify because of age, sickness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) upon application and notice, that such exceptional circumstances exist at to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(5) If only part of a deposition is offered in evidence by a party, any other party may require him or her to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts.

(6) Substitution of parties does not affect the right to use depositions previously taken; and, when a proceeding in any hearing has been dismissed and another proceeding involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former proceeding may be used in the latter as if originally taken therefor.

(b) *Objections to admissibility.* Except as provided in this paragraph, 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.

(1) Objections to the competency of a witness or to the competency, relevancy or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form or written interrogatories are waived unless served in writing upon the party propounding them.

(c) *Effect of taking or using depositions.* A party shall not be deemed to make a person his or her own witness for any purpose by taking his or her deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by any other party of a deposition as described in paragraph (a)(2) of this section. At the hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or her or by any other party.

§ 18.24 Subpoenas.

(a) Except as provided in paragraph (b) of this section, the Chief Administrative Law Judge or the presiding administrative law judge, as appropriate, may issue subpoenas as authorized by statute or law upon written application of a party requiring attendance of witnesses and production of relevant papers, books, documents, or tangible things in their possession and under their control. A subpoena may be served by certified mail or by any person who is not less than 18 years of age. A witness, other than a witness for the Federal Government, may not be required to attend a deposition or

hearing unless the mileage and witness fee applicable to witnesses in courts of the United States for each date of attendance is paid in advance of the date of the proceeding.

(b) If a party's written application for subpoena is submitted three (3) working days or less before the hearing to which it relates, a subpoena shall issue at the discretion of the Chief Administrative Law Judge or presiding administrative law judge, as appropriate.

(c) *Motion to quash or limit subpoena.* Within ten (10) days of receipt of a subpoena but no later than the date of the hearing, the person against whom it is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should by limited in scope. Any such motion shall be answered within ten (10) days of service, and shall be ruled on immediately thereafter. The order shall specify the date, if any, for compliance with the specifications of the subpoena.

(d) *Failure to comply.* Upon the failure of any person to comply with an order to testify or a subpoena, the party adversely affected by such failure to comply may, where authorized by statute or by law, apply to the appropriate district court for enforcement of the order or subpoena.

§ 18.25 Designation of administrative law judge.

Hearings shall be held before an administrative law judge appointed under 5 U.S.C. 3105 and assigned to the Department of Labor. The presiding judge shall be designated by the Chief Administrative Law Judge.

§ 18.26 Conduct of hearings.

Unless otherwise required by statute or regulations, hearings shall be conducted in conformance with the Administrative Procedure Act, 5 U.S.C. 554.

§ 18.27 Notice of hearing.

(a) *Generally.* Except when hearings are scheduled by calendar call, the administrative law judge to whom the matter is referred shall notify the parties by mail of a day, time, and place set for hearing thereon or for a prehearing conference, or both. No date earlier than fifteen (15) days after the date of such notice shall be set for such hearing or conference, except by agreement of the parties. Service of such notice shall be made by regular, first-class mail, unless under the circumstances it appears to the administrative law judge that certified mail, mailgram, telephone, or any combination of these methods should be used instead.

(b) *Change of date, time and place.* The Chief Administrative Law Judge or the administrative law judge assigned to the case may change the time, date and place of the hearing, or temporarily adjourn a hearing, on his or her own motion or for good cause shown by a party. The parties shall be given not less than ten (10) days notice of the new hearing date, unless they agree to such change without such notice.

(c) *Place of hearing.* Unless otherwise required by statute or regulation, due regard shall be given to the convenience of the parties and the witnesses in selecting a place for the hearing.

§ 18.28 Continuances.

(a) *When granted.* Continuances will only by granted in cases of prior judicial commitments or undue hardship, or a showing of other good cause.

(b) *Time limit for requesting.* Except for good cause arising thereafter, requests for continuances must be filed within fourteen (14) days prior to the date set for hearing.

(c) *How filed.* Motions for continuances shall be in writing. At least 3'x3½' of blank space shall be provided on the last page of the motion to permit space for the entry of an order by the administrative law judge. Copies shall be served on all parties. Any motions for continuances made within ten (10) days of the date of the scheduled proceeding shall, in addition to the written request, be telephonically conveyed to the administrative law judge or a member of his or her staff and to all other parties. Motions for continuances, based on reasons not reasonably ascertainable prior thereto, may also be made on the record at calendar calls, prehearing conferences or hearings.

(d) *Ruling.* Time permitting, the administrative law judge shall issue a written order in advance of the scheduled proceeding date which either allows or denies the request. Otherwise the ruling may be made orally by telephonic communication to the party requesting same who shall be responsible for telephonically notifying all other parties. Oral orders shall be confirmed in writing.

§ 18.29 Authority of administrative law judge.

(a) *General powers.* In any proceeding under this part, the administrative law judge shall have all powers necessary to the conduct of fair and impartial hearings, including, but not limited to, the following: (1) Conduct formal hearings in accordance with the provisions of this part; (2) administer oaths and examine witnesses; (3) compel the production of documents and appearance of witnesses in control of the parties; (4) compel the appearance of witnesses by the issuance of subpoenas as authorized by statute or law; (5) issue decisions and orders; (6) take any action authorized by the Administrative Procedure Act; (7) exercise, for the purpose of the hearing and in regulating the conduct of the proceeding, such powers vested in the Secretary of Labor as are necessary and appropriate therefor; (8) where applicable, take any appropriate action authorized by the Rules of Civil Procedure for the United States District Courts, issued from time to time and amended pursuant to 28 U.S.C. 2072; and (9) do all other things necessary to enable him or her to discharge the duties of the office.

(b) *Enforcement.* If any person in proceedings before an adjudication officer disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the administrative law judge responsible for the adjudication, where authorized by statute or law, may certify the facts to the Federal District Court having jurisdiction in the place in which he or she is sitting to request appropriate remedies.

§ 18.30 Unavailability of administrative law judge.

In the event the administrative law judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge may designate another administrative law judge for the purpose of further hearing or other appropriate action.

§ 18.31 Disqualification.

(a) When an administrative law judge deems himself or herself disqualified to preside in a particular proceeding, such judge shall withdraw therefrom by notice on the record directed to the Chief Administrative Law Judge.

(b) Whenever any party shall deem the administrative law judge for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, that party shall file with the administrative law judge a motion to recuse. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The

administrative law judge shall rule upon the motion.

(c) In the event of disqualification or recusal of an administrative law judge as provided in paragraph (a) or (b) of this section, the Chief Administrative Law Judge shall refer the matter to another administrative law judge for further proceedings.

§ 18.32 Separation of functions.

No officer, employee, or agent of the Federal Government engaged in the performance of investigative or prosecutorial functions in connection with any proceeding shall, in that proceeding or a factually related proceeding, participate or advise in the decision of the administrative law judge, except as a witness or counsel in the proceedings.

§ 18.33 Expedition.

Hearings shall proceed with all reasonable speed, insofar as practicable and with due regard to the convenience of the parties.

§ 18.34 Representation.

(a) *Appearances.* Any party shall have the right to appear at a hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any intervenor shall be limited to the extent prescribed by the administrative law judge.

(b) Each attorney or other representative shall file a notice of appearance. Such notice shall indicate the name of the case or controversy, the docket number if assigned, and the party on whose behalf the appearance is made.

(c) *Rights of parties.* Every party shall have the right of timely notice and all other rights essential to a fair hearing, including, but not limited to, the rights to present evidence, to conduct such cross-examination as may be necessary for a full and complete disclosure of the facts, and to be heard by objection, motion, and argument.

(d) *Rights of participants.* Every participant shall have the right to make a written or oral statement of position. At the discretion of the administrative law judge, participants may file proposed findings of fact, conclusions of law and a post hearing brief.

(e) *Rights of witnesses.* Any person compelled to testify in a proceeding in response to a subpoena may be accompanied, represented, and advised by counsel or other representative, and may purchase a transcript of his or her testimony

(f) *Office of the Solicitor.* The Department of Labor shall be represented by the Solicitor of Labor or his or her designee and shall participate to the degree deemed appropriate by the Solicitor.

(g) *Qualifications—(1) Attorneys.* An attorney at law who is admitted to practice before the Federal courts or before the highest court of any State, the District of Columbia, or any territory or commonwealth of the United States, may practice before the Office of Administrative Law Judges. An attorney's own representation that he or she is in good standing before any of such courts shall be sufficient proof thereof, unless otherwise ordered by the administrative law judge. Any attorney of record must file prior notice in writing of intent to withdraw as counsel.

(2) *Persons not attorneys.* Any citizen of the United States who is not an attorney at law shall be admitted to appear in a representative capacity in an adjudicative proceeding. An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Chief Administrative Law Judge prior to the hearing in the proceedings or to the administrative law judge assigned at the commencement of the hearing. The application shall state generally the applicant's qualifications to appear in the proceedings. The administrative law judge may, at any time, inquire as to the qualification or ability of such person to render legal assistance.

(3) *Denial of authority to appear.* The administrative law judge may deny the privilege of appearing to any person, within applicable statutory constraints, e.g. 5 U.S.C. 555, who he or she finds after notice of and opportunity for hearing in the matter does not possess the requisite qualifications to represent others, or to be lacking in moral turpitude, character or integrity or to have engaged in unethical or improper professional conduct. No provision hereof shall apply to any person who appears on his or her own behalf or on behalf of any corporation, partnership, or association of which the person is a partner, officer, or regular employee.

(h) *Authority for representation.* Any individual acting in a representative capacity in any adjudicative proceeding may be required by the administrative law judge to show his or her authority to act in such capacity. A regular employee of a party who appears on behalf of the party may be required by the administrative law judge to show his or her authority to so appear.

§ 18.35 Legal assistance.

The Office of Administrative Law Judges does not have authority to appoint counsel, nor does it refer parties to attorneys.

§ 18.36 Standards of conduct.

(a) All persons appearing in proceedings before an administrative law judge are expected to act with integrity, and in an ethical manner.

(b) The administrative law judge may exclude parties, participants, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against ex parte communications. The administrative law judge shall state in the record the cause for suspending or barring an attorney or other representative from participation in a particular proceeding. Any attorney or other representative so suspended or barred may appeal to the Chief Judge but no proceeding shall be delayed or suspended pending disposition of the appeal; provided, however, that the administrative law judge shall suspend the proceeding for a reasonable time for the purpose of enabling the party to obtain another attorney or representative.

§ 18.37 Hearing room conduct.

Proceedings shall be conducted in an orderly manner. The consumpton of food or beverage, smoking, or rearranging of courtroom furniture, unless specifically authorized by the administrative law judge, are prohibited.

§ 18.38 Ex parte communications.

(a) 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. Communications by the Office of Administrative Law Judges, the assigned judge, or any party for the sole purpose of scheduling hearings or requesting extensions of time are not considered ex-parte communications, except that all other parties shall be notified of such request by the requesting party and be given an opportunity to respond thereto.

(b) *Sanctions.* A party or participant who makes a prohibited ex parte communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction or sanctions, including, but not limited to, exclusion from the proceedings and adverse ruling on the issue which is the subject of the prohibited communication.

§ 18.39 Waiver of right to appear and failure to participate or to appear.

(a) *Waiver of right to appear.* If all parties waive their right to appear before the administrative law judge or to present evidence or argument personally or by representative, it shall not be necessary for the administrative law judge to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Chief Administrative Law Judge or the administrative law judge. Where such a waiver has been filed by all parties and they do not appear before the administrative law judge personally or by representative, the administrative law judge shall make a record of the relevant written evidence submitted by the parties, together with any pleadings they may submit with respect to the issues in the case. Such documents shall be considered as all of the evidence in the case, and the decision shall be based on them.

(b) *Dismissal—Abandonment by Party.* A request for hearing may be dismissed upon its abandonment or settlement by the party or parties who filed it. A party shall be deemed to have abandoned a request for hearing if neither the party nor his or her representative appears at the time and place fixed for the hearing and either (a) prior to the time for hearing such party does not show good cause as to why neither he or she nor his or her representative can appear or (b) within ten (10) days after the mailing of a notice to him or her by the administrative law judge to show cause, such party does not show good cause for such failure to appear and fails to notify the administrative law judge prior to the time fixed for hearing that he or she cannot appear. A default decision, under § 18.5(b), may be entered against any party failing, without good cause, to appear at a hearing.

§ 18.40 Motion for summary decision.

(a) Any party may, at least twenty (20) days before the date fixed for any hearing, move with or without supporting affidavits for a summary decision on all or any part of the proceeding. Any other party may, within ten (10) days after service of the motion, serve opposing affidavits or countermove for summary decision. The administrative law judge may set the matter for argument and/or call for submission of briefs.

(b) Filing of any documents under paragraph (a) of this section shall be with the administrative law judge, and copies of such documents shall be served on all parties.

(c) Any affidavits submitted with the motion shall set forth such facts as would be admissible in evidence in a proceeding subject to 5 U.S.C. 556 and 557 and shall show affirmatively that the affiant is competent to testify to the matters stated therein. When a motion for summary decision is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of such pleading. Such response must set forth specific facts showing that there is a genuine issue of fact for the hearing.

(d) The administrative law judge may enter summary judgment for either party if the pleadings, affidavits, material obtained by discovery or otherwise, or matters officially noticed show that there is no genuine issue as to any material fact and that a party is entitled to summary decision. The administrative law judge may deny the motion whenever the moving party denies access to information by means of discovery to a party opposing the motion.

§ 18.41 Summary decision.

(a) *No genuine issue of material fact.* (1) Where no genuine issue of a material fact is found to have been raised, the administrative law judge may issue a decision to become final as provided by the statute or regulations under which the matter is to be heard. Any final decision issued as a summary decision shall conform to the requirements for all final decisions.

(2) An initial decision and a final decision made under this paragraph shall include a statement of:

(i) Findings of fact and conclusions of law, and the reasons therefor, on all issues presented; and

(ii) Any terms and conditions of the rule or order.

(3) A copy of any initial decision and final decision under this paragraph shall be served on each party.

(b) *Hearings on issue of fact.* Where a genuine question of material fact is raised, the administrative law judge shall, and in any other case may, set the case for an evidentiary hearing.

§ 18.42 Expedited proceedings.

(a) When expedited proceedings are required by statute or regulation, or at any time after commencement of a proceeding, any party may move to advance the scheduling of a proceeding.

(b) Except when such proceedings are required or as otherwise directed by the Chief Administrative Law Judge or the administrative law judge assigned, any party filing a motion under this section shall:

(1) Make the motion in writing;

(2) Describe the circumstances justifying advancement;

(3) Describe the irreparable harm that would result if the motion is not granted; and

(4) Incorporate in the motion affidavits to support any representations of fact.

(c) Service of a motion under this section shall be accomplished by personal delivery or by telephonic or telegraphic communication followed by mail. Service is complete upon personal delivery or mailing.

(d) Except when such proceedings are required, or unless otherwise directed by the Chief Administrative Law Judge or the administrative law judge assigned, all parties to the proceeding in which the motion is filed shall have ten (10) days from the date of service of the motion to file an opposition in response to the motion.

(e) Following the timely receipt by the administrative law judge of statements in response to the motion, the administrative law judge may advance pleading schedules, prehearing conferences, and the hearing, as deemed appropriate; provided, however, that a hearing on the merits shall not be scheduled with less than five (5) working days notice to the parties, unless all parties consent to an earlier hearing.

(f) When expedited hearings are required by statute or regulation, such hearing shall be scheduled within sixty (60) days from the receipt of request for hearing or order of reference. The decision of the administrative law judge shall be issued within twenty (20) days after receipt of the transcript of any oral hearing or within twenty (20) days after the filing of all documentary evidence if no oral hearing is conducted.

§ 18.43 Formal hearings.

(a) *Public.* Hearings shall be open to the public. However, in unusual circumstances, the administrative law judge may order a hearing or any part thereof closed, where to do so would be in the best interests of the parties, a witness, the public or other affected persons. Any order closing the hearing shall set forth the reasons for the decision. Any objections thereto shall be made a part of the record.

(b) *Jurisdiction.* The administrative law judge shall have jurisdiction to decide all issues of fact and related issues of law.

(c) *Amendments to conform to the evidence.* When issues not raised by the

request for hearing, prehearing stipulation, or prehearing order are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence may be made on motion of any party at any time; but failure to so amend does not affect the result of the hearing of these issues. The administrative law judge may grant a continuance to enable the objecting party to meet such evidence.

§ 18.44 Evidence

(a) *Applicability of Federal Rules of Evidence.* Unless otherwise provided by statute or these rules, and where appropriate, the Federal Rules of Evidence may be applied to all proceedings held pursuant to these rules.

(b) *Admissibility.* All relevant, material and reliable evidence is admissible, but may be excluded if its probative value is substantially outweighed by unfair prejudice or confusion of the issues, or by considerations of undue delay, waste of time, immateriality, or needless presentation of cumulative evidence. Stipulations of fact may be introduced in evidence with respect to any issue. Every party shall have the right to present his or her case or defense by oral or documentary evidence, depositions, and duly authenticated copies of records and documents; to submit rebuttal evidence; and to conduct such reasonable cross-examination as may be required for a full and true disclosure of the facts. The administrative law judge shall have the right in his or her discretion to limit the number of witnesses whose testimony may be merely cumulative and shall, as a matter of policy, not only exclude irrelevant, immaterial, or unduly repetitious evidence but shall also limit the cross-examination of witnesses to reasonable bounds so as not to prolong the hearing unnecessarily, and unduly burden the record. Material and relevant evidence shall not be excluded because it is not the best evidence, unless its authenticity is challenged, in which case reasonable time shall be given to establish its authenticity. When only portions of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the administrative law judge and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document should be made available for examination and for use by opposing counsel for purposes of cross-examination. Compilations, charts, summaries of data and photostatic copies of documents may be admitted in evidence if the proceedings will thereby be expedited, and if the material upon which they are based is available for examination by the parties.

(c) *Objections to evidence.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall include argument or debate thereon. Rulings on such objections shall be made at the time of objection or prior to the receipt of further evidence. Such ruling shall be a part of the record.

(d) *Exceptions.* Formal exceptions to the rulings of the administrative law judge made during the course of the hearing are unnecessary. For all purposes for which an exception otherwise would be taken, it is sufficient that a party, at the time the ruling of the administrative law judge is made or sought, makes known the action he or she desires the administrative law judge to take or his or her objection to an action taken, and his or her grounds therefor.

(e) *Offers of proof.* Any offer of proof made in connection with an objection taken to any ruling of the administrative law judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony, and if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

§ 18.45 Official notice.

Official notice may be taken of any material fact, not appearing in evidence in the record, which is among the traditional matters of judicial notice: Provided, however, that the parties shall be given adequate notice, at the hearing or by reference in the administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

§ 18.46 In camera and protective orders.

(a) *Privileges.* Upon application of any person the administrative law judge may limit discovery or introduction of evidence or issue such protective or other orders as in his or her judgment may be consistent with the objective of protecting privileged communications.

(b) *Classified or sensitive matter.* (1) Without limiting the discretion of the administrative law judge to give effect to any other applicable privilege, it shall be proper for the administrative law judge to limit discovery or introduction of evidence or to issue such protective or other orders as in his or her judgment may be consistent with the objective of preventing undue disclosure of classified or sensitive matter. Where the administrative law judge determines that information in documents containing sensitive matter should be made available to a respondent, he or she may direct the party to prepare an unclassified or nonsensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.

(2) If the administrative law judge determines that this procedure is inadequate and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, he or she may advise the parties and provide opportunity for arrangements to permit a party or a representative to have access to such matter. Such arrangements may include obtaining security clearances or giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure.

§ 18.47 Exhibits.

(a) *Identification.* All exhibits offered in evidence shall be numbered and marked with a designation identifying the party or intervenor by whom the exhibit is offered.

(b) *Exchange of Exhibits.* When written exhibits are offered in evidence, one copy must be furnished to each of the parties at the hearing, and one copy to the administrative law judge, unless the parties previously have been furnished with copies or the administrative law judge directs otherwise. If the administrative law judge has not fixed a time for the exchange of exhibits the parties shall exchange copies of exhibits at the earliest practicable time, preferably before the hearing, or at the latest at the commencement of the hearing.

(c) *Substitution of copies for original exhibits.* The administrative law judge may permit a party to withdraw original documents offered in evidence and substitute true copies in lieu thereof.

§ 18.48 Records in other proceedings.

In case any portion of the record in any other proceeding or civil or criminal action is offered in evidence, a true copy of such portion shall be presented for

the record in the form of an exhibit unless the administrative law judge directs otherwise.

§ 18.49 Designation of parts of documents.

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, the participant offering the same shall plainly designate the matter so offered, segregating and excluding insofar as practicable the immaterial or irrelevant parts. If other matter in such document is in such bulk or extent as would necessarily encumber the record, such document will not be received in evidence, but may be marked for identification, and if properly authenticated, the relevant and material parts thereof may be read into the record, or if the administrative law judge so directs, a true copy of such matter in proper form shall be received in evidence as an exhibit, and copies shall be delivered by the participant offering the same to the other parties or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the entire document and to offer in evidence in like manner other material and relevant portions thereof.

§ 18.50 Authenticity.

The authenticity of all documents submitted as proposed exhibits in advance of the hearing shall be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such autheniticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 18.51 Stipulations.

The parties may by stipulation in writing at any stage of the proceeding, or orally made at hearing, agree upon any pertinent facts in the proceeding. It is desirable that the facts be thus agreed upon so far as and whenever practicable. Stipulations may be received in evidence at a hearing or prior thereto, and when received in evidence, shall be binding on the parties thereto.

§ 18.52 Record of hearing.

(a) All hearings shall be mechanically or stenographically reported. All evidence upon which the administrative law judge relies for decision shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits introduced as evidence shall be marked for identification and incorporated into the record. Transcripts may be obtained by the parties and the public from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter.

(b) *Corrections.* Corrections to the official transcript will be permitted upon motion. Motions for correction must be submitted within ten (10) days of the receipt of the transcript unless additional time is permitted by the administrative law judge. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the administrative law judge.

§ 18.53 Closing of hearings.

The administrative law judge may hear arguments of counsel and may limit the time of such arguments at his or her discretion, and may allow briefs to be filed on behalf of either party but shall closely limit the time within which the briefs for both parties shall be filed, so as to avoid unreasonable delay.

§ 18.54 Closing the record.

(a) When there is a hearing, the record shall be closed at the conclusion of the hearing unless the administrative law judge directs otherwise.

(b) If any party waives a hearing, the record shall be closed on the date set by the administrative law judge as the final date for the receipt of submissions of the parties to the matter.

(c) Once the record is closed, no additional evidence shall be accepted into the record except upon a showing that new and material evidence has become available which was not readily available prior to the closing of the record. However, the administrative law judge shall make part of the record, any motions for attorney fees authorized by statutes, and any supporting documentation, any determinations thereon, and any approved correction to the transcript.

§ 18.55 Receipt of documents after hearing.

Documents submitted for the record after the close of the hearing will not be received in evidence except upon ruling of the administrative law judge. Such documents when submitted shall be accompanied by proof that copies have been served upon all parties, who shall have an opportunity to comment thereon. Copies shall be received not later than twenty (20) days after the close of the hearing except for good cause shown, and not less than ten (10) days prior to the date set for filing briefs. Exhibit numbers should be assigned by counsel or the party.

§ 18.56 Restricted access.

On his or her own motion, or on the motion of any party, the administrative law judge may direct that there be a restricted access portion of the record to contain any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. This portion of the record shall be place in a separate file and clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings.

§ 18.57 Decision of the administrative law judge.

(a) *Proposed findings of fact, conclusions, and order.* Within twenty (20) days of filing of the transcript of the testimony or such additional time as the administrative law judge may allow, each party may file with the administrative law judge, subject to the judge's discretion under § 18.55, proposed findings of fact, conclusions of law, and order together with a supporting brief expressing the reasons for such proposals. Such proposals and brief shall be served on all parties, and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(b) *Decision of the administrative law judge.* Within a reasonable time after the time allowed for the filing of the proposed findings of fact, conclusions of law, and order, or within thirty (30) days after receipt of an agreement containing consent findings and order disposing of

the disputed matter in whole, the administrative law judge shall make his or her decision. The decision of the administrative law judge shall include findings of fact and conclusions of law, with reasons therefor, upon each material issue of fact or law presented on the record. The decision of the administrative law judge shall be based upon the whole record. It shall be supported by reliable and probative evidence. Such decision shall be in accordance with the regulations and rulings of the statute or regulation conferring jurisdiction.

§ 18.58 Appeals.

The procedures for appeals shall be as provided by the statute or regulation under which hearing jurisdiction is conferred. If no provision is made therefor, the decision of the administrative law judge shall become the final administrative decision of the Secretary.

§ 18.59 Certification of official record.

Upon timely receipt of either a notice or a petition, the Chief Administrative Law Judge shall promptly certify and file with the reviewing authority, appellate body, or appropriate United States District Court, a full, true, and correct copy of the entire record, including the transcript of proceedings.

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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.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Listing of Public Laws

Last Listing June 30, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S. 925/Pub. L. 98-44 To make certain technical corrections in the Atlantic Salmon Convention Act of 1982. (July 12, 1983; 97 Stat. 216) Price: $1.50

H.R. 3133/Pub. L. 98-45 Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1984. (July 12, 1983; 97 Stat. 219) Price: $2.75

S. 680/Pub. L. 98-46 Entitled the "Gladys Noon Spellman Dedication". (July 12, 1983; 97 Stat. 241) Price: $1.50

S. 273/Pub. L. 98-47 To amend section 8(a) of the Small Business Act. (July 13, 1983; 97 Stat. 243) Price: $1.50

H.R. 1746/Pub. L. 98-48 To authorize appropriations for the Navajo and Hopi Indian Relocation Commission. (July 13, 1983; 97 Stat. 244) Price: $1.50

H.R. 2713/Pub. L. 98-49 To amend the Public Health Service Act to authorize appropriations to be made available to the Secretary of Health and Human Services for research for the cause, treatment, and prevention of public health emergencies. (July 13, 1983; 97 Stat. 245) Price: $1.50