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Wednesday
August 4, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Coal Mining
Surface Mining Reclamation and Enforcement Office

Education of Handicapped
Education Department

Fair Housing
Fair Housing and Equal Opportunity, Office of Assistant Secretary

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
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Architectural and Transportation Barriers Compliance Board

Hazardous Materials
Environmental Protection Agency

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Selected Subjects

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Food Safety and Inspection Service

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Environmental Protection Agency

Plant Pests
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Quarantine
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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-329]

Golden Nematode Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms an interim rule which amended the golden nematode quarantine and regulations by redefining the term "moved," adding areas in Steuben County, New York, to the list of generally infested areas, and amending the list of regulated articles by revising the listing for Irish potatoes. The quarantine and regulations restrict the interstate movement of regulated articles from suppressive areas and generally infested areas in New York. The amendments are necessary to conform the regulated activities in the quarantine and regulations to the statutory authority, and to prevent the artificial spread of the golden nematode into noninfested areas of the United States.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: P. F. Sand, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order

The amendments affirmed by this document have been determined to be not a "major rule" under Executive Order 12291 and Secretary's Memorandum 1512-1. Based on information compiled by the Department, it has been determined that the amendments will have an annual effect on the economy of less than $100,000; 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 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.

The amendments redefine the term "moved" to conform to the statutory authority in the Federal Plant Pest Act.

The amendments also add areas in Steuben County, New York, to the list of generally infested areas. With respect to this change, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

In addition, the amendments change the list of regulated articles by revising the listing for Irish potatoes. Consideration was given concerning whether (1) to continue the previous listing of certain categories of Irish potatoes or (2) to revise the listing of Irish potatoes as regulated articles to include only the categories in the final rule. Alternative (1) was not adopted because it is unnecessarily restrictive. Alternative (2) was adopted. Based on departmental expertise, it has been determined that Irish potatoes not within any of the categories included in the final rule could be moved without presenting a significant risk of spreading infestations of the golden nematode.

Further, it appears that there is no feasible alternative to consider in compliance with the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Certification Under the Regulatory Flexibility Act

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments affect the interstate movement of certain articles from regulated areas in New York. Based on information compiled by the U.S. Department of Agriculture and information submitted by the New York Department of Agriculture and Markets, it has been determined that there are thousands of small entities that move such articles interstate from New York and many more thousands of small entities that move such articles interstate from other States. However, based on such information, it has been determined that fewer than 400 entities move such articles interstate from regulated areas in New York. Further, the overall economic impact from the amendments is estimated to be less than $100,000.

Background

In a document published in the **Federal Register** on March 23, 1982 (47 FR 12328-12332), the Department issued an interim rule which amended the golden nematode quarantine and regulations (7 CFR 301.85 *et seq.*) by:

(1) Redefining the term "moved,"

(2) Adding areas in Steuben County, New York, to the list of generally infested areas, and

(3) Amending the list of regulated articles by revising the listing for Irish potatoes.

The document of March 23, 1982, invited interested persons to submit written comments concerning the amendments on or before May 24, 1982. No written comments were received.

The factual situations set forth in the document of March 23, 1982, still provide a basis for the amendments. Accordingly, it has been determined that the amendments to §§ 301.85, 301.85-1, 301.85-2a, 301.85-2b and 301.85-5 are adopted as final and should remain effective as published in the **Federal Register** on March 23, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantines, Transportation, Golden nematode.

(Secs. 105 and 106, 71 Stat. 32, 33; (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

Done at Washington, D.C., this 30th day of July 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-21081 Filed 8-3-82; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 82-327]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of gypsy moth regulated areas (regulated areas are divided into high-risk areas and low-risk areas) under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations by (1) designating previously nonregulated areas in Vermont as gypsy moth high-risk areas; (2) by redesignating areas in Delaware, Maryland, New Jersey, New York, Pennsylvania, and Vermont from gypsy moth low-risk areas to gypsy moth high-risk areas; (3) by designating previously nonregulated areas in California, Delaware, Maryland, Michigan, North Carolina, Ohio, Vermont, Virginia, West Virginia, and Wisconsin as gypsy moth low-risk areas; (4) by expanding previously designated gypsy moth low-risk areas in Illinois, Michigan, Oregon, and West Virginia; and (5) by deleting areas in North Carolina, Ohio, and Wisconsin from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. This action is necessary in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

EFFECTIVE DATE: August 4, 1982.

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

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendments have been issued in conformance with Executive Order 12291, and have been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that the amendments will have an annual effect on the economy of approximately $167,000; 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 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.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum No. 1512-1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the State of California, Delaware, Illinois, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont, Virginia, West Virginia, and Wisconsin. Based on information compiled by the U.S. Department of Agriculture it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 300 entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall economic impact from this action is estimated to be approximately $167,000.

Background

A document published in the **Federal Register** on April 28, 1982, (47 FR 18113-18122), set forth an interim rule amending § 301.45-2a(a) of the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45-2a(a). The document amended the quarantine and regulations by (1) designating previously nonregulated areas in Vermont as gypsy moth high-risk areas; (2) by redesignating areas in Delaware, Maryland, New Jersey, New York, Pennsylvania, and Vermont from gypsy moth low-risk areas to gypsy moth high-risk areas; (3) by designating previously nonregulated areas in California, Delaware, Maryland, Michigan, North Carolina, Ohio, Vermont, Virginia, West Virginia, and Wisconsin as gypsy moth low-risk areas; (4) by expanding previously designated gypsy moth low-risk areas in Illinois, Michigan, Oregon, and West Virginia; and (5) by deleting areas in North Carolina, Ohio, and Wisconsin from the list of gypsy moth regulated areas.

The document became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of April 28, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment to § 301.45-2a should remain effective as published in the **Federal Register** on April 28, 1982.

List of Subjects in 7 CFR Part 301

Agricultural Commodities, Plant Diseases, Plant Pests, Plants (agriculture), Quarantine, Transportation, Gypsy Moth.

(Secs. 8 and 9, 37 Stat. 318, as amended, (7 U.S.C. 161, 162); 37 FR 28464, 28477 as amended; 38 FR 19141)

Done at Washington, D.C., this 30th day of July, 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-21063 Filed 8-3-82; 8:45 am]

BILLING CODE 3410-34-M

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7 CFR Part 301

[Docket No. 82-326]

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of regulated areas (regulated areas are divided into suppressive areas and generally infested areas) under the pink bollworm quarantine and regulations by deleting Craighead County in Arkansas

from the list of suppressive areas. The quarantine and regulations restrict the interstate movement of regulated articles from suppressive areas and generally infested areas. This action is necessary in order to delete unnecessary restrictions on the movement of regulated articles.

EFFECTIVE DATE: August 4, 1982.

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

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the amendment will have an estimated annual effect on the economy of less than $1,000; 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 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.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action involves removing restrictions on the interstate movement of regulated articles from Craighead County in Arkansas. There are hundreds of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that fewer than five small entities move such articles interstate from the regulated areas in Craighead County. Further, the overall economic impact from this action is estimated to be less than $1,000.

Background

A document published in the **Federal Register** on March 3, 1982 (47 FR 8982–8983), set forth an interim rule amending § 301.52–2a of the pink bollworm quarantine and regulations (7 CFR 301.52–2a). The document amended the quarantine and regulations by deleting Craighead County in Arkansas from the list of suppressive areas.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to delete unnecessary restrictions on the movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of March 3, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment to § 301.52–2a should remain effective as published in the **Federal Register** on March 3, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation, Pink bollworm.

(Secs. 8, 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 30th day of July 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82–21062 Filed 8–3–82; 8:45 am]

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Commodity Credit Corporation

7 CFR Part 1474

[CCC Farm Facility Loan Program Regulations, Amdt. 4]

Farm Storage and Drying Equipment Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule amendments and extension of comment period.

SUMMARY: On April 3, 1981, an interim rule was published in the **Federal Register** (46 FR 20151) which amended the Farm Storage and Drying Equipment Loan Program Regulations. Public comment on the interim rule was requested until June 1, 1981. However, a final rule has not been published because a number of amendments were subsequently made in the statute which authorized the program which necessitated further review of the program provisions.

This document reflects additional changes in the program based upon this review and extends the comment period on the interim rule to October 1, 1982, so that the public may comment on these additional proposed changes. Additional changes for which comments are invited would: (1) Assess a late payment charge against a borrower whose loan installment is not paid when it is due and payable; (2) provide discretion with respect to real estate lien requirements; (3) eliminate loan eligibility for drying, handling or operating equipment and horizontal or bunker-type silos; (4) require that a borrower, as a condition of eligibility for a farm facility loan, participate in any acreage reduction program in effect for facility loan commodities which are used to determine the borrower's storage needs for the farm facility; (5) delete certain commodities from the list of commodities which are used to determine facility loan eligibility; (6) limit the cost on which a loan will be based to the net cost of the facility; (7) decrease the maximum allowable outstanding aggregate loan balance for any producer from $50,000 to $25,000, and (8) decrease the maximum loan a producer may receive from 75 percent of the net cost of the structure to 70 percent thereby increasing the downpayment which must be made by a producer from 25 percent to 30 percent.

EFFECTIVE DATE: August 4, 1982. Comments must be received by October 1, 1982, in order to be assured of consideration.

ADDRESS: Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Ray Bostow, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5094. A Final Impact Analysis has been prepared and is available from Ray Bostow.

SUPPLEMENTARY INFORMATION: This extended interim rule has been reviewed under USDA procedures for implementing Executive Order 12291 and Secretary's Memorandum 1512–1. In compliance with Secretary's Memorandum 1512–1, the regulations at 7 CFR Part 1474 have been reviewed for currency, clarity and accuracy and no

other changes are being considered at this time. This rule has been classified "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this extended interim rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish as a proposed rule the subject matter of this rule.

The title and number of the Federal Assistance Program that this extended interim rule applies to are: Title—Storage Facilities Equipment Loans; Number—10.056, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development or the environment. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Section 4(h) of the Commodity Credit Corporation (CCC) Charter Act provided that for the period October 1, 1977, through September 30, 1981, the Corporation was required to make secured storage facility and drying equipment loans available to growers in order to encourage the storage of grains, soybeans, rice, and certain other commodities on farms.

Presently, section 4(h), as amended by Section 151 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 370, approved August 13, 1981) and Section 1606 of the Agriculture and Food Act of 1981 (Pub. L. 97-98, 95 Stat. 1347, approved December 22, 1981) provides discretionary authority for the Corporation to make available loans for the construction or purchase of facilities for storage of grain on farms and requires that such loans be made available in those areas where it is determined that there is a deficiency in storage facilities. Section 4(h) now reads, in pertinent part, as follows:

And provided further, That to encourage the storage of grain on farms, where it can be stored at the lowest cost, the Corporation may make loans to grain growers needing storage facilities when such growers shall apply to the Corporation for financing the construction or purchase of suitable storage, and these loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers, except that the Secretary shall make such loans in areas in which the Secretary determines that there is a deficiency of such storage.* * *

An interim rule announcing certain changes in the Farm Storage and Drying Equipment Loan Program Regulations was published in the **Federal Register** on April 3, 1981 (46 FR 20151). The interim rule amended the regulations governing the program as follows: (1) A producer's need for additional farm storage is based on the amount by which the total capacity of existing on-farm storage is less than the storage capacity needed to store one (previously two) year's production; (2) existing on-farm storage capacity used by a producer to store grain under the farmer-owned Grain Reserve Program is included in the determination of the need for storage (capacity used for grain stored under the Grain Reserve Program was previously excluded); (3) the maximum allowable outstanding aggregate loan balance under the program for any producer was decreased from $100,000 to $50,000; (4) the maximum loan a producer could receive under the Farm Storage and Drying Equipment Loan Program was decreased from 85 percent to 75 percent of the net cost of the structure thus increasing the required downpayment which must be made by a producer from 15 percent to 25 percent; (5) the maximum term of a loan was reduced from 8 years to 5 years; and (6) loans bear interest at the rate of interest set forth in a notice published in the **Federal Register.**

Comments with respect to this interim rule were requested until June 1, 1981. The comment period, however, is being extended until October 1, 1982 to allow the public an opportunity to comment on the additional changes which are being incorporated in the regulations. The provisions of this rule reflect both the recent amendments to the statute which authorizes the program, as well as other administrative changes to the program which are deemed to be warranted. First, a late payment charge (expressed as a rate of interest) will be assessed by CCC in accordance with the provisions of 7 CFR Part 1403 (46 FR 61442) if a loan installment is not paid when it is due and payable. Second, authority is broadened regarding borrowers being permitted to satisfy the real estate lien requirements by giving CCC, as additional security, either a first or second lien on the underlying or other real estate, as may be acceptable to CCC. Third, loans for drying, handling or operating equipment and horizontal or bunker-type silos will no longer be available. Fourth, the borrower, as a condition of eligibility for a loan, must participate in any acreage reduction program in effect for facility loan commodities (i.e., corn, oats, barley, sorghum, wheat, or rice) used to determine the borrower's storage needs for the farm facility. In determining a borrower's need for storage, the production of rye, soybeans, flaxseed, dry edible beans, peanuts, sunflower seed, and high moisture forage and silage will no longer be considered. Fifth, the cost of materials and labor for electrical equipment or wiring and the cost of transportation, delivery, site preparation, erection or installation of such equpment or wiring or any other item ineligible for loan will not be included when determining the net cost of the loan. Sixth, the total aggregate outstanding loan balance for any individual borrower is limited to $25,000. Seventh, the maximum loan a producer may receive is reduced from 75 percent of the net cost of producer's needed facility to 70 percent of the net cost thus increasing the downpayment which must be made by a producer from 25 percent to 30 percent.

The public is invited to submit written comments with respect to this amendment to the Director, Cotton, Grain and Rice Price Support Division, ASCS. Comments must be received not later than October 1, 1982, in order to be assured of consideration. The changes made by the interim rule published in the **Federal Register** (46 FR 20151) and the changes made by this extended interim rule will be evaluated in the light of comments received. After the comments have been evaluated, a final rule will be published in the **Federal Register** discussing the comments received and any amendments to the regulations which are deemed necessary.

List of Subjects in 7 CFR Part 1474

Agricultural commodities, Loan programs—Agriculture warehouses.

Extended Interim Rule

PART 1474—FARM STORAGE FACILITIES

Accordingly, the regulations at 7 CFR Part 1474 are herey amended as follows:

(1) The subpart heading is amended to read as follows:

Subpart—Farm Facility Loan Program Regulations

(2) The table of contents is amended by revising the title of § 1474.5 to read as follows:

Sec.

* * * * *

1474.5 Eligible facilities.

* * * * *

(3) Section 1474.1 is revised to read as follows:

§ 1474.1 General statement.

This subpart sets forth the policies, procedures, and requirements governing loans made by the Commodity Credit Corporation (hereinafter referred to as "CCC") for the purchase of farm facilities or remodeling of existing facilities under the Farm Facility Loan Program. Interested persons should refer to related procedures and forms which have been adopted by each State ASC committee to assure compliance with State law. The program may be suspended at any time except in areas where the Secretary has determined that there is a deficiency of storage for grain.

(4) In § 1474.2, paragraphs (a) and (e) are revised to read as follows:

§ 1474.2 Administration.

(a) The Cotton, Grain and Rice Price Support Division, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"), will administer the provisions of this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS. On matters involving individual loans which would otherwise require approval or other action by the Executive Vice President, the Deputy Administrator, State and County Operations, is authorized to give such approval or take such other action as may be necessary. The program will be carried out through Agricultural Stabilization and Conservation State and county committees (hereinafter referred to respectively as "State committee" and "county committee").

* * * * *

(e) Except for Forms CCC–185, all documents required to be signed on behalf of CCC in connection with loans or other related actions under the Farm Facility Loan Program shall be signed by the chairperson or member of the county committee, or by the county executive director if the county committee has so authorized. *However,* all such approvals required for loans or other related actions must have been given in accordance with the provisions of this subpart. With respect to loans which are approved by the county committee, forms CCC–185 shall be signed by the chairperson or a member of the county committee. With respect to loans approved by the State committee, forms CCC–185 shall be signed by the chairperson or a member of the State committee.

(5) In § 1474.3, paragraph (a) is revised to read as follows:

§ 1474.3 Availability of loans.

(a) *Time.* Loan applications will be accepted by county offices only during the period and for farm storage facilities in such areas as announced by the Secretary.

* * * * *

(6) Section 1474.4 is revised to read as follows:

§ 1474.4 Eligible borrower.

(a) *Basic requirements.* The term "eligible borrower" means any person who as landowner, landlord, tenant, or sharecropper (1) Produces one or more of the following commodities, hereinafter called "facility loan commodities": corn, oats, barley, sorghum, wheat, and rice, (2) needs farm facilities for the storage of one or more such commodities, and (3) participates in any acreage reduction program in effect for facility loan commodities used to determine the borrower's needs for the farm facility. If two or more eligible borrowers join together in the purchase of eligible farm storage facilities, each such borrower shall sign all documents, when required, and shall be liable jointly and severally for repayment of the loan to CCC. The term "person" means any individual or individuals competent to enter into a binding contract, including a partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof.

(b) *Need for facility.* At the time any loan application is being considered, the county committee shall determine if the proposed farm facility is needed for the storage of facility loan commodities produced on the farm(s) to which the loan application relates. In making this determination, the maximum storage capacity for which a loan may be made shall be the amount by which the total capacity of existing storage on the farm(s) which is suitable for storage of facility loan commodities is less than the storage capacity necessary to store one year's production (computed on the basis of estimates yields) of the facility loan commodities produced on the farm(s) to which the loan application relates. If the capacity of the storage to be purchased or erected by the applicant exceeds the need as determined above, the application may be approved but the amount of such loan shall not exceed the maximum amount authorized in § 1474.8(b).

(7) Section 1474.5 is revised to read as follows:

§ 1474.5 Eligible facilities.

(a) *Basic requirements.* Loans shall be made only for the purchase and installation of eligible storage facilities or for remodeling existing facilities, as provided in this section. Eligible storage facilities shall include the following: (1) New or newly constructed conventional-type cribs, bins or flat structures designed and engineered for grain storage; (2) flat storage structures designed and engineered for multipurpose use which are adapted or modified for use as grain storage: *Provided,* that if only a portion of the structure is for use as grain storage, the area or space used for grain storage must be isolated or closed off from other use areas and only the pro rata costs of the portion of space used for grain storage shall be included in determining the amount of the loan; (3) oxygen-limiting and other upright silo-type structures designed for wet storage; and (4) used structures (including the real estate where located, if any) if purchased from CCC or sold by CCC under provisions of a security agreement.

(b) *Additional requirements or provisions.* (1) If the farm storage facility is purchased from a source other than CCC, the supplier must be approved under Supplier's Agreement, Form CCC–308, before the loan is approved. CCC may also require the supplier to certify to the costs of the items and amounts paid and unpaid before the loan is disbursed.

(2) A storage facility shall not have been delivered to the farm more than 30 days prior to the date of the application for the loan.

(3) Loans may include only the cost of new materials and off-farm labor to be used in constructing new storage or in the remodeling of existing facilities.

(4) Loans may be approved for the purchase of used storage facilities only when such facility is purchased from CCC.

(5) Storage structures shall not be of a type (such as bags or snow fences) which require the weight or bulk of the commodity stored to maintain its shape.

(6) Storage structures must, in the opinion of the county committee, have a usable life of at least 10 years.

(7) Loans may be approved for financing additions to or modifications of an existing storage facility to increase storage capacity if the county committee determines that: (i) The modification is necessary to increase the storage

capacity of the unit and (ii) the structure is not a horizontal or bunker type silo.

(8) A storage facility must include ladders and safety devices as the county committee may require and must be suitable for storing the facility loan commodities for which need is determined.

(c) *Loans not available.* Loans shall not be available to provide storage for commercial use or for storing commodities which the borrower intends to purchase or to store for others. Any facility which is located in working proximity to any commercial storage operation shall be deemed to be a part of such operation.

(8) In § 1474.7, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1474.7 Security for loan.

(a) *All States except Louisiana.* All loans shall be secured by a promissory note and security agreement covering the farm storage facility. The promissory note and security agreement shall grant CCC a security interest in the collateral and shall be perfected in the manner specified by the Uniform Commercial Code adopted in the applicable State. CCC's security interest in the collateral shall constitute the sole security interest in such collateral except for prior liens on the underlying realty which by operation of law attach to the collateral if it is or becomes a fixture. If any such prior lien on the realty will attach to the collateral, CCC may require that a subordination agreement or a disclaimer of any interest in the collateral as fixtures be obtained in writing from each person, other than the borrower, having any interest in the real estate on which the collateral is to be located.

(b) *Louisiana.* All loans shall be secured by a chattel mortgage covering the farm storage facility which shall be filed or recorded as required by State law and shall constitute the sole security interest in the collateral, except for prior liens on the underlying realty which by operation of law attach to the collateral if it is or becomes a fixture. If any such prior lien on the realty will attach to the collateral, CCC may require that a severance agreement be obtained from each person, other than the borrower, having any interest in the real estate on which the collateral is to be located.

Note.—Every State, except Louisiana, has adopted in some form Article 9 of the Uniform Commercial Code (UCC) entitled "Secured Transactions." In States which have adopted Article 9, CCC's security interest in loan collateral is perfected by filing a financing statement. Louisiana law, however, requires the filing of a chattel mortgage.

(c) *Real estate lien requirement.* A lien on real estate shall be required for any loan, regardless of the loan amount, if the approving committee determines that additional security is needed to protect CCC's interest. Such lien shall be in the form of a real estate mortgage, deed of trust, or other security instrument approved by CCC. At the discretion of the approving State or county ASC committee, the lien may be a first or second lien on the land on which the facility is located, or a first or second lien on such other real estate as may be acceptable to CCC.

* * * * *

(9) In § 1474.8, paragraphs (a), (b), and (c) are revised to read as follows:

§ 1474.8 Amount of loan and loan application approvals.

(a) *Cost.* The cost on which the loan shall be based is the "net cost" of the facility and/or accessories and services, which is the actual cost to the applicant, after deduction of any discount or rebate. Net cost may include the purchase price, local sales taxes payable by the purchaser, costs for transportation, delivery, site preparation, erection or installation, and the cost of materials and labor for concrete work. Net cost shall not include the cost of materials and labor for electrical and handling equipment or wiring and the cost of transportation, delivery, site preparation, erection or installation of such equipment or wiring, used or secondhand material, or any other item which is determined to be ineligible for loan.

(b) *Amount of loan.* The amount of any farm facility loan, when added to the outstanding balance of any facility loan, shall not create for the applicant an aggregate outstanding balance in excess of $25,000 and shall not exceed the smaller of: (1) 70 percent of the net cost of the applicant's needed storage, or (2) the prorated cost of the applicant's storage which is needed and suitable for the storage of the applicable commodities when a storage structure has a larger capacity than the applicant's needed capacity.

(c) *Loan application approvals.* (1) The county committee may approve or disapprove loan applications up to the maximum amount unless a lower limit has been established by the State committee.

(2) The State committee shall approve or disapprove all other loan applications.

(3) A loan application shall not be approved where the approving authority determines that approval would not be in the best interest of the program.

* * * * *

(10) Section 1474.9 is revised to read as follows:

§ 1474.8 Downpayment.

A minimum downpayment representing the difference between (a) the amount of the loan determined pursuant to § 1474.8(b), and (b) the net cost of eligible storage facilities determined pursuant to § 1474.8(a) shall be made by the loan applicant to the supplier or contractor before the loan is disbursed. The minimum downpayment shall be in cash except that a reasonable trade-in allowance for farm equipment or other tangible property may be considered as cash. If the reasonable trade-in allowance of such equipment or property is in excess of the required minimum downpayment, the amount of the loan shall be reduced by the amount of such excess. If the trade-in allowance is in excess of a reasonable market value, only the reasonable market value may be counted toward the minimum downpayment. Any additional amount required to equal the minimum downpayment shall be paid in cash by the applicant to the supplier or contractor before the loan is disbursed. A downpayment shall not include any discount, rebate, credit, deferred payment, post-dated check, or promissory note to the supplier or contractor.

(11) Section 1474.10 is revised to read as follows:

§ 1474.10 Interest and late payment charges.

Loans shall bear interest at the rate set forth in a notice published in the **Federal Register.** If a loan installment is not paid when it is due and payable, a late payment charge shall be applied against the delinquent debt as provided in 7 CFR Part 1403 (46 FR 61442).

(12) In Section 1474.11, paragraphs (a) and (b) are revised to read as follows:

§ 1474.11 Repayment of loan and acceleration of maturity date.

(a) The principal amount of the loan shall be repayable in equal annual installments together with interest as provided for in § 1474.10 on the unpaid balance from the date of disbursement of the loan or date of the last repayment, whichever is later, up to, but not including the date of repayment. The first installment, including interest on the unpaid balance, shall be due and payable during the 12-month period beginning on the first anniversary date of the note. A like installment shall be similarly due and payable during the 12 months following each anniversary date thereafter until the principal, together with the interest thereon, has been paid

in full. The payment of each such installment may be by cash, check, or money order. Any installment which is due and payable and which has not been paid in cash, or by check or money order, shall be paid by deduction from any amounts which are otherwise due the borrower from price support loans and purchases, as well as storage payments. However, any such deductions shall not be made until after service charges and amounts due prior lienholders have been deducted. Payments shall be applied first to accrued interest and then to principal.

(b) Each installment must be paid not later than the end of the applicable 12-month period. Upon failure to pay any installment by the end of such period, the loan may be declared delinquent and, at the option of the approving State or county committee, the loan may be called and the entire unpaid amount of the loan shall become immediately due and payable. Any delinquent loan or any past due amount on any annual payment may be deducted and paid out of any amounts due the borrower under any program carried out by the Department of Agriculture or any other agency of the United States in accordance with the regulations at 7 CFR Part 13. If the maker of the note breaches any convenants, agreements, terms, or conditions to be performed under §§ 1474.1 to 1474.17 or under the loan application, promissory note and security agreement, chattel mortgage, or other security instruments securing the loan, or under any other instruments executed in connection with the loan, or if the collateral is used in connection with any commercial operation including, but not limited to, elevators, warehouses, dryers, or processing plants, during the life of the loan, CCC may declare the entire indebtedness immediately due and payable.

* * * * *

(13) Section 1474.13 is revised to read as follows:

§ 1474.13 Maintenance and liability.

The borrower shall maintain the loan collateral in good condition and available for the storage of one or more of the facility loan commodities described in § 1474.4(a). Until the loan has been repaid, the borrower shall be liable for all damages to or destruction of such collateral.

(14) Section 1474.14 is revised to read as follows:

§ 1474.14 Disbursement of loan.

The disbursement of the loan by CCC will be made when the farm storage facility has been delivered, erected, constructed, assembled, or installed, and, when required, the county committee, or a representative of the county committee, has inspected and approved such facility. Disbursement will be made only if the borrower furnishes satisfactory evidence of and certifies to the (a) total cost of the facility and (b) payment of all debts on the facility in excess of the amount of the loan. Disbursement shall be made jointly to the borrower and to the contractor(s) or supplier(s). However, disbursement may be made to the borrower alone if the borrower submits satisfactory evidence to the county committee that the borrower has paid to the contractor(s) or supplier(s) all amounts which are due and owing on the facility.

(15) In § 1474.16, paragraph (b) is revised as follows:

§ 1474.16 Sale or conveyance of security and assumption of loan indebtedness.

* * * * *

(b) An assumption of the loan may be approved by CCC in the case of a sale of the collateral by CCC or the borrower under paragraph (a) of this section or in the event of the death, incompetency, or disappearance of the borrower. Requests for approval of such assumptions shall be made to the county committee by the borrower or the successors or representatives of a borrower. If such approval is granted, the borrower or his successors or representatives shall execute an assumption agreement with the purchaser or the party assuming the loan. The assumption agreement shall be in the form prescribed by CCC. Such agreements may provide for the assumption of the unpaid balance of both the principal amount of the loan and the interest computed to the date of the assumption and any other charges which may be provided for in the loan application and approval and in the security instruments furnished by the borrower pursuant to § 1474.7.

(16) Section 1474.17 is revised to read as follows:

§ 1474.17 Death, incompetency, or disappearance.

If a person who is entitled to the payment of any sum due in connection with a farm facility loan dies, disappears, or is declared incompetent, either before CCC has issued a draft in payment therefor or after CCC has issued a draft in payment but before the draft is negotiated, payment shall be made to such person's successors or representatives authorized to receive such payment. The order of precedence for payment is set forth in 7 CFR Part 707. Payment shall be made upon proper application therefor (Form ASCS-325) to the office of the county committee which made the loan.

(17) Section 1474.18 is revised to read as follows:

§ 1474.18 Forms.

The following forms shall be used in connection with the Farm Facility Loan Program: CCC-185 Loan Application and Approval; CCC-186 Promissory Note and Security Agreement; CCC-187 Disbursement, Repayment and Inspection Record; CCC-298 Assumption Agreement; CCC-299 Certificate of Title; CCC-308 Supplier's Agreement; CCC-401 Bill of Sale; CCC-500 Repayment Record. These forms, and any other form required by State law, may be obtained in the ASCS State and county offices. The reporting and recordkeeping requirements contained herein have been approved by, and subsequent reporting and recordkeeping requirements will be subject to, the approval of the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714(b))

Signed at Washington, D.C. on July 29, 1982.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-21090 Filed 8-3-82; 8:45 am]

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Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-066]

Specifically Approved States to Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds the State of California to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that California has laws or regulations in effect to require the additional quarantine, treatment and testing of such mares to further ensure their

freedom from CEM as required by the regulations.

DATES: Effective date July 29, 1982.

Comments must be received on or before October 4, 1982.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, 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 adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Mr. W. F. Helms, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment relieves restrictions presently imposed on mares over 731 days of age being imported into the United States, and should be made effective immediately in order to permit affected persons to move these mares into the United States without unnecessary restrictions.

Therefore, pursuant to the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will lift restrictions that were imposed in the fall of 1977 on the importation of certain horses from France, Ireland, and the United Kingdom, as well as restrictions added later on Australia, Belgium, Italy, the Federal Republic of Germany, Japan, Austria, and Denmark. It is anticipated that no more than 25 importers will consign approximately 35–40 mares over 731 days of age from CEM affected countries annually to the State of California. This compares with 29,161 horses of all classes imported into the United States during Fiscal Year 1981. Furthermore, mares over 731 days of age from CEM affected countries can be imported and consigned to other States approved to receive such animals.

To the best of our knowledge, through the years the number of small entities involved in the importation of mares from the countries involved has been extremely limited because of factors such as the number of animals sold; stallion fees ranging from $5,000 to $50,000; stallions syndicated up to $32,000,000 and the international operations involved. The average cost to import a horse from overseas is from $5,000 to $7,000, including preembarkation testing and treatment, the cost of transportation and post entry quarantine.

Background

On Friday, October 16, 1981, there was published in the **Federal Register** (46 FR 50930–50937) amendments to 9 CFR Part 92 which, among other things, authorized the importation of mares over 731 days of age into the United States from countries affected with CEM when specific requirements to prevent their introducing CEM into the United States are met. Further, these amendments require that such imported mares be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards believed necessary to ensure that such mares being imported into the United States are free of contagion of CEM. These minimum standards are set forth in § 92.4(a)(9) of the regulations. The Deputy Administrator, Veterinary Services, has determined that the State of California has met the minimum standards believed necessary to ensure that mares over 731 days of age being imported into the United States from countries affected with CEM are free of the contagion of CEM. Therefore, § 92.4(a)(8)(ii) is amended to add the State of California to the list of States approved to receive mares over 731 days of age from CEM affected countries.

Alternatives

The alternatives considered in making this decision were: (1) Not to list California as a State approved to receive mares over 731 days of age from CEM affected countries, and (2) to make the change set forth in this document.

Alternative No. 1 would prohibit the consignment of mares over 731 days of age from CEM affected countries to the State of California. This alternative was not adopted because the Deputy Administrator, Veterinary Services, has determined that California has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM. The continued prohibition on consignment to the State of California would, therefore, constitute an unnecessary restriction on the importation of such mares.

Alternative No. 2 would allow for the consignment of mares over 731 days of age from CEM affected countries to the State of California. This alternative was adopted because the Deputy Administrator, Veterinary Services, has determined that the State of California has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock and livestock products, Quarantine, Transportation, Contagious equine metritis (CEM).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by revising § 92.4(a)(8)(ii) to read as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.

(a) * * *

(8) * * *

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of California
The State of Colorado
The State of Kentucky
The State of New York
The State of South Carolina
The State of Virginia

* * * * * * *

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 29th day of July, 1982.

Gerald J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-21046 Filed 8-2-82; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 307 and 310

[Docket No. 81-027F]

Cattle and Swine Post-Mortem Inspection Procedures and Staffing Standards

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On July 14 and August 28, 1981, the Food Safety and Inspection Service (FSIS) published interim rules establishing new cattle post-mortem inspection staffing standards and swine post-mortem inspection procedures and staffing standards. In addition, the interim rules set forth certain related facility requirements for inspection. The standards and requirements were implemented on an interim basis without prior proposals because of the immediate need of FSIS to achieve greater labor efficiency in order to meet its inspectional responsibilities within its mandated appropriations and personnel limitations. FSIS has considered all comments received on the interim rules and has determined that the interim rules will be made permanent regulations.

EFFECTIVE DATE: October 30, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. John Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because (1) it only slightly affects the current cattle staffing standards at small entities where the slower line speeds are more prevalent, (2) it does not affect swing post-mortem inspection operations which do not require three or more inspectors and where the swine heads are not inspected while still attached to the carcasses, and (3) the existing facility requirements, which are now to be specified in the regulations, have not been substantially changed.

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) requires, among other things, the Secretary of Agriculture, through appointed inspectors, to carry out a post-mortem examination of the carcasses and parts of certain domestic food animals, including cattle and swine, when they are slaughtered in an establishment which is subject to inspection under the Act. Post-mortem inspection involves an examination by one or more trained food inspectors, under veterinary supervision, of the head, viscera (internal organs), and other parts of the carcass of each animal slaughtered, for the purpose of detecting disease or other conditions which could render the carcass or any part of the carcass unfit for human food or otherwise adulterated. In performing the examination, the inspectors follow standardized inspection procedures and initiate appropriate actions consistent with their findings. The procedures are designed to provide assurance that only wholesome and otherwise not adulterated carcasses and parts are passed for human food.

Post-mortem inspection requires a large portion of the budget of the Agency's meat and poultry inspection program. Therefore, the Agency's ongoing responsibility for efficient utilization of its resources is especially important with respect to post-mortem inspection. A failure to use the most efficient post-mortem inspection procedures and staffing standards could result in costs to the public which may be significantly higher than necessary.

Interim Rules

On July 14, 1981, FSIS published an interim rule in the **Federal Register** (46 FR 36113) establishing new cattle post-mortem inspection staffing standards and setting forth certain related facility requirements. On August 28, 1981, FSIS published an interim rule (46 FR 43406) establishing new swine post-mortem inspection procedures and staffing standards and setting forth additional related swine facility requirements. These interim rules allowed higher production rates for a given number of inspectors and resulted in greater efficiencies for both industry and government. The comment periods in regard to the interim rules closed on September 14 and October 27, 1981, respectively.

Both interim rules affected identical sections within Parts 307 and 310 of the Federal meat inspection regulations (9 CFR 307.2 and 310.1). Therefore, FSIS has combined them into this single final rule. However, to avoid confusion, FSIS has addressed separately the comments received in response to the interim rules.

Discussion of Comments

A. Cattle Post-Mortem Inspection

FSIS received nine comments on the interim rule—1 from an employees' union organization, 4 from USDA inspectors, 2 from industry members, 1

from a meat industry association, and 1 from a USDA official. Five commenters opposed the change in line speeds or reduction in the number of inspectors on the line without modification of the inspection procedures to reduce stress and to allow inspectors enough time to perform proper inspection. One of these suggested that the tables in the interim regulation should specify that the line speeds represent the maximum rate the line can move with the indicated number and placement of inspectors. Two commenters favored the increased line speeds, but opposed the facility requirements. One commenter opposed using the interim regulation procedure to impose facility requirements which are not related to implementing the new line speeds. The industry members opposed giving the inspector in charge authority to control the line speed, and also considered the second carcass inspector unnecessary at the higher line speeds. The various comments have been compiled into seven different categories which are stated below, followed in each case by the Agency's considered response:

1. *Comment:* The tables in the regulation should specify that the line speeds are maximums for inspectors. It should also be made clear that the line speeds are slaughter rates, and are not an absolute number of carcasses expected to be in the cooler.

Response: FSIS has modified the table headings to indicate that the head per hour numbers are maximums and that they represent slaughter rates.

2. *Comment:* The increased line speeds will reduce the inspector's ability to detect disease and may allow unwholesome product to reach the consumer.

Response: The times required to complete the head, viscera, and carcass inspection tasks were computed by industrial engineers using recognized work measurement methods. Fully trained and qualified food inspectors were actually timed while carrying out the inspections. These "raw" times were adjusted to allow for the observed work pace and job difficulty. Additional time allowances were included for work related activities such as hand washing, knife steeling, tagging, and stamping where appropriate. Finally, the maximum workload for each inspector was calculated so that 95 percent of the normal adult working age population should be able to properly perform the work without undue stress. Based upon this information. FSIS has concluded the increased line speed will not hinder the duties of the inspector.

3. *Comment:* Inspection duties do not change, so the increased speed will result in more injuries and more stress on the inspectors.

Response: The Agency has no evidence of an increase in injuries in cattle slaughtering plants where slaughter rates may have increased significantly (the rates may have increased significantly in plants requiring three or more inspectors) since promulgation of the interim rule in July 1981. The method used to establish inspector workload (see the response to comment 2, above) indicates that inspectors should not experience undue stress.

4. *Comment:* Cervical inspectors should be reduced by one inspector at each line speed above 104 per hour for the tongue-out presentation. Only one carcass inspector is needed even with line speeds greater than 226 per hour.

Response: The work measurement calculations show that the staffing requirements indicated in the interim rule cannot be reduced if inspectors are to have sufficient time to properly complete their inspections.

5. *Comment:* Facility changes should not be required to accommodate two carcass inspectors if the inspection position is to be eliminated in the future.

Response: The interim rule requires two carcass inspectors when the establishment's line speed reaches 199 or 217, depending on the manner in which heads are presented. FSIS is considering a procedural change which would physically relocate carcass inspection so that in all probability only one inspector would be needed. However, this further change, if approved, is not in the near future. Most establishments should be able to accommodate the second carcass inspector without requiring major facility changes.

6. *Comment:* The facility changes are not related to the inspection staffing requirements and should not be part of the emergency regulations.

Response: Establishments in which USDA inspectors work must provide certain facilities to the inspector, such as sufficient work space on the line, proper lighting, handwashing and knife sanitizing facilities, etc. These facilities are necessary if inspectors are to carry out their jobs. It should be noted that the amendments, with respect to facility requirements, make no change in the requirements currently being applied in federally inspected establishments through the facilities review process. There should not be any establishment currently operating that does not already have the facilities required by these regulations, with the exception of sufficient space at the traditional carcass inspection location for a second carcass inspector in a few establishments.

7. *Comment:* The inspector in charge should not control the line speed. The line speeds were tested and found to be functional, so there would be no reason to reduce line speeds.

Response: The line speeds and inspector staffing are based on the assumption that the cattle do not exceed the normal rate of disease and that plant personnel properly present the heads, carcasses, and viscera for inspection. If either of these assumptions change, then there may be a concomitant greater workload on the inspectors, in which case the line speed must be reduced to allow sufficient time to accomplish the inspection tasks. Therefore, the inspector in charge must have the authority to adjust the line speed if the incidence or disease in a group of cattle exceeds the normal amount, or the heads, carcasses, or viscera are improperly presented for efficient inspection

B. Swine Post-Mortem Inspection

The Agency received 33 comments on the interim rule—21 from food inspectors, 4 from the employees' union, 2 from an employees' organization, 2 from consumers, 2 from industry organizations, and 2 from individual members of the industry.

One of the 21 letters received from food inspectors bore 14 signatures. Of the four letters received from the employees' union, one bore 11 signatures. The comments received from the National Association of Federal Veterinarians, management of meat plants, the American Meat Institute, and the National Meat Association favored the rule. The comments received from food inspectors, the National Joint Council of Food Inspection Locals, and the two consumers generally opposed the rule. The various comments have been compiled into 10 different categories which are stated below, followed in each case by the Agency's considered response:

1. *Comment:* Concur with the Agency's studies and favor the new inspection procedures and staffing standards. However, the Agency should complete studies dealing with application of the procedures and new staffing standards to smaller plants.

Response: FSIS is conducting further studies to determine the applicability and impact of the new procedures and staffing standards to establishments which require less than three inspectors and also to those establishments where the heads of swine are not inspected while still attached to the carcasses.

When such studies are completed, FSIS will determine whether to extend these rules to such establishments.

2. *Comment:* The studies were superficial and failed to adequately consider all variables associated with slaughter inspection.

Response: The studies were based on comparison tests of the old and the new inspection procedures on market hogs and sows/boars. The comparison was in terms of the percentage of units (heads, viscera, and carcasses) which were free of errors when inspected by the old versus the new inspection procedures. The results of the tests showed that the new procedures are as effective as the old ones. The new procedures were tested in five plants and, to assure effectiveness over a longer period of time than the testing time, inspectors and supervisors were trained in four plants where the new procedures have been used since March 1981. FSIS reviews, conducted in these plants to assure effectiveness of the new procedures, have revealed no problems with the new procedures and all segments of these procedures were satisfactorily performed by inspection personnel.

3. *Comment:* Concur with the authority given to the inspector in charge to regulate the line speeds. However, the plants should be provided with flexibility to place viscera sets in the same direction in all viscera pans regardless of the inspector's position.

Response: In establishments where the line speeds require one inspector to perform the viscera inspection tasks, all such tasks can be efficiently accomplished if the viscera sets are placed in the same direction in each viscera pan. However, in those establishments where inspectors are stationed on both sides of the viscera table, the viscera inspection task can only be performed efficiently if the sets of viscera are presented for inspection according to each inspector's position; that is, the viscera must be placed in the pans in such a manner that the inspectors need not perform additional motions, such as reaching across to the far side of the viscera pan to grasp and rearrange the viscera before beginning the examination. If inspectors are forced to expend extra time and effort to reach for and rearrange viscera, additional time must be allowed through a reduction in the line speed.

4. *Comment:* Some commenters questioned the effectiveness of the mirrors and opposed the size of the mirrors. Others agreed with the size, but opposed the requirement that only a glass mirror could be used. They suggested that perhaps a mirror composed of material other than glass could be permitted, such as acrylic or stainless steel. Some suggested that the distance between the mirror and the carcass be allowed to exceed 3 feet.

Response: FSIS conducted effectiveness studies using a 5 feet x 5 feet mirror placed 3 feet from the carcasses, since this size and distance were considered optimal. A smaller mirror would limit the ability of the inspector to see the entire back of a swine carcass to detect disease conditions and dressing defects. Similarly, if the mirror were installed at too great a distance from the carcasses, disease conditions and dressing defects would not be clearly visible. Therefore, FSIS maintains that mirrors must be at least 5 feet x 5 feet, and must be mounted not farther than 3 feet away from the vertical axis of the moving line.

Since the interim rule was published, FSIS has further examined various samples of mirrors made of stainless steel and plastic. The quality of the image reflected by stainless steel mirrors is not comparable to glass mirrors and stainless steel mirrors are therefore unacceptable. Certain types of plastic mirror samples examined were found to be equivalent to glass mirrors. Therefore, FSIS has determined that, in addition to the glass mirrors, distortion-free plastic mirrors are also acceptable, and has amended the final rule accordingly. However, plastic mirrors appear not to be as resistant to abraision as glass, and establishments electing to use plastic mirrors must be prepared to replace them if their reflective qualities becomes unacceptable.

5. *Comment:* Object to including facility requirements as part of the interim rule on the grounds that such changes should be made more properly through normal rulemaking procedures.

Response: With the exception of a mirror at the carcass inspection station, the interim rule imposed no facilities requirements different than those already being required through the facilities review and approval process. In addition, since the interim rule was not made mandatory, those who might be affected have had ample opportunity to comment on the requirements prior to the promulgation of a final rule.

6. *Comment:* The work space allocated to inspectors is inadequate, especially with respect to the requirement that each inspector be provided a handwash lavatory. Furthermore, additional space should be provided for plant trimmers.

Response: It was not the Agency's intent to require that each inspector be provided an individual handwashing facility. Inspectors working at adjacent stations may share such a facility. Therefore, the final rule has been clarified in this regard to require only that a handwashing facility be conveniently located adjacent to each inspection station and readily accessible to the inspectors.

In most establishments where the new inspection procedures have been implemented on an interim basis, the number of trimmers needed has not changed and indications are that additional trimmers may not be required. Further, the Agency is reluctant to impose regulatory requirements in this area since proper trimming is needed to maintain production and it would therefore appear to be in the best interest of the establishment to make provisions for sufficient trimmers at its own initiative.

7. *Comment:* The Agency should inform the inspectors' union of the advantages and effectiveness of the new inspection procedures.

Response: FSIS has consulted with the inspectors' union in accordance with the bargaining agreement concerning all aspects of the new inspection procedures, including their effectiveness and advantages.

8. *Comment:* The increase in line speeds and/or the reduction in the number of inspectors on the line will increase fatigue and stress, and will not allow the inspectors enough time to perform proper inspection.

Response: The staffing standards and corresponding line speeds were established by using trained inspectors who performed the prescribed new inspection procedures. The amount of time needed to properly perform the different inspection tasks was documented and analyzed by industrial engineers using recognized work measurement methods. Inspection workloads were established at levels which most working age adults should be able to work without undue stress. No factual evidence has been submitted to indicate the standards and line speeds are too high.

9. *Comment:* The inspectors should turn the carcasses at the head inspection stations since the average inspectors can do it at the new rates.

Response: The new procedures require the inspectors at the carcass inspection station to observe the back of each carcass using a mirror, and to observe directly the front parts and the internal cavities. Under the traditional procedures, the inspector at the head station rotates and observes the carcass. In conducting its studies, FSIS found that this activity duplicates part of the

inspection duties performed by the carcass inspector, and, therefore, determined such activity could be eliminated at the head station. Thus, to achieve increased efficiency, the requirement to regularly turn and observe the carcass at the head station was excluded in the new procedures.

10. *Comment:* For mechanized operations, a switch must be provided which can stop the chain or conveyor. The lack of strict and defined limitations on the stop button's use invites abuses.

Response: FSIS agrees that the use of such a switch should be defined. Therefore, the final rule has been amended to explain the use of the switch for controlling the line.

Facility Change

In addition to the changes made in the final rule as a result of the comments received, FSIS is also deleting the requirement that swine slaughter establishments provide sterilizers at the viscera inspection stations. During swine post-mortem inspection, viscera inspectors do not use knives or other utensils which would necessitate the need for sterilizers. Therefore, the final rule has been amended to reflect this change.

After careful consideration of the comments received and other relevant information available to the Agency, the Administrator has determined that the final interim rule should be published, with minor changes, as permanent regulations as set forth below.

Indexing Terms. As required by 1 CFR 18.20 (46 FR 7162, Jan. 22, 1981), the following are the index terms for this regulation:

List of Subjects

9 CFR Part 307

Facilities, Meat inspection, Official establishment.

9 CFR Part 310

Meat inspection, Post-mortem inspection, Slaughter.

1. The authority citation for Parts 307 and 310 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254(b).

PART 307—FACILITIES FOR INSPECTION

2. Section 307.2 is amended by adding a new paragraph (m) to read as follows:

§ 307.2 Other facilities and conditions to be provided by establishment.

* * * * *

(m) In addition to any facilities required to accomplish sanitary dressing procedures, the following inspection station facilities for cattle and swine slaughter lines described in § 310.1(b) of this subchapter are required:

(1) An inspection station consisting of 5 feet of unobstructed line space for each head or carcass inspector and, for viscera table kills, 8 feet for each viscera inspector on the inspector's side of the table.

(2) A minimum of 50 foot candles of shadow-free lighting at the inspection surfaces of the head, viscera, and carcass.

(3) A handwash lavatory (other than one which is hand operated), furnished with soap, towels, and hot and cold water, and located adjacent to the inspector's work area. In addition, for each head and viscera inspector on cattle slaughter lines, and each head inspector on swine slaughter lines, a sterilizer located adjacent to the inspector's work area.

(4) For mechanized operations, a line control switch located adjacent to each inspection station.

(5) Facilities to position tally sheets or other recording devices, such as digital counters, and facilities to contain condemned brands.

(6) For swine slaughter lines requiring three or more inspectors and on which the swine heads are inspected while still attached to the carcass: at the carcass inspection station, one glass or plastic distortion-free mirror, at least 5 feet x 5 feet, mounted far enough away from the vertical axis of the moving line to allow the carcass to be turned, but not over 3 feet away and so mounted that any inspector standing at the carcass inspection station can readily view the back of the carcass.

PART 310—POST-MORTEM INSPECTION

3. Section 310.1 of the Federal meat inspection regulations (9 CFR 310.1) is amended as follows:

The Table of Contents is amended by showing the revised § 310.1 heading and § 310.1 is amended by changing the section heading, designating the present text as paragraph (a), and adding a new paragraph (b) to read as follows:

§ 310.1 Extent and time of post-mortem inspection; post-mortem inspection staffing standards.

* * * * *

(b)(1) The staffing standards on the basis of the number of carcasses to be inspected per hour are outlined in the following tables. Standards for multiple inspector lines are based on inspectors rotating through the different types of inspection stations during each shift to equalize the workload. The inspector in charge shall have the authority to require the establishment to reduce slaughter line speeds where, in his judgment, the inspection procedure cannot be adequately performed at the current line speed because of particular deficiencies in carcass preparation and presentation by the plant at the higher speed, or because the health condition of the particular animals indicates a need for more extensive inspection.

(2) *Cattle inspection.* For all cattle staffing standards, an "a" in the "Number of Inspectors by Stations" column means that one inspector performs the entire inspection procedure and a "b" means that one inspector performs the head and lower carcass inspection and a second inspector performs the viscera and upper carcass inspection.[1]

(i) Inspection Using the Viscera Truck.

STEERS AND HEIFERS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 27	a	a	a
28 to 56	b	b	b
57 to 84	1	1	1
85 to 86	1	2	1
87 to 143	2	2	1

COWS AND BULLS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 27	a	a	a
28 to 55	b	b	b
56 to 77	1	1	1
78 to 81	1	2	1
82 to 134	2	2	1

(A) Rules for determining adjusted maximum slaughter rates for single-inspector kills considering walking distance according to the table in this subdivision: Determine the distances the inspector actually walks between the points shown in columns 2 through 14 of the following table. For each column, determine the deduction figure opposite the appropriate number of feet in column 1. Compute the total of the deduction figures for columns 2 through 14. The adjusted maximum rate is the

[1] The "Maximum Slaughter Rates" figures listed in paragraph (b)(2)(i) of this section for one (a) and two (b) inspector kills are overstated because the time required to walk from one inspection station to another is not included. To determine the proper adjusted maximum slaughter line speed, paragraph (b)(2)(i)(A) of this section for one inspector kills or paragraph (b)(2)(i)(B) of this section for two inspector kills must be used along with their accompanying rules.

maximum rate in paragraph (b)(2)(i) of this section minus total of the deduction figures. If the resultant number is not a whole number, it must be rounded off to the next *lowest* whole number.

ONE-INSPECTOR CATTLE KILL—VISCERA TRUCK

[Table of deductions from maximum slaughter rates for each 2 feet between points (in tenths of cattle per hour)]

1	2		3		4		5		6		7		8		9		10		11		12		13		14	
Number of feet between points	Head rack and high rail		Viscera and low rail		Low rail and head rack		Head rack and carcass [2]		Carcass [2] and washbasin		Tags—brands and low rail		Viscera and washbasin		Viscera and high rail		Low rail and high rail		Head rack and closest washbasin		Washbasin and high rail [1]		Head rack and washbasin [1]		Viscera and tags—brands	
	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls
1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.1	0
5	0	0	0.1	0	0	0	0	0	0	0	0	0	0	0.1	0.1	0.1	0	0	0	0	0	0	0	0	0.2	0.1
7	0	0	0.1	0.1	0.1	0.1	0	0	0	0	0.1	0.1	0.1	0.2	0.2	0.2	0.1	0.1	0	0	0	0	0	0	0.3	0.3
9	0	0	0.2	0.1	0.1	0.1	0	0	0	0	0.1	0.1	0.1	0.3	0.3	0.3	0.1	0.1	0	0	0.1	0.1	0.1	0.1	0.4	0.4
11	0.1	0.1	0.2	0.2	0.2	0.2	0	0	0	0	0.1	0.2	0.2	0.4	0.4	0.4	0.2	0.2	0	0	0.1	0.1	0.1	0.1	0.5	0.6
13	0.1	0.1	0.3	0.2	0.2	0.2	0	0	0	0	0.2	0.2	0.2	0.5	0.5	0.5	0.2	0.2	0	0	0.1	0.1	0.1	0.1	0.6	0.7
15	0.1	0.1	0.4	0.3	0.3	0.3	0	0	0	0	0.2	0.3	0.3	0.5	0.6	0.6	0.3	0.3	0	0	0.2	0.2	0.2	0.2	0.7	0.9
17	0.1	0.1	0.4	0.3	0.3	0.3	0	0	0	0	0.3	0.3	0.3	0.6	0.7	0.7	0.3	0.3	0	0.1	0.2	0.2	0.2	0.2	0.9	1.0
19	0.1	0.1	0.5	0.4	0.4	0.4	0	0	0	0	0.3	0.4	0.4	0.7	0.8	0.8	0.4	0.4	0	0.1	0.2	0.2	0.2	0.2	1.0	1.1
21	0.2	0.2	0.5	0.4	0.4	0.4	0	0	0	0	0.3	0.4	0.4	0.8	0.9	0.8	0.4	0.4	0	0.1	0.3	0.2	0.3	0.2	1.1	1.3
23	0.2	0.2	0.6	0.5	0.5	0.5	0	0	0	0	0.4	0.5	0.5	0.9	1.0	0.9	0.5	0.5	0	0.1	0.3	0.3	0.3	0.3	1.2	1.4
25	0.2	0.2	0.7	0.5	0.5	0.5	0	0	0	0	0.4	0.5	0.5	1.0	1.1	1.0	0.5	0.5	0	0.1	0.3	0.3	0.3	0.3	1.3	1.5
27	0.2	0.2	0.7	0.5	0.6	0.5	0	0	0	0	0.4	0.5	0.6	1.1	1.2	1.1	0.6	0.6	0	0.1	0.3	0.3	0.3	0.3	1.4	1.7
29	0.2	0.2	0.8	0.6	0.6	0.6	0	0	0	0	0.5	0.6	0.6	1.2	1.3	1.2	0.6	0.6	0	0.1	0.4	0.3	0.4	0.3	1.5	1.8
31	0.3	0.2	0.8	0.6	0.7	0.6	0	0	0	0	0.5	0.6	0.7	1.3	1.3	1.4	0.7	0.7	0	0.1	0.4	0.4	0.4	0.4	1.6	1.9
33	0.3	0.3	0.9	0.7	0.7	0.7	0	0	0	0	0.6	0.7	0.7	1.3	1.4	1.4	0.7	0.7	0	0.1	0.4	0.4	0.4	0.4	1.7	2.1
35	0.3	0.3	1.0	0.7	0.8	0.7	0	0	0	0	0.6	0.7	0.8	1.4	1.5	1.5	0.8	0.8	0	0.2	0.5	0.4	0.5	0.4	1.8	2.2
37	0.3	0.3	1.0	0.8	0.8	0.8	0	0	0	0	0.6	0.8	0.8	1.5	1.6	1.6	0.8	0.8	0	0.2	0.5	0.5	0.5	0.5	1.9	2.3
39	0.3	0.3	1.1	0.8	0.9	0.8	0	0	0	0	0.7	0.8	0.9	1.6	1.7	1.7	0.9	0.9	0	0.2	0.5	0.5	0.5	0.5	2.0	2.4
41	0.4	0.3	1.1	0.9	0.9	0.9	0	0.1	0	0.1	0.7	0.9	0.9	1.7	1.7	1.8	0.9	0.9	0	0.2	0.6	0.5	0.6	0.5	2.1	2.6
43	0.4	0.4	1.2	0.9	1.0	0.9	0	0.1	0	0.1	0.7	0.9	1.0	1.8	1.8	1.9	1.0	1.0	0.1	0.2	0.6	0.5	0.6	0.5	2.2	2.7
45	0.4	0.4	1.2	0.9	1.0	0.9	0	0.1	0	0.1	0.8	0.9	1.0	1.8	1.9	2.0	1.0	1.0	0.1	0.2	0.6	0.6	0.6	0.6	2.3	2.8
47	0.4	0.4	1.3	1.0	1.1	1.0	0	0.1	0	0.1	0.8	1.0	1.1	1.9	2.0	2.1	1.1	1.1	0.1	0.2	0.6	0.6	0.6	0.6	2.4	2.9
49	0.4	0.4	1.4	1.0	1.1	1.0	0	0.1	0	0.1	0.8	1.0	1.1	2.0	2.1	2.2	1.1	1.1	0.1	0.2	0.7	0.6	0.7	0.6	2.5	3.1
51	0.5	0.5	1.4	1.1	1.2	1.1	0	0.1	0	0.1	0.9	1.1	1.2	2.1	2.2	2.2	1.2	1.2	0.1	0.3	0.7	0.7	0.7	0.7	2.6	3.2
53	0.5	0.5	1.5	1.1	1.2	1.1	0	0.1	0	0.1	0.9	1.1	1.2	2.2	2.3	2.3	1.2	1.2	0.1	0.3	0.7	0.7	0.7	0.7	2.7	3.3
55	0.5	0.5	1.5	1.2	1.2	1.2	0	0.1	0	0.1	1.0	1.2	1.2	2.3	2.3	2.4	1.3	1.3	0.1	0.3	0.8	0.7	0.8	0.7	2.8	3.4
57	0.5	0.5	1.6	1.2	1.3	1.2	0	0.1	0	0.1	1.0	1.2	1.3	2.3	2.4	2.5	1.3	1.3	0.1	0.3	0.8	0.7	0.8	0.7	2.9	3.5
59	0.5	0.5	1.6	1.3	1.3	1.3	0	0.1	0	0.1	1.0	1.3	1.3	2.4	2.5	2.6	1.4	1.4	0.1	0.3	0.8	0.8	0.8	0.8	3.0	3.6

[1] The washbasin referred to here is the one the inspector uses while enroute from the head rack to high rail inspection.
[2] This refers to the carcass in the bleeding area.

(B) Rules for determining adjusted maximum slaughter rates for two-inspector kills considering walking distance according to the table in this subdivision: Determine the distances the inspectors actually walk between the points shown in columns 2 through 9 of the following table. Column 9 is used only if the condemned brands and tags the viscera inspector uses are kept at a location other than at the washbasin-sterilizer. For each column, determine the deduction figure opposite the appropriate number of feet in column 1. Compute the total of the deduction figures for columns 2 through 9. Divide this total by 2. The adjusted maximum rate is the maximum rate in paragraph (b)(2)(i) of this section minus the number calculated above. If the resultant number is not a whole number, it must be rounded off to the next *lowest* whole number.

TWO-INSPECTOR CATTLE KILL—VISCERA TRUCK

[Table of deductions from maximum slaughter rates for each 2 feet between points (in tenths of cattle per hour)]

	Heads and low rail inspection								Viscera and high rail inspection							
1	2		3		4		5		6		7		8		9[1]	
Number of feet between points	Head rack and washbasin		Head rack and carcasses [2]		Washbasin and low rail		Head rack and low rail		Viscera and brands tags (washbasin)		Viscera and high rail		High rail and washbasin		Viscera and washbasin	
	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls
1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	0.1	0	0.1	0	0.1	0	0	0	0	0	0	0	0	0	0.1	0.2
5	0.1	0.1	0.1	0.1	0.1	0.1	0.8	0.7	0.4	0.5	0.5	0.5	0.1	0.2	0.2	0.3
7	0.1	0.2	0.1	0.1	0.1	0.1	1.5	1.4	0.7	0.9	1.0	0.9	0.3	0.3	0.3	0.4
9	0.2	0.2	0.1	0.2	0.1	0.2	2.2	2.0	1.1	1.3	1.5	1.3	0.4	0.5	0.4	0.5
11	0.2	0.3	0.1	0.2	0.2	0.2	2.8	2.7	1.4	1.7	1.9	1.8	0.5	0.6	0.4	0.6
13	0.2	0.4	0.1	0.3	0.2	0.2	3.5	3.3	1.7	2.1	2.4	2.2	0.6	0.7	0.5	0.8
15	0.3	0.4	0.1	0.3	0.2	0.3	4.1	3.9	2.0	2.5	2.9	2.6	0.7	0.9	0.6	0.9
17	0.3	0.5	0.1	0.4	0.2	0.3	4.8	4.5	2.4	2.9	3.3	3.0	0.8	1.0	0.7	1.0
19	0.3	0.6	0.2	0.4	0.3	0.4	5.4	5.1	2.7	3.3	3.7	3.4	0.9	1.2	0.7	1.2
21	0.3	0.6	0.2	0.4	0.3	0.4	6.0	5.7	3.0	3.7	4.2	3.7	1.0	1.3	0.8	1.3
23	0.4	0.7	0.2	0.5	0.3	0.5	6.6	6.3	3.3	4.0	4.6	4.1	1.2	1.4	0.9	1.4
25	0.4	0.7	0.2	0.5	0.3	0.5	7.2	6.8	3.6	4.4	5.0	4.5	1.3	1.6	1.0	1.6
27	0.4	0.8	0.2	0.6	0.4	0.5	7.8	7.4	3.9	4.7	5.4	4.9	1.4	1.7	1.0	1.7
29	0.5	0.9	0.2	0.6	0.4	0.6	8.3	7.9	4.2	5.1	5.8	5.2	1.5	1.8	1.1	1.8
31	0.5	0.9	0.2	0.7	0.4	0.6	8.9	8.5	4.5	5.4	6.2	5.6	1.8	2.0	1.2	2.0
33	0.5	1.0	0.2	0.7	0.4	0.7	9.4	9.0	4.8	5.8	6.5	5.9	1.7	2.1	1.3	2.1
35	0.6	1.1	0.3	0.8	0.5	0.7	10.0	9.5	5.0	6.1	6.9	6.3	1.8	2.2	1.3	2.3
37	0.6	1.1	0.3	0.8	0.5	0.7	10.5	10.0	5.3	6.4	7.3	6.6	1.9	2.4	1.4	2.4

TWO-INSPECTOR CATTLE KILL—VISCERA TRUCK—Continued

[Table of deductions from maximum slaughter rates for each 2 feet between points (in tenths of cattle per hour)]

	Heads and low rail inspection								Viscera and high rail inspection							
1	2		3		4		5		6		7		8		9[1]	
Number of feet between points	Head rack and washbasin		Head rack and carcasses[2]		Washbasin and low rail		Head rack and low rail		Viscera and brands tags (washbasin)		Viscera and high rail		High rail and washbasin		Viscera and washbasin	
	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls	Strs. Hfrs.	Cows Bulls
39	0.6	1.2	0.3	0.9	0.5	0.8	11.0	10.5	5.6	6.8	7.6	6.9	2.0	2.5	1.5	2.5
41	0.7	1.2	0.3	0.9	0.6	0.8	11.5	11.0	5.9	7.1	8.0	7.2	2.1	2.6	1.5	2.6
43	0.7	1.3	0.3	0.9	0.6	0.9	12.0	11.4	6.1	7.4	8.3	7.6	2.2	2.8	1.6	2.8
45	0.7	1.4	0.3	1.0	0.6	0.9	12.5	11.9	6.4	7.7	8.7	7.9	2.4	2.9	1.7	2.9
47	0.8	1.4	0.3	1.0	0.6	1.0	13.0	12.4	6.7	8.0	9.0	8.2	2.5	3.0	1.8	3.0
49	0.8	1.5	0.3	1.1	0.7	1.0	13.4	12.8	6.9	8.3	9.4	8.5	2.6	3.2	1.8	3.1
51	0.8	1.6	0.3	1.1	0.7	1.0	13.9	13.3	7.2	8.6	9.7	8.8	2.7	3.3	1.9	3.3
53	0.9	1.6	0.4	1.2	0.7	1.1	14.4	13.7	7.4	8.9	10.0	9.1	2.8	3.4	2.0	3.4
55	0.9	1.7	0.4	1.2	0.7	1.1	14.8	14.1	7.7	9.2	10.3	9.4	2.9	3.5	2.0	3.5
57	0.9	1.7	0.4	1.3	0.8	1.2	15.2	14.6	7.9	9.5	10.6	9.7	3.0	3.7	2.1	3.6
59	0.9	1.8	0.4	1.3	0.8	1.2	15.7	15.0	8.2	9.7	10.9	9.9	3.1	3.8	2.2	3.8

[1] This column to be used only if brands and tags are not located at the washbasin.
[2] This refers to the carcasses in the bleeding area.

(ii) Inspection Using Viscera Table, Tongue-In Presentation of Heads.

STEERS AND HEIFERS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 32	a	a	a
33 to 58	b	b	b
59 to 84	1	1	1
85 to 86	1	2	1
87 to 143	2	2	1
144 to 171	3	2	1
172 to 198	3	3	1
199 to 226	3	3	2
227 to 253	4	3	2
254 to 280	4	4	2
281 to 306	5	4	2
307 to 333	5	5	2

COWS AND BULLS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 29	a	a	a
30 to 56	b	b	b
57 to 77	1	1	1
78 to 81	1	2	1
82 to 134	2	2	1
135 to 159	2	3	1
160 to 187	3	3	1
188 to 213	3	4	1
214 to 234	3	4	2
235 to 264	4	4	2
265 to 289	5	4	2
290 to 314	5	5	2

(iii) Inspection Using Viscera Table, Tongue-Out Presentation of Heads.

STEERS AND HEIFERS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 32	a	a	a
33 to 58	b	b	b
59 to 86	1	1	1
87 to 103	1	2	1
104 to 156	2	2	1
157 to 186	2	3	1
187 to 216	3	3	1
217 to 246	3	3	2
247 to 275	3	4	2
276 to 304	4	4	2
305 to 333	4	5	2
334 to 362	5	5	2
363 to 390	5	6	2

COWS AND BULLS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
1 to 29	a	a	a
30 to 56	b	b	b
57 to 79	1	1	1
80 to 98	1	2	1
99 to 147	2	2	1
148 to 174	2	3	1
175 to 205	3	3	1
206 to 233	3	4	1
234 to 256	3	4	2
257 to 288	4	4	2
289 to 316	5	4	2
317 to 343	5	5	2

(3) *Swine Inspection.* The following swine inspection staffing standards are applicable to those swine slaughter lines which require three or more inspectors and on which the swine heads are inspected while still attached to the carcasses. These standards are predicated upon the use of mirror, as described in § 307.2(m)(6), at the carcass inspection station to observe the back of the carcass and upon the observation rather than palpation, at the viscera inspection station, of the spleen, liver, heart, lungs, and mediastinal lymph nodes.

BUTCHER HOGS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
245 to 506	1	1	1
507 to 540	1	2	1
541 to 859	2	2	1
860 to 1022	2	3	1
1023 to 1106	3	3	1

SOWS AND BOARS

Maximum slaughter rates (head per hour)	Number of inspectors by stations		
	Head	Viscera	Carcass
189 to 439	1	1	1
440 to 475	2	1	1
476 to 752	2	2	1
753 to 895	3	2	1
896 to 964	3	3	1

Done at Washington, D.C. on July 15, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-20835 Filed 8-3-82; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Nonregulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending certain provisions of the rules which deal with the annual reports which state regulatory authorities and certain nonregulated utilities are required to submit to DOE concerning their progress in the consideration of certain ratemaking and other regulatory standards which is required under the Public Utility Regulatory Policies Act of 1978 (PURPA). The previously effective rules required a report covering the period July 1, 1980, through June 30, 1981, to be submitted by November 9, 1981. Many entities did not submit such a report. The new rules require the submission, in 1982, of a report which covers the period July 1, 1980, through December 31, 1981, and the annual submission, by February 28 of years following 1982, of a report which covers the period January 1 through December 31 of the preceding year. The report due in 1982 must be filed by the day these rules become effective. An entity which has, at the time these rules become effective, already filed a report which covers any portion of the year 1981, is not required to file any other report in 1982.

EFFECTIVE DATE: The Rule is effective on September 3, 1982. Reports required in 1982 are due by that date.

FOR FURTHER INFORMATION CONTACT: Barbara Ioanes, Fuels Conversion Division, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W., Room GA-093, RG-621, Washington, D.C. 20585, (202) 252-1301. Arthur Perry Bruder, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue, S.W., Room 6B-144, Washington, D.C. 20585, (202) 252-9516.

SUPPLEMENTARY INFORMATION:

I. Background

The regulations now governing the reporting to the Department of Energy (DOE) by State regulatory authorities and certain nonregulated utilities on the progress of their consideration of the ratemaking and other regulatory standards established by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) require each reporting entity to submit, by November 9 of each year through 1988, a report covering a reporting period which runs from July 1 of the preceding year through June 30 of the year in which the report is filed.

DOE has identified three problems with the operation of these rules. First, since the reporting period ends June 30, the data are already at least four months old when they are received by DOE (on the November 9 submission date). Second, since DOE's annual PURPA report to the President and the Congress is submitted no earlier than May 9 of the following year, the raw information upon which that report is based is at least ten months old when it reaches the recipients. Finally, PURPA requires the reporting entities to complete certain activities by November 9, 1980, and certain others by November 9, 1981. Under the current regulations, DOE, the President, and Congress do not receive information concerning activities which have taken place, or failed to take place, up to those dates until a year, and one year and six months, respectively, after the dates have passed. DOE has therefore determined that the purpose of the reporting requirements of PURPA (to allow DOE, the President, and Congress to monitor the reporting entities' implementation of PURPA) is not being met under the current regulations. In order to remedy these problems, DOE, in a Notice of Proposed Rulemaking (NOPR) published on March 15, 1982 (47 FR 11178), proposed amendments to the rule as follows:

(1) Change the reporting period from July 1 through June 30 to November 10 through November 9 (except that the first report, due in 1982, would cover the period July 1, 1980 through November 9, 1981);

(2) Change the submission date from November 9 to December 31 (except that the first report, due in 1982, would be due thirty days after publication of this amendment).

II. Comments and Amendments Adopted

Public comments which were submitted in response to the March 15, 1982, NOPR addressed the proposed November 10 through November 9 reporting period. The commenters indicated that the mid-month end of the reporting period is not in accord with the commonly used accounting practices of state commissions and utilities in that financial statements and statistics are usually developed only on an end-of-month basis. Thus, the commenters asserted, a mid-month reporting period would require the adoption of extensive changes in the accounting procedures of the reporting entities. ERA agrees with this view and has decided to adopt a calendar year (January 1 to December 31) reporting period, for reports due after 1982. For the report due in 1982, these special rules shall apply:

(1) In order to avoid a reporting gap, the report due in 1982 shall cover the period July 1, 1980 through December 31, 1981; and

(2) Entities which have, at the time this rule becomes effective, filed a report which covers any portion of 1981 (including reports covering periods ending June 30, 1981, and November 9, 1981) shall not be required to file any other report in 1982.

The report date for the years after 1982 shall be February 28. Since this date has passed in 1982, the 1982 report is required by the day that these rules become effective.

III. Procedural Matters

A. Section 102 of the National Environmental Policy Act (NEPA)

DOE has determined that this final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this rule is not required.

B. Regulatory Flexibility Act

DOE has determined that this final rule, which merely changes a reporting date and a reporting period, will not impact firms that are "small entities" within the meaning of the Regulatory Flexibility Act. Accordingly, DOE certifies that this rule is not likely to have a significant economic impact on a substantial number of small entities within the meaning of that Act. Therefore, DOE is not required to publish a final regulatory flexibility analysis under section 603 of that Act.

C. Executive Order No. 12291

DOE has determined that these final regulations are not a major rule under Executive Order 12291, which requires the preparation of a Regulatory Impact Analysis for major regulations. These final rules will not be likely to result in an annual effect on the economy of $100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions, or Federal, State or local government agencies. DOE does not consider it likely that the rules will

result in significant adverse effects on competition, employment, investment, or productivity. Therefore, no Regulatory Impact Analysis is required. These final rules are submitted to the Office of Management and Budget (OMB) for review at least 10 days prior to their publication. The form which reporting entities are to use to meet these requirements has been cleared by OMB, and assigned OMB Control Number 1903–0060.

List of Subjects in 10 CFR Part 463

Electric utilities, Energy conservation, Natural gas, Report requirements.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*))

In consideration of the foregoing, Part 463 to Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C. on July 27, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 463—ANNUAL REPORTS FROM STATES AND NONREGULATED UTILITIES ON PROGRESS IN CONSIDERING THE RATEMAKING AND OTHER REGULATORY STANDARDS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

10 CFR Part 463 is amended by revising § 463.3 (a) and (c) to read as follows:

§ 463.3 Reporting requirements.

(a) Each State regulatory authority, with respect to each covered electric and gas utility for which it has ratemaking authority, and each covered nonregulated electric and gas utility shall report to DOE, on or before the effective date of this rule in 1982, and by February 28 of each year from 1983 through 1989, on its progress in considering the ratemaking and other regulatory standards established by sections 111(d), 113(b) and 303(b) of PURPA. Any State regulatory authority or covered nonregulated electric and gas utility which has, on or before the date that this rule becomes effective, previously filed a report which covers any portion of the year 1981 shall not be required to file any other report on this subject in 1982.

* * * * *

(c) The reporting period for reports required by paragraph (a) shall be the 12 month period ending December 31 of the year in which the report is due, except that the reporting period for the report due on the effective date of this rule shall be July 1, 1980, through December 31, 1981.

[FR Doc. 82–21023 Filed 8–3–82; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4b

Privacy Act of 1974, Amendments to Appendices of Privacy Act Rules

AGENCY: Commerce Department.

ACTION: Final rule.

SUMMARY: The Department of Commerce revises Appendices A and B to its Privacy Act Rules (15 CFR 4b.14) which list Department officials to whom individuals should address requests and appeals.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lester G. Welch, U.S. Department of Commerce, Office of Information Management, Information Policy and Management Division, Washington, D.C. 20230, telephone 202–377–4217.

SUPPLEMENTARY INFORMATION: Appendices A and B are revised to reflect organizational changes such as the position title of a Departmental official, and internal reorganizations of the Department of Commerce.

Appendix A entitled "Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment," is amended as follows:

i. The title of the Privacy Officer for the Office of the Secretary and all Departmental staff offices changes from "Director, Office of Organization and Management Systems" to "Chief, Information Policy and Management Division."

ii. A new organizational entity, "Economic Affairs," is added and the responsible official is, "Privacy Act Officer, Office of Administration, Economic Affairs."

iii. The designated Privacy Officers for the Bureau of Industrial Economics and the Bureau of Economic Analysis, have been eliminated, and the responsibilities are included under "Economic Affairs."

The Bureau of Industrial Economics and the Bureau of Economic Analysis are now part of Economic Affairs and their Privacy Act records are controlled by the Privacy Act Officer, Office of Administration, Economic Affairs. Accordingly, the reference to the Privacy Officers are deleted in Appendix A. (In Appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment," the heads of these two Bureaus are retained as Privacy Appeals Officers for their units.)

iv. The title of the Economic Development Administration's Privacy Officer changes from "Director, Office of Public Affairs," to "Director, Office of Management and Administration."

v. The title of the Privacy Officer for the National Technical Information Service changes from "Associate Director for Financial and Administrative Management" to "Chief, Management Analysis Division."

vi. The title of the "United States Travel Service" changes to "United States Travel and Tourism Administration."

Appendix B, "Officials to Receive Appeals from Adverse Determination on Correction or Amendment," is amended as follows:

i. A new organizational entity, "Economic Affairs," headed by the Under Secretary for Economic Affairs is added.

ii. The title of the "United States Travel Service" changes to "United States Travel and Tourism Administration."

PART 4b—PRIVACY ACT

The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date do not apply since these revisions of Appendices A and B pertain solely to internal agency management. This regulation is not significant under Executive Order 12291, "Federal Regulations." Accordingly, Appendices A and B to Part 4b of Title 15 of the Code of Federal Regulations are revised to read as follows:

APPENDIX A—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT [1]

For records in systems of records located in—[2]	Privacy officer
The Office of the Secretary and all departmental staff offices.	Chief, Information Policy and Management Division, Room 6622, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General.	Assistant Inspector General for Investigations, Office of the Inspector General, Room 7087, Main Commerce Building, Washington, D.C. 20006.
Economic Affairs [3]	Privacy Act Officer, Office of Administration, Economic Affairs, Main Commerce Building Washington, D.C. 20230.
Bureau of the Census	Associate Director for Administration Bureau of the Census, Federal Building 3, Washington, D.C. 20230.
Economic Development Administration.	Director, Office of Management and Administration, Economic Development Administration, Main Commerce Building, Washington, D.C. 20230.

APPENDIX A—OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT—Continued

For records in systems of records located in—[2]	Privacy officer
International Trade Administration.	Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 4102, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency.	Privacy Officer, Office of Chief Counsel, Minority Business Development Agency, Main Commerce Building, Washington, D.C. 20230.
National Bureau of Standards.	Deputy Director of Administration, National Bureau of Standards, Room A1105, Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration: Inquiries only:	
All NOAA except NOAA Corps.	Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Blvd., Rockville, Maryland 20852.
NOAA Corps	Director, National Oceanic and Atmospheric Administration Corps, 6010 Executive Boulevard, Rockville, Maryland 20852.
Requests: All NOAA including NOAA Corps.	Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852.
National Telecommunications and Information Administration.	Director of Administration, National Telecommunications & Information Administration, Room 4616, U.S. Department of Commerce, Washington, D.C. 20504.
National Technical Information Service.	Chief, Management Analysis Division, National Technical Information Service, 5285 Port Royal Road Springfield, Virginia 22161.
Patent and Trademark Office.	Solicitor, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel and Tourism Administration.	Director, Office of Management and Administration, United States Travel and Tourism Administration, Main Commerce Building, Washington, D.C. 20230.

[1] National Oceanic and Atmospheric Administration subject to division of responsibilities noted below.
[2] If the location of the records within the Department is unknown, address the inquiry to the Privacy Officer for the Office of the Secretary.
[3] Excluding Bureau of the Census and National Technical Information Service listed separately.

APPENDIX B—OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT

For records in systems of records located in—	Privacy appeals officer
The Office of the Secretary and all departmental staff offices.	Assistant Secretary for Administration, Main Commerce Building, Washington, D.C. 20230.
Office of the Inspector General.	Inspector General, Room 7898C, Main Commerce Building, Washington, D.C. 20230.
Economic Affairs[1]	Under Secretary for Economic Affairs, Room 4848, Main Commerce Building, Washington, D.C. 20230.

APPENDIX B—OFFICIALS TO RECEIVE APPEALS FROM ADVERSE DETERMINATION ON CORRECTION OR AMENDMENT—Continued

For records in systems of records located in—	Privacy appeals officer
Bureau of Economic Analysis.	Director, Bureau of Economic Analysis, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.
Bureau of the Census	Director, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.
Bureau of Industrial Economics.	Director, Bureau of Industrial Economics, Main Commerce Building, Washington, D.C. 20230.
Economic Development Administration.	Assistant Secretary for Economic Development, Main Commerce Building, Washington, D.C. 20230.
International Trade Administration.	Under Secretary for International Trade, Main Commerce Building, Washington, D.C. 20230.
Minority Business Development Agency.	Director, Minority Business Development Agency, Main Commerce Building, Washington, D.C. 20230.
National Bureau of Standards.	Director, National Bureau of Standards, Room A-1134, Administration Building, Washington, D.C. 20234.
National Oceanic and Atmospheric Administration.	Administrator, National Oceanic and Atmospheric Administration, Main Commerce Building, Washington, D.C. 20230.
National Telecommunications and Information Administration.	Assistant Secretary for Communications and Information, Room 4898, Main Commerce Building, Washington, D.C. 20230.
National Technical Information Service.	Director, National Technical Information Service 5285 Port Royal Road, Springfield, Virginia 22161.
Patent and Trademark Office.	Commissioner, Patent and Trademark Office, Washington, D.C. 20231.
United States Travel and Tourism Administration.	Under Secretary for Travel and Tourism, Main Commerce Building, Washington, D.C. 20230.

[1] Economic Affairs includes: Office of the Under Secretary for Economic Affairs, Office of the Assistant Secretary for Productivity, Technology and Innovation, Office of the Chief Economist, Office of Economic Conditions, Office of Economic Policy, Office of Competitive Assessment, and Office of Strategic Resources.

(5 U.S.C. 552a)

Dated: July 29, 1982.

Marilyn S. McLennan,

Chief, Information Policy and Management Division.

[FR Doc. 82-21045 Filed 8-3-82; 8:45 am]

BILLING CODE 3510-CW-M

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207

Revisions to the General Procedures for the Conduct of Investigations and the Specific Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States; Correction

AGENCY: International Trade Commission.

ACTION: Final rule; clarification of rules; correction of a typographical error.

SUMMARY: On February 10, 1982, the Commission published amendments to its Rules of Practice and Procedures (47 FR 6182). Since that time it has come to the Commission's attention that there is a typographical error in those amendments and that there is a need for clarification of other provisions.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION: An ambiguity exists in § 201.13(c)(2) of the Commission's rules of practice and procedure (19 CFR 201.13(c)(2)) in that it refers to filing of notices of participation at least two (2) business days in advance of the "preliminary" conference. In order to avoid confusion with the preliminary conference conducted by the Director of Operations in preliminary antidumping and countervailing duty investigations, the word "preliminary" is replaced by the word "prehearing."

In addition, the reference to "business days" in § 201.13(c)(2) is being deleted. Pursuant to § 201.14(a), the computation of time for all periods of less than seven days excludes Saturdays, Sundays, and legal holidays. Therefore, the reference to business days in the rule is surplusage.

Section 201.16(b)(1) is amended to clarify that parties to an investigation must serve copies of the nonconfidential version of each document filed with the Commission on each other party to the investigation. This removes ambiguity as to whether the confidential or nonconfidential version is to be served.

Section 201.16(c)(1) is being amended to remove an ambiguity regarding which persons must include certificates of service with the documents they file with the Commission during the course of an investigation. It is intended that the certificate of service be required only of parties to the investigation, and the rule is amended to reflect this.

Section 201.16(c)(1) contains a typographical error in that it cross-references § 210.8. The correct cross-reference is § 201.8, and the rule is amended to reflect this.

The language in § 207.7(b) is changed to conform with the language of § 207.7(a), so that there will be no doubt

that confidential business information may be released under protective order only to the retained attorney of an interested party.

In § 207.23(b), the last sentence suggests that prehearing briefs in antidumping and countervailing duty investigations are required. Although the Commission strongly encourages the filing of prehearing briefs, they are not required. Therefore, the language is revised to state that prehearing briefs are "described in § 207.22," rather than "required by § 207.22."

In addition, § 207.22 is amended to dispel any doubt about the filing of prehearing briefs. The Commission expects to receive a prehearing brief from each party to an investigation, since they are a major asset to both the Commission and the parties in preparing for a hearing.

By order of the Commission.

Issued: July 30, 1982.

Kenneth R. Mason,

Secretary.

PART 201—RULES OF GENERAL APPLICATION

1. In § 201.13, paragraph (c)(2) is revised to read as follows:

§ 201.13 Conduct of nonadjudicative hearings.

* * * * *

(c) Participation in a hearing—

* * * * *

(2) *Notices of participation.* Notices of participation in a hearing shall be filed with the Secretary at least three (3) days in advance of the date set for the hearing or two (2) days in advance of the date set in the notice of investigation for a prehearing conference, whichever shall first occur, except that the presiding officials may waive this requirement for good cause. Witnesses on behalf of persons filing notices of participation need not file separate notices.

* * * * *

2. In § 201.16, paragraphs (b)(1) and (c)(1) are revised to read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(b) *By a party other than the Commission.* * * *

(1) By mailing or delivering copies of the document to the Secretary to the Commission (the number of copies being as provided for in § 201.8(d) of this part) and a nonconfidential version thereof to each other party, or, if the party is represented by an attorney before the Commission, by mailing or delivering a nonconfidential version thereof to such attorney; or

* * * * *

(c) *Proof of service; certificate.* (1) Each document filed with the Secretary to the Commission by a party in the course of an investigation (as provided in § 201.8 of this part) shall be served on each other party to the investigation.

PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

3. In § 207.7, paragraph (b) is revised to read as follows:

§ 207.7 Limited disclosure of certain confidential information under a protective order.

* * * * *

(b) *Protective order.* The protective order under which information is made available to the attorney of an interested party shall require him to submit to the Secretary in a form prescribed by the Secretary a personal sworn statement that, in addition to such other conditions as the Secretary may require, he will:

* * * * *

4. Section 207.22 introductory text is revised to read as follows:

§ 207.22 Prehearing brief.

Within ten (10) days after the date of service of the public portion of the staff report by the Commission to the parties, each party may submit to the Commission a prehearing brief. The Commission strongly encourages each party to file a prehearing brief. The prehearing brief should present a party's case in brief and shall, to the extent possible, refer to the record and shall include:

* * * * *

4. In § 207.23, paragraph (b) is revised to read as follows:

§ 207.23 Hearing.

* * * * *

(b) *Procedures.* Any hearing shall be conducted after notice published in the **Federal Register.** The hearing shall not be subject to the provisions of subchapter II, chapter 5, title 5, United States Code, or to section 702 of that title. Each party shall limit its presentation at the hearing to a nonconfidential summary of the information and arguments contained in its prehearing brief, a nonconfidential analysis of the information and arguments contained in the prehearing briefs described in § 207.22, and information not available at the time its prehearing brief was filed.

* * * * *

[FR Doc. 82-21080 Filed 8-3-82; 8:45 am]

BILLING CODE 7020-02-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-82-984]

Recognition of Substantially Equivalent Laws

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

ACTION: Final rule.

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

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 426-3500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 12, 1982, the Department of Housing and Urban Development published in the **Federal Register** (47 FR 20317) a notice of proposed rulemaking 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 the fair housing laws of one State and twenty-one localities as being sutstantially equivalent to Title VIII. The evaluation of the fair housing laws of these jurisdictions was conducted in accordance with the provisions of 24 CFR Part 115, with particular reference to §§ 115.2(a), 115.3 and 115.8. In the notice of proposed rulemaking on May

12, 1982, 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 June 11, 1982. Only one comment was received within the comment period. The comment raised two primary concerns with respect to the proposed recognition of the City of New Haven, Connecticut: the limits on jurisdiction of the City of New Haven under State law when the State Commission on Human Rights and Opportunities is involved; and the performance capability of the City of New Haven to effectively administer its law in accordance with HUD standards. Inasmuch as this comment raises unresolved issues, the City of New Haven, Connecticut is not being included for recognition at this time. Accordingly, we have not listed this jurisdiction in the final rule. No comments were received with respect to the one State and the twenty other localities; therefore this amendment grants recognition to the following additional jurisdictions:

State

Montana

Localities

Jacksonville, Florida
St. Petersburg, Florida
Bloomington, Illinois
Evanston, Illinois
Springfield, Illinois
Columbus, Indiana
Gary, Indiana
South Bend, Indiana
Iowa City, Iowa
Salina, Kansas
Wichita, Kansas
Howard County, Maryland
Prince George's County, Maryland
Kansas City, Missouri
Mecklenburg County, North Carolina
New Hanover County, North Carolina
Knoxville, Tennessee
Beckley, West Virginia
Huntington, West Virginia
Beloit, Wisconsin

This 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 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 was made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Findng of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 7th 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.

This rule was listed as item (B) 1 (FH&EO 1–81) under the Office of FH&EO in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act, August 17, 1981 (46 FR 41732).

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 is revised to read as follows:

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

§ 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 Section 115.6.

States

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

Localities

Phoenix, Arizona
District of Columbia
Clearwater, Florida
Jacksonville, Florida
Orlando, Florida
St. Petersburg, Florida
Bloomington, Illinois
Evanston, Illinois
Springfield, Illinois
Columbus, Indiana
Fort Wayne, Indiana
Gary, Indiana
South Bend, Indiana
Iowa City, Iowa
Kansas City, Kansas
Salina, Kansas
Wichita, Kansas
Howard County, Maryland
Montgomery County, Maryland
Prince George's County, Maryland
Minneapolis, Minnesota
Kansas City, Missouri
Lincoln, Nebraska
Omaha, Nebraska
New York City, New York
Charlotte, North Carolina
Mecklenburg County, North Carolina
New Hanover County, North Carolina
Raleigh, North Carolina
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Sioux Falls, South Dakota
Knoxville, Tennessee
Seattle, Washington
Tacoma, Washington
Beckley, West Virginia
Charleston, West Virginia
Huntington, West Virginia
Beloit, Wisconsin

(Sec. 810(c) of the Civil Rights Act of 1968, (42 U.S.C. 3610); Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: July 30, 1982.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 82-21085 Filed 8-3-82; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 705, 707, 710, 715, 716, 717, 718, 720, 771, 776, 778, 779, 780, 782, 783, 784, 785, 786, 788, 816, 817, 822, and 826

Surface Mining Reclamation and Enforcement; Initial and Permanent Regulatory Program; Information Collection

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining (OSM) is amending its interim and permanent program regulation by

publishing the approval of information collection and reporting requirements as rules rather than "notes." The amendment will remove the "Note:" paragraph currently at the beginning of each Part in those Subchapters that identifies the approval of information collection and reporting requirements and will add a new Section to each of those Parts to replace the "notes." The amendment will also include summary information describing those requirements and the Office of Management and Budget (OMB) approval numbers. This is being done to conform with the requirements of OMB for agencies to codify those clearances as part of its rules rather than as "notes."

EFFECTIVE DATE: August 4, 1982.

ADDRESSES: Any questions pertaining to this amendment should be directed to: Bernadine Thompson, Chief, Regulatory and Issues Management Office, Office of Surface Mining, Department of the Interior, 1951 Constitution Ave., N.W., Washington, D.C. 20240, (202) 343–5241.

SUPPLEMENTARY INFORMATION: Prior to the effective date of the Federal Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the General Accounting Office (GAO) was the approval authority for information collection and reporting requirements established in the regulations promulgated by OSM under the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.). GAO approved those requirements and that approval was codified by OSM as "notes" in the Parts of 30 CFR Chapter VII that establish the requirements. After enactment of the Federal Paperwork Reduction Act (April 1, 1981) the GAO approvals were transferred to the Office of Management and Budget (OMB) and reassigned OMB approval numbers. OMB requires that the approvals be codified within the structure of the rules rather than as "notes." This amendment does not establish any new information collection and reporting requirements or codify any new approvals of requirements but simply places the existing approvals within the structure of the rules.

This amendment contains the clearance numbers established by OMB to incorporate the previous GAO approvals into the OMB clearance system. In addition, this amendment contains summary information in the Parts which was developed for obtaining GAO approval of the requirements and is also contained in the Annual Information Collection Budget which is on file with OSM and OMB.

This amendment does not include the approvals for information collection and recordkeeping requirements found in Subchapters C, D, F, J, L, and R or Part 725 of Subchapter B and Part 795 of Subchapter G of 30 CFR Chapter VII. Approvals of requirements established in those Subchapters and Parts will be published as rules rather than notes when revisions to those Subchapters and Parts are promulgated in the next few months. OSM has proposed revisions to rules in Subchapters A, B, G, and K in several different rulemaking actions. If those revisions change information collection and reporting requirements, those changes will be reflected in amendatory and regulatory language contained in the applicable rulemakings.

It has been determined that the information collection requirements of 30 CFR Parts 700, 707, 710, 718, and 720 have fewer than 10 respondents per year, and therefore and exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by OMB.

OSM has determined that a notice of proposed rulemaking was not required pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b). OSM has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is procedural and has no economic effect on the public. The Department has also determined that the rule will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act. This rulemaking qualifies as a Categorical Exemption under Appendix 1, Chapter 2, Part 516 of the Departmental Manual; thus no environmental assessment has been conducted under the National Environmental Policy Act.

List of Subjects in 30 CFR Parts 700, 705, 707, 710, 715, 716, 717, 718, 720, 771, 776, 778, 779, 780, 782, 783, 784, 785, 786, 788, 816, 817, 822, and 826

Administrative practice and procedure, Coal mining, Surface mining, Underground mining, Reporting requirements, Conflict of interests, Highways and roads, Law enforcement, Public health, Safety, Environmental protection, Intergovernmental relations.

Accordingly 30 CFR Parts 700, 705, 707, 710, 715, 716, 717, 718, 720, 771, 776, 778, 779, 780, 782, 783, 784, 785, 786, 788, 816, 817, and 826 are amended as set forth below:

Dated: July 29, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 700—GENERAL

1. Part 700 is amended by removing the "NOTE:" paragraph following the source note.

2. Section 700.10 is added as follows:

§ 700.10 Information collection.

Since the information collection requirements contained in 30 CFR 700.12(b) and 700.13 have fewer than 10 respondents per year, they are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by OMB.

PART 705—RESTRICTION ON FINANCIAL INTERESTS OF STATE EMPLOYEES

3. Part 705 is amended by removing the "Note:" paragraph following the source note.

4. Section 705.10 is added as follows:

§ 705.10 Information collection.

The information collection requirement contained in 30 CFR 705.11 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0067. The information is being collected on Form OSM 23 to meet the requirement of Section 507(g) of Pub. L. 95–87, which provides that no employee of the State regulatory authority shall have a direct or indirect financial interest in any underground or surface coal mining operation. This information will be used by officials of the State regulatory agency to determine whether each State employee complies with the financial interest provisions of Pub. L. 95–87. The obligation to respond is mandatory.

PART 707—EXEMPTION FOR COAL EXTRACTION INCIDENT TO GOVERNMENT-FINANCED HIGHWAY OR OTHER CONSTRUCTION

5. Part 707 is amended by removing the "Note:" paragraph following the source note.

6. Section 707.10 is added as follows:

§ 707.10 Information collection.

Since the information collection requirement contained in 30 CFR 707.12 has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

PART 710—INITIAL REGULATORY PROGRAM

7. Part 710 is amended by removing the "Note:" paragraph following the source note.

8. Section 710.10 is added as follows:

§ 710.10 Information collection.

Since the information collection requirements contained in 30 CFR 710.4(b); 710.11(d)(2)(ii); 710.12(e) have fewer than 10 respondents per year, they are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by OMB.

PART 715—GENERAL PERFORMANCE STANDARDS

9. Part 715 is amended by removing the "Note:" paragraph following the source note.

10. Section 715.10 is added as follows:

§ 715.10 Information collection.

The information collection requirements contained in 30 CFR 715.13(d); 715.17 (b)(1)(v) and (j)(3); 715.18(b) (2) and (6); and 715.19 (b), (c), (d) and (e)(4) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0007. The information is being collected to meet the performance standards in Section 515(b)(2) of P.L. 95–87 and are applicable during the initial regulatory program. This information will be used by OSM in measuring compliance with the performance standards until permanent programs are in effect in the States. The obligation to respond is mandatory.

PART 716—SPECIAL PERFORMANCE STANDARDS

11. Part 716 is amended by removing the "Note:" paragraph following the source note.

12. Section 716.10 is added as follows:

§ 716.10 Information collection.

The information collection requirements contained in 30 CFR 716.7 (c), (d) and (e) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0008. The information is being collected to implement Section 510(d)(1) of Pub. L. 95–87 which authorizes mining on prime farmlands if the proposed permittee has the technological capability of restoring the land after mining and can meet certain soil reconstruction requirements. This information will be used by OSM to enforce the requirements of Pub. L. 95–87 mentioned above during the initial regulatory program. The obligation to respond is mandatory.

PART 717—UNDERGROUND MINING GENERAL PERFORMANCE STANDARDS

13. Part 717 is amended by removing the "Note:" paragraph following the source note.

14. Section 717.10 is added as follows:

§ 717.10 Information collection.

The information collection requirements contained in 30 CFR 717.17 (b) and 717.18(b) (2) and (6) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0009. The information is being collected to meet the requirements of Sections 515(b) (10) and (13) of Pub. L. 95–87. This information will be used to ensure compliance with statutory performance standards for the construction and operation of dams composed of waste materials and to minimize disturbance to the quality and quantity of surface water systems during the initial regulatory program. The obligation to respond is mandatory.

PART 718—ADOPTION OF STATE STANDARDS

15. Part 718 is amended by removing the "Note:" paragraph following the source note.

16. Section 718.10 is added as follows:

§ 718.10 Information collection.

Since the information collection requirement contained in 30 CFR 718.1(b) has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

PART 720—STATE ENFORCEMENT ACTIVITIES

17. Part 720 is amended by removing the "Note:" paragraph following the source note.

18. Section 720.10 is added as follows:

§ 720.10 Information collection.

The information collection requirement contained in 30 CFR 720.13 has fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by OMB.

PART 771—GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS

19. Part 771 is amended by removing the "Note:" paragraph following the source note.

20. Section 771.10 is added as follows:

§ 771.10 Information collection.

The information collection requirements contained in 30 CFR 771.15(c), 771.21(a)(1), 771.21(b)(2) and (3) and 771.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0032. The information is being collected to meet the requirements of Sections 504(f), 505 and 510(b) of Pub. L. 95–87. This information will be used by the regulatory authority to aid him or her in assessing whether the performance standards of a regulatory program will be complied with during the proposed mining operation during the permanent regulatory program. The obligation to respond is mandatory.

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION

21. Part 776 is amended by removing the "Note:" paragraph following the source note.

22. Section 776.10 is added as follows:

§ 776.10 Information collection.

The information collection requirements contained in 30 CFR 776.11 and 776.12 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0033. The information is being collected to meet the requirements of Section 512(a) of Pub. L. 95–87, which provides that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration regulations. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed operation during the permanent regulatory program. The obligation to respond is mandatory.

PART 778—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

23. Part 778 is amended by removing the "Note:" paragraph following the source note.

24. Section 778.10 is added as follows:

§ 778.10 Information collection.

The information collection requirements contained in 30 CFR 778.13, 778.14, 778.15, 778.16, 778.17, 778.18, 778.19, 778.20 and 778.21 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0034. The information is being collected to meet the requirements of Section 507(b) of Pub. L. 95–87, which requires that persons conducting surface mining activities submit to the regulatory authority all relevant information regarding ownership and control of the property to be affected by the activities, compliance status and history. This information will be used by the regulatory authority to ensure all legal, financial and compliance requirements are satisfied prior to issuance or denial of a permit during the permanent regulatory program. The obligation to respond is mandatory.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

25. Part 779 is amended by removing the "Note:" paragraph following the source note.

26. Section 779.10 is added as follows:

§ 779.10 Information collection.

The information collection requirements contained in 30 CFR 779.11, 779.12, 779.13, 779.14, 779.15, 779.16, 779.17, 779.18, 779.19, 779.20, 779.21, 779.22, 779.24, 779.25 and 779.27 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0035. The information is being collected to meet the requirements of Sections 507 and 508 of Pub. L. 95–87, which require the applicant to present an adequate description of the existing pre-mining environmental resources within and around the proposed mine plan area. This information will be used by the regulatory authority to determine whether the applicant can comply with the performance standards of the regulations for surface coal mining and whether reclamation of these areas is feasible. The obligation to respond is mandatory.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATIONS PLAN

27. Part 780 is amended by removing the "Note:" paragraph following the source note.

28. Section 780.10 is added as follows:

§ 780.10 Information collection.

The information collection requirements contained in 30 CFR 780.11, 780.12, 780.13, 780.14, 780.15, 780.16, 780.18, 780.21, 780.23, 780.25, 780.27, 780.31, 780.33, 780.35 and 780.37 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0036. The information is being collected to meet the requirements of Sections 507(b), 508(a) and 515(b) of Pub. L. 95–87. This information will be used by the regulatory authority in determining whether the applicant can comply with the performance standards of the regulations for surface coal mining and whether reclamation of these areas is feasible. The obligation to respond is mandatory.

PART 782—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

29. Part 782 is amended by removing the "Note:" paragraph following the source note.

30. Section 782.10 is added as follows:

§ 782.10 Information collection.

The information collection requirements contained in 30 CFR 782.13, 782.14, 782.15, 782.16, 782.17, 782.18, 782.19, 782.20 and 782.21 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0037. The information is being collected to meet the requirements of Section 507(b) of Pub. L. 95–87, which provides that persons conducting underground mining activities submit to the regulatory authority all relevant information regarding ownership and control of the property to be affected by the activities, compliance status and history. This information will be used by the regulatory authority to determine that all legal, financial and compliance requirements are satisfied prior to issuance or denial of the permit. The obligation to respond is mandatory.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

31. Part 783 is amended by removing the "Note:" paragraph following the source note.

32. Section 783.10 is added as follows:

§ 783.10 Information collection.

The information collection requirements contained in 30 CFR 783.11, 783.12, 783.13, 783.14, 783.15, 783.16, 783.17, 783.18, 783.19, 783.20, 783.21, 783.22, 783.23, 783.24 and 783.25 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0038. The information is being collected to meet the requirements of sections 507 and 508 of Pub. L. 95–87, which require the permit applicant to present an adequate description of the existing pre-mining environmental resources within and around the proposed mine plan area. This information will be used by the regulatory authority to determine whether the applicant can comply with the performance standards for underground mining. The obligation to respond is mandatory.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

33. Part 784 is amended by removing the "NOTE:" paragraph following the source note.

34. Section 784.10 is added as follows:

§ 784.10 Information collection.

The information collection requirements contained in 30 CFR 784.11, 784.12, 784.13, 784.14, 784.15, 784.16, 784.17, 784.18, 784.19, 784.20, 784.21, 784.23, 784.24, 784.25 and 784.26 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0039. The information is being collected to meet the requirements of sections 507(b), 508(a) and 516(b) of Pub. L. 95–87, which require applicants for underground mine permits to provide a description of each existing structure proposed to be used in the mining or reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operation. This information will be used by the regulatory authority in determining if the applicant can comply with the performance standards for underground mining. The obligation to respond is mandatory.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

35. Part 785 is amended by removing the "Note:" paragraph following the source note.

36. Section 785.10 is added as follows:

§ 785.10 Information collection.

The information collection requirements contained in 30 CFR 785.13(e), (f), (g) and (h), 785.14, 785.15,

785.16, 785.17(b), 785.18(c), 785.19, 785.20, 785.21, and 785.22 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0040. The information is being collected to meet the requirements of sections 711 and 515 of Pub. L. 95–87, which require applicants for special types of mining activities to provide a descriptions, maps and plans of the proposed activity. This information will be used by the regulatory authority in determining if the applicant can meet the applicable performance and environmental standards for the special type of mining activities. The obligation to respond is mandatory.

PART 786—REVIEW, PUBLIC PARTICIPATION, AND APPROVAL OR DISAPPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS

37. Part 786 is amended by removing the "Note:" paragraph following the source note.

38. Section 786.10 is added as follows:

§ 786.10 Information collection.

The information collection requirements contained in 30 CFR 786.11 (a), (b), (c) and (d), 786.14(b), 786.15, 786.17(c), 786.19, 786.21, 786.23 (c) and (d) and 786.25(b) (2) and (4) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0041. The information is being collected to meet the requirements of Sections 510 and 513 of Pub. L. 95–87, which require procedures for the review of public participation and approval or disapproval of the permit applications. This information will be used by the regulatory authority in evaluating the permit applications and in approving or disapproving the permit applications. The obligation to respond is mandatory.

PART 788—PERMIT REVIEWS, REVISIONS, AND RENEWALS AND TRANSFER, SALE AND ASSIGNMENT OF RIGHTS GRANTED UNDER PERMITS

39. Part 788 is amended by removing the "Note:" paragraph following the source note.

40. Section 788.10 is added as follows:

§ 788.10 Information collection.

The information collection requirements contained in 30 CFR 788.14 and 788.18 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0042. The information is being collected to meet the requirements of sections 506, 511 and 513 of Pub. L. 95–87, which require provisions for revisions, renewals, transfers, sales and assignment of rights of the permit applicant. This information will be used by the regulatory authority when conducting the review process and provides the criteria by which a determination is made to approve such applications. The obligation to respond is mandatory.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

41. Part 816 is amended by removing the "Note:" paragraph following the source note.

42. Section 816.10 is added as follows:

§ 816.10 Information collection.

The information collection requirements contained in 30 CFR 816.46(c)(4), 816.46(r), 816.46(t), 816.49(h), 816.49(i), 816.52(a), 816.52(b)(1) (ii) and (iii), 816.53(a), 816.62, 816.64, 816.65(a)(2)(iii), 816.67, 816.68, 816.71(j), 816.82(a)(4), 816.82(b), 816.87, 816.91(b), 816.95, 816.116, 816.117(b)(4), 816.117(c) (1) and (3), 816.131(b), 816.133(c) (1) thru (4), 816.133(c) (8) and (9), 816.150(d)(1), 816.152(d)(13), 816.160(d)(1) and 816.163(d) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0047. The information is being collected to meet the requirements of section 515 of Pub. L. 95–87, which provides that permittees conducting surface coal mining operations shall meet applicable performance standards of the Act. This information will be used by the regulatory authority in monitoring and inspecting surface mining activities. The obligation to respond is mandatory.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

43. Part 817 is amended by removing the "Note:" paragraph following the source note.

44. Section 817.10 is added as follows:

§ 817.10 Information collection.

The information collection requirements contained in 30 CFR 817.46(c)(4), 817.46(r), 817.46(t), 817.49(h), 817.49(i), 817.52(a), 817.52(b)(1)(ii) and (iii), 817.53(a), 817.62, 817.65(b)(2)(iii), 817.67, 817.68, 817.71(j), 817.82(a)(4), 817.82(b), 817.87, 817.91(b), 817.95, 817.116, 817.117(b)(4), 817.117(c)(1) and (3), 817.131(b), 817.133(c)(1) thru (4), 817.133(c)(8) and (9), 817.150(d)(1), 817.152(d)(13), 817.160(d)(1) and 817.163(d) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0048. The information is being collected to meet the requirements of section 516 of Pub. L. 95–87, which provides that permittees conducting underground coal mining operations shall meet the applicable performance standards of the Act. This information will be used by the regulatory authority in monitoring and inspecting underground mining activities. The obligation to respond is mandatory.

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

45. Part 822 is amended by removing the "Note:" paragraph following the source note.

46. Section 822.10 is added as follows:

§ 822.10 Information collection.

The information collection requirements contained in 30 CFR 822.14(a) and (d) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0049. The information is being collected to meet the requirements of Section 515(b) of Pub. L. 95–87, which ensures the protection of alluvial valley floors. This information will be used by the regulatory authority in monitoring and analysing the environmental system of alluvial valley floors. The obligation to respond is mandatory.

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON STEEP SLOPES

47. Part 826 is amended by removing the "Note:" paragraph following the source note.

48. Section 826.10 is added as follows:

§ 826.10 Information collection.

The information collection requirement contained in 30 CFR 826.12(b) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0050. The information is being collected to meet the requirements of Section 515(d) of Pub. L. 95–87, which ensures that there is adequate environmental protection during surface coal mining and reclamation operations on steep slopes. This information will be used by the regulatory authority in analyzing the static factor of safety for the stability of all portions of the

reclaimed land. The obligation to respond is mandatory.

[FR Doc. 82-21079 Filed 8-3-82; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 2714-129]

Revision of Patent and Trademark Fees

Correction

In FR Doc. 82-20680 appearing on page 33086 in the issue of Friday, July 30, 1982, make the following corrections:

(1) On page 33095, first column, under **Implementation of Specific Sections**, the caption now reading *"§ 1.6 National application filing fees"* should read *"§ 1.6 National application filing fees".*

(2) On page 33100, middle column, in *"§ 1.16 National application filing fees".* ". . . covered by the fee under paragraph (c)(1) of this section, per subclass—$0.40".

(3) On page 33101, in § 1.47(b), in the third column of the page, 18 lines from the top, "pevent" should read "prevent".

(4) Also in § 1.47(b), third column of page 33101, 23rd line from the top, "evidence or" should read "evidence of".

(5) On page 33108, third column, in § 1.17—

In paragraph (b), third line, "(§ 1.9(f)))" should read "(§ 1.9(f))". In the fourth line, "entiry" should read "entity".

In paragraph (c), third line, "§ l175.00" should read "§ 175.00".

In paragraph (d), third line, "§ 275..00" should read "§ 275.00". In the fourth line, "$555.00" should read "$550.00".

(6) On page 33109, first column, 17 lines from the top, "inventionship" should read "inventorship".

(7) Also on page 33109, middle column, in § 1.20, paragraph (e) and all the paragraphs following it contained errors and are reprinted below:

* * * * *

(e) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before (*date of enactment*), in force beyond 4 years; the fee is due by three years and six months after the original grant—$200.00.

(f) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before (*date of enactment*), in force beyond 8 years; the fee is due by seven years and six months after the original grant—$400.00.

(g) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before (*date of enactment*), in force beyond 12 years; the fee is due by eleven years and six months after the original grant—$600.00.

(h) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after (*date of enactment*), in force beyond 4 years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.9(f))—$200.00.
By other than a small entity—$400.00.

(i) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after (*date of enactment*), in force beyond 8 years; the fee is due by seven years and six months after the original grant:

By a small entity (§ 1.9(f))—$400.00.
By other than a small entity, $800.00.

(j) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after (*date of enactment*), in force beyond 12 years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.9(f))—$600.00.
By other than a small entity—$1200.00.

(8) On page 33112, first column, the dollar symbol from the caption for **ALTERNATIVE A** should be removed.

BILLING CODE: 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL 2177-1]

Approval and Promulgation of State Implementation Plans; Utah Volatile Organic Compound Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice approves a revision to the Utah State Implementation Plan submitted on April 29, 1982. The subject revision exempts sources of certain Freon compounds from control as volatile organic compounds (VOC). This revision does not affect the State plan for ozone because the compounds in question are not expected to be ozone precursors.

DATE: This action will be effective on October 4, 1982 unless notice is received by 30 days from publication that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460

The Office of the Federal Register, 110 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On May 28, 1982 (47 FR 23447), EPA approved a revision to the Utah State Implementation Plan (SIP) for the control of volatile organic compounds (VOC) from stationary sources. The approved plan required application of reasonably available control technology on VOC's that have been found to be photochemically reactive and consequently precursors to the formation of ozone.

On April 29, 1982, the State of Utah submitted a revision to the plan which revised the definition of VOC to exclude several Freon compounds from the requirements of the regulations. As proposed by the State, Regulation 1.1.122 of the Utah Air Conservation Regulations is revised to exclude the following compounds from the definition of volatile organic compound and, therefore, to exempt those compounds from control;

1,1,1-trichloroethane
methylene chloride
trichlorofluromethane (CFC-11)
dichlorodifluoromethane (CFC-12)
trifluoromethane (FC-23)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
chloropentafluorothane (CFC-115)

Since all of the above compounds have been found to be of low reactivity, and consequently, not precursors to ozone formation, the proposed exemption by the State is acceptable. EPA today is approving these revisions. The public is advised that this action will be effective October 4, 1982. However, if we receive written notice by 30 days from date of publication that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of

the action and establishing a comment period.

Under 5 U.S.C. 605b, the Administrator has certified that SIP approvals/redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: July 27, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart TT—Utah

In § 52.2320, paragraph (c)(14) is added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(14) A revision to the definition of volatile organic compound was submitted on April 29, 1982.

[FR Doc. 82-21032 Filed 8-3-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2604/R471; PH-FRL 2181-1]

Tolerances and Exemption From Tolerances for Pesticide Chemicals in or On Raw Agricultural Commodities; Chlorsulfuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of chlorsulfuron and its metabolite in or on certain raw agricultural commodities. This regulation to establish maximum permissible level for residues of the herbicide in or on the commodities was requested by E. I. du Pont de Nemours and Co.

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of July 7, 1982 (47 FR 29573) which announced that E. I. du Pont de Nemours and Co., Wilmington, DE 19898, had submitted pesticide petition 2F2604 to the EPA. The petition proposed that 40 CFR Part 180 be amended by establishing tolerances for residues of the herbicide chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl]benzenesulfonamide) in or on the raw agricultural commodities barley, grain at 0.02 ppm; barley, straw at 0.1 ppm; kidney and liver of cattle, goats, hogs, horses, and sheep at 0.03 ppm; meat, fat, and meat byproducts (except kidney and liver) of cattle, goats, hogs, horses, and sheep at 0.02 ppm; milk at 0.02 ppm; oat, grain at 0.05 ppm; oat, straw at 0.1 ppm; wheat, grain at 0.02 ppm; wheat, green forage at 6 ppm; and wheat, straw at 0.1 ppm.

The petitioner subsequently amended the petition by proposing tolerances at different levels and to include its metabolite. Tolerances are now proposed for residues of the herbicide chlorsulfuron in or on the raw agricultural commodities milk at 0.1 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses and sheep at 0.3 ppm. Tolerances are also proposed for the combined residues of chlorsulfuron and its metabolite, 2-chloro-5-hydroxy-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl]benzenesulfonamide in or on wheat, oats, and barley grain at 0.1 ppm; wheat, oats, and barley straw at 0.5 ppm; and wheat, oats, and barley forage at 20 ppm.

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before September 3, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346A(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: July 23, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.405 to read as follows:

§ 180.405 Chlorsulfuron; tolerances for residues.

(a) Tolerances are established for the combined residues of chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl] benzenesulfonamide) and its metabolite, 2-chloro-5-hydroxy-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl] benzenesulfonamide in or on the following raw agricultural commodities:

Commodities	Parts per million
Barley, forage	20.0
Barley, grain	0.1
Barley, straw	0.5
Oat, forage	20.0
Oat, grain	0.1
Oat, straw	0.5
Wheat, forage	20.0
Wheat, grain	0.1
Wheat, straw	0.5

(b) Tolerances are established for residues of chlorsulfuron (2-chloro-*N*-[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)aminocarbonyl]benzenesulfonamide) in or on the following raw agricultural commodities.

Commodities	Parts per million
Cattle, fat	0.3
Cattle, meat	0.3
Cattle, meat byproducts	0.3
Goats, fat	0.3
Goats, meat	0.3
Goats, meat byproducts	0.3
Hogs, fat	0.3
Hogs, meat	0.3
Hogs, meat byproducts	0.3
Horses, fat	0.3
Horses, meat	0.3
Horses, meat byproducts	0.3
Milk	0.1
Sheep, fat	0.3
Sheep, meat	0.3
Sheep, meat byproducts	0.3

[FR Doc. 82-20862 Filed 8-3-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300063A; PH-FRL 2182-4]

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

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for tertiary butylhydroquinone when used as an inert ingredient in pesticide formulations. This regulation was requested by the Arizona Agrochemical Company.

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of July 7, 1982 (47 FR 29574) which announced that at the request of the Arizona Agrochemical Company, P.O. Box 21537, Phoenix, AZ 85036, the Administrator proposed to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for tertiary butylhydroquinone. Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

Based on the information and review of its use, this ingredient is useful and does not pose a hazard to humans or to the environment. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before September 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 26, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting tertiary butylhydroquinone to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Tertiary butylhydroquinone.		Antioxidant
* * * * *		

[FR Doc. 82-21035 Filed 8-3-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2578/R466; PH-FRL 2178-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide bromoxynil, resulting from application of the octanoic acid ester or the butyric acid ester, in or on the raw agricultural commodities annual canarygrass seed and straw. This regulation to establish a maximum permissible level for residues of the herbicide in or on these commodities was submitted by the International Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 15, 1982 (47 FR 25748) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2578 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Minnesota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for negligible residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile), from application of its octanoic acid ester, in or on the raw agricultural commodities annual canarygrass seed and straw at 0.1 part per million (ppm). The petition was later amended to propose tolerances at 0.1 ppm resulting from application of either the octanoic acid ester or the butyric acid ester.

There were no comments or request for referral to an advisory committee received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking published in the **Federal Register** of June 15, 1982 (47 FR 25748). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before September 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.324 is amended by adding and alphabetically inserting the raw agricultural commodities annual canarygrass seed and annual canarygrass straw to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Grass, canary, annual, seed	0.1
Grass, canary, annual, straw	0.1
* * * * *	

[FR Doc. 82–20709 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 1E2577/R464; PH–FRL 2179–3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-Methyl-4-Chlorophenoxyacetic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid (MCPA), resulting from application of its isooctyl or butoxyethyl esters, in or on the raw agricultural commodities annual canarygrass seed and straw. This regulation to establish a maximum permissible level for residues of the herbicide in or on these commodities was submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of June 15, 1982 (47 FR 25749) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2577 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Minnesota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide MCPA, from application of its isooctyl or butoxyethyl esters, in or on the raw agricultural commodities annual canarygrass seed and straw at 0.1 part per million (ppm).

There were no comments or request for referral to an advisory committee received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking published in the **Federal Register** of June 15, 1982 (47 FR 25749). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.339 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before September 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.339(a) is amended by adding and alphabetically inserting the raw agricultural commodities annual canarygrass seed and annual canarygrass straw to read as follows:

§ 180.339 2-Methyl-4-chlorophenoxyacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Grass, canary, annual, seed	0.1
Grass, canary, annual, straw	0.1
* * * * *	

[FR Doc. 82-20706 Filed 8-3-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7E1956/R463; PH-FRL 2179-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-Naphthaleneacetic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commodities oranges and tangerines. This regulation to establish a maximum permissible level for residues of NAA in or on the commodities was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the **Federal Register** of July 15, 1982 (47 FR 25750) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 7E1956 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arizona, California, and Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the plant growth regulator 1-naphthaleneacetic acid (NAA) in or on the raw agricultural commoditiy citrus fruits at 1 part per million (ppm). The petition was later amended to propose tolerances in or on oranges and tangerines at 0.1 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 25750, June 15, 1982). The pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before September 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.155(a) is amended by alphabetically inserting the raw agricultural commodities oranges and tangerines to read as follows:

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Oranges	0.1
* * * * *	
Tangerines	0.1
* * * * *	

[FR Doc. 82-20707 Filed 8-3-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2566/R465; PH-FRL 3178-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide oxamyl in or on the raw agricultural commodity eggplants. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2,

1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: The EPA issued a notice of proposed rulemaking published in the Federal Register of June 16, 1982 (47 FR 25981) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2566 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Florida, Hawaii, Maryland, and New Jersey.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide oxamyl (methyl-*N'*,*N'*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodity eggplants at 2 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to this notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking (46 FR 25981, June 16, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.303 would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, by September 3, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: July 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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

Therefore, 40 CFR 180.303 is amended by adding and alphabetically inserting the raw agricultural commodity eggplants to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Eggplants	2.0
* * * * *	

[FR Doc. 82–20710 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[2F2642/R438A; PH–FRL 2178–6]

Tolerances and Exemption From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Potassium Sorbate; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a regulation adding potassium sorbate to the chemicals generally recognized as safe when used as a pre- or post-harvest fungicide for purposes of the Federal Food, Drug, and Cosmetic Act. This correction is to include the parent compound "sorbic acid" to the pesticide chemicals generally recognized as safe under said condition.

EFFECTIVE DATE: Effective on June 2, 1982.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a regulation published in the Federal Register of June 2, 1982 (47 FR 23933) which added potassium sorbate to the chemicals listed in 40 CFR 180.2(a) as a pesticide chemical generally recognized as safe when used as a pre- or post-harvest fungicide for purposes of section 408(a) of the Federal Food, Drug, and Cosmetic Act.

In the FR Doc. 82–14453 appearing at page 23934, first column under the regulatory text "§ 180.2—*Pesticide chemicals considered safe.*", the parent compound "sorbic acid" was inadvertently omitted. Therefore, "sorbic acid" is added to paragraph (a) following the chemical "sodium polysulfide", line 8.

Dated: July 21, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–20703 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 55, Supp. 1]

Contract Disputes; Federal Procurement Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the effective period of FPR Temporary Regulation 55 (May 28, 1980; 45 FR 35815) to June 1, 1984. This extension is necessary to continue the current requirement regarding contract disputes. The effect will be to continue the present contract disputes regulations.

DATE: Effective date: June 1, 1982.

Expiration date: June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy (202–523–4755).

In 41 CFR Chapter 1, this temporary regulation is listed in the appendix at the end of the chapter.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: July 21, 1982.

Ray Kline,

Acting Administrator.

[FR Doc. 82–21092 Filed 8–3–82; 8:45 am]

BILLING CODE 6820–61–M

41 CFR Part 1-1

[FPR Amendment 222]

Set-Asides for Small Business Concerns

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation revises the order of precedence for the award of

contracts that are set-aside for small business and labor surplus area concerns, and reinstates the authority that permits public and private organizations for the handicapped or handicapped individuals to participate in procurements that are set-aside for small business concerns. The regulation implements Pub. L. 96-302, which amended the Small Business Act (15 U.S.C. 644). The intended effect is to increase the award of contracts to small business concerns.

EFFECTIVE DATE: September 6, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate (VR), Office of Acquisition Policy (202-523-4755).

List of Subjects in 41 CFR 1-1

Government procurement, Environmental protection, Labor surplus areas, Minority businesses, Recycled materials, Small businesses, Administrative practices and procedures, and Subcontractor gifts and kickbacks.

SUPPLEMENTARY INFORMATION: Paragraphs 5c, 5d, and 6(e) in FPR Temporary Regulation 48, December 22, 1978 (44 FR 2388), are deleted. The effect of this action is to again authorize the use of the provisions in Subpart 1-1.7 pertaining to the participation of public and private organizations for the handicapped or handicapped individuals in contracts that are set-aside for small business concerns.

PART 1-1—GENERAL

Section 1-1.706-1 is amended by revising paragraphs (a)(1), (3), (4), and (e)(1) (iii) and (iv), and by adding paragraphs (a)(5) and (e)(1)(v).

§ 1-1.706-1 General.

(a) * * *

(1) Concerns which are small business concerns and which are located in a labor surplus area, on the basis of a total set-aside.

* * * * *

(3) Concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside.

(4) Concerns which are small business concerns, on the basis of a partial set-aside.

(5) Concerns which will perform as labor surplus area concerns, on the basis of a total set-aside. (See § 1-1.804-1.)

* * * * *

(e) * * *

(1) * * *

(iii) Partially for small business-labor surplus area concerns where a total set-aside for small business concerns cannot be made. (See § 1-1.706-6.)

(iv) Partially for small business concerns where a partial set-aside for small business-labor surplus area concerns cannot be made. (See § 1-1.706-6.)

(v) Totally for labor surplus area concerns where a partial set-aside for small business concerns cannot be made. (See § 1-1.804.)

* * * * *

(Sec. 205(c), 63. Stat. 390; (40 U.S.C. 486(c)))

Dated: July 21, 1982.

Ray Kline,

Deputy Administrator.

[FR Doc. 82-21013 Filed 8-3-82; 8:45 am]

BILLING CODE 6820-61-M

VETERANS ADMINISTRATION

41 CFR Part 8-3

Procurement by Negotiation

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision amends the Veterans Administration Procurement Regulations by strengthening the requirement for technical analyses of cost and pricing data for negotiated contracts and incorporating suggested formats for the Record of Price Negotiation. Federal Procurement Regulations require some form of price or cost analysis for every negotiated procurement. Contracting officers shall not complete negotiation of or award of any negotiated contract before receipt, analysis and consideration of documented technical evaluations supporting the reasonableness of the proposed price. The method and degree of such analysis will be determined by the contracting officer using prescribed guidelines.

EFFECTIVE DATE: This rule is effective July 28, 1982.

FOR FURTHER INFORMATION CONTACT: David S. Derr, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW., Washington, D.C. 20420, Telephone (202) 389-2334.

SUPPLEMENTARY INFORMATION: The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of Section 603 and Section 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

List of Subjects in 41 CFR Part 8-3

Government procurement.

Approved: July 28, 1982.

Robert P. Nimmo,

Administrator.

PART 8-3—PROCUREMENT BY NEGOTIATION

41 CFR Part 8-3 is amended as follows:

§ 8-3.705 [Amended]

1. Section 8-3.705 is amended by removing the words "Director, Contract and Special Audit Service (52C)" throughout § 8-3.705 and inserting the words "Assistant Inspector General for Auditing (52)"; and by removing the words "Director, Supply Service" and inserting the words Assistant Deputy Administrator for Procurement and Supply (93)".

2. Section 8-3.801-2 is revised to read as follows:

§ 8-3.801-2 Responsibility of contracting officers.

(a) Contracting officers are responsible for the legal, technical and administrative sufficiency of the contracts they enter into. To this end, all negotiated contracts will be subject to technical analyses to the degree the contracting officer deems necessary. Technical analyses will normally be performed by the contracting officer and any technical experts deemed necessary and qualified to address the effect on contract price of the materials, work processes, management systems and labor hours which the offeror proposes to use. Contracting officers shall not complete negotiation of or award of any negotiated contracts before receipt, analysis and consideration of documented technical evaluations for every procurement action requiring such analysis under the conditions prescribed in FPR 1-3.801-2(b) and 1-3.809(b)(6). The results of such analyses will be documented in the contract file and will also be made available to the auditor

performing the preaward audit required by § 8–3.809(b).

(b) When in the opinion of the contracting officer, the complexity of the proposed contract warrants, he/she will submit the proposed contract to the Assistant Deputy Administrator for Procurement and Supply (93) for review and comment. When deemed advisable, the Assistant Deputy Administrator for Procurement and Supply (93), will request the General Counsel to accomplish a legal review.

§ 8–3.801–3 [Amended]

3. Section 8–3.801–3 is amended by removing the words "Director, Contract and Special Audit Service" and inserting the words "Assistant Inspector General for Auditing (52)".

§ 8–3.807–3 [Amended]

4. In § 8–3.807–3, paragraph (a) is amended by removing the letter "a"; and paragraphs (b) through (d) are removed.

5. Section 8–3.809 is revised to read as follows:

§ 8–3.809 Contract audit as a pricing aid.

(a) The Assistant Inspector General for Auditing (52), or a recognized audit agency, e.g., the Defense Contract Audit Agency, at the request of the Assistant Inspector General for Auditing, will provide advisory audits, special surveys or audit analysis of price or cost, when required by this subpart 8–3.8 or when assistance is requested by the contracting officer.

(b) All negotiated contracts in excess of $100,000 and negotiated modifications in excess of $100,000 are subject to preaward audit of cost and pricing data unless specifically excluded by paragraph (d) of this section. Requests for such audits submitted by field facility contracting officers will be directed to the Assistant Deputy Administrator for Procurement and Supply (93) for review and forwarding to the Assistant Inspector General for Auditing (52), or other recognized audit agency, e.g., the Defense Contract Audit Agency.

(c) In the case of contracts less than $100,000, the contracting officer will perform a review and validation of the data submitted for accuracy and reasonableness of proposed costs. He/she may, if in Central Office, request the Assistant Inspector General for Auditing (52) to perform an audit or render such accounting assistance or technical advice as deemed desirable. A field station contracting officer may request such assistance and advice from the local fiscal activity serving the contracting officer.

(d) Cost of pricing data may, but need not, be submitted to the Assistant Inspector General for Auditing (52) for prior audit, for the following transactions:

(1) Negotiated fixed-price contract modifications to a formally advertised fixed-price contract, where wage rates and allowances for overhead and profit are established by the contract and the units of work can be evaluated by price comparison.

(2) Negotiated fixed-price architect-engineer contracts, where the contracting officer established the reasonableness of the negotiated price on the basis of the previous contracts of similar nature and accomplished an analysis of costs relating to each phase of the required work.

(3) Negotiated fixed-price or cost-reimbursement utility connection or site facility agreements, developed by the Office of Construction, representing contracts for the construction of service facilities or site clearance where cost data submitted (construction cost estimates) will be evaluated by design and cost engineering staffs of the Office of Construction.

(e) When using the exclusions in paragraph (d) of this section as a basis for not submitting cost and pricing data for preaward audit, contracting officers will fully justify the reasons for so doing and document such justification in the contract file.

6. Section 8–3.811 is added to read as follows:

§ 8–3.811 Record of price negotiation.

At the conclusion of each negotiation of an initial, revised or final price, a Record of Price Negotiation (RPN) will be prepared in accordance with FPR 1–3.811 and shall be made a part of the contract file. The RPN may be in memorandum form, or VA Form 08–3394, Record of Price Negotiation (appropriately modified to reflect the type of procurement being negotiated) may be utilized at the discretion of the contracting officer.

§ 8–3.813 [Amended]

7. Section 8–3.813 is amended by removing the words "Director, Contract and Special Audit Service" and inserting the words "Assistant Inspector General for Auditing (52)".

(38 U.S.C. 210 (c); 40 U.S.C. 486 (c))

[FR Doc. 82–21031 Filed 8–3–82; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 50 and 441

45 CFR Part 96

Requirements Applicable to Sterilizations (Hysterectomies)

AGENCIES: Health Care Financing Administration (HCFA), Public Health Service (PHS), Office of Human Development Services (OHDS), HHS.

ACTION: Final rule.

SUMMARY: Current Department regulations for the Medicaid and Public Health Service programs provide that no Federal funds are available for hysterectomies unless the woman or her representative has signed an acknowledgment that she was informed that the operation would make her sterile. These amended rules eliminate the "acknowledgment requirement" in certain situations where the patient is already sterile or a life-threatening emergency situation exists. The regulations also clarify certain ambiguities. The purpose of these regulations is to remove an unnecessary administrative burden created by the current requirements. The regulations also reinstate a cross-reference, which makes the Medicaid sterilization requirements applicable to the social services block grant. This cross-reference was inadvertently deleted in an earlier publication. States may choose to make the provisions retroactive to March 8, 1979 or any date thereafter through the date of publication of these regulations. These rules may also be effective retroactive to March 8, 1979 or any date thereafter through the date of publication of these regulations for the PHS programs they apply to. (See Supplementary Information below).

FOR FURTHER INFORMATION CONTACT:

For the Health Care Financing Administration: Raymond T. Johnson, (301) 594–9370

For the Public Health Service: Ernest G. Peterson, (202) 245–6335

For the Office of Human Development Services: Johnnie U. Brooks, (202) 245–2888

DATES: Effective August 4, 1982. We have found good cause not to delay the effective date of these rules because they reduce, for affected parties, the burden of complying with necessary program requirements.

SUPPLEMENTARY INFORMATION:

I. Background

The reinstatement of the erroneously deleted cross-reference is also being made effective immediately, since it simply restores a pre-existing requirement.

On November 8, 1978, the Department issued final rules governing expenditures for sterilizations under certain federally assisted programs administered by the Health Care Financing Administration (HCFA), Public Health Service (PHS), and the Office of Human Development Services (OHDS) (see 43 FR 52146). These rules were codified at 42 CFR Part 441, Subpart F for HCFA; 42 CFR Part 50, Subpart B for PHS; and 45 CFR 1392.21, 1393.59, and 1396.63 for OHDS. The rules include the following requirements for the availability of Federal funds for hysterectomies: (1) Federal funds are not available for hysterectomies performed solely for the purpose of sterilizing the patient; (2) Federal funds are not available for hysterectomies performed when there was more than one purpose to the procedure, but nevertheless it would not have been performed except for the purpose of making the patient sterile; (3) Federal funds are available when a hysterectomy is being done for a reason other than sterilization provided that (a) the person securing authorization to perform the hysterectomy informs the patient, and her representative, if any, orally and in writing, that the operation will make her sterile; and (b) the patient, or the representative, signs a statement acknowledging receipt of that information. Item 3 constitutes the "acknowledgment requirement".

The purposes of these current requirements are to: (1) Safeguard patients' rights by ensuring that women will make informed and voluntary choices; (2) emphasize that hysterectomies are not an appropriate or acceptable means of sterilization; (3) remove the financial incentive to perform hysterectomies for contraceptive purposes, since this is the most dangerous and expensive sterilization method; (4) provide effective safeguards against abuse; and (5) permit effective enforcement of the procedural safeguards.

Since these rules became effective, we have received inquiries from Congress, providers of services, State agencies, and the general public that have brought to the Department's attention certain situations in which the "acknowledgment requirement" is unnecessary and overly broad in scope. These inquiries questioned the need to inform a patient who is already sterile due to age, prior sterilization, or congenital disorder that a hysterectomy will make her sterile and, in addition, they questioned the need to obtain a written acknowledgment to that effect. Physicians also challenged the reasonableness of this requirement when a patient must undergo a hysterectomy on an emergency basis. In emergency situations, it may be impossible to inform the woman of the consequences of the hysterectomy before the procedure, because the need for it is unanticipated.

We agree that the acknowledgment requirement was overly broad. In an effort to correct the situation, the Department published proposed rules in the **Federal Register** (see Proposed Rules, below). For the Public Health Service, the proposed rules would have applied only to sterilizations funded in the programs of Federal financial assistance. However, Public Health Service personnel perform sterilizations in the program of direct services administered by the Indian Health Service (IHS). The policies of the sterilization regulations were made applicable to this direct program by administrative directive. Therefore, these final rules apply also to IHS.

As noted above, three regulations were issued to apply the sterilization requirements to OHDS programs: 45 CFR 1392.21 applied to services in the territories under Title IV–A of the Social Security Act; 1393.59 applied to programs under Titles I, X, XIV, and XVI; and 1396.63 governed the Title XX program. In each case, the OHDS regulation incorporated the Medicaid sterilization requirements by reference. These OHDS programs were, however, superseded by Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, which amended Title XX to establish a social services block grant program in the States and the territories. Regulations implementing the replaced programs (other than Title IV–A) were removed when the Department issued regulations for the block grant programs (46 FR 48512, October 1, 1981). (As stated at the time, removal of the Title IV–A regulations has been deferred until separate regulations for the Title IV–B (child welfare services) program are published.) When these regulations were removed, the cross-references to the sterilization requirements were also inadvertently deleted. Because these requirements remain appropriate for the social services block grant program, we are restoring the cross-reference by reinstating the deleted provision as part of the regulations governing the social services block grant. Since existing PHS regulations already apply the sterilization requirements to the maternal and child health services block grant, the Department's policy will be consistent across the various affected programs.

II. Proposed Rules

The proposed rules, published for public comment on January 19, 1981 (46 FR 5003), are described below.

1. *Amendment of acknowledgment requirement.* The Department proposed to amend the regulations to provide for an exception to the "acknowledgment requirement" for hysterectomies when one or more of the following circumstances exist:

(a) The individual is 58 years of age or older;

(b) The individual is sterile due to a congenital disorder;

(c) The individual was previously sterilized; or

(d) The individual requires a hysterectomy on an emergency basis because of life-threatening circumstances.

In order to assure that the proposed exceptions would be applied only in appropriate circumstances, the proposed amendments also required the State agency or the PHS program or project, before expending Federal funds, to obtain the certification of the physician who performed the procedure that one of these specific circumstances existed in each case when the "acknowledgment requirement" was not met. This approach is similar to the certification requirement applicable to sterilizations funded under current regulations, under which a physician certifies that certain conditions, such as informed consent, have been met (42 CFR 50.205(c)(2) and 42 CFR 441.258(c)). We proposed this approach for the same reason that prompted the certification requirement for sterilizations; that is, to assure the protection of the individual while at the same time minimizing the administrative burden associated with the requirement.

2. *Retroactivity of Regulation.* (a) *Reasons for retroactivity.*—We proposed to make these regulations retroactive to the date the final rules on sterilization were effective, March 8, 1979, for two reasons.

First, we wanted to avoid a disallowance of Federal funds for failure to meet the "acknowledgment requirement" in the past in those instances where we recognize that the requirement was unnecessary. Second, we wanted to allow providers to be reimbursed if they performed the operation in good faith when they could

not satisfy this requirement because a medical emergency existed.

(b) *Handling of claims.*—The following requirements were proposed in connection with the handling of hysterectomy claims.

(1) *Medicaid and OHDS programs.* (i) When a provider submits a claim for hysterectomy services, and the "acknowledgment requirement" has not been satisfied, Federal financial participation (FFP) would be available only if the physician's certification meets the requirements of the new regulations. That is, the physician would have to certify that the circumstances meet the criteria in the regulations for dispensing with the acknowledgment requirement.

(ii) A provider whose claim was previously denied solely because the "acknowledgment requirement" was not met would be allowed to submit a new claim, if appropriate under these rules. The claim, however, would have to include the physician's certification that the criteria had been met at the time of the operation in order for Federal payment to be made.

(iii) A retroactive claim for performance of a hysterectomy falling within the exceptions would be considered timely if it were submitted (or resubmitted) in accordance with the time requirements specified by the State under 42 CFR 447.45(d), after the publication date of the final rule.

In addition, under the proposal, FFP would be available for hysterectomy services furnished between March 8, 1979 and 30 days after publication of the final rule if (1) one of the circumstances specified as an exception in the proposal applied; and (2) the agency paid the claim, but was not entitled to FFP because it did not have the required documentation on hand before it paid the claim. In these cases, the agency could submit a request for FFP if it obtains a physician's certification as to the applicable circumstance.

(2) *Claims under PHS programs.* Federal financial assistance would also be available under the Public Health Service Act for the same retroactive period if the required physician's certification were obtained.

III. Summary of Public Comment on Changes to the Rules

We received 33 comments in response to the proposed rule. The comments were from State agencies, medical groups and associations, hospital organizations, individual physicians and a private welfare agency. A majority of the commenters supported the need for the proposed changes but suggested minor changes to our proposal, while four indicated their unqualified support. The comments and our responses are discussed below.

1. *Exceptions to acknowledgment requirements.* (a) Age requirement and sterility due to congenital disorder or previous sterilization.

Comment: (1) The majority of commenters agreed with the concept of an age limit above which the acknowledgment requirement would not apply, but thought age 58 was too high. Commenters suggested other appropriate ages ranging from 45 to 55. Several commenters suggested that we now have a specific age limitation, but rather that we permit an exception to the acknowledgment requirement if a woman is postmenopausal.

(2) One commenter stated that the congenital disorder and previous sterilization exceptions to the acknowledgment requirement were not sufficiently broad to encompass all circumstances leading to sterility. This commenter suggested that the language be expanded to include sterility resulting from infectious processes, adhesions resulting from previous surgical procedures and other similar causes.

Response: The Department acknowledges that the proposed age limit of 58 may not have been appropriate since menopause occurs within a wide age variance. In addition, we agree that the exceptions for congenital disorder or previous sterilization may not encompass every possible instance of prior sterility that can be proven medically. Because we do not want to exclude any women who are already sterile at the time of the hysterectomy from our exceptions and because postmenopause is itself a sterile condition, we are combining all three proposed exceptions into a single exception. Therefore, in the final rule, an exception to the acknowledgment requirement will apply if the woman is sterile prior to the hysterectomy, and the physician certifies, in writing, the cause of the sterility (for example, that the woman is postmenopausal). We believe this revision appropriately eliminates the unnecessary acknowledgment requirement when a woman is sterile before the hysterectomy.

(b) Procedures performed on an emergency basis because of life-threatening circumstances.

Comment: (1) Several commenters proposed a broadening of this exception to include situations where there was no reasonable alternative to hysterectomy, even though the circumstances might not be termed "emergency". One example given of a life-threatening circumstance that might not be an emergency situation could be cancer of the uterus, where the need for a hysterectomy is medically acceptable to prevent metastasis (transmission of disease from an original site to one or more sites elsewhere in the body) and the physician discovers the disease before performing a surgical procedure. The commenter proposed that no acknowledgment be required in that case. In contrast to that suggestion, another commenter suggested that we restrict the exception to those situations in which a woman is unable to respond to the information. That commenter believes that there are circumstances when a woman undergoing a hysterectomy, even on an emergency basis, will be in a condition that permits her to be informed of the effects of the procedure and to acknowledge receipt of that information.

(2) Another commenter believes that the emergency exception is not necessary because the commenter assumed that any operation performed on an emergency basis under life-threatening circumstances is currently assured reimbursement under Federal and State laws.

Response: (1) While we believe that a woman should be informed, whenever possible, of the effects of a hysterectomy, we agree that the acknowledgment requirement need not be met when the hysterectomy is performed in life-threatening emergency circumstances. An example of a situation in which no acknowledgment statement may be required is where the patient is admitted to a hosptial through the emergency room and the woman needs medical attention immediately and is unable to respond to information pertaining to the acknowledgment agreement because of the emergency nature of her admission. The basis for this emergency exception is that we presume in that situation, that it is not feasible or realistic to require prior acknowledgment. In this case, the physician is required only to complete the certification and describe the nature of the emergency.

We do not agree that the acknowledgment requirement should be exempted in all potentially life-threatening situations. We believe that except in extreme emergencies, as noted above, the patient should be informed of the possibility of a need for a hysterectomy and acknowledge that such a procedure would make her sterile. For example, where the individual is about to undergo abdominal exploratory surgery or a biopsy and removal of the uterus could be a potential consequence of this

surgery, the woman should be informed of this possibility and given an opportunity to acknowledge, in writing, receipt of this information.

(2) Although, generally, State funding may be available for operations performed on an emergency basis, Federal funding is currently denied under these Departmental programs for hysterectomies performed on an emergency basis, unless the claim is accompanied by appropriate documentation. Therefore, we are amending the regulations to provide that the acknowledgment requirement must be met for hysterectomy procedures unless the women meets one of the specified exceptions.

2. *Retroactive eligibility. Comment:* Several commenters recommended that the proposed rule be amended to allow Federal funding for hysterectomies performed during a period of a Medicaid beneficiary's retroactive eligibility if documentation is submitted that ensures that the intent of the regulations was met before the surgery.

Response: The Department agrees with this recommendation, and the final regulations allow Federal funding under these circumstances.

In order for payment to be made in these cases, the physician must submit a written statement either (1) that he or she informed the woman before the operation that the procedure would make her sterile, or (2) the woman met one of the exceptions in these regulations. (In the latter case, the statement must describe the cause of the sterility of nature of the emergency.) No written acknowledgment by the woman or her representative is required, however.

3. *Retroactivity.* (a) Medicaid claims.

(1) Retroactive claims.

Comment: The comments received concerning retroactivity were from Medicaid State agencies or providers only.

(i) Many commenters expressed concerns about the retroactivity provision and suggested that it be deleted. One State suggested, because it has no provision under State law to adopt new regulations retroactively, that we consider these rules interpretations of existing rules rather than new regulations. Others also indicated that a retroactivity requirement would cause administrative problems.

(ii) One State suggested a change in the date proposed for retroactivity. That State suggested that the regulations apply retroactively to February 6, 1979, the original proposed effective date of the sterilization regulations (later postponed to March 8, as explained below).

(iii) In order to be relieved of the burden of searching its records for the documentation required in the proposed rule, another commenter suggested that we conduct a study to determine the percentage of denied hysterectomy claims to the total number of hysterectomy claims paid. The resultant percentage would be used to reimburse institutions for denied hysterectomy claims. For example, if a provider had submitted 200 claims for hysterectomies and the study indicated that 2 percent of the total number of claims submitted were denied, the State would automatically pay 2 percent of the total amount paid to that provider for hysterectomy claims.

Response: (1) We appreciate the States' concerns about this provision and acknowledge the administrative problems that could result from its implementation. Therefore, we are revising the proposed Medicaid regulations to make retroactivity a State option. States may make these provisions retroactive to March 8, 1979, or any date thereafter through the date of publication of these regulations.

(2) The original sterilization regulations were to be effective on February 6, 1979. However, because that date did not allow States sufficient time for implementation, the effective date was changed to March 8, 1979 (44 FR 5665, January 29, 1979). We believe that the date selected for retroactivity should reflect the actual effective date of the sterilization regulations (March 8, 1979) because the rules did not affect hysterectomies performed before that date. Therefore, if a State chooses to pay denied claims on a retroactive basis, or a PHS grantee or contractor requests denied funds retroactively, they may receive Federal matching funds beginning with hysterectomies performed on the March 8, 1979 effective date.

(3) Since the use of a retroactive provision is to be a State option, we see no need to pursue the suggested study. Additionally, without the documentation for each specific procedure, there would be no assurance that the woman was informed before the hysterectomy that the procedure would make her sterile, or that she met one of the exception criteria. Therefore, we cannot agree with the suggested approach of reimbursing institutions based on a percentage of submitted claims.

(2) Identifying claims.

Comment: Some commenters were concerned with the burden that could be involved in identifying denied hysterectomy claims. They asked for clarification of responsibility for that identification; that is, whether the Medicaid agency or the provider was responsible.

Response: The Department believes that, because States appropriately denied these claims, the responsibility rests with the provider for identifying claims denied on the basis of the acknowledgment requirement and for submitting a new claim that meets the requirements of the regulations. States may not have a mechanism for identifying and retrieving those claims.

However, if the Medicaid agency used State funds to pay for hysterectomy claims for which Federal matching funds were denied or not requested because the acknowledgment requirement was not met, that agency is responsible for identifying and submitting a new claim for Federal reimbursement. It is also the agency's responsibility to inform all providers of the provisions of these amended regulations.

(b) *Claims under PHS programs.* The decision to make these rules retroactive applies to only three PHS programs: (1) The migrant health program funded under section 329 of the Public Health Service Act (PHS Act), 42 U.S.C. 254b; (2) the maternal and child health program funded under Title V of the Social Security Act, 42 U.S.C. 701 et seq.; and (3) the Indian Health Service's contract care program, funded under the Snyder Act, 25 U.S.C. 13. The procedures for implementing the retroactivity decision for these programs are as follows:

Migrant Health Program and Maternal and Child Health Program. The Department makes its discretionary grant awards to migrant health projects under section 329, PHS Act, by simply awarding fixed dollar amounts to the projects. Under Title V of the Social Security Act (as in effect prior to the recent amendments made by Pub. L. 97-35) the Department's Maternal and Child Health program awarded most of its funds to States on a quarterly formula allotment basis for the promotion of the health of mothers and children. Those Title V funds not awarded under a formula were awarded as discretionary grants. Although the quarterly formula funding of maternal and child health projects differs from the set dollar amount funding of migrant projects, neither of these two programs operates vis-a-vis the Department on the reimbursement for service basis characteristic of Medicaid. Therefore, the decision to make this revision of the acknowledgment requirement effective retroactively does not affect the amount of funds granted. Rather, it applies only to the extent that disallowances have been or otherwise would be taken for

violation of the acknowledgment requirement. If any hysterectomies have been disallowed under § 50.207 that would qualify under these rules, the grantee should submit the appropriate certification to the appropriate Regional Health Administrator to have an adjustment effected. Disallowances will not be taken in the future with respect to hysterectomies previously provided by migrant health projects or under Title V where the requirements of these regulations are met.

Indian Health Service Contract Care Program. The Indian Health Service furnishes care to eligible persons through contracts with health care providers. The Service Unit Directors will be responsible for determining whether claims for services covered by these regulations will be paid. In addition, they will be responsible for notifying individual contract physicians of these amended regulations. Physicians or other persons seeking payment will be responsible for identifying those situations where Federal reimbursement was disallowed, denied or not requested, and for submitting the required documentation.

4. *Time Period for Implementation of Regulations. Comment:* Many commenters requested a 90-day implementation period, to notify providers of the regulations and to resubmit claims for which FFP was denied; one suggested a 6-month implementation period.

Response: Since we generally allow a 90-day period for the implementation of Medicaid rules, we are providing that period for the notification of providers and the resubmittal of claims. The time period for submittal of Medicaid claims for FFP is affected by new statutory provisions (Pub. L. 96–272). As a result of that statute, States are allowed up to 2 years after the calendar quarter in which the State made the expenditure, to claim Federal matching funds. The States will have until 90 days after the effective date of this regulation to submit claims which would otherwise be time-barred under the statute. The application of the time limit of Pub. L. 96–272 is fully discussed in Section IV of the preamble.

The effective date of these regulations is the date of their publication, as indicated in the **EFFECTIVE DATE** section of this preamble. That will permit immediate waiver of the acknowledgment requirement even if States, grantees or contractors do not choose to make these provisions retroactive.

5. *Documentation Requests. Comment:* (1) All comments from secondary providers (such as anesthesiologists) involved in hysterectomy or sterilization procedures proposed that they be exempted from all documentation requirements because they do not have the necessary access to patients to obtain the acknowledgment, certification, or informed consent for sterilization. Some stated they are currently subject to this requirement or need a copy of the signed consent form in order to be reimbursed.

(2) One commenter asked for clarification as to when the physician was required to complete the certification. The commenter believes that the language of the proposed regulations at 42 CFR 50.207(c)(2) and 441.255(d), that requires the "physician performing the hysterectomy" to provide a certification in writing, could be interpreted to mean that the certification must be prepared at the time of surgery.

(3) Another commenter wanted to know if the physician certification would be the only documentation required for a Federal audit, or if additional backup documentation would also be required.

Response: (1) These regulations require only the physician who performs a hysterectomy, not a secondary provider such as an assisting surgeon or anesthesiologist, to certify that the woman met one of the specified exemptions of these regulations. With respect to situations not covered by the exemptions, current regulations at 42 CFR 50.207(b) and 42 CFR 441.256 require that "the person who secures the authorization to perform the hysterectomy" inform the patient orally and in writing of its effects, and that the individual or her representative, if any, sign a written acknowledgment of receipt of that information. However, since no service related to the hysterectomy may be reimbursed with Federal funds unless the appropriate documentation is obtained, the Medicaid agency or PHS program or project grantee or contractor must obtain that documentation from the physician performing the procedure before paying secondary providers for services related to hysterectomies. Similarly, with respect to the PHS programs, Federal funds are not available for payment of secondary providers where the required documentation is not obtained.

(2) There are no time restrictions on the physician certification required by these regulations. A physician may sign the required certification before or after the operation. We require only that the acknowledgment statement or the certification be a part of the provider's claim or PHS program or project grantee's or contractor's records before Federal funds are used in order to verify that the requirements were met.

(3) If the physician certification meets the regulatory requirements of 42 CFR 50.209 and 42 CFR 441.256, this should constitute sufficient documentation of appropriate payment for purposes of a Federal audit. However, a State (or PHS program or project grantee or contractor) may acquire further documentation.

6. *Medicaid/Medicare Claims. Comment:* One commenter suggested that for dual claims (those involving both Medicare and Medicaid payment), we waive the acknowledgment requirement, or require that it be obtained for Medicare payment. If a beneficiary has both Medicare and Medicaid coverage, Medicare is the prime payor and dual claims are sent first to Medicare for that portion of the payment. Because there is no acknowledgment requirement under the Medicare program, providers of services do not usually attach the documentation required for Medicaid payment. Thus, when Medicaid agencies are billed for any applicable coinsurance after Medicare payment is made, they have to suspend the Medicaid portion of the claims while they attempt to obtain appropriate documentation, or deny claims if no documentation is available.

Response: Since the Medicare program does not require similar documentation for that portion of the claim it pays, we cannot require Medicare carriers or intermediaries to obtain this documentation. However, the acknowledgment requirement cannot be waived merely because a woman is a beneficiary under both Medicare and Medicaid. We believe that the Medicaid agency and Medicare carriers and intermediaries can have an informal arrangement for the acquisition of necessary documentation. Such an arrangement might involve the development of a system of identifying or highlighting claims involving dually-entitled individuals who have undergone a hysterectomy. Once such claims have been identified, the Medicaid agency could take steps to secure necessary documentation.

7. *Burden. Comment:* One commenter proposed that the Department delete the hysterectomy sections from Federal regulations. The commenter believes that the requirement for acknowledgment of information that a hysterectomy will make a woman sterile does not serve as a safeguard to her, but merely an additional burden for the physician. Additional commenters also spoke to the administrative burden. One commenter suggested that, to reduce

burden, we should specify the language for the acknowledgment form, including the wording for certification of exemptions.

Response: We believe that regulations are needed to enforce the Department's policy on hysterectomy as a sterilization procedure. Federal funds are not available for hysterectomies performed for the purpose of sterilization because, compared to other forms of sterilization, hysterectomy is a risky, painful and expensive procedure. Deletion of these sections would remove the prohibition on Federal funding for hysterectomis as a method of sterilization and would also remove the documentation requirements that we believe are safeguards against potential abuse. We treat hysterectomies in the context of sterilization because hysterectomies are a widely used method of sterilization.

We do not agree that the physician certification requirement imposes an undue administrative burden. On the contrary, we believe that the burden is minimal, and represents a reasonable approach to safeguarding against abuse and providing for an informed decision where appropriate. Unlike the acknowledgment requirement in current regulations (42 CFR 50.207(b) and 42 CFR 441.255(b)) under which anyone who has contact with the patient may inform her orally and in writing that the hysterectomy will make her sterile, we believe the physician is the appropriate individual to complete the certification required under these regulations (42 CFR 50.207(c)(2) and 42 CFR 441.255(d)(2)). That is because the physician is legally responsible for the patient's condition and should be most familiar with the patient's medical history and any emergency medical condition that may exist. These regulations concern a vitally important area of an individual's life, and we think the physician certification is a reasonable means of protecting a patient's right to make decisions in that area.

We have not specified language for the acknowledgment statement or the exceptions to it because we do not want to impose unnecessarily narrow limitations on providers, but rather prefer to allow flexibility in the language used for obtaining authorization for a hysterectomy. We believe also that the operating physician is best able to describe the appropriate exception in his or her own words.

8. *Sterilization Requirements.*

Comment: Some commenters confused the requirements relating to sterilizations in general with those relating to hysterectomies. They seem to assume that the time period requirements at 42 CFR 50.203(d), 42 CFR 441.257(a)(1)(vii) and 441.258(c)(3) (30-day period between the date of informed consent and the date of sterilization, and the 72-hour minimum period in emergency situations) applied to hysterectomies.

Response: We want to emphasize that no time limitation is applicable because those hysterectomies for which FFP is available are not sterilizations as that term is defined by regulations (42 CFR 50.207(a) and 42 CFR 441.255(a)). As noted above, an acknowledgement of receiving information that the operation will make the woman sterile may be obtained from an individual at any time before or after the operation, although the information must be provided beforehand. The physician certification that an exception to the acknowledgment requirement applies may also be prepared at any time before or after the operation, but one of these documents must be included with the claim for payment.

IV. Time Limits for Filing Prior Claims

1. *Time Period Limitations.* As indicated above, these regulations may be made retroactive to March 8, 1979, or any date thereafter at the option of the State, through the date of publication of these regulations. A new statutory provision, however, imposes time period limits for States to file claims for Federal reimbursement of State expenditures. That requirement affects the retroactivity provisions of these regulations. Section 306 of the Adoption Assistance and Child Welfare Act of 1980, Pub L. 96-272, added a new section 1132 to the Social Security Act that imposes time limits for States to file claims for the Federal share of their expenditures under certain titles of the Act, including title XIX (Medicaid). Under section 1132, claims for FFP in expenditures made under State plans or programs "shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two year period which begins on the first day of the calendar quarter immediately following such calendar quarter (in which the expediture was made); and payment shall not be made under this Act on account of any such expenditure if claim therefore is not made within such two year period * * *." In addition, this section of the law allows the Secretary to waive these time requirements if he or she "determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed * * *." The intent of the provision is to enable HHS to know the total amount of its obligations for each fiscal year within a resonable time after the end of each year.

Section 306 of Pub. L. 96-272 is implemented in regulations at 45 CFR Part 95, Subpart A (46 FR 3527, January 15, 1981, amended 46 FR 46134, September 17, 1981). These regulations prohibit the Department from paying FFP for a State expenditure made after certain dates unless the State files a claim with the Department within certain time limits. Specifically, for a State expenditure made after September 30, 1979 under a State plan approved under one of the pertinent titles of the Act, the State is required to file a claim with the Department for Federal reimbursement within 2 years after the calendar quarter in which the State made the expenditure. For a State expenditure made before October 1, 1979, the State was required to file a claim for reimbursement before January 1, 1981. The preamble to the regulations extended the time limits to May 15, 1981. These time limits do not apply if the Secretary determines good cause exists for the State's failure to file a claim.

2. *Effect of time limits on hysterectomy regulations.* Under these provisions, some prior Medicaid hysterectomy claims paid by the States for which FFP was denied or not requested because the "acknowledgment requirement" was not met could be time-barred. (This situation does not apply to any of the PHS programs because the statute does not apply to them.) However, 45 CFR 95.19(d) provides that the time limits do not apply with respect to "any claim for which the Secretary decides there was good cause for the State's not filing it within the time limit."

Under this provision, we find good cause for the State's failure to file claims for expenditures related to hysterectomies made before the effective data of this regulation, if the State failed to file such claims because the "acknowledgment requirement" was not met and if the claims meet the requirements of these amended regulations. Since the States could not have filed claims for these expenditures under the then existing regulations, the failure to file claims on a timely basis was beyond their control and good cause exists to waive the applicable time limits.

Therefore, the time limits imposed under 45 CFR Part 95 are waived with respect to those claims until November 2, 1982. We believe 90 days is a sufficient amount of time for the States to submit those claims that would otherwise be time barred under 45 CFR Part 95. All claims for expenditures

related to hysterectomies filed after that date are subject to the applicable time limitation.

Under 45 CFR 95.11 (46 FR 46136, September 17, 1981), waiver is subject to the availability of funds and the conditions or restrictions provided in Acts appropriating funds to the Department in effect at the time such claims are considered for payment.

VI. Impact Analysis

Executive Order 12291

The Secretary has determined that these final regulations do not meet the criteria for a "major rule" as defined by section 1(b) of Executive Order 12991 because they do not have an economic effect of $100 million or otherwise meet threshold criteria of the Executive Order. These regulations merely correct an overly broad portion of current regulations that requires the person securing authorization to perform a hysterectomy to inform *any* woman, including one who is already sterile, or her representative, if any, orally and in writing, that the operation will make her sterile, and to have the woman or her representative sign an acknowledgment of receipt of that information. We do not foresee any substantial economic impact relating to these regulations even though Federal funding will be available for a greater number of hysterectomies. Under Medicaid, States may choose to pay claims previously denied because the acknowledgment requirement was not met, but we believe the number of retroactive claims will be minimal. No additional costs are expected for claims processing, as the mechanism for payment of hysterectomy claims already exists in all States. No significant additional costs are expected in the PHS or HDS programs because the number of retroactive claims, if any, will be small.

Regulatory Flexibility Analysis

Section 604(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-345) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. These regulations reduce the burden of prior regulations by allowing certain exceptions to the requirement to obtain a signed acknowledgment of receipt of information from women undergoing hysterectomies. The regulations should have only an advantageous effect on hospitals and physicians denied payment under the prior regulations since they may now be entitled to retroactive payment. In addition, the impact of the prospective operation of these regulations will be insubstantial. That is because hospitals and physicians are provided with an opportunity to receive payment for a small number of additional hysterectomies and because the requirement of physician certification will apply only to this group of cases and should not cause any burden. Therefore, the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

42 CFR Part 50

Abortion, Administrative practice and procedure, Alcohol programs, American Samoa, Drugs, Family planning, Grant programs—health, Guam, Health care, Northern Marianna Islands, Pacific Islands Trust Territory, Virgin Islands.

42 CFR Part 441

Abortions, Aged, Early Periodic Screening Diagnosis and Treatment (EPSDT), Family planning, Grant-in-Aid program—health, Health facilities, Infants and children, Institutions for mental diseases (IMD), Kidney diseases, Maternal and child health, Medicaid, Mental health centers, Opthalmic goods and services, Penalties, Psychiatric facilities, Sterilizations.

45 CFR Part 96

Administrative practice and procedure, Aged, Alcoholism, Child welfare, Community Act program, Drug abuse, Energy, Grant programs—energy, Grant programs—health, Grant programs—Indians, Grant programs—social programs, Health, Indians, Investigations, Low and moderate income housing, Maternal and child health, Mental health programs, Public health, Reporting and recordkeeping requirements, Social Security.

Title 42 of the Code of Federal Regulations is amended as follows:

PART 50—POLICIES OF GENERAL APPLICABILITY

The authority for Part 50 reads as follows:

Authority.—Sec. 215; Public Health Service Act, as amended (42 U.S.C. 216).

A. Part 50 is amended as set forth below:

1. Section 50.207 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 50.207 Sterilization by hysterectomy.

* * * * *

(b) Except as provided in paragraph (c) of this section, programs or projects to which this subpart applies may perform or arrange for the performance of a hysterectomy not covered by paragraph (a) of this section only if—

(1) The person who secures the authorization to perform the hysterectomy has informed the individual and her representative, if any, orally and in writing, that the hysterectomy will make her permanently incapable of reproducing; and

(2) The individual or her representative, if any, has signed a written acknowledgment of receipt of that information.

(c)(1) A program or project is not required to follow the procedures of paragraph (b) of this section if either of the following circumstances exists:

(i) The individual is already sterile at the time of the hysterectomy.

(ii) The individual requires a hysterectomy because of a life-threatening emergency in which the physician determines that prior acknowledgment is not possible.

(2) If the procedures of paragraph (b) of this section are not followed because one or more of the circumstances of paragraph (c)(1) exist, the physician who performs the hysterectomy must certify in writing—

(i) That the woman was already sterile, stating the cause of that sterility; or

(ii) That the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible. He or she must also include a description of the nature of the emergency.

2. Section 50.209 is amended by revising paragraph (b) as follows:

§ 50.209 Use of Federal financial assistance.

* * * * *

(b) A program or project shall not use Federal financial assistance for any sterilization or hysterectomy without first receiving documentation showing that the requirements of this subpart have been met. Documentation includes consent forms, and as applicable, either acknowledgments of receipt of hysterectomy information or certification of an exception for hysterectomies.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

The authority for Part 441 reads as follows:

Authority.—Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

B. Part 441 is amended as set forth below:

1. Section 441.255 is amended by reprinting paragraph (a), revising paragraph (b), and adding paragraphs (c), (d), and (e) as follows:

§ 441.255 Sterilization by hysterectomy.

(a) FFP is not available in expenditures for a hysterectomy if—

(1) It was performed solely for the purpose of rendering an individual permanently incapable of reproducing; or

(2) If there was more than one purpose to the procedure, it would not have been performed but for the purpose of rendering the individual permanently incapable of reproducing.

(b) FFP is available in expenditures for a hysterectomy not covered by paragraph (a) of this section only under the conditions specified in paragraph (c), (d), or (e) of this section.

(c) FFP is available if—

(1) The person who secured authorization to perform the hysterectomy has informed the individual and her representative, if any, orally and in writing, that the hysterectomy will make the individual permanently incapable of reproducing; and

(2) The individual or her representative, if any, has signed a written acknowledgment of receipt of that information.

(d) Effective on March 8, 1979 or any date thereafter through the date of publication of these regulations at the option of the State, FFP is available if—

(1) The individual—

(i) Was already sterile before the hysterectomy; or

(ii) Requires a hysterectomy because of a life-threatening emergency situation in which the physician determines that prior acknowledgment is not possible; and

(2) The physician who performs the hysterectomy—

(i) Certifies in writing that the individual was already sterile at the time of the hysterectomy, and states the cause of the sterility; or

(ii) Certifies in writing that the hysterectomy was performed under a life-threatening emergency situation in which he or she determined prior acknowledgment was not possible. He or she must also include a description of the nature of the emergency.

(e) Effective March 8, 1979, or any date thereafter through the date of publication of these regulations at the option of the State, FFP is available for hysterectomies performed during a period of an individual's retroactive Medicaid eligibility if the physician who performed the hysterectomy certifies in writing that—

(1) The individual was informed before the operation that the hysterectomy would make her permanently incapable of reproducing; or

(2) One of the conditions in paragraph (d)(1) of this section was met. The physician must supply the information specified in paragraph (d)(2) of this section.

2. Section 441.256 is revised to read as follows:

§ 441.256 Additional condition for Federal financial participation (FFP).

(a) FFP is not available in expenditures for any sterilization or hysterectomy unless the Medicaid agency, before making payment, obtained documentation showing that the requirements of this subpart were met. This documentation must include a consent from, an acknowledgement of receipt of hysterectomy information or a physician's certification under § 441.255(d)(2), as applicable.

(b) With regard to the requirements of § 441.255(d) for hysterectomies performed from March 8, 1979 through November 2, 1982, FFP is available in expenditures for those services if the documentation showing that the requirements of that paragraph were met is obtained by the Medicaid agency before submitting a claim for FFP for that procedure.

PARK 96—BLOCK GRANTS

Title 45 of the Code of Federal Regulations is amended by adding a new § 96.73 to Part 96 as follows:

§ 96.73 Sterilization.

If a State authorizes sterilization as a family planning service, it must comply with the provisions of 42 CFR part 441, Subpart F, except that the State plan requirement under 42 CFR 441.252 does not apply.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

(Catalog of Federal Domestic Assistance Program Nos. 13.217, 13.224, 13.232, 13.246, 13.261, Public Health Service)

Dated: April 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Dated: June 4, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: July 19, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-21075 Filed 8-3-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-38; RM-3982]

FM Broadcast Station in Volga, South Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This action corrects paragraph 4 of the Report and Order, released July 15, 1982, for Volga, South Dakota 47 FR 31879, July 23, 1982, which indicated that the assignment of Channel 272A to Volga was a proposal.

EFFECTIVE DATE: August 4, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Released: July 27, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Volga, South Dakota) BC Docket No. 82-38, RM-3982.

On July 15, 1982, the Commission, by the Chief, Policy and Rules Division, released a *Report and Order* in the above proceeding. In paragraph 4 of the *Order*, we inadvertently showed the assignment of Channel 272A to Volga, South Dakota, as a proposal. That portion of paragraph 4 should read as follows:

City	Channel No.
Volga, S. Dak.	272A

Federal Communications Commission
Roderick K. Porter,
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-20806 Filed 8-3-82; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1129

[Ex Parte No. 402]

Reasonably Expected Cost

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: These final rules define the term "reasonably expected costs" in connection with railroad surcharges on joint line traffic that originates or terminates on light-density lines. Section 217 of the Staggers Rail Act of 1980 (Staggers Act), 49 U.S.C. 10705a (b)(2), requires the Commission to define this term. Also, the determination of the reasonably expected costs of operating a line is one of two cost calculations a shipper must make in order to challenge a light-density line surcharge.

EFFECTIVE DATE: These rules are effective on September 3, 1982.

FOR FURTHER INFORMATION CONTACT:
Jim Wells (202) 275-0840
or
Elaine Kaiser, (202) 275-0907.

SUPPLEMENTARY INFORMATION: On January 26, 1981 (46 FR 9670, January 29, 1981), we proposed rules for calculating the reasonably expected costs of operating a line in accordance with section 217 of the Staggers Act, 49 U.S.C. 10705a(b)(2). Comments on the proposed rules were due on March 2, 1981. The comments were numerous and varied, but the primary areas of concern were (1) the railroad's ability to include rehabilitation of the surcharged line to FRA Class I safety standards in its calculating the reasonably expected costs of operating the line; (2) our proposed method for determining the cost of capital; (3) our proposed procedure for allocating reasonably expected costs among the shippers using the line; and (4) the data requirements imposed on surcharging railroads. We have made substantive modifications to the proposed rules to address these concerns. In addition, the final rules include a number of clarifying changes. A complete discussion of all the issues raised in the comments is available in the full decision. For a copy of the full decision contact T.S. Infosystems, Inc., Room 2227, Washington, DC or call 289-4357 (DC Metropolitan Area) or toll free 800-424-5403.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

These rules will not significantly change the compliance burdens on regulated carriers or on members of the public who may be interested in surcharge proceedings. These regulations provide shippers who are affected by light-density line surcharges with a procedure whereby they are able to calculate the railroad's cost associated with the surcharged traffic. Therefore, it is certified that these rules will not have a significant economic impact on a substantial number of small entities.

This Notice of Final Rules is issued under 49 U.S.C. 10705a. It is ordered:

1. Chapter X of Title 49 of the Code of Federal Regulations is amending by adding Part 1129.

2. This decision is effective on September 3, 1982.

List of Subjects in 49 CFR Part 1129

Accounting, Railroads.

Decided: July 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,
Secretary.

Chapter X, Subchapter B of Title 49 of the Code of Federal Regulations is amended by adding a new Part 1129 as follows:

PART 1129—REASONABLY EXPECTED COSTS UNDER 49 U.S.C. 10705a

Sec.

1129.1 Purpose and scope.
1129.2 Reasonably expected costs.
1129.3 Assignment of reasonably expected costs.
1129.4 Right of discovery.

(49 U.S.C. 10705a)

§ 1129.1 Purpose and scope.

(a) Under 49 U.S.C. 10705a, a surcharge may be imposed by any railroad on traffic originating or terminating on lines that do not carry more than one million gross ton miles of traffic per mile. A surcharge may also be applied to traffic originating or terminating on a line that does not generate more than three million gross ton miles of traffic per mile if it is operated by a railroad that is not earning adequate revenues as determined under 49 U.S.C. 10704(a)(2). These surcharges may be applied without Commission interference unless a shipper located on the line demonstrates that the surcharge would increase the carrier's share of the joint-line revenues above 110 percent of its variable cost of moving the traffic to or from the line, plus 100 percent of the carrier's reasonably expected costs of continuing to operate the line which shall include all costs necessary to sustain service on the line. (b) 49 U.S.C. 10705a directs the Commission to define the term "reasonably expected costs" as used in this section.

§ 1129.2 Reasonably expected costs.

(a) *Definition:* The reasonably expected costs that are necessary to sustain service on a line shall be the total of the costs assigned to the line in accordance with this section.

(b) *Cost Elements:* The cost assigned to the line shall be derived from the accounts included in this subsection prepared in accordance with the ICC's Uniform System of Accounts (49 CFR Part 1201). The amounts included under these accounts shall be the railroad's best estimate of its anticipated costs in these areas. For those accounts that are footnoted, the basis included in the note will be used to calculate the estimated costs for these activities.

(1) *Maintenance of Equipment:* The costs assigned to a surcharged line under this subsection are to be derived from the following accounts.

Operating expense group	Account No.
Locomotives:	
Administration	
Salaries and wages	11-21-01
Materials	21-21-01
Purchased services	41-21-01
Other expenses	61-21-01
Repairs and maintenance (Note 1)	
Salaries and wages	11-21-41
Materials	21-21-41
Repairs by other—DR	39-21-41
Repairs for others—CR	40-21-41
Purchased services	41-21-41
Other expenses	61-21-41
Machinery repair	
Salaries and wages	11-21-40
Materials	21-21-40
Repairs by others—DR	39-21-40
Repairs for others—CR	40-21-40
Purchased services	61-21-40
Other expenses	61-21-40
Equipment damaged	
Salaries and wages	11-21-48
Materials	21-21-48
Repairs by others—DR	39-21-48
Repairs for others—CR	40-21-48
Purchased services	41-21-48
Other expenses	61-21-48

Operating expense group	Account No.
Equipment damaged	
Fringe benefits (Note 2)	12-21-00
Other casualties and insurance	
Other casualties	52-21-00
Insurance	53-21-00
Lease rentals—debit	31-21-00
Lease rentals—credit	32-21-00
Joint facility rent—debit	33-21-00
Joint facility rent—credit	34-21-00
Other rents—debit	36-21-00
Other rents—credit	35-21-00
Joint facility—debit	37-21-00
Joint facility—credit	38-21-00
Depreciation (Note 3)	
Dismantling retired property	
Salaries and wages	11-21-39
Materials	21-21-39
Purchased services	41-21-39
Other expenses	61-21-39
Other	
Salaries and wages	11-21-99
Materials	21-21-99
Purchased services	41-21-99
Other expenses	61-21-99
Freight Cars:	
Administration	
Salaries and wages	11-22-01
Materials	21-22-01
Purchased services	41-22-01
Other expenses	61-22-01
Machinery repair	
Salaries and wages	11-22-40
Materials	21-22-40
Repairs by others—DR	39-22-40
Repairs for others—CR	40-22-40
Purchased services	41-22-40
Other expenses	61-22-40
Fringe benefits (Note 2)	12-22-00
Equipment damage	
Salaries and wages	11-22-48
Materials	21-22-48
Repairs by other—DR	39-22-48
Repairs for other—DR	40-22-48
Purchased services	41-22-48
Other expenses	61-22-48
Fringe benefits (Note 2)	12-22-00
Other casualties and insurance	
Other casualties	52-22-00
Insurance	53-22-00
Joint facility rent—DR	33-22-00
Joint facility rent—CR	34-22-00
Joint facility—DR	37-22-00
Joint facility—CR	38-22-00
Dismantling retired property	
Salaries and wages	11-22-39
Materials	21-22-39
Purchased services	41-22-39
Other expenses	61-22-39
Other	
Salaries and wages	11-22-99
Materials	21-22-99
Purchased services	41-22-99
Other expenses	61-22-99
Other Equipment:	
Administration	
Salaries and wages	11-23-01
Materials	21-23-01
Purchased services	41-23-01
Other expenses	61-23-01
Repair and Maintenance:	
Trucks, trailers and containers—revenue service	
Salaries and wages	11-23-43
Materials	21-23-43
Repairs by others—DR	39-23-43
Repairs for others—CR	40-23-43
Purchased services	41-23-43
Other expenses	61-23-43
Floating equipment—revenue service	
Salaries and wages	11-23-44
Materials	21-23-44
Repairs by others—DR	39-23-44
Repairs for others—CR	40-23-44
Purchased services	41-23-44
Other expenses	61-23-44
Computer and data processing	
Salaries and wages	11-23-46
Materials	21-23-46
Repairs by others—DR	39-23-46
Repairs for others—CR	40-23-46
Purchased services	41-23-46
Other expenses	61-23-46
Machinery	
Salaries and wages	11-23-40
Materials	21-23-40
Repairs by others—DR	39-23-40
Repairs for others—CR	40-23-40
Purchased services	41-23-40
Other expenses	61-23-40
Work and other non-revenue equipment	
Salaries and wages	11-23-47
Materials	21-23-47
Repairs by others—DR	39-23-47
Repairs for others—CR	40-23-47
Purchased services	41-23-47
Other expenses	61-23-47
Equipment damaged	
Salaries and wages	11-23-19
Materials	21-23-19
Repairs by others—DR	39-23-19
Repairs for others—CR	40-23-19
Purchased services	41-23-19
Other expenses	61-23-19
Fringe benefits (Note 2)	12-23-00
Other casualties and insurance	
Other casualties	52-23-00
Insurance	53-23-00
Lease rentals—DR	31-23-00
Lease rentals—CR	32-23-00
Joint facility rent—DR	33-23-00
Joint facility rent—CR	34-23-00
Other rents—DR	35-23-00
Other rents—CR	36-23-00
Depreciation	62-23-00
Joint facility—DR	37-23-00
Joint facility—CR	38-23-00
Dismantling retired property	
Salaries and wages	11-23-39
Materials	21-23-39
Purchased services	41-23-39
Other expenses	61-23-39
Other	
Salaries and wages	11-23-99
Materials	21-23-99
Purchased services	41-23-99
Other expenses	61-23-99
(2) *Transportation:* These costs are derived from the following accounts.	
Train Operations:	
Administration	
Salaries and wages	11-31-01
Materials	21-31-01
Purchased services	41-31-01
Other expenses	61-31-01
Engine crews	
Salaries and wages (Note 4)	11-31-56
Materials (Note 5)	21-31-56
Purchased services	41-31-56
Other expenses	61-31-56
Train crews	
Salaries and wages (Note 4)	11-31-57
Materials (Note 5)	21-31-57
Purchased services	41-31-57
Other expenses	61-31-57
Dispatching trains	
Salaries and wages	11-31-58
Materials	21-31-58
Purchased services	41-31-58
Other expenses	61-31-58
Operating signals and interlockers	
Salaries and wages	11-31-59
Materials	21-31-59
Purchased services	41-31-59
Other expenses	61-31-59
Operating drawbridges	
Salaries and wages	11-31-60
Materials	21-31-60
Purchased services	41-31-60
Other expenses	61-31-60
Highway crossing protection	
Salaries and wages	11-31-61
Materials	21-31-61
Purchased services	41-31-61
Other expenses	61-31-61
Train inspection and lubrication	
Salaries and wages (Note 4)	11-31-62
Materials (Note 5)	21-31-62
Purchased services	41-31-62
Other expenses	61-31-62
Locomotive fuel	
Salaries and wages (Note 6)	11-31-67
Materials (Note 6)	21-31-67
Purchased services (Note 6)	41-31-67
Other expenses (Note 6)	61-31-67
Electric power purchased or produced for motive power (Note 7)	
Salaries and wages	11-31-68
Materials	21-31-68
Purchased services	41-31-68
Other expenses	61-31-68
Servicing locomotives	
Salaries and wages (Note 8)	11-31-69
Materials (Note 8)	21-31-69
Purchased services (Note 8)	41-31-69
Other expenses (Note 8)	61-31-69
Freight lost or damaged—solely related	51-31-00
Clearing wrecks	
Salaries and wages	11-31-63
Materials	21-31-63
Purchased services	41-31-63
Other expenses	61-31-63
Fringe benefits (Note 9)	12-31-00
Other casualties and insurance	
Other casualties	52-31-00
Insurance	53-31-00
Joint facility—DR	37-31-00
Joint facility—CR	38-31-00
Other	
Salaries and wages	11-31-99
Materials	21-31-99
Purchased services	41-31-99
Other expenses	61-31-99
Yard Operations:	
Administration	
Salaries and wages	11-32-01
Materials	21-32-01
Purchased services	41-32-01
Other expenses	61-32-01
Switch crews	
Salaries and wages (Note 4)	11-32-64
Materials (Note 10)	21-32-64
Purchased services	41-32-64
Other expenses	61-32-64
Controlling operations	
Salaries and wages	11-32-65
Materials	21-32-65
Purchased services	41-32-65
Other expenses	61-32-65
Yard and terminal clerical	
Salaries and wages	11-32-66
Materials	21-32-66
Purchased services	41-32-66
Other expenses	61-32-66
Operating switches, signals, retarders and humps	
Salaries and wages	11-32-59
Materials	21-32-59
Purchased services	41-32-59
Other expenses	61-32-59
Locomotive fuel	
Salaries and wages (Note 11)	11-32-67
Materials (Note 11)	21-32-67
Purchased services (Note 11)	41-32-67
Other expenses (Note 11)	61-32-67

Operating expense group	Account No.
Electric power purchased or produced for motive power (Note 12)	
Salaries and wages	11-32-68
Materials	21-32-68
Purchased services	41-32-68
Other expenses	61-32-68
Servicing locomotives	
Salaries and wages (Note 10)	11-32-69
Materials (Note 10)	21-32-69
Purchased services (Note 10)	41-32-69
Other expenses (Note 10)	61-32-69
Freight loss or damaged—solely related	51-32-00
Clearing wrecks	
Salaries and wages	11-32-63
Materials	21-32-63
Purchased services	41-32-63
Other expenses	61-32-63
Fringe benefits (Note 9)	12-32-00
Other casualties and insurance	
Other casualties	52-32-00
Insurance	53-32-00
Joint facility—DR	37-32-00
Joint facility—CR	38-32-00
Other	
Salaries and wages	11-32-99
Materials	21-32-99
Purchased services	41-32-99
Other expenses	61-32-99
Train and Yard Operations Common:	
Cleaning car interiors	
Salaries and wages	11-33-70
Materials	21-33-70
Purchased services	41-33-70
Adjusting and transferring loads	
Salaries and wages	11-33-71
Materials	21-33-71
Purchased services	41-33-71
Carloading devices and grain doors	
Salaries and wages	11-33-72
Materials	21-33-72
Purchased services	41-33-72
Freight lost or damaged—all other	51-33-00
Fringe benefits (Note 9)	12-33-00
Specialized Service Operations:	
Administration	
Salaries and wages	11-34-01
Materials	21-34-01
Purchased services	41-34-01
Other expenses	61-34-01
Pickup and delivery, marine line haul, and rail substitute service	
Salaries and wages	11-34-73
Materials	21-34-73
Purchased services	41-34-73
Other expenses	61-34-73
Loading and unloading and local marine	
Salaries and wages	11-34-74
Materials	21-34-74
Purchased services	41-34-74
Other expenses	61-34-74
Protective services	
Salaries and wages	11-34-75
Materials	21-34-75
Purchased services	41-34-75
Other expenses	61-34-75
Freight lost or damaged—solely related	51-34-00
Fringe benefits (Note 9)	12-34-00
Casualties and insurance	
Other casualties	52-34-00
Insurance	53-34-00
Joint facility—DR	37-34-00
Joint facility—CR	38-34-00
Other	
Salaries and wages	11-34-99
Materials	21-34-99
Purchased services	41-34-99
Other expenses	61-34-99
Administrative Support Operations:	
Administration	
Salaries and wages	11-35-01
Materials	21-35-01
Purchased services	41-35-01
Other expenses	61-35-01
Employees performing clerical and accounting functions	
Salaries and wages	11-35-76
Materials	21-35-76
Purchased services	41-35-76
Other expenses	61-35-76
Communication systems operation	
Salaries and wages	11-35-77
Materials	21-35-77
Purchased services	41-35-77
Other expenses	61-35-77
Loss and damage claims processing	
Salaries and wages (Note 13)	11-35-78
Materials (Note 13)	21-35-78
Purchased services (Note 13)	41-35-78
Other expenses (Note 13)	61-35-78
Fringe benefits (Note 13)	12-35-00
Joint facility—DR	37-35-00
Joint facility—CR	38-35-00
Casualties and insurance	
Other casualties	52-35-00
Insurance	53-35-00
Other	
Salaries and wages	11-35-99
Materials	21-35-99
Purchased services	41-35-99
Other expenses	61-35-99

(3) *General Administration:* The costs assigned to a surcharged line under this subsection are to be derived from the following accounts.

Operating expense group	Account No.
Officers—general administration	
Salaries and wages	11-61-01
Materials	21-61-01
Purchased services	41-61-01
Other expenses	61-61-01
Accounting, auditing and finance	
Salaries and wages	11-61-86
Materials	21-61-86
Purchased services	41-61-86
Other expenses	61-61-86
Management services and data processing	
Salaries and wages	11-61-87
Materials	21-61-87
Purchased services	41-61-87
Other expenses	61-61-87
Marketing	
Salaries and wages	11-61-88
Materials	21-61-88
Purchased services	41-61-88
Other expenses	61-61-88
Sales	
Salaries and wages	11-61-89
Materials	21-61-89
Purchased services	41-61-89
Other expenses	61-61-89
Industrial development	
Salaries and wages	11-61-90
Materials	21-61-90
Purchased services	41-61-90
Other expenses	61-61-90
Personnel and labor relations	
Salaries and wages	11-61-91
Materials	21-61-91
Purchased services	41-61-91
Other expenses	61-61-91
Legal and secretarial	
Salaries and wages	11-61-92
Materials	21-61-92
Purchased services	41-61-92
Other expenses	61-61-92
Public relations and advertising	
Salaries and wages	11-61-93
Materials	21-61-93
Purchased services	41-61-93
Other expenses	61-61-93
Research and development	
Salaries and wages	11-61-94
Materials	21-61-94
Purchased services	41-61-94
Other expenses	61-61-94
Fringe benefits (Note 14)	12-61-00
Casualties and insurance	
Other casualties	52-61-00
Insurance	53-61-00
Writedown of uncollectible accounts	63-61-00
Other taxes except on corporate income or payroll	65-61-00
Joint facility—DR	37-61-00
Joint facility—CR	38-61-00
Other	
Salaries and wages	11-61-99
Materials	21-61-99
Purchased services	41-61-99
Other expenses	61-61-99

(4) *Deadheading, Taxi and Hotel Costs:* The costs assigned to a surcharged line under this subsection shall be the estimated costs incurred for deadheading, taxi, and hotel costs as a result of providing service to the line.

(5) *Freight Car Costs:*

(i) For Class I railroads, the on-segment costs for time-mileage freight cars shall be calculated on the basis of the surcharging carrier's average costs per day and per mile. Those freight cars that are rented on a straight mileage basis are to be costed on the surcharging carrier's average cost per mile for each type of car rented on this basis. No costs are to be included in the calculation of reasonably expected costs for private line (shipper owned) or other cars for which the railroad does not make payments. The costs per day and per mile shall be calculated separately for each type of car specified in Ex Parte No. 334, *Car Service Compensation—Basic Per Diem Charges—Formula Revision in Accordance with the [4R] Act,* (362 ICC 884). Note 15 of these regulations contains the procedure for the calculation of freight car costs. The costs assigned to a surcharged line under this subsection are to be derived from the following accounts:

Operating expense group	Account No.
Freight Car Costs: (Note 15)	
Repair and maintenance	
Salaries and wages	11-22-42
Materials	21-22-42
Repairs by others—DR	39-22-42
Repairs for others—CR	40-22-42
Purchased services	41-22-42
Other expenses	61-22-42
Lease rentals—DR	31-22-00
Lease rentals—CR	32-22-00

Operating expense group	Account No.
Depreciation	
Other rents—DR	35-22-00
Other rents—CR	36-22-00

(ii) For Class II and III railroads, the on-segment costs for time-mileage and straight mileage freight cars shall be calculated in the same manner prescribed for Class I railroads, using data from the latest calendar year available.

(6) *Locomotive Depreciation:* The depreciation cost for locomotives used on the surcharged line shall be calculated using the following procedure:

(i) The current replacement cost for each type of locomotive used to serve the line will be based on the most recent purchase of that particular type and size locomotive by the carrier or an amount quoted by the manufacturer.

(ii) The depreciation rate that will be applied to the replacement cost shall be the carrier's composite rate for locomotives as reported in the latest Annual Report Form R–1 submitted to the Commission or from company records.

(iii) The annual depreciation cost for each type of locomotive shall be calculated by multiplying the replacement cost(s) developed in paragraph (b)(6)(i) of this section by the rate from paragraph (b)(6)(ii) of this section.

(iv) The depreciation expense for each type of locomotive shall be assigned to the line on the ratio of the hours incurred serving the line to the average system locomotive unit hours in service by each of the following categories of locomotives: yard-diesel; yard-other; road-diesel; and road-other. The ratio for each type of locomotive used to serve the line shall be the same as that developed in § 1129.2(b)(7) of these regulations.

(v) The depreciation shall be calculated by multiplying the annual depreciation expense for each type of locomotive developed in paragraph (b)(6)(iii) of this section by the ratio(s) developed in paragraph (b)(6)(iv) of this section.

(7) *Return on Investment—Locomotives:* The return on investment shall be calculated for each type or classification of locomotive that is used to provide service to the line. The return for the locomotive(s) used shall be calculated in accordance with the following procedure:

(i) The current replacement cost for each type of locomotive used to serve the line shall be based on the most recent purchase of that particular type and size locomotive by the carrier indexed to the midpoint of the year or an amount quoted by the manufacturer. This unit cost shall be multiplied by 1 minus the ratio of total accumulated depreciation to original total cost of that type of equipment owned by the railroad, as shown by company records.

(ii) The current cost of capital used in the calculation of return on investment for locomotives shall be the current before-tax cost of capital, weighted to the capital structure, and adjusted for the effects of the combined statutory Federal and State income tax rates. The current cost of capital, expressed as a percent, shall be calculated as follows:

(A) The railroad shall determine its permanent capital structure ratio of debt and equity capital such that the two numbers total 100 percent. This capital structure will be the actual capital structure of the railroad. If this calculation is not possible or also not representative because the railroad is part of a conglomerate, the debt-equity ratio from the Commission's latest *Determination of Adequate Railroad Revenues* (currently Ex Parte No. 393) will be used. However, if the debt-equity ratio for the railroad industry is used, then the industry average equity rate and debt rate from the Commission's latest revenue adequacy finding must also be used in paragraphs (b)(7)(ii) (B) and (C) of this section.

(B) The current cost of debt shall be the current rate quoted to the railroad for debt instruments normally used by the railroad in the financing of new equipment purchases such as bonds, equipment trust certificates, etc. Because this is a before-tax rate there is no adjustment for income taxes.

(C) The current cost of equity shall be an amount equal to that which a prudent investor would expect to earn through investments in the financial market place. This current cost of equity capital is divided by one minus the combined statutory Federal and State income tax rates. This will result in the before-tax current cost of equity capital.

(D) The current before-tax cost of debt is multiplied by the capital structure ratio number for debt to obtain a weighted before-tax cost of current debt.

(E) The current before-tax cost of equity is multiplied by the capital structure ratio number for equity to obtain a weighted before-tax cost of current equity.

(F) The results of paragraphs (b)(7)(ii) (D) and (E) of this section are added together to calculate the current cost of capital used in the calculation of the return-on investment for equipment.

(iii) The annual return on investment for each category or type of locomotive shall be calculated by multiplying the replacement cost developed in paragraph (b)(7)(i) of this section by the current cost of capital determined in paragraph (b)(7)(ii) of this section.

(iv) The return on investment for each type of locomotive shall be assigned to the line on a ratio of the locomotive unit hours on the line to the average locomotive unit hours per unit for each type of locomotive in the system. This ratio will be developed as follows:

(A) The carrier shall estimate the number of hours that each type of locomotive will incur in serving the line during the period.

(B) The railroad shall develop the system average locomotive unit hours per unit for each of the following types of locomotives: yard-diesel; yard-other; road-diesel; and road-other.

(C) The ratio applied to the return on investment is calculated by dividing the hours that each type of class of locomotive incurs serving the line, as developed in paragraph (b)(7)(iv)(A) of this section, by the system average locomotive unit hours per unit for the applicable type developed in paragraph (b)(7)(iv)(B) of this section.

(v) The cost assigned to the line for each type of locomotive shall be calculated by multiplying the annual return on investment developed in paragraph (b)(7)(iii) of this section by the ratio(s) developed in paragraph (b)(7)(iv) of this section.

(8) *Normalized Maintenance:* The maintenance of way and structures that is assignable to the line shall be the normalized maintenance that is necessary to permit the continuation of the right-of-way and structures in their present condition. In addition to the track and right-of-way this amount shall also include, but not be limited to, the maintenance of highway grade crossings, signal systems, communication systems, tunnels, bridges, culverts, electric power systems, station structures and other facilities that are located on the line. The surcharging railroad must certify at the time it files the surcharge that all amounts that are included for normalized maintenance in the calculation of the surcharge shall be expended within twelve (12) months of the effective date of the surcharge.

(9) *Revenue Taxes:* The amount of revenue taxes shall be computed based on the estimated amounts that would be paid in those States that subject the railroad to a revenue tax.

(10) *Property Taxes:* (i) The amount of property taxes shall be the estimated amount levied against the property on the line in those States where a true ad

valorem tax is levied, based on the value of certain kinds of railroad property, such as track, land, buildings, and other facilities.

(ii) In States where property taxes are assessed on the basis of a formula of a State-wide valuation of property and the line segment is included in the valuation of the railroad operating the service, the tax on the line segment shall be based on the distribution of the assessment by the State to that line and the application of the appropriate tax rate or rates.

(iii) In States where the real property taxes are assessed and levied against the owner of the property but the rolling stock is assessed to the railroad operating the service on the basis of a formula of a State-wide valuation of property, the tax on rolling stock attributable to the line segment shall be determined as follows:

(A) Find the percent which the cost of equipment as used in the formula is to the total of all property cost as used in the formula;

(B) Apply that percentage to the total State assessment to determine the portion of the assessment attributable to rolling stock;

(C) Allocate the rolling stock assessment thus determined to the line on the basis of car and locomotive unit miles on the line to total car and locomotive unit miles in the state;

(D) Apply the appropriate tax rate or rates to the allocated assessment thus determined.

(11) *Rehabilitation:* Rehabilitation costs shall be included at the option of the railroad for any track that does not meet minimum Federal Railroad Administration (FRA) Class I Safety Standards (49 CFR Part 213). The surcharging railroad may petition FRA for a waiver and operate the line at less than FRA Class I conditions. The surcharging railroad must certify at the time it files the surcharge with the Commission that the upgrading to FRA Class I safety standard (49 CFR Part 213), on which the rehabilitation costs are predicated will be expended within twelve (12) months of the effective date of the surcharge.

(12) *Return on Value of Rail Properties:* The return on the value of the rail properties that are necessary to sustain service on the line shall be estimated using the procedure shown below. The rail properties under this subsection shall include land plus any rights of way owned by the surcharging railroad.

(i) Valuation of rail properties: The investment base to which the return element is applied shall be (A) the net liquidation value of the rail properties that have no further value for railroad purposes or (B) the market value for those materials that have remaining value for railroad purposes. The net liquidation value shall be deemed as their highest and best use for nonrail purposes. This amount shall be determined by computing the estimated appraised value of such properties, less all costs (dismantling and disposition of improvements) necessary to make the remaining properties available for their highest and best use and complying with applicable zoning, land use, and environmental regulations. The market value shall be the estimated sales value of the assets based on their remaining useful life less all costs of dismantling. No amounts shall be included that are the result of investments by state DOT's, shippers or parties other than the surcharging railroad. In addition, properties to which the railroad does not have title, such as those with reversionary rights shall also be excluded.

(ii) Rate of return: The railroad's cost of capital shall be the current before-tax cost of capital, weighted to the capital structure adjusted for the effects of the combined statutory Federal and State income tax rates. This rate of return, expressed as a percent, shall be calculated as follows:

(A) The railroad shall determine its permanent capital structure ratio for debt and equity capital such that the two numbers total 100 percent. This capital structure will be the actual capital structure of the railroad. If this calculation is not possible or also not representative because the railroad is part of a conglomerate, the debt-equity ratio from the Commission's latest *Determination of Adequate Railroad Revenues* (currently No. Ex Parte No. 393) will be used. However, if the debt-equity ratio for the railroad industry is used then the industry average equity rate and debt rate from the Commission's latest revenue adequacy finding must also be used in paragraphs (b)(12)(ii) (B) and (C) of this section.

(B) The current cost of debt shall be determined by taking the average of all debt instruments (including bonds, equipment trust certificates, financial lease arrangements, etc.) issued by the carrier in the most recent 12 month period. The debt cost calculated by this procedure is a before-tax rate and is not adjusted for income taxes.

(C) The current cost of equity shall be an amount equal to that which a prudent investor would expect to earn through investments in the financial market place. This current cost of equity capital is divided by one minus the combined statutory Federal and State income tax rates. This will develop the cost of equity capital on a before-tax basis.

(D) The current before-tax cost of debt is multiplied by the capital structure ratio number for debt to obtain a weighted before-tax cost of current debt.

(E) The current before-tax cost of equity is multiplied by the capital structure ratio number of equity to obtain a weighted before-tax cost of current equity.

(F) The results of paragraphs (b)(12)(ii) (D) and (E) of this section are added together to determine the current cost of capital.

(iii) Return on value: The return on value that shall be included in the cost of sustaining service is calculated by multiplying the value of the properties determined in paragraph (b)(12)(i) of this section by the rate of return calculated in paragraph (b)(12)(ii)(F) of this section.

Notes

Note 1. Maintenance of equipment—Locomotive repairs and maintenance: All accounts designated XX–21–41 shall be separated between yard and road with a further separation between diesel and other (electric). The costs for these accounts for yard locomotives shall be assigned to the segment separately for diesel and electric locomotives on the basis of the ratio of segment diesel and electric yard locomotive unit-hours to the total system diesel and electric yard locomotive unit hours. The costs for these accounts for road locomotives shall be assigned to the segment separately for diesel and electric locomotives on the basis of the ratio of segment diesel and electric locomotive gross ton-miles in road service to the total system diesel and electric locomotive gross ton-miles in road service. The costs assigned under these accounts for specialized equipment devoted exclusively to segment line service shall be the estimated costs for the specific equipment used.

Note 2. Fringe Benefits: Fringe benefits for locomotives and other equipment shall be assigned to the segment of the ratio that the total segment salary and wages bear to the system total salaries and wages for each type of equipment as follows:

(A) Locomotives—Account 12–21–00: total of all 11–21–XX accounts segment to system.

(B) Other Equipment—Account 12–23–00: total of all 11–23–XX accounts segment to system.

(C) Fringe benefits for freight cars shall be calculated by first estimating the total in Account 11–22–42 (Freight car repairs-salaries and wages) that is included in the total on segment costs for freight cars as determined from the car-day and car-mile cost calculations, in § 1129.2(b)(5) of these regulations.

To this amount is added the segment cost in the balance of all 11–22–XX accounts. The ratio of this total segment amount to the system total for all 11–22–XX accounts is applied to Account 12–22–00 (Fringe Benefits-Freight Cars).

Note 3. Locomotive Depreciation: Locomotive costs shall not include depreciation as determined in Account No. 62–21–00. Locomotive depreciation shall be calculated in the manner set forth in § 1129.2(b)(6) of these regulations.

Note 4. Labor costs: (1) The salaries, wages and fringe benefits of train and engine crews exclusively assigned to the line segment shall be deemed attributable costs of the segment. Train and engine crews not exclusively assigned to the line segment shall have their salaries, wages and fringe benefits deemed attributable costs of the segment to the extent their salaries, wages and fringe benefits are shown to be apportionable to the segment.

Note 5. Transportation—(1) Train Operations—(A) Engine Crews-Materials, Account 21–31–56; Train Crews-Materials, Account 21–31–57; Train Inspection and Lubrication—Salaries and Wages, Account 11–31–62; and Materials, Account 21–31–62: If the line segment is served by a local/way or through train crew, the costs in these accounts shall be assigned to the segment on the ratio of train hours on the segment to the total system train hours.

Note 6. Transportation—Locomotive Fuel: All accounts designated XX–31–67 shall be assigned to the segment on the ratio of road diesel locomotive unit hours.

Note 7. Transportation—Electric Power Purchased or Produced for Motive Power: All accounts designated XX–31–68 shall be assigned to the segment on the ratio of road electric locomotive unit hours on the segment to the total system road electric locomotive unit hours.

Note 8. Transportation—Servicing Locomotives: All accounts designated XX–31–69 shall be assigned to the segment on the ratio of road locomotive unit miles on the segment to the total system road locomotive unit miles.

Note 9. Transportation Fringe Benefits: Fringe benefits shall be assigned to the segment separated between train operations, yard operations, train and yard operations common, specialized service operations, and administrative support operations. The costs for each activity shall be assigned to the segment on the ratio that the total segment salary and wages bear to the total system salary and wages for each activity shown below:

(A) Train Operations, Account 12–31–00: total of all 11–31–XX accounts segment to system.

(B) Yard Operations, Account 12–32–00: total of all 11–32–XX accounts segment to system.

(C) Train and Yard Operations Common, Account 12–33–00: total of all 11–33–XX accounts segment to system.

(D) Specialized Service Operations, Account 12–34–00: total of all 11–34–XX accounts segment to system.

(E) Administrative Support, Account 12–35–00: total of all 11–35–XX accounts segment to system.

Note 10. Yard Operations—(A) Switch Crews-Materials, Account 21–32–64, and Servicing Locomotives, all accounts designated XX–32–69: The costs for these accounts shall be assigned to the segment on the ratio of yard locomotive unit hours on the segment to the system total yard locomotive unit hours.

Note 11. Yard Operations—Locomotive Fuel: All accounts designated XX–32–67 shall be assigned to the segment on the ratio of yard diesel locomotive unit hours on the segment to the total system yard diesel locomotive unit hours.

Note 12. Yard Operations—Electric Power Purchased or Produced for Motive Power: All accounts designated XX–32–68 shall be assigned to the segment on the ratio of yard electric locomotive unit hours on the segment to the total system yard electric locomotive unit hours.

Note 13. Administrative support operations—Loss and Damage Claims Processing: All accounts designated XX–35–78 shall be assigned to the segment on the ratio of the number of claims processed for loss or damage occurring on the segment to the total number of claims processed by the railroad.

Note 14. General administrative—Fringe Benefits, Account 12–61–00: This account shall be assigned to the segment on the ratio that the total segment salary and wages in all 11–61–XX accounts bear to the system total salary and wages in all 11–61–XX accounts.

Note 15. (1) The system total of the repair and maintenance accounts, all accounts designated XX–XX–42, and depreciation shall be divided into time-related costs and mileage-related costs on the basis of the present "Rail Form A: apportionment factors (i.e., 50 percent time and 50 percent mileage for repairs; and 60 percent time and 40 percent mileage for depreciation). Freight car costs shall not include depreciation as determined in Account No. 62–22–00. Freight car depreciation shall be calculated in the manner set forth in subparagraph (C)(i) of this note.

(2) The system total receipts and payments for the hire of time-mileage cars, and the basic data used in the development of the car-day and car-mile factors, shall be taken from the surcharging carrier's latest Form R–1 and company records. The specific steps to complete the calculation are as follows:

(A) The total system car-days by car type shall be calculated by: (i) averaging the surcharging carrier's freight car ownership at the beginning and end of the year (Form R–1, schedule 710, columns (b) and (k)); (ii) multiplying the average by the standard active number of car-days (346) as developed in ICC Docket NO. 31358; (iii) subtracting car-days on foreign lines (source: company records); and (iv) adding the foreign car-days on home line (source: company records). This procedure shall be followed for each car-type specified in Ex Parte No. 334, supra.

(B) The total railroad car-miles shall be calculated by adding the loaded car-miles for the surcharging carrier's owned and leased cars (Form OSA, column (d), items 5–010 through 5–027) to the empty car-miles for the surcharging carrier's owned or leased cars (Form OSA, column (d), items 5–110 through 5–127). The total car-miles, loaded and empty, shall be calculated for each car-type specified in Ex Parte No. 334, supra.

(C) The cost per car-day shall be calculated for each type of time-mileage car by adding 50 percent of the total freight car repair costs for each type (Form R–1, schedule 415, column (b)), and 60 percent of the depreciation that shall be developed as follows:

(i) The current value for each type of car shall be calculated by first arriving at the current cost per car using the most recent purchase of this type of the railroad indexed to the midpoint of the year or a price quote from the manufacturer. This unit price shall be applied to the average number of this type of car owned by the carrier during the year. The current value developed for each car type is then multiplied by the composite depreciation rate for that type of car as shown in the latest annual report filed with the Commission or company records.

(ii) Add 100 percent of the return on investment which shall be determined by first multiplying the current value of each type of car, developed in subparagraph (i) above, by one minus the ratio of accumulated depreciation to the total original cost investment of that type of car owned by the railroad. The return on investment is determined by multiplying the net current value by the rate of return calculated for locomotives in § 1129.2(b)(7) of these regulations.

(iii) To the amounts for repairs, depreciation, and return on investment add the time portion of the railroad's payment for hire of time-mileage freight cars (Form R–1, schedule 414, columns (h) and (i)); and subtract the time portion of the railroad's receipts for hire of time mileage freight cars (Form R–1, schedule 414, columns (d) and (e)). The total of these costs is divided by the total car-days for each type developed in subparagraph A of this note.

(D) The cost per mile shall be calculated for each type of time-mileage car as follows. First, add: (i) 50 percent of the total freight train car repair cost for each car-type (Form R–1, schedule 415, column (b)); (ii) 40 percent of the total depreciation costs for each car-type developed in subparagraph (C)(i); and (iii) the mileage portion of the surcharging carrier's payments for the hire of time-mileage freight cars (Form R–1, schedule 414, column (g)). Then, subtract the mileage portion of the surcharging carrier's receipts for hire of time-mileage freight cars (Form R–1, schedule 414, column (c)). Finally, divide the result by the total car-miles for each car-type developed in subsection (B), above.

(E) The costs per car-day and per car-mile developed in subsections (C) and (D), above, shall be applied to the total car-days and total car-miles for each car-type accumulated on the line segment for all traffic originated and/or terminated on the segment plus those freight cars that bridge the line segment which are attributed to time-mileage freight train cars.

The on-segment costs for freight cars rented on a straight mileage basis shall be the surcharging railroad's total payments for

mileage cars (Form R–1, schedule 414, column (f)), for each car-type divided by the total miles on which the charges were based.

§ 1129.3 Assignment of reasonably expected costs.

The assignment of reasonably expected costs as calculated under § 1129.2 of these regulations shall be assigned to each joint line shipment on any basis the railroad chooses provided it results in an equitable assignment of the costs and does not result in any shipper bearing a disproportionate share of the reasonably expected costs. However, there is one exception; a railroad shall not apportion the reasonably expected costs on the basis of the Commission's Rail Form A cost procedure or its successor. Also, any method incorporated by the railroad shall consider the bridge traffic that moves over the line as well as the traffic that originates or terminates on the line. One suggested approach for the assignment of costs is the use of revenue gross ton miles. This method would use the following procedure.

(a) The total revenue gross ton-miles on the line shall be determined for all shipments that originate and/or terminate on the line and those that move over the line as part of their movement over the surcharging railroad's system (i.e. bridge traffic). This amount shall include all single line as well as joint line shipments.

(b) The reasonably expected costs per revenue gross ton mile, on the line, is calculated by dividing the total reasonably expected costs developed in section 1129.2 of these regulations by the total revenue gross ton miles on the line from paragraph (a) of this section.

(c) The reasonably expected costs shall be assigned to each joint line shipment by multiplying the on line revenue gross ton miles of each joint line shipment by the reasonably expected cost per revenue gross ton mile developed in paragraph (b) of this section.

§ 1129.4 Right of discovery.

In applying the Commission's discovery process (49 CFR 1100.55) to discovery under these rules, the Commission is waiving the requirement that a party first seek the Commission's permission to request discovery. The railroad's failure to respond to a reasonable discovery request will be handled under the procedures contained in 49 CFR 1100.65.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 2729–145]

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NOAA issues these emergency regulations to close the fishery conservation zone off Oregon south of Cape Falcon to commercial and recreational salmon fishing from noon July 30 through September 5, 1982, or sooner if the number of coho taken in excess of the prescribed quotas has been offset by reductions in coho mortality in the fishery conservation zone. This action is taken under section 305(e)(2) of the Magnuson Fishery Conservation and Management Act to prevent further overharvest of coho salmon off the Oregon coast.

DATES: The closure is effective from 1200 hours local time, July 30, through 2400 hours local time, September 5, 1982, or sooner if the number of coho taken in excess of prescribed quotas has been offset by reductions in coho mortality in the fishery conservation zone.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, (Regional Director, National Marine Fisheries Service), 206–527–6150.

SUPPLEMENTARY INFORMATION: Section 305(e)(2) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) authorizes the Secretary of Commerce (Secretary) to promulgate emergency regulations to amend any regulation which implements an existing fishery management plan if he finds that an emergency exists involving any fishery resource.

On July 8, the Secretary issued a field order (47 FR 30078) to close the commercial salmon fishing season in the fishery conservation zone (FCZ) from Cape Falcon to Leadbetter Point (subarea B) because the 100,000-fish coho quota had been taken.

On July 12, the Secretary issued another field order (47 FR 30788) which closed the season for the commercial harvest of coho salmon in the FCZ from Cape Falcon to the Oregon-California border because the 458,000-fish coho quota had been taken. The quota had been reduced from 488,000 to 458,000 as required by 50 CFR 661.22(b)(2) because of the expected additional hooking mortality of coho that would occur in the extended all-salmon-species-except-coho season that would take place in subareas C and D following the closure of the all-salmon-species season.

On July 21, the Secretary issued a field order (47 FR 32154) to prevent further harvest of coho salmon by the recreational fishery in the FCZ off Oregon south of Cape Falcon (subareas C and D) because the 114,000-fish coho quota had been attained. However, a recreational salmon fishery for species other than coho continued in subarea D.

The Secretary issued another field order on July 23 (47 FR 32547), effective midnight, Sunday July 25, to close the recreational fishery in the FCZ between Cape Falcon and Leadbetter Point, Washington (subarea B) because the coho quota of 94,000 for that fishery had been reached in that area. As authorized by 50 CFR 661.22(b)(1) the quota for the recreational fishery in subarea B was reduced from 100,000 to 94,000 because the expected contribution of private hatchery-produced coho to the total ocean recreational fishing harvest was far less than expected.

Although closure of both the recreational and troll fisheries in the FCZ off Oregon was intended to prevent coho harvest in excess of the quotas, catch data through July 26 indicates that the Oregon Production Index (OPI) total allowable catch quotas for both the troll and recreational fisheries by then had been exceeded by 242,000 coho. The Secretary has concluded that the additional harvest of OPI coho coupled with the existing overharvest severely jeopardizes achievement of the spawning escapement for Oregon coastal coho; it constitutes an emergency affecting a fishery resource and must be curtailed. As a result, the Secretary has determined that it is necessary to close the FCZ to all commercial salmon fishing in subareas C and D (Cape Falcon, Oregon, to the Oregon-California border) and to all recreational salmon fishing in subarea D (Cape Blanco, Oregon, to the Oregon-California border) effective noon July 30 through September 5, 1982, or sooner if the number of coho taken in excess of prescribed quotas has been offset by reductions in the incidental hooking mortality of coho in the FCZ. Any termination of these emergency rules prior to September 6 will be announced by notice published in the **Federal Register.**

Classification

The Agency finds for good cause that the reasons for issuing this emergency rule under section 305(e) of the Magnuson Act also make it impracticable and contrary to the public interest to provide notice and opportunity to comment upon, or to delay for 30 days the effective date of this emergency rule, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act.

The NOAA Administrator has determined that this rule is not "major" under Executive Order 12291, and that the situation that justifies issuance of this rule under section 305(e)(2) of the Magnuson Act constitutes an emergency situation under section 8(a)(1) of that Executive Order. NOAA has transmitted a copy of this emergency rule and the regulatory impact review prepared on the 1982 fishery management plan amendment to the Director of the Office of Management and Budget.

The action is not subject to provisions of the Regulatory Flexibility Act insofar as the rules will be published without prior opportunity for public comment. It is covered by the final supplement to the environmental impact statement, for which a notice of availability was published on April 31, 1982.

This emergency rule does not require any Federal collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: July 30, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF CALIFORNIA, OREGON, AND WASHINGTON

For the reason described in the preamble, 50 CFR Part 661 is amended as follows:

1. The authority citation for 50 CFR Part 661 is as follows:

Authority.—16 U.S.C. 1801 *et seq.*

2. In § 661.20, paragraphs (a)(3)(iv) and (a)(4)(iv) are revised to read as follows:

§ 661.20 Commercial fishing.

(a) * * *

(3) * * *

(iv) The season for all salmon species, except coho, continues from the date the commercial coho quota is reached until 1159 hours on July 30, and begins again no later than September 6 and ends on October 31; only the gear specified in § 661.20(b)(3) may be used before September 6, and only the gear specified in § 661.20(b)(2) may be used after September 5.

(4) * * *

(iv) The season for all salmon species, except coho, continues from the date the commercial coho quota is reached until 1159 hours on July 30, and begins again no later than September 6 and ends on October 31; only the gear specified in § 661.20(b)(3) may be used before September 6, and only the gear specified in § 661.20(b)(2) may be used after September 5.

* * * * *

3. In § 661.21, paragraph (a)(4)(ii) is revised to read as follows:

§ 661.21 Recreational fishing.

(a) * * *

(4) * * *

(ii) The season for all salmon, except coho, continues from the date the recreational coho quota is reached until 1159 hours on July 30 and begins again no later than September 6 and ends on October 31.

* * * * *

[FR Doc. 82-20966 Filed 7-30-82; 11:55 am]

BILLING CODE 3510-22-M

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50 CFR Part 662

[Docket No. 2729-144]

Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of final determination.

SUMMARY: This notice announces the final determination of estimated spawning biomass, optimum yield (OY), and associated harvest quotas for the northern anchovy (*Engraulis mordax*) fishery in the fishery conservation zone for the 1982–83 fishing season. The OY and harvest quotas have been determined by application of the formulas in the fishery management plan for the northern anchovy fishery and implementing regulations.

EFFECTIVE DATE: August 1, 1982.

ADDRESSES: Copies of Administrative Report Number LJ–82–16, upon which this determination is based, are available from Alan W. Ford, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford, 213–548–2575.

SUPPLEMENTARY INFORMATION: A preliminary determination of the spawning biomass of the central subpopulation of northern anchovy and preliminary determinations of OY, domestic annual harvest (DAH), and total allowable level of foreign fishing (TALFF) for the 1982–83 fishing season were published in the **Federal Register** (47 FR 30091) on July 12, 1982. The National Marine Fisheries Service (NMFS) Director for the Southwest Region (Regional Director) consulted with the California Department of Fish and Game and the NMFS Southwest Fisheries Center in making these preliminary determinations. Regulations at 50 CFR 662.3 require the Regional Director to announce a final determination on or about August 1 of each year, by notice published in the **Federal Register.**

The preliminary determinations were discussed at a public meeting on July 8 in Terminal Island, California, and at the Pacific Fishery Management Council (Pacific Council) meeting on July 15 in El Segundo, California. During both of these reviews, concern was expressed for the status of the anchovy stock and the need for cooperative fishery management with Mexico. The Council concurred in the spawning biomass determination.

The Regional Director has made a final determination that the spawning biomass of the central subpopulation of the northern anchovy is estimated to be 2,060,000 short tons which is the same as the preliminary estimate. This determination is based on Administrative Report Number LJ–82–16, Southwest Fisheries Center, NMFS. The report is available from the Regional Director at the above address. It documents the method used to estimate the spawning biomass. This estimate is based on an egg production estimate calibrated to the larva census measure which has been used each year since implementation of the fishery management plan (FMP) for the northern anchovy fishery.

Applying the formulas in 50 CFR 662.3 and in the FMP to calculate OY, harvest quotas, expected processing levels, and TALFF, the NMFS has made a final determination for the 1982–83 fishing season that:

1. The OY is 247,000 short tons.

2. The DAH is estimated to be 247,000 short tons which includes 8,500 short tons harvested for use as live bait.

a. The portion of the DAH reserved for nonreduction fisheries is 12,600 short tons; however, non-reduction fishing may exceed 12,600 short tons if the DAH is not achieved.

b. The total harvest limit for reduction purposes is 234,000 short tons.

c. Of the total reduction harvest limit, 10,000 short tons is reserved for the fishery north of Pt. Buchon, California.

d. The extent to which U.S. firms are capable of processing anchovies is estimated to be 238,500 short tons.

e. The amount of northern anchovy available for joint venture processing is zero.

3. The TALFF is zero.

As specified in the FMP, the final determination has been made in consultation with the Pacific Council and a summary of the information on which the estimates are based has been provided to the Council.

This action is taken under the authority of 50 CFR 662.3, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 662

Fish, Fisheries, Fishing.

(16 U.S.C. 1801 et seq)

Dated: July 30, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 82-21040 Filed 7-30-82; 4:11 pm]

BILLING CODE 3510-22-M

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50 CFR Part 671

[Docket No. 2729-143]

Tanner Crab off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the condition of Tanner crab (*Chionoecetes opilio*) in the Bering Sea District of Registration Area J is substantially different from the condition anticipated at the beginning of the fishing year and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce therefore issues this notice of closure of the Bering Sea District to fishing for Tanner crab by vessels of the United States on August 1, 1982, in order to prevent harm to Tanner crab stocks in the Bering Sea District.

DATES: This notice is effective from 12:00 noon Alaska Daylight Time (a.d.t.), August 1, 1982, until 12:00 noon Alaska Standard Time (a.s.t.), February 15, 1983. This notice of closure was filed for public inspection with the Office of the Federal Register on July 30, 1982, at 4:09 p.m. Public comments on this notice of closure are invited until August 16, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustment, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce (Secretary) under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to manage individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level is reached or if certain factors relative to the conservation and management of Tanner crab occur. One of these districts is the Bering Sea District, for which an optimum yield of 39.5 to 91.0 million pounds has been adopted by the North Pacific Fishery Management Council and approved initially by the Secretary. However, on the basis of trawl surveys conducted by the National Marine Fisheries Service in 1981, a guideline harvest range of 16 to 29 million pounds has been estimated.

The season for *C. opilio* Tanner crab began on February 15, 1982, and as of July 18, 1982, 27.2 million pounds have been harvested. The catch per unit of effort (CPUE) has declined from a high for 54 crabs per pot in April to a low of 30 crabs per pot in July, which substantiates the results of the 1981 trawl survey. In addition, reports at landing of crab mortality ("dead loss") have increased to high levels during recent weeks. "Dead loss" is considered to be due to the vulnerability of these crabs to handling and transportation and represents an inconvenience and economic loss to Tanner crab fishermen, since dead crabs must be discarded at sea. The Regional Director has determined that the high incidence of "dead loss" coupled with reduced CPUE necessitates closure of the fishery to preclude harming the resource.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual condition of *C. opilio* Tanner crab stocks in the Bering Sea District is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Bering Sea District to further fishing for Tanner crab after 12:00 noon, ADT, on August 1, 1982, until the next seasonal opening.

For these reasons, the Bering Sea District in Registration Area J, as defined in 50 CFR 671.26(f)(1)(v), is closed to all fishing for *C. opilio* Tanner crab from 12:00 noon, ADT, August 1, 1982, until 12:00 noon, AST, February 15, 1983, at which time the seasonal opening of this district prescribed in 50 CFR 671.26(f)(2)(v) will begin.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through Alaska Department of Fish and Game (ADG&G) procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 543, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other matters

The *C. opilio* Tanner crab stock in the Bering Sea District will be subject to further harm due to overharvest and "dead loss" unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Fishing, Reporting requirements.

(16 U.S.C. 1801 et seq.)

Dated: July 30, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 82-21039 Filed 7-30-82; 4:09 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 150
Wednesday, August 4, 1982

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Pay Rates and Systems (General); Effect of General Pay Increases on Special Salary Rates

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management is proposing a revision to the regulation that determines the relationship of a special rate schedule to the pay schedule of the pay system for which the special rate schedule is authorized. Section 303 of Executive Order 11721 requires that each special schedule be reviewed at least annually and adjustments made as warranted by then current labor market and staffing factors. OPM's regulation provides that, pending the annual review, special rate schedules will be automatically aligned when the regular pay schedule is adjusted. Beginning this year, however, OPM will make all adjustments to special rates effective on the date of the general pay adjustment in October; consequently, it is no longer necessary to align the special rates with the new regular schedule and OMP proposes to revise the regulation governing this alignment.

DATE: Comments must be received on or before September 3, 1982.

ADDRESS: Send or deliver written comments to: U.S. Office of Personnel Management, Compensation Group, Allowances and Special Rates Division, Room 3545, 1900 E Street N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Richard J. Carney, Chief, Allowances and Special Rates Division, (202) 632–8742.

SUPPLEMENTARY INFORMATION: Executive Order 11721 (May 23, 1973) authorizes the Director of the Office of Personnel Management to prescribe the regulations necessary to administer section 5303 of subchapter I of chapter 53 of title 5, United States Code, governing the establishment of special salary rates above the regular pay schedules when private sector pay competition is significantly handicapping the Government's recruitment or retention of well-qualified individuals.

Section 530.307(a) or 5 CFR currently requires that each special schedule be automatically aligned with one or more rates of a revised regular rate schedule that results from a general pay increase. Under the proposed change, each special schedule will be reviewed annually prior to the October general pay adjustment and appropriate revisions will be made in the special salary rates at the time of the October adjustment. Since special rates are set in response to non-Federal pay competition, the special alignment is neither necessary nor appropriate.

OPM is seeking comments on the elimination of the automatic alignment provisions of the current regulations.

Comment Period for Posposed Rulemaking

The Director finds that because of the program benefits to be gained by effecting this change prior to this October's adjustment of special salary rate schedules, good cause exists for setting the comment period on this proposed rulemaking at 30 days from the date of publication.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to pay systems affecting Federal employees.

List of Subjects in 5 CFR Part 530

Government employes, Wages.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

Accordingly, OPM proposes to revise §530.307(a) of 5 CFR to read as follows:

§ 530.307 Effect of general pay increase on special salary rate schedules.

(a) A general revision of the regular pay schedule of the pay system for which special salary rates are authorized under section 5303 to title 5, United States Code, will have no effect on special salary rate schedules. Special salary rate schedules will be reviewed at least annually and adjusted, if warranted, by the Office of Personnel Management.

* * * * *

(E.O. 11721)

[FR Doc. 82–21130 Filed 8–3–82; 8:45 am]
BILLING CODE 6325–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[EDR–444A; Economic Reg. Docket 40772]

Terms or Contract of Carriage Extension of Comment Period

Dated: July 30, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The CAB extends the initial comment period in its rulemaking to set disclosure requirements for airlines that incorporate by reference terms of their contracts with passengers in domestic air transportation. The reply comment period is extended accordingly. Japan Air Lines asked for the extension.

DATES:

Comments by: August 9, 1982.

Reply comments by: August 16, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 40772, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Rules & Legislation, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking (EDR–444, 47 FR 28681, July 1, 1982), the Board proposed rules that would set disclosure requirements for airlines that incorporate by reference some terms of their contracts of carriage with passengers in domestic air transportation. Airlines' domestic tariffs, which now govern such matters, will come to an end on January 1, 1982.

On July 28, 1982, Japan Air Lines (JAL) asked that the date for filing comments be extended from August 2 to August 16, 1982. JAL cited the difficulty in transoceanic communication in meeting the expedited comment schedule of this rulemaking, and the need for thorough analysis and comment on the proposal, which it said may significantly affect it.

Because domestic airline tariffs will no longer exist at the end of this year, the Board is expediting this proceeding so that its decision can be effected by that time. Within those constraints, however, the Board wants to have the benefit of carefully considered comments on this important rulemaking.

For those reasons, and because it does not appear that a brief extension will prejudice any other person or delay Board action in the rulemaking, the total comment period is extended until August 16, with initial comments due on August 9, and reply comments due on August 16. The Board will give full consideration to comments in any form until August 16.

Accordingly, under authority delegated by the Board in 14 CFR 385.20(d), good cause is found to extend the time for filing of comments, and it is hereby extended, as stated above.

List of Subjects in Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer Protection, Law, and Travel.

Regulatory Flexibility Act

The statement required by the Regulatory Flexibility Act (Pub. L. 96–354) about the effect of the proposed rule on small business remains the same as set forth in EDR–444.

(Secs. 204, 404, 411, Pub. L. 85–726, as amended, 72 Stat. 743, 760, 769; 49 U.S.C. 1324, 1374, 1381)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel, Rules and Legislation.

[FR Doc. 82–21148 Filed 8–3–82; 8:57 am]

BILLING CODE 6320–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 740, 741, 742, 743, 744, 745, and 746

Federal Lands Program

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

ACTION: Notice of reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on its proposed rules amending 30 CFR Chapter VII, Subchapter D, the Federal Lands Program, relating to the regulation of surface coal mining and reclamation operations on Federal lands. The initial comment period ended on July 9, 1982, but was extended until July 23, 1982. 47 FR 28706. The comment period is now being reopened in response to commenters who requested that OSM provide additional time for review and comment on the proposed rules in light of the final rules issued by the Minerals Management Service amending 30 CFR Part 211. The commenters expressed concern over possible inconsistencies between the proposed rules amending the Federal lands program and the amendments to 30 CFR Part 211.

DATES: *Written Comments:* The comment period on the proposed rules will be reopened from August 2, 1982, until 5:00 p.m. (Eastern time) on August 16, 1982. *Public Meetings:* Scheduled on request only.

ADDRESSES: *Written Comments:* Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04), Room 5315, 1100 L Street N.W., Washington, D.C.; or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I–04), Room 5315–L, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. *Public Meetings:* OSM Offices in Washington, D.C. and Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; 202–343–5866. *Public Meetings:* 202–343–5866.

SUPPLEMENTARY INFORMATION: OSM published proposed rules amending the Federal lands program on June 9, 1982. 47 FR 25092. The comment period was scheduled to end on July 9, 1982, but was extended to July 23, 1982, in order to assist commenters who indicated that additional time was needed to adequately review and comment on the proposed rules. 47 FR 28706. The comment period is now being reopened because several commenters requested that they be given an opportunity to review and comment on those provisions of the proposed rules that interrelate with the final rules published by the Minerals Management Service at 30 CFR Part 211. 47 FR 33154 (July 30, 1982). In requesting that the comment period be reopened, the commenters expressed concern over the consistency of the two rules, particularly with respect to the requirements of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 181, *et seq.*, and the requirements of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201, *et seq.*

OSM has agreed to reopen the comment period for the sole purpose of receiving comments on the interrelationship between OSM's proposed Federal Lands rules and the final rules published by the Minerals Management Service until August 16, 1982.

Dated: July 30, 1982.

Carl C. Clase,

Deputy Assistant Director, Program Operations and Inspections, Office of Surface Mining.

[FR Doc. 82–21074 Filed 8–3–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 915

Cancellation of Public Hearing on Modified Portion of the Iowa Permanent Regulatory Program

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

ACTION: Cancellation of public hearing.

SUMMARY: Office of Surface Mining Reclamation and Enforcement (OSM) is announcing the cancellation of a public hearing on the adequacy of a program modification submitted to satisfy a condition imposed by the Secretary of the Interior on the approval of the Iowa permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977.

This notice cancels the public hearing but does not alter the time and location at which the Iowa program and proposed amendment are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program element.

Because no one expressed an interest in attending the hearing by July 29, 1982, the hearing has been cancelled.

DATE: The following hearing is cancelled: The public hearing on the proposed modification to the Iowa program, August 10, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Missouri Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION: On July 7, 1982, notice of opportunity for public hearing on the proposed modification to the Iowa program was published in the **Federal Register** (46 FR 6029–6031). The proposed modification is a statutory change required by the Secretary of the Interior in his conditional approval of the Iowa program.

The notice stated that any person interested in making an oral or written presentation should contact Mr. Richard Rieke by July 29, 1982, and that if no person contacted Mr. Rieke to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by July 29, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program element. Written comments must be received on or before 4:00 p.m. on August 13, 1982, to be considered in the Secretary's decision on whether the proposed amendment satisfies the condition imposed on the approval of the program.

Written comments should be mailed or hand-delivered to: Mr. Richard Rieke, Director, Missouri Field Office, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Dated: July 30, 1982.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 82–21077 Filed 8–3–82; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

(40 CFR Part 65)

[A–7–FRL 2168–7]

State and Federal Administrative Orders Permitting Delay In Compliance With State Implementation Plan Requirements; Proposed Approval of Administrative Order Issued By Iowa Department of Environmental Quality to Clinton Corn Processing Co., Clinton, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by Iowa Department of Environmental Quality to Clinton Corn Processing Company. The order requires the company to bring air emissions from its coal-fired steam generators No. 4 and 5 in Clinton, Iowa, into compliance with certain regulations contained in the federally-approved Iowa State Implementation Plan (SIP) by December 31, 1982. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Comments must be received on or before September 3, 1982.

ADDRESSES: Comments should be submitted to Director, Air and Waste Management Division, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joann Heiman or Herry F. Rompage, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374-7131 or (816) 374–7152.

SUPPLEMENTARY INFORMATION: Clinton Corn Processing Company operates a grain processing plant at Clinton, Iowa. The order under consideration addresses emissions from the coal-fired steam generators Nos. 4 and 5 at the facility, which is subject to Subrule 400—4.3(2)b(5) Iowa Administrative Code, Combustion for indirect heating. The regulation limits the emissions of particulates, and is part of the federally approved Iowa State Implementation Plan. The order requires final compliance with the regulation by December 31, 1982, by modifying the overfired air and modifying the mechanical collector tubes. The source has consented to the terms of the order. The source has satisfied increments Nos. 1 and 2, contained in the order.

Because this order has been issued to a major source of particulates emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. The appropriate elements of subsection 113(d) requiring public notice, public hearing, and interim control requirements have been met. It has been determined no monitoring requirements are feasible.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Iowa SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.

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

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

(42 U.S.C. 7413, 7601)

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: May 21, 1982.

William Rice,

Acting Regional Administration, Region VII.

Department of Environmental Quality, Des Moines, Iowa

In the matter of: Clinton Corn Processing Company

Waiver

Clinton Corn Processing Company acknowledges that it is in violation of subrule 400—4.3(2)b(5) I.A.C. and agrees to waive its rights to appeal the issuance and terms of this order under 455B.17 of the Iowa Code. Furthermore, Clinton Corn Processing Company has reviewed Order 81–A–007, believes it to be a reasonable means to attain compliance with the applicable regulations in that it accords with the intentions of Clinton Corn Processing Company regarding steam generators No. 4 and 5 at its plant in Clinton, Iowa and it consents to the terms of the order. Finally, Clinton Corn Processing Company acknowledges that compliance with Order 81–A–007 does not relieve it of the responsibility to comply with the provisions of the Rules of the Department of Environmental Quality.

Dated: February 9, 1982.

Clinton Corn Processing Company,

Jerry H. Meyerson,

Director of Operations.

B. That Clinton Corn Processing shall limit emissions from steam generator #4 and 5 to 0.80 lbs. of particulate/MM Btu heat input until final compliance is achieved as specified in Subparagraph A–5.

C. That Clinton Corn Processing Company, prior to the intiation of on-site construction or installation of emission control equipment required by paragraph A–3, obtain a permit for the proposed equipment or related control equipment from the Permits Section of the Air and Land Quality Division of The Department of Environmental Quality, as defined in subrule 400—3.1 I.A.C.

D. That Clinton Corn Processing Company certify to the Chief of the Air Operations Section of the Air and Land Quality Division of the Department of Environmental Quality no later than seven (7) days after the deadline for completing such increment of progress, whether such increment has been achieved; if an increment has not been achieved by the deadline date, a full report of the reasons why the increment was not achieved and of whether the failure is expected to put the subsequent deadline dates in jeopardy should be submitted.

E. That Clinton Corn Processing Company, 15 days prior to conducting the performance tests required by this order give notice of such scheduled test to the Chief of Air Operations Section to afford him an opportunity to have an observer present.

F. These provisions shall not apply to non-compliance with the provisions of this Consent Order during a period of delay caused by earthquake, flood or other acts of God, fire, work riot, or failure of materials or equipment to be delivered as promised, labor disturbances or other occurrences resulting in impossibility of compliance, upon the showing by Clinton Corn Processing Company to DEQ that such causes for non-compliance were beyond Clinton Corn Processing Company control and were not due to a lack of good faith or diligence. In such case, Clinton Corn Processing Company may petition the Department for suitable changes in the interim and final dates for attaining compliance. In case of disagreement, the parties may petition for administrative and/or judicial review.

Dated: April 5, 1982.

Iowa Department of Environmental Quality,

Allan Stoker,

Acting Executive Director.

Dated Februbary 9, 1982.

Clinton Corn Processing Company,

Jerry H. Meyerson,

Director of Operations.

A public notice was published on February 24, 1982, in the Clinton Herald regarding this order, (and the schedule for compliance contained herein), and a public hearing was held on (none requested) at the Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand Avenue, Des Moines, Iowa.

Before the Executive Director of the Iowa Department of Environmental Quality, Des Moines, Iowa

In the matter of: Clinton Corn Processing Company; Clinton, Iowa. Docket No. 81–A–007.

Whereas Clinton Corn Processing Company has acknowledged that the existing coal-fired steam generators #4 and 5 at their facility in Clinton, Iowa have not demonstrated compliance with the applicable emission standard of 0.60 pounds of particulate/MM Btu heat input by October 1, 1981; as required by subrule 400—4.3(2)b(5) I.A.C.;

Whereas the said subrule is a part of the federally-approved implementation plan applicable to Air Quality Control Region 069 in which the Clinton Corn Processing Company in Clinton, Iowa, is located;

Whereas Clinton Corn Processing Company has acknowledged that it is in violation of subrule 400—4.3(2)b(5) I.A.C. and has agreed to waive its rights to appeal the issuance and terms of this Order under section 455B.17 of the Code of Iowa;

Whereas Clinton Corn Processing Company is hereby given notice that in the event it fails to meet any requirement of this order, it will be subject to civil penalties for such noncompliance; and that since it failed to achieve final compliance with subrule 400—4.(2)b(5) I.A.C. by October 1, 1981, Section 120 of the Clean Air Act as amended (42 USC 7420) requires that it shall be subject to non-compliance penalties;

Whereas after full consideration of relevant facts, including the seriousness of the violation and any good faith efforts to comply the source cannot immediately comply and compliance with the order below is reasonable and expeditious;

Therefore, it is ordered by the Executive Director:

A. That Clinton Corn Processing Company complete the following acts with respect to steam generators #4 and 5 at its plant in Clinton, Iowa, on or before the dates specified.

1. October 7, 1981—Submit final control plan. *Completed.*
2. February 28, 1982—Award bids and execute contracts for emission control equipment.
3. September 1, 1982—Initiate on-site construction or installation of emission control equipment.
4. October 31, 1982—Complete on-site construction or installation of emission control equipment.
5. December 31, 1982—Complete shakedown operations and performance tests on system and achieve final compliance with subrule 400—4.3(2)b(5) I.A.C.

[FR Doc. 82–21033 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 162

[OPP–250031; PH–FRL 2137–8]

Regulations for the Enforcement of the Federal Insecticide, Fungicide and Rodenticide Act; Exemption From FIFRA Requirements for Certain Products Containing Pheromone Attractants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule exempts from regulation under the Federal Insecticide, Fungicide Rodenticide Act all pheromones and identical synthetic chemicals intended for use in pheromone traps and the pheromone traps in which those chemcials are the sole active pesticide ingredient.

DATE: Comments must be received on or before September 3, 1982.

ADDRESS: Comments should bear the document control number OPP 250031 and be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–409, 401 M St., SW., Washington, DC 20460.

Comments will be available for public inspection in Rm. E–107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Franklin D. R. Gee, Product Manager (PM) 17, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Room 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION:

I. Background

FIFRA section 3 requires that all pesticides be registered by EPA before introduction into commerce. As defined by FIFRA section 2(u), a pesticide is "* * * any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest * * *." The Registration, Reregistration and Classification Procedures at 40 CFR 162.3 (ff)(3)(i) include pheromones and synthetic pheromones attractants within the definition of pesticide. Accordingly, pheromones and synthetic pheromones used for "mitigating any pest" by drawing them into traps or disrupting mating have traditionally been subject to the full requirements of FIFRA. However, the very same pheromones and synthetic pheromones intended for use, in traps, for "survey and detection purposes" only, are excluded by 40 CFR 162.3(ff)(3)(ii) from the class of substances defined as pesticides. Hence, these latter uses of pheromones, synthetic pheromones and traps containing these substances have never been subject to any requirements of FIFRA, while uses which make pesticidal claims, yet pose the same environmental effect, have always been subject to these requirements.

II. Agency Determinations

On June 9, 1981, the Agency received a petition from the Pacific Legal Foundation which was acting on behalf of the States of Arkansas, Missouri, Nevada, Oklahoma, Tennessee, and Utah. The petition requested that the Agency exempt pheromones, which act on lepidopterous insects and which are used in traps to control such insects, and also the traps themselves from the requirements of FIFRA. The Administrator is authorized to accomplish the requested exemption by FIFRA section 25(b)(2). That section says:

> The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines * * * to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

The Agency has determined that lepidopterous pheromones intended for use in traps and traps containing them as the sole active ingredient do not differ, for its purposes, from all other pheromones produced by arthropods (i.e., insects, spiders, and mites) and has concluded that pheromones produced by arthropods (henceforth pheromones) and identical chemicals intended for use in pheromone traps and the pheromone traps in which those chemicals are the sole active ingredient are "* * * of a character which is unnecessary to be subject to [FIFRA] in order to carry out the purposes of th[e] Act."

Specifically the Agency has found that:

(1) Use of pheromones and identical synthetic chemicals in traps to help control pest populations results in no significant changes in the background level of these naturally occurring biochemicals. This is true whether the traps serve merely to enclose or entangle the pests or to kill them through use of an additional, but toxic, pesticide ingredient. (Pheromones and identical substances do not kill. They merely attract target pests.)

(2) Use of pheromones and identical synthetic chemicals in traps to help control pest populations results in exposure of man or the environment to the pheromone active ingredient no greater than is experienced when such products are used in traps for purposes of survey and detection of pests. However, pheromones intended for use in traps meant for pest control and the traps themselves are now subject to the requirements of FIFRA, while pheromones intended for use in traps meant for detecting and surving pest populations and the latter traps are not.

(3) Use of pheromones and identical synthetic chemicals in traps intended to survey or to control results in no detectable residues of those pesticides on food.

Consequently, the Agency has concluded that the level of potential exposure of man and environment to pheromones and identical chemicals due solely to their use in traps is negligible. The Agency has further found that:

(4) Pheromones and identical chemicals affect only the target pest. In contrast, conventional pesticides may affect a large variety of pests as well as beneficial insects and other non-target organisms.

(5) Pheromones and identical synthetic chemicals are generally of a class of chemicals which are readily metabolized and degraded by many living organisms and sunlight. Consequently, these pheromones and identical synthetic chemicals do not bioconcentrate and move up the food chain.

(6) Available data suggests that pheromones and identical chemicals exhibit a very low order of acute toxicity to mammals, birds and fish.

Consequently, the Agency has concluded that the degree of potential exposure of man and the environment to pheromones and identical chemicals is very low. Finally the Agency has found that:

(7) Pheromones and identical chemicals may be cost effective for controlling or mitigating certain pests.

(8) Because pheromones and identical synthetic chemicals exhibit target specificity, each pheromone registration yields a legally marketable product for use against one pest. In contrast, conventional pesticides are not generally target specific and one registration of a conventional pesticide may yield a legally marketable product useful against many pests. Thus, a conventional pesticide can have more uses, and users, than a pheromone or identical synthetic chemical can and the cost of registering each pheromone or identical synthetic chemical is generally borne by fewer users than is the cost of registering a conventional pesticide. For this reason regulatory costs represent a much higher percentage of the price a user pays for a pheromone than for a conventional pesticide, and consequently availability and use of these environmentally desirable alternatives may be more discouraged by regulation than is use of conventional pesticides.

For these reasons, the Agency has determined that it is unnecessary and indeed undesirable to continue to subject either pheromones and identical synthetic chemicals intended for use in pheromone traps or the pheromone traps in which those chemicals are the sole active ingredient to any of the provisions of FIFRA in order to accomplish the purposes of that Act.

Use of pheromones and identical chemicals with the intent of disrupting the mating process of pests may artifically raise the concentration of pheromones to which man or the environment may be exposed to levels far above the normal background concentration. Such use requires air permeation by the active chemical. Uses of pheromones and identical chemicals which seek to achieve air permeation are not exempted by this rule.

III. The Exemption

In accordance with the above determination and the authority of FIFRA section 25(b), 5 U.S.C. 136w(b), the Agency is proposing to exempt pheromones and identical chemicals intended for use in pheromone traps and pheromone traps in which those chemicals are the sole active ingredient from all the provisions of FIFRA.

For the purpose of this proposed rule a pheromone is a chemical substance produced by an arthropod which modifies the behavior of other individuals of the same species.

A synthetically produced chemical is identical to a pheromone when the molecular structure(s) of the major component(s) of the synthetic chemical(s) are the same as the molecular structure(s) of the naturally occurring chemical. Minor differences, such as between the stereochemical isomer ratios (found in the naturally occurring chemical compared to the synthetic chemical), will normally not rule out a chemical being classified as identical. Uncertainty regarding whether a synthetically produced chemical is identical to one produced by an arthropod will be resolved by the Agency.

For the purposes of this rule, a pheromone trap is a device containing a pheromone which pheromone trap is used for the sole purpose of attracting and trapping or trapping and killing target arthropods. Pheromone traps must seek to achieve pest control only by reducing the numbers of target organisms through removal of target organisms from their natural environment. The traps defined here contain devices to regulate the rate at which the active pheromone ingredient is volatilized.

This rule proposes creation of a new paragraph (d) in § 162.5 of 40 CFR. This new paragraph (d) is to contain all regulations promulgated to date by the Administrator under authority of FIFRA section 25(b). Section 25(b) gives the Administrator discretion to exempt from the requirements of FIFRA any pesticide which he determines is: (1) Adequately regulated by another Federal agency or (2) of a character which is unnecessary to be subject to FIFRA in order to carry out the purposes of FIFRA.

In accordance with this scheme, paragraph (d)(1) will be entitled "Pesticides adequately regulated by another Federal agency," and former paragraph (b)(6) will be redesignated paragraph (d)(1). Paragraph (d)(2) will be entitled "Pesticides of a character which are unnecessary to be subject to FIFRA," and the exemption proposed today will comprise paragraph (d)(2).

IV. Procedural Matters and Required Regulatory Reviews

A. Review Under Executive Order 12291

Under E.O. 12291, E.P.A. must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it will exempt from regulation under FIFRA manufacturers and distributors of pheromones and identical chemicals intended for use in pheromone traps and manufacturers and distributors of pheromone traps in which pheromones or identical chemicals are the sole active ingredient. This regulation therefore will decrease the costs these producers would have incurred absent this exemption. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Review Under Paperwork Reduction Act

This rule contains no information collection requests. Therefore, the Paperwork Reduction Act of 1980 is not applicable.

C. Review Under Regulatory Flexibility Act

Pursuant to section 3(a) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1165; 5 U.S.C. 60 et seq.), this proposed regulation has been reviewed and it has been determined that a regulatory flexibility analysis is not required since the final regulation will not have a significant adverse impact on a substantial number of small businesses, small organizations, or small governments.

This rule has no known adverse effects on small organizations or small governments. Those pesticide producers affected will benefit from elimination of the burdens, or potential burdens imposed by FIFRA. Increased development and use of these unique environmentally safe pesticides is the expected ultimate consequence of this rule.

D. Statutory Review

In accordance with FIFRA sec. 25, a draft of this proposed rule was submitted to the FIFRA Scientific Advisory Panel (SAP) and subsequently to the U.S. Department of Agriculture. Copies were also supplied to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate. SAP waived its review because it concluded that this proposal raises no issues of substantive scientific concern.

The U.S. Department of Agriculture agreed that this proposal raised no issues from a health and safety viewpoint. The Department did restate for the record its traditional view that the Agency should require and review preregistration efficacy data for all pesticide products. Such oversight is necessary in this case, they believe, to assure the consumer that the traps "are effective for the purpose intended."

The Agency disagrees with the Department of Agriculture's conclusions for two reasons. First, efficacy data would not be required for any pheromones even if they continue to be registered. The Agency currently has a policy, articulated at 40 CFR 162–18.2(d)(2), 44 FR 27938–27940, May 11, 1979, which states the circumstances under which the authority of FIFRA Section 3(c)(5) will be exercised to waive the requirement that efficacy data be submitted. For all pheromones registered to date, as for most other new registrations granted since May 1979, that policy has resulted, and would continue to result, in elimination of any requirement that data specifically bearing upon a product's efficacy be submitted to the Agency by applicants as a prerequisite to registration. The reasons for that waiver are as stated at 44 FR 27938 and will not be repeated here.

Additionally, although applicants to register pesticides intended to control pests of potential significance to human health have in the past been required to support applications with efficacy data, the Agency is now acting to eliminate those requirements in cases where the effectiveness of the pesticide is readily discernible by users. This policy will affect pesticides intended for use against targets such as mosquitoes, lice and flies. If pheromone products are developed to affect such insect targets, they, too, would be free of requirements to generate efficacy data for submission to the Agency before registration.

The reasons for the broadened waiver of the old requirement that efficacy data be submitted to support applications for registration are manifold and can only be summarized here:

The Agency has concluded that the marketplace formed by users of products whose efficacy is readily discernible is able to exercise adequate control to encourage sale of efficacious products. State and local governments continue to require efficacy data and are, along with agricultural agencies and cooperative extension services, better able to establish efficacy of products under predominant use conditions within a State. Manufacturers voluntarily undertake and appraise efficacy studies in order to establish sound scientific grounds for claims they make regarding the effectiveness of their products, because if a pesticide can be proven ineffective for uses about which claims of efficacy are made, litigation, based on implied warranty or product liability causes of action, may result and yield sizable judgments. If, despite the contravening pressure, manufacturers are shown using independent information to persist in marketing pesticides bearing false or misleading

statements, the enforcement capability of the Agency inherent in FIFRA Sections 2(q) and 12(a)(1)(F) can be utilized, and if the claims proposed for a pesticide are known to be unwarranted before a registration is granted, such registration could be denied as per FIFRA 3(c)(5)(A). None of these protections require or justify burdening all applicants with the requirement that they submit efficacy data. For these reasons, the preexisting waiver of the requirement that efficacy data be submitted is being broadened.

The second reason for our disagreement with the Department of Agriculture's comments is brief: The efficacy of pheromone products registered to date has not presented a problem. In summary, efficacy data would not be required for any pheromone products even if they continued to be subject to the provisions of FIFRA for the good and sufficient reasons stated here and at 44 FR 27938. Since efficacy of these products has not to date been a problem, continued subjection to FIFRA cannot be justified for the sole purpose of securing such data. The Agency wishes to assure the Department of Agriculture and the public that the application of the general efficacy data waivers to pheromones and other products has not, to its knowledge, caused significant problems. If and when such problems come to the Agency's attention, the Agency will utilize its reserved authority to address the problem forcefully.

The Honorable George F. Brown, Jr., Chairman of the Subcommittee on Department Operations, Research and Foreign Agriculture, of the U.S. House of Representatives Committee on Agriculture, applauded the Agency for proposing to exempt pheromones intended for use in traps and the traps from the requirements of FIFRA. He did, however, express concern regarding the Agency's offer to resolve uncertainty about whether a synthetic chemical is identical to one produced by an arthropod and accordingly is exempt.

Without further articulation of the criteria and procedure the Agency will use in determining whether a synthetically produced chemical is identical to a naturally occurring pheromone, the Honorable Chairman felt that a potential applicant would be left unacceptably uncertain regarding the all-important question: Will his potential product be exempt?

We agree with the Honorable Chairman that predictability is an attribute without which this proposal is valueless. We can and will further detail the criteria already specified in proposed 40 CFR 162.5(d)(2)(ii), but also do wish to repeat our offer to prospective applicants that Agency assistance and binding decisions will be available to them where necessary.

In proposed § 162.5(d)(2)(ii), the "major component(s) of the synthetic chemical(s)" include only those chemical compounds present in the synthetic mixture of substances which are present to mimic the composition of the naturally-occurring mixture. Other substances will be deemed not major unless they exhibit any toxicological characteristics of note.

The molecular structure of each synthetic compound included in those deemed "major" must be identical to that of a compound produced by an arthropod, except that variations in the stereo chemical isomer ratios are permitted.

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests.

Dated: July 27, 1982.

Anne M. Gorsuch,

Administrator.

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

Therefore, it is proposed that 40 CFR Part 162 be amended as follows:

§ 162.5 [Amended]

1. In § 162.5 paragraph (b)(7) is removed.

2. In § 162.5 paragraph (b)(6) is redesignated without change paragraph (d)(1), and paragraph (d)(2) is added, to read as follows:

§ 162.5 Pesticides required to be registered.

* * * * *

(d) *Exemption from the requirements of FIFRA.* The following pesticides or classes of pesticides are exempted from the provisions of FIFRA, when used in the manner specified:

(1) *Pesticides adequately regulated by another Federal Agency.* A pesticide product that is offered solely for human use and is also (i) a new drug within the meaning of section 201(p) of the Federal Food, Drug and Cosmetic Act, or (ii) an article that has been determined by the Secretary of Health and Human Services not to be a new drug by a regulation establishing conditions for use of the article. Such products are subject solely to regulation by the Food and Drug Administration in accordance with the Federal Food, Drug, and Cosmetic Act and implementing regulations set forth in Title 21 of the Code of Federal Regulations.

(2) *Pesticides of a character which are unnecessary to be subject to FIFRA.* Pheromones and identical chemicals intended for use in pheromone traps and pheromone traps in which those chemicals are the sole active ingredient.

(i) For the purposes of this paragraph a pheromone is a chemical substance produced by an arthropod which modifies the behavior of other individuals of the same species.

(ii) For the purposes of this paragraph a synthetically produced chemical is identical to a pheromone when the molecular structure(s) of the major component(s) of the synthetic chemical(s) are the same as the molecular structure(s) of the naturally occurring chemical. Minor differences, such as between the stereochemical isomer ratios (found in the naturally occurring chemical compared to the synthetic chemical), will normally not rule out a chemical being classified as identical.

(iii) For the purposes of this paragraph a pheromone trap is a device containing a pheromone which pheromone trap is used for the sole purpose of attracting and trapping or trapping and killing target arthropods. Pheromone traps must seek to achieve pest control only by reducing the number of target organisms through removal of target organisms from their natural environment. The traps defined here contain devices to regulate the rate at which the active pheromone ingredient is volatilized.

[FR Doc. 82-21034 Filed 8-3-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2634/P223A; PH-FRL 2181-2]

Glyphosate; Proposed Tolerance; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: This notice corrects a toxicity data information on a proposed rulemaking establishing a tolerance for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodity pineapple.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis

Highway, Arlington, VA 22202, (203–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of April 14, 1982 (47 FR 16051) proposing to establish a tolerance for the combined residued of the herbicide glyphosate (*N*-phosphonomethyl) glycine) and its metabolite, aminomethylphosphonic acid in or on the commodity pineapple at 0.1 part per million.

In the FR Doc. 28–9725 appearing at page 16051, third column, lines 9 through 11, the reference to "the NOEL (no-observed-effect level) of the 2-year rat feeding study" is corrected to read "* * * a 2-year rat feeding study with a NOEL of 31 mg/kg/day and a negative potential; * * *".

Dated: July 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–20861 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 1E2442/P241; PH–FRL 2182–5]

S–2,3,3-Trichloroallyl Diisopropylthiocarbamate; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide *S*-2,3,3-trichlorallyl diisopropylthiocarbamate in or on the raw agricultural commodities annual canarygrass seed and straw. The proposed amendment to establish maximum permissible levels for residues of the herbicide in or on the named commodities was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before September 3, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 1E2442 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Minnesota and North Dakota. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide *S*-2,3,3-trichloroallyl diisopropylthiocarbamate in or on the raw agricultural commodities annual canarygrass seed and straw at 0.05 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. Canarygrass seed is primarily grown for birdseed, the straw is used for animal bedding. Both commodities are potential animal feed items. However, resulting residues in these feed items will be at or below 0.05 ppm, the limit of detection for the straw. There is not expectation of residues of *S*-2,3,3-trichloroallyl diisopropylthiocarbamate in meat, milk, poultry, or eggs. Therefore, there is no expectation of an increased dietary exposure for humans for this use.

The nature of the residues is adequately understood and an adequate analytical method, electron-capture gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before September 3, 1982 that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 1E2442/P241]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

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

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 26, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

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

Therefore, it is proposed that 40 CFR 180.314 be revised by reformatting into alphabetical order and by adding and alphabetically inserting the raw agricultural commodities annual canarygrass seed and straw to read as follows:

§ 180.314 S–2,3,3-trichloroally-diisopropylthiocarbamate; tolerances for residues.

Tolerances are established for residues of the herbicide *S*–2,3,3-trichloroallyl diisopropylthiocarbamate in or on the following raw agricultural commodities:

Commodities	Parts per million
Barley, grain	0.05 (N)
Barley, straw	0.05 (N)
Grass, canary, annual, seed	0.05
Grass, canary, annual, straw	0.05
Lentils	0.05 (N)
Lentils, forage	0.05 (N)
Lentils, hay	0.05 (N)
Peas	0.05 (N)
Peas, forage	0.05 (N)
Peas, hay	0.05 (N)
Wheat, grain	0.05 (N)
Wheat, straw	0.05 (N)

[FR Doc. 82–21036 Filed 8–3–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 64, 65, 67, and 70

[Docket No. FEMA 6335]

National Flood Insurance Program; Intent To Reduce or Eliminate Federal Register Publications

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of intent.

SUMMARY: The Federal Emergency Management Agency (FEMA) gives notice of its intent to reduce the amount of its publications in the **Federal Register** by reducing the size of or by eliminating certain notices and rulemakings under 44 CFR Parts 59–70. The intention is precipitated by the basic informational context, the duplicative nature, and the ever-increasing cost of these publications for the National Flood Insurance Program (NFIP). This will not seriously affect the Agency's dissemination of information since other, more direct avenues are employed and will allow for a reassignment of funds to the emergency management areas of the Agency.

After review and consideration of comments, a notice of proposed rulemaking may be published for the elimination of notices required by regulation. All reductions and eliminations will take effect at the same time, following the expiration of a second period for comment and publication of the final rule.

DATE: Individuals or organizations with comments on this notice should submit them to the address below on or before October 4, 1982.

ADDRESSES: Please send comments to: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: The elimination and reduction of **Federal Register** notices is procedural in nature and has no impact on the quality of the human environment. Therefore, an environmental assessment is not required.

The **Federal Register** notices being eliminated will not affect the Agency's dissemination of information since, in all cases, letter notification is provided directly to the affected communities or individuals involved and copies of the letter notifications are provided to States Agencies, Federal agencies and related organizations. In addition, the Agency publishes, bi-monthly, a "Program Status Book" which lists the current status of each community with regard to NFIP participation and effective flood maps. The **Federal Register** publications recommended for elimination do not put into effect the programmatic actions they cite and have been published in the past as part of the informational effort.

Listed below are the notices, which are intended to be eliminated, and a brief discription of each notices' content. Those marked "notice" would require no regulatory change to 44 CFR; those marked "rule" would have a proposed rule published in the near future to allow for their elimination.

List of Subjects in 44 CFR Parts 59, 64, 65, 67, and 70

Flood insurance, Floodplains.

1. List of communities eligible for sale of insurance under the NFIP (Part 64)—Rule:

This rule is published to show NFIP entry of communities. Letter notification in this action is sent directly to the community and copies of it and information are disseminated to associated State, Federal and private agencies. FEMA's intent is to eliminate this publication with the exception of NFIP suspension withdrawals. Since notices of suspension will continue, withdrawal notices will also continue. Comprehensive listing of NFIP status for all communities will continue to be disseminated via the *Program Status Book.*

2. List of communities with Special Flood Hazard Areas (Part 65)—Rule:

This rule lists effective Flood Hazard Boundary Maps (FHBMs) issued by FEMA. FHBMs are issued directly to the community being mapped and copies of the map are sent to users, State Agencies and affected Federal Agencies. Effective map dates are listed in the Program Status Book.

3. List of withdrawal of Flood Hazard Boundary Maps (Part 65)—Rule:

This publication is necessitated through publication of the rule under #2 above. Identical distribution to the FHBM distribution is effected.

4. Notice of communities with no Special Flood Hazard Areas (Part 65)—Rule:

Communities which are determined to have no significant flood hazard can be brought into the regular phase of the NFIP. Such actions are directly coordinated with the community involved and letter notification is identical to map distributions. A notation in the *Program Status Book* identifies such communities.

5. Notice of communities with minimal Flood Hazards Areas (Part 65)—Rule:

This action is identical in effect and notification procedures with #4 above. Such communities are brought into the regular phase of the NFIP without determination of base (100-year) flood elevations. Maps are printed showing unnumbered A zones and distribution of the map and letter notification to the community is made. A notation in the *Program Status Book* identifies such communities.

6. Notice of communities subject to Section 202 (a) (cumulative list)—Notice:

This notice is published annually and lists all flood prone communities not participating in the NFIP. The list duplicates information published in the *Program Status Book.*

7. Cumulative list of effective Flood Insurance Rate Maps (FIRMs) (Part 65)—Rule:

This publication is also printed annually and lists all currently effective FIRMs. FIRMs are distributed to the community, users, States and associated Federal Agencies at this time of issuance. Current FIRM dates are also printed in the Program Status Book.

8. Notices of Letters of Map Amendment for FIRMs (Part 70)—Rule:

These notices identify individual lots or subdivisions which, due to map scales, appear to be in the Special Flood Hazard Area but, in actuality, are outside its limits. Letter notification is sent directly to the individual property owner (Appellant) and copies are sent to the community, State and associated Federal Agencies. **Federal Register** publication is a duplication of information contained in that letter.

In addition to the elimination of these notices, the Agency also intends to reduce the size of its final rule published under 44 CFR Part 67. This reduction will be accomplished by a change in format. Currently, the format of these rules is identical to proposed rules under Part 67 and includes a table for specific Flood sources in the communities. The base (100-year) flood elevations at selected locations are shown. When no change to the proposed base flood elevations occurs (i.e. no appeal has been received), the final rule will state that the final flood elevation determinations are identical to those proposed for the communities listed. The "table of elevations" will be printed only in final rules for communities which appealed their proposed elevations.

In accordance with Section 1363 of the Flood Disaster Protection Act of 1973,

FEMA also publishes notices of proposed base flood elevation determinations for each community in a locally prominent newspaper. Such publications are required for initiation of ninety day appeal periods. In the past, these notices have been in identical format to notices published in the **Federal Register**, i.e. they contain the "table of elevations".

While it is required that this "table of elevations" appear in the **Federal Register**, it is not required in the local newspaper. Indeed, FEMA has found that the "table of elevations" neither gives the reader a realistic conception of the extent of flooding being delineated nor an idea of the flood profile upon which the delineation a proposed base flood elevations are founded.

Prior to the start of a community's appeal period, FEMA provides the community with copies of the preliminary study and maps. This material gives the best concept of flooding and should be viewed by any community resident or property owner wishing to become aware of the flood information being proposed. In order to encourage this review, FEMA proposes to delete the "table of elevations" in its newspaper notices. In its place, the agency will print the names of flood sources studied in detail, their range of base flood elevation within the community, and the address in the community where the preliminary study and maps are available for review.

Comments of this proposal are sought along with the proposed **Federal Register** publication eliminations and reduction.

Issued: July 27, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-20845 Filed 8-3-82; 8:45 am]

BILLING CODE 6718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[Ex Parte No. MC-158]

Rates for a Named Shipper or Receiver

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; extension of time to file comments.

SUMMARY: In the **Federal Register** of June 30, 1982 (47 FR 28430), the Commission proposed to eliminate the general prohibition, now contained in 49 CFR 1310.7(a)(5) against publishing rates restricted to named shippers, receivers, and locations. Comments were due in this proceeding on July 30, 1982. The purpose of this document is to postpone the due date to August 23, 1982.

DATE: Comments are due August 23, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Interstate Commerce Commission, Office of Proceedings, Room 5340, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

DATED: July 28, 1982.

SUPPLEMENTARY INFORMATION: The due date has been postponed to August 23 at the request of the Drug and Toilet Preparation Traffic Conference and the National Small Shipments Conference. Parties who have already filed comments are free to file supplemental statements by that date; however, such comments cannot reply to previously filed comments.

By the Commission, Reese H. Taylor, Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20992 Filed 8-3-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket Nos. 2706-121 and 2706-122]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The Administrator, National Oceanic and Atmospheric Administration (NOAA), has approved Amendment 2 to the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks. NOAA issues this proposed rule to implement the amendment, makes available copies of the plan amendment, and requests comments on the amendment and regulations. The proposed implementing regulations: (1) Close one area of the Atlantic Ocean for foreign longline operations from June through November; (2) establish compensatory payments for incidentally-caught billfishes; (3) revise the treatment of prohibited species; and (4) require foreigners to stay out of broadcast fixed gear areas. The intended effects of these regulations are to make available additional billfishes and sharks for domestic fishermen and to reduce gear conflicts between U.S. and foreign fishermen.

DATES: Comments on §§ 611.60 and 611.61(b) must be submitted on or before August 15, 1982. Comments on the remainder of the proposed rulemaking must be submitted on or before October 4, 1982.

ADDRESSES: Send comments to Donald J. Leedy, F/CM6, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Copies of the Amendment, environmental assessment, and Regulatory Impact Review are available from Mr. Leedy.

FOR FURTHER INFORMATION CONTACT: Donald J. Leedy 202-634-7449 or Michael E. Justen, 813-893-3721.

For information on the revised treatment of prohibited species, contact: Gary Wood, 202-634-7265.

SUPPLEMENTARY INFORMATION: The Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks (PMP) was approved under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and published on January 27, 1978, at 43 FR 3818. It was amended on November 28, 1978, at 43 FR 51053. The Assistant Administrator for Fisheries, NOAA, has approved Amendment 2 to amend the PMP. Amendment 2 imposes new restrictions on foreign vessels fishing under ABS permits.

The PMP recognizes that the Magnuson Act does not give the United States authority to manage tuna. The Magnuson Act does give the United States the authority to manage and conserve the billfish and shark stocks. Billfishes are taken in a directed fishery by U.S. fishermen and as an incidental catch in the foreign longline fishery for tuna. Although billfishes taken by foreign longliners must be released, 60-70 percent of the fish die, depending on the species. Since the foreign longline fleet intercepts a substantial number of these fish, there is an adverse impact on the U.S. fisheries.

Amendment 2 addresses the problems of decreased availability of billfishes to U.S. fishermen and gear conflicts between U.S. and foreign fishermen. Domestic-foreign conflicts occur because (1) a foreign target species (e.g., bluefin tuna) is often found in greatest abundance at locations also favored by billfishes that attract U.S. commercial and recreational fishermen, (2) foreign tuna longlines drift into buoys marking the location of domestic deepwater crab and lobster traps and domestic bottom

longlines and also entangle domestic pelagic longlines, and (3) foreign tuna vessels and their gear preempt the fishing grounds.

1. Area Closures

To reduce the number and intensity of such conflicts in three major areas within the Atlantic FCZ, Amendment 2 would prohibit the incidental catching of billfishes by foreign vessels as follows:

Gulf of Mexico Area, May 1 through December 31
Atlantic Area I (south of Cape Lookout), June 1 through September 30
Atlantic Area II (north of Cape Lookout), June 1 through November 30

In addition to the above areas, a specific area off the Dry Tortugas in the Gulf of Mexico would be closed to the incidental catching billfishes and sharks throughout the year.

Each of these closures took into account the location and scope of domestic-foreign conflicts that have occurred, the reduction in availability of billfishes which reportedly resulted from foreign tuna fishing, the intention of U.S. fishermen to harvest billfishes in these areas during certain seasons, and the maintenance of a reasonable opportunity for foreign nations to fish for tunas in the FCZ.

The Atlantic areas generally extend out to 100 miles because most of the U.S. commercial and recreational fishing is conducted within 100 miles offshore due to location of fishing grounds and the limited operating range of recreational vessels. Except for the FCZ off southern Florida, which is less than 200 miles offshore, foreign tuna longliners would be allowed to fish beyond 100 miles, under permit, with an incidental catch of billfishes and sharks at any time. The majority of tuna longline sets by foreign vessels are made beyond 100 miles, or during the periods the Atlantic areas would be open to foreign tuna fishing inside 100 miles; however, foreign vessels previously have been able to seek out and harvest tunas wherever local concentrations could be found in the FCZ.

The Assistant Administrator, NOAA, has decided to propose the closure of Atlantic Area II to foreign longlining for fish other than sharks. There is no present need, however, to implement the seasonal closures of the Gulf of Mexico and south Atlantic (i.e., Atlantic Area I) or the year-round closure of the Dry Tortugas Area. The new International Convention for the Conservation of Atlantic Tunas (ICCAT) restrictions prohibit a directed fishery on bluefin tuna spawning stocks in the Gulf of Mexico. As a result, domestic-foreign tuna longline conflicts and incidental billfish catches that would reduce the availability of billfishes to U.S. fishermen are not current problems in the Gulf. In addition, the Japanese voluntary agreement not to conduct a summer fishery for yellowfin tuna reduces any need for the imposition of additional Federal regulations for the seasonal Gulf-wide closure. Should the voluntary agreement be terminated, the two Gulf closures could be implemented promptly to prevent adverse effects to the domestic commercial and recreational fisheries in the Gulf of Mexico.

The seasonal closure in Atlantic Area I does not need to be implemented at this time because there has been very little Japanese tuna fishing in the Atlantic FCZ south of Cape Lookout. However, should U.S. commercial and recreational fishing activities be adversely affected by an unanticipated increase of foreign tuna fishing, whether a result of local seasonal abundance of tunas or a significant shift in fishing effort from other areas within the FCZ, this measure could be implemented promptly.

Closure of Atlantic Area II is needed this year because 92 Japanese tuna vessels have been permitted and some of them began fishing off the Atlantic coast in July as the bluefin tuna started their migration northward along the coast.

A foreign longline tuna fishery off the Atlantic coast would result in conflicts with domestic commercial and recreational fishermen. An analysis of documented conflicts off the Atlantic coast during 1980–81 indicates 52 conflicts occurred that might have been prevented by the closure of Area II. Based on comments from the U.S. commercial and recreational fishing industries and recreational fishermen, other incidents occurred involving preemption of fishing grounds and reduced catch rates, which cannot be verified as can gear or vessel damage. The closed area/season is timed to include the prime billfish recreational fishing period and to protect most of the commercial fishing activities, especially domestic longlining, north of Cape Lookout.

Comments will be accepted for 15 days on the proposed closure of Atlantic Area II, so that it could be implemented before the end of the fishing season. Comments on the following proposals will be accepted for 60 days.

2. Avoiding U.S. Gear

The provisions of 50 CFR 611.11(b) require foreign vessels to maintain a current plot of U.S. broadcasts of fixed-gear locations. The proposed regulations would prohibit foreign longlining in broadcast fixed-gear areas. The regulations specify the times and frequencies of U.S. Coast Guard broadcasts of fixed-gear locations.

3. Reducing the Incidental Catch of Prohibited Species

The incidental catch of prohibited species, especially billfishes, is unacceptably high in the foreign longline fishery. Based on U.S. observer data during 1978 through 1980, the foreign longline fleet caught 12,062 billfishes in the Gulf of Mexico and 22,210 billfishes in the Atlantic Ocean. Sixty to 70 percent of these died and were lost to the U.S. fishery.

The best scientific information available indicates that the blue marlin stock is over-exploited. NOAA believes stocks of white marlin, swordfish, sailfish, and longbill spearfish should be maintained at current levels. Therefore, a new management system is proposed to reduce the incidental catch in the foreign fishery. Alternatives to this system are discussed in the regulatory impact review (RIR), available at the address above.

Compensatory payments will be assessed for each billfish hooked incidentally. No retention of any billfishes will be allowed. These payments compensate the United States for social harm to U.S. commercial and recreational fishermen through hooking mortality. The compensatory payment will be applied to hooked billfishes that are apparently dead when released. The performance of the foreign tuna fleet, with respect to hooking and hook mortality, will be monitored by NMFS through U.S. observers. The compensatory payment will be based on the current hooking data and applied to the tuna fleet of each nation fishing in the FCZ.

NMFS has placed a value of $272 on each swordfish and $500 per fish on all other billfishes. The swordfish value is based on the average whole weight and 1981 U.S. exvessel price per pound of $2.27 for swordfish. The swordfish compensation in subsequent years will be based on the most recent average exvessel price as published by NMFS.

There is no market value for other billfishes because marine recreational fish are non-priced commodities. The compensation represents the consumer surplus; that is, the amount recreational fishermen would be willing to pay, above their current costs to fish for billfishes, rather than to stay home. The 1979 NMFS marine recreational survey provided a limited data base of U.S.

anglers seeking marlin. A demand curve using sound economic theory constructed from the best available scientific information provided an estimate of $500 as the willingness to pay for an additional trip for recreational fishing for marlins. This amount was applied to sailfish and spearfish as well. The compensation in subsequent years may be modified based on changes in the Consumer Price Index and the availability of data from more recent NMFS recreational surveys.

A letter of credit will be the instrument for compensatory payments. It will be combined with the letter of credit used for poundage fees (see § 611.22).

4. Treatment of Prohibited Species

The current regulations require that all prohibited species be released with a minimum of injury. Billfishes and prohibited sharks must be released by cutting the line while the fish is in the water, or by "other appropriate means." The phrases "minimum of injury" and "other appropriate means" are ambiguous and are interpreted differently by foreign fishermen, observers, authorized officers, and other U.S. officials. The regulations are intended to prevent increased mortality of incidentally-caught species because of rough handling, especially hook-jerking.

It is proposed to amend the regulations to allow foreign longline fishermen to release all prohibited species, except billfishes and sharks, in any convenient manner. However, the regulations would clarify that billfishes and prohibited sharks must be released by cutting the line while the fish is still in the water. All prohibited species must be released immediately and at the surface of the water so the observer can identify the species.

The annual foreign longline catch of prohibited species other than billfishes and sharks is approximately 8,100 fish. Of these, approximately 7,600 are fish of little or no commercial or recreational value, such as oilfish, stingrays, and lancet-fish, and about 500 are more important fish such as dolphinfish, wahoos, and king and frigate mackerels. NOAA does not believe that the fishery resources would suffer by allowing the foreign longline fishermen to release these prohibitied species by other means than cutting the line.

Classification

NOAA has prepared a Regulatory Impact Review (RIR), incorporated within the amendment, that discusses the economic consequences and impacts of the proposed regulations to implement Amendment 2 to the PMP, and alternative regulatory actions. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the proposed regulations do not constitute a major rule under E.O. 12291. The RIR demonstrates that the proposed rules comply with the requirements of Section 2 of E.O. 12291. NOAA has complied with the requirements of Section 3(c)(3) of E.O. 12291 by transmitting to the Director of the Office of Management and Budget a copy of this proposed non-major rule, to allow for a 10-day review before publication.

The regulations associated with this amendment will have a significant impact on a substantial number of small entities. The PMP governs foreign nations fishing in the FCZ, but the domestic recreational industry and commercial fisheries will benefit through anticipated increased recreational fishing success, more efficient commercial fishing, and reduced gear damage.

The RIR/Initial Regulatory Flexibility Analysis is an integral part of the PMP. The analysis discusses in general terms and quantifies, where possible, the impacts of the proposed and alternative management measures. In view of the area closures and compensatory payment system, the beneficial impacts of the PMP cannot be quantified until the season is over. In general terms, the benefits are expected to include increased recreational fishing success, more efficient commercial fishing for small businesses, and reduced gear conflicts for small businesses. U.S. fishermen and small businesses are not expected to incur any compliance or reporting burdens.

An environmental assessment of Amendment 2 has been prepared under the requirements of the National Environmental Policy Act. The environmental assessment, which concludes that the Amendment will not have a substantial environmental impact, was released for public review and filed with the Environmental Protection Agency on July 13, 1982.

These proposed rules contain no information collection provisions, for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: July 30, 1982.

William G. Gordon,

Assistant Administrator, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For the reasons set out in the preamble, it is proposed to amend 50 CFR 611 as follows:

1. The authority citation for Part 611 is:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Sections 611.15, 611.60, and 611.61 are amended by retitling § 611.15 and revising paragraph (a)(8) of that section; by revising §§ 611.60(d) and 611.61 (b) and (c); and by adding to § 611.61 new paragraphs (f) and (g) to read as follows:

§ 611.15 Cancelling fishing authorizations.

(a) * * *

(8) The owner or operator of the fishing vessel has not established and maintained the letter of credit required in § 611.22(a)(2)(ii) or § 611.61(f).

* * * * *

§ 611.60 General provisions.

* * * * *

(d) *Open area.* Except for the closed areas set forth in paragraph (e) of this section, § 611.61(b) and § 611.62(b), foreign fishing authorized under this subpart may be conducted in that portion of the FCZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea.

* * * * *

§ 611.61 Atlantic billfish and sharks fishery.

* * * * *

(b) *Area and seasons.* (1) Except as provided in paragraph (b)(2) of this section, foreign fishing under this section may be conducted throughout the year. Retention of sharks will terminate when the applicable national allocation has been reached. The closure provisions of § 611.15 (a)(1) through (a)(7) do not apply to this section.

(2) Longlining by foreign vessels fishing for species other than sharks is prohibited from June 1 through November 30 west and north of the line defined by the following coordinates in the order listed:

Point	N. latitude	W. longitude
1	41°14'30"	65°32'30"
2	40°00'00"	67°39'30"
3	39°32'00"	70°52'30"
4	37°54'00"	73°05'00"
5	34°50'00"	73°34'00"

Point	N. latitude	W. longitude
6	34°50'00"	(shore at 34°50'00" N. latitude)

(c) *Prohibited species.* Unless otherwise specifically instructed by a U.S. observer or Authorized Officer, and instead of following the procedures of § 611.13(b):

(1) No species may be released below the surface of the water;

(2) All prohibited species must be released regardless of the condition of the fish; and

(3) All billfishes and all prohibited sharks must be released by cutting the line without removing the fish from the water.

* * * * *

(f) *Conpensatory payment.* (1) If a vessel owner or operator chooses to longline under an ABS permit, a confirmed, irrevocable letter of credit must be established under the procedures of § 611.22(a)(2) before the permit is issued. The compensatory letter of credit must be combined with the poundage fee letter of credit.

(2) Compensatory payments may be assessed quarterly as the mortality rate is calculated from U.S. observer data. The payment is $272 per swordfish and $500 per all other billfishes.

(g) *Fixed gear avoidance.* (1) No foreign fishing vessel subject to this section may conduct longline fishing in any fixed-gear area broadcast by the Coast Guard (see § 611.11 and paragraph (g)(2) of this section). Broadcasts of fixed-gear areas will include a buffer zone around the actual reported locations of the fixed-gear.

(2) The locations (latitude and longitude) of fixed-gear areas north of Cape Hatteras are broadcast at 1350 G.m.t. on the first day of each month by Coast Guard Communications Station Boston (NMF) on 472 kHz radiotelegraphy. The list of areas is updated each day at 1350 G.m.t. All broadcasts are numbered sequentially by month, day, and year. A printed monthly summary of fixed-gear information is available from Commander (Aol), Coast Guard Atlantic Area, Governors Island, New York, NY 10004. Telephone 212–668–7877; Telex 126831.

[FR Doc. 82-21078 Filed 8-3-82; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 150
Wednesday, August 4, 1982

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

Office of the Secretary

Forms Under Review by Office of Management and Budget

July 30, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extentions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

- Food and Nutrition Service

Special Distribution of Surplus Commodities
On occasion and monthly
Individuals or households, state or local governments, businesses or other institutions: 2,451 responses; 3,236 hours; not applicable under 3504(h)
Donald McCreary (703) 756–3660

- Agricultural Stabilization and Conservation Service

Experimental Rural Clean Water Program (RCWP)—Request for RCWP Contract RCWP–1
On occasion
Farms: 2,695 responses; 1,287 hours; not applicable under 3504(h)
Charles Sims (202) 447–9563

- Farmers Home Administration

7 CFR Part 1926–A, Real Property Insurance
FmHA 426–2 and FmHA 426–7
On occasion
Individuals, farms, businesses: 375,214 responses; 60,066 hours; not applicable under 3504(h)
Jewel C. Lockhart (202) 447–4572

Revised

- Food and Nutrition Service

Monthly Report of the Child Care Food Program and Summer Food Service Program for Children
FNS–44 and FNS–44A
Monthly
State or local governments: 1,512 responses; 5,292 hours; not applicable under
Alan Rich (703) 756–3810

Extension

- Agricultural Stabilization and Conservation Service

Data for Farm Reconstitution and for Farm and Producer Record Change
ASCS–115 and ASCS–115–1
On occasion
Farms: 900,000 responses; 450,000 hours; not applicable under 3504(h)
Alex King (202) 447–4542

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc 82–21001 Filed 8–3–82; 8:45 am]
BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

[Order 82–7–100; Docket 40873]

Arrow Airways, Inc., Tampa-London; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of July, 1982. Application of Arrow Airways, Inc., for an exemption from the provision of section 401 of the Federal Aviation Act of 1958 as amended. (Tampa-London).

On July 23, 1982, Arrow Airways, Inc. filed an application for an interim exemption from section 401 of the Act to permit the carrier to engage in scheduled foreign air transportation of persons, property and mail between Tampa, Florida, and London, and points beyond, pending a decision on its simultaneously filed application for certificate authority to serve the same points in Docket 40872. Arrow argues that there is an immediate need for nonstop U.S. flag scheduled service between Tampa and London; that Laker Airways, which had been designated by the United Kingdom to serve the market, ceased all flight operations February 5, 1982; that Tampa has been without nonstop service since that time; that there is a large pool of traffic which has been inconvenienced and travel plans which have been interrupted because of the lack of service; and that in response to this unfilled need, Arrow proposes to operate two weekly round trip flights in the market with DC–8–62 aircraft. Arrow contends that no other realistic gateway other than Tampa is available and that no carrier has applied to serve from another new gateway. Therefore, Arrow states that Tampa should be selected as the United States gateway choice for 1982. Arrow requests that we choose Tampa prior to July 31, 1982, since otherwise under the terms of the United States-United Kingdom Air Services Agreement (Bermuda 2,) it will not be able to begin operations in 1982.

Under the amendments to Bermuda 2 agreed to by the United States and the United Kingdom, both the United States and the United Kingdom can nominate a city to receive nonstop U.S.-U.K. service in 1982.[1] The United Kingdom has the first choice, which it has exercised, and the United States, the second. For service to begin before the end of 1982, however, the United States' choice must be made by July 31, 1982. Otherwise, the U.S. flag carrier loses its right to begin service this year. The choice of the gateway point, however, can be changed by the U.S. as long as the change is made by October 31, 1982.

We have tentatively concluded that Tampa should be selected as the United

[1] Choices are also available for 1983 and 1984 services.

States gateway choice for 1982. All interested persons are requested to show cause why our tentative findings and conclusions stated in this order should not be made final.

Our tentative decision is based on two principal factors. First, the selection of Tampa is consistent with our policy of maximizing the use of rights provided for under bilateral agreements. Indeed, at this time, Tampa appears to be the only option that we have of exercising our rights under the Bermuda 2 to have a service at a new U.S.-London gateway implemented in 1982. Although we had announced that we would recommend to the Department of State that Newark be chosen as the 1982 gateway and chose Air Florida as the carrier to provide the service, there does not seem to be any reasonable prospect that Air Florida will be able to implement service during 1982.[2] We have received no applications for service to a new gateway point in 1982 other than Tampa. Second, the selection of Tampa should benefit the traveling and shipping public. Tampa has long expressed an interest in nonstop service to London, and in fact was one of the leading candidates for designation as a new U.S.-London gateway in the *U.S. London Case (1982)*, Docket 37937. Indeed, between March 1981 and February 1982, Tampa received nonstop service to London from Laker Airways.

To obtain the right for a U.S. carrier to begin service in 1982, we must, under the terms of Bermuda 2, notify the United Kingdom that we are choosing Tampa by July 31, 1982. To meet this extremely tight deadline, objections and answers to our tentative findings and conclusions must be filed with us by the close of business on July 29, 1982. If we do not have any objections to our action by that time that cannot be resolved without further procedures, we shall issue a final order requesting that the State Department notify the United Kingdom that the United States is nominating Tampa for nonstop service in 1982.

As indicated above, the purpose of this order is to preserve our right under Bermuda 2 to have a U.S. flag carrier begin service in 1982. This order should not be construed as expressing any views on any future U.S.-London gateway designation decisions, on Arrow's requests for Tampa-London authority or on any proceeding now pending before the Board. We will respond to the applications after we have reached a final decision on the selection of Tampa and have fully considered the pleadings filed in response to Arrow's applications.

Accordingly.

1. We direct all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions here;

2. We direct all interested persons having objections to the issuance of an order making final any of the proposed findings and conclusions to file in Docket 40873 and serve upon all parties listed in paragraph 5 no later than the close of business on July 29, 1982, a statement of objection together with a summary of testimony, statistical data, and other material expected to be relied upon;

3. If timely and properly supported objections are filed, we will give consideration to the matters and issues raised by the objections before we take further action; provided, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues present that warrant the holding of an oral evidentiary hearing or the institution of discovery procedures;

4. In the event no objections are filed, we will deem all further procedural steps to have been waived, and the Secretary shall enter an order which shall make final our tentative findings and conclusions; and

5. This order shall be serve upon all certificated air carriers, the United States Departments of State and Transportation; the Ambassador of the United Kingdom at Washington, the Port Authority of New York and New Jersey, the Greater Newark Chamber of Commerce, the Governor of New Jersey and the Mayors of Newark and Elizabeth, New Jersey and Tampa Bay, Florida.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-21067 Filed 8-3-82; 8:45 am]

BILLING CODE 6320-01-M

[2] As noted, Bermuda 2 provides that the United Kingdom could choose a 1982 U.S. gateway before the United States. The United Kingdom picked Newark, selected British Air Tours to provide the service, and invoked the market developmental protection provisions of the Agreement, which serve to preclude new U.S. entry. B.A.T.'s right to market protection under the Agreement is disputed by Air Florida, among other interested persons, and is the subject of inter-governmental discussions and at issue in B.A.T.'s request for a foreign air carrier permit. The pendency of the unresolved market protection issue, has as a practical matter, precluded new U.S. entry at Newark up to this point.

[3] All members concurred.

[Docket 40269]

Visit USA Fare/Export Inland Contract Rate Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 2, 1982, at 2:00 p.m. (local time) in Room 1012, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., July 29, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-21068 Filed 8-3-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on September 9, 1982, at the Sheraton Waterfront, 200 Coosa Street, in the Seaboard Room, Montgomery, Alabama, 36104. The purpose of this meeting will be to orient the newly rechartered State Advisory Committee, review the Commission project: Rural South and discuss program plans for Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Abigail Turner, Post Office Box 2963, Mobile, Alabama, 36601; (205) 433-7409 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303; (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 30, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-21069 Filed 8-3-82; 8:45 am]

BILLING CODE 6335-01-M

Florida Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 12:30 p.m. and will end at 3:30 p.m., on August 26, 1982, at the

Sheraton Tampa Hotel, 515 East Cass Street, in the Oceola Room, Tampa, Florida, 33602. The purpose of this meeting will be to discuss the State Advisory Committee Chairperson's Conference and program planning of the Committee's activities for Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Teresa Saldise, 815 South West Thirteenth Court, Miami, Florida, 33135; (305) 856–1363 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303; (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 30, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–21070 Filed 8–3–82; 8:45 am]

BILLING CODE 6335–01–M

Mississippi Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission will convene at 12:30 p.m. and will end at 3:30 p.m., on August 25, 1982, at the Quality Inn, 225 East Capitol, in the Directors Room, Jackson, Mississippi, 39205. The purpose of this meeting will be to discuss the State Advisory Committee Chairperson's Conference and program planning of the Committee's activities for Fiscal Year 1983.

Persons desiring additional information should contact the Chairperson, Mary L. Ramberg, 1514 Gay Street Jackson, Mississippi, 39211; (601) 355–1175 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303; (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 30, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–21071 Filed 8–3–82; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 3:30 p.m., on August 31, 1982, at the Gressette Senate Office Building, State Capitol Complex in Room 607, Columbia, South Carolina 29201. The purpose of this meeting will be to discuss the State Advisory Committee Chairperson's Conference and the proposal for studying educational block grants.

Persons desiring additional information should contact the Chairperson, Dr. Oscar P. Butler, Jr., Post Office Box 1705, South Carolina State College, Orangeburg, South Carolina 29117; (803) 536–7040 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia 30303; (404) 22–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 30, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–21072 Filed 8–3–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Office of Economic and Statistical Affairs

Performance Review Board; Listing of Individuals

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Economic and Statistical Affairs Senior Executive Service (SES) Performance Appraisal System:

Barbara Bailar
Kenneth M. Brown
William A. Cox
Frank deLeeuw
Lucy A. Falcone
George Jaszi
Shirley Kallek
Frederick T. Knickerbocker
Daniel B. Levine
Martin Marimont
Jerome Mark
Margaret Martin
Stanley D. Moore
Beatrice N. Vaccara
Charles A. Waite
Katherine K. Wallman
Allan H. Young
C. L. Kincannon

Jo Ann Sondey-Hersh,

Executive Secretary, Office of Economic and Statistical Affairs, Performance Appraisal System.

[FR Doc. 82–20911 Filed 8–3–82; 8:45 am]

BILLING CODE 3510–35–M

International Trade Administration

Amended Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Amended preliminary countervailable duty determinations.

SUMMARY: On June 10, 1982, the Commerce Department issued preliminary affirmative determinations which included a preliminary decision that the production cost compensation benefits conferred by the government of the Federal Republic of Germany on coking coal are not a countervailing subsidy to the German steel industry, within the meaning of 19 U.S.C. section 1671 *et seq.* The rationale stated in the preliminary determinations for this decision was factually incorrect.

Pursuant to court order, we are amending the preliminary affirmative determinations to include the net subsidy provided under the coking coal price support program, based on information in the record of these investigations as of June 10, 1982. The amount of this net subsidy is added to the amount of other countervailable subsidies indicated for each firm in the "Suspension of Liquidation" section of the preliminary affirmative determinations made on June 10, 1982.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone 202–377–2438.

SUPPLEMENTARY INFORMATION: The Department of Commerce ("Department") published in the Federal Register of June 17, 1982 (47 FR 26321) "Preliminary Affirmative Countervailing Duty Determinations: Certain Steel Products from the Federal Republic of Germany." Regarding petitioner's allegations that the cost compensation benefits conferred by the Federal Republic of Germany ("FRG") on the production of coking coal constitute countervailable subsidies on steel, the

Department concluded that FRG assistance to the coking coal industry was not a subsidy to the German steel industry.

The Department now concludes that the rationale stated in the preliminary determinations for the conclusion regarding the FRG coking coal price support program (that is, that the program is not industry-specific) was not supported by the administrative record as of the date of the preliminary determinations (June 10, 1982). Contrary to our stated rationale, Ruhrkohle received cost compensation benefits from the government of the FRG only on the production of coking coal used in the production of iron and steel. Therefore this assistance is industry-specific.

Pursuant to court order, the Department amends its preliminary affirmative determinations to include the coking coal price support subsidy provided by the government of the FRG to manufacturers, producers, and exporters in the FRG of the certain steel products under investigation. (See notice of "Preliminary Countervailing Duty Determinations: Certain Steel Products from the Federal Republic of Germany" (47 FR 26321, 26325 June 17, 1982)). We have calculated the average amount of coking coal used to produce a ton of steel in order to determine the ratio of the benefit on coking coal to the average price per metric ton of the products under investigation. During 1981, the FRG production cost compensation benefit was 17.50 DM per ton of coking coal. Consequently, we find that the amount of the subsidy is 1.76 percent *ad valorem*, based on information in the record at the time of the preliminary affirmative determinations (June 10, 1982), and we have added this amount to that of subsidies indicated for each firm in the "Suspension of Liquidation" section of the original notice (47 FR 26321).

Accordingly, pending our final determinations, we are directing the U.S. Customs Service, in accordance with section 703(d) of the Tariff Act of 1930, as amended, to continue to suspend liquidation of entries of carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip and for entries which are or have been entered, or withdrawn from warehouse, for consumption on or after June 17, 1982, and to require a cash deposit or bond for each such entry of the merchandise in the amounts indicated below:

	Ad valorem rate
Manufacture/Producer/Exporter:	
AG der Dillinger Huttenwerke	2.331
Stahlwerke Peine-Salzgitter AG	5.363
Klockner-Werke AG	2.529
Stahlwerke Rochling-Burbach GmbH	10.383
Fried. Krupp Huttenwerke AG (Now Krupp Stahl AG)	2.400
Otto Wolff AG	2.511
Estel Hoeschwerke AG (Now Hoesch Werke AG, Hoesch Huttenwerke AG, Hoesch Hohenlimburg AG, Hoesch Siegerlandwerke, AG)	2.109
Thyssen AG	1.938
All Other FRG Manufacturers/Producers/Exporters:	
Carbon Steel Structural Shapes	10.383
All Other Products: hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip	5.363

Entries of these products produced and exported by Estel Hoesch-Werke AG and Thyssen AG, which were excluded from the earlier requirement of suspension of liquidation, are now included in such requirement until further notice. To the extent that any such entries, made on or after June 17, 1982, remain unliquidated, liquidation will be suspended and an appropriate cash deposit or bond required.

Where a company specifically listed above has not exported a particular product during the period for which we are measuring subsidization, the cash deposit or bond amount should be based on the highest rate for products that were exported by that company.

Judith Hippler Bello,

Deputy to the Deputy Assistant Secretary for Import Administration.

June 30, 1982.

[FR Doc. 82-21043 Filed 8-3-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Textiles and Textile Products From Argentina; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On June 4, 1982 the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Argentina, specifically men's and boys' woolen apparel. The review covered the period January 1, 1980 through December 31, 1980. There were no known shipments of this merchandise to the United States during this period and there are no known unliquidated entries.

Interested parties were invited to comment on the preliminary results. We received no comments. Therefore, the Department shall require a cash deposit of estimated countervailing duties equal to the net subsidy calculated in the original investigation, 3.23 percent of the f.o.b. invoice price of the merchandise, on all shipments of this merchandise entered on or after the date of publication of this notice.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-1775/2786).

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 24377) the preliminary results of its administrative review of the countervailing duty order on certain textiles and textile products from Agentina (T.D. 78-445, 43 FR 53421). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are men's and boys' wollen apparel imported from Argentina. Such apparel is currently classifiable under the items of the Tariff Schedules of the United States Annotated (TSUSA) listed in the Appendix to this notice.

The review covers the period January 1, 1980 through December 31, 1980. We reviewed two programs: (1) The *reembolso*, a cash rebate of indirect taxes, paid as a percentage of the value of the exported merchandise, found countervailable in the final determination; and (2) a preferential financing program found countervailable in another investigation. There were no known shipments of this merchandise during the period of review and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on our preliminary results. We received no comments.

Therefore, as a result of our review, we determined the potential rate of subsidy on future entries to be 3.23 percent *ad valorem*, the rate found in the original countervailing duty determination.

As provided for by section 751(a)(1) of the Tariff Act, the Customs Service shall collect a cash deposit of estimated

countervailing duties of 3.23 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect unitl publication of the final results of the next administrative review.

The Department intends to conduct the next administrative review by the end of November 1982. The amount of countervailing duties to be imposed on exports made during 1981 will be determined in that review. Consequently, the suspension of liquidation previously ordered will continue for all shipments exported on or after January 1, 1981.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

July 29, 1982.

Appendix

Wearing Apparel

372.0800(b)
372.1022(a)(b)
372.1050(a)(b)
372.2500 (for male infants)
372.3000(b)
372.3500(b)
372.4000(b)
372.4500(b)
373.0500 of wool
373.1500
376.0800(b)
378.3510(b)
378.4000(b)
378.4500(b)
379.1100
379.1300
379.1510 through 379.1530
379.1710 through 379.1750
379.2010
379.2020
379.3520(a)
379.6615(a)
379.6934 through 379.6958(a)
379.7100
379.7240 through 379.7295
379.7400
379.7510
379.7530
379.7605 through 379.7650
379.7810 through 379.7850
379.7900
379.8100
379.8311 through 379.8360
379.8410
379.8420
379.8615(a)
379.8715(a)
379.9815(a)

(a) Wool articles classified under this TSUSA item number are covered by this notice if they are included in the textitle category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, December 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUSA number falls. Where the phrase is not covered by such headnotes, items classified under the TSUSA number which can be used by either sex are covered by this notice. Items under TSUSA numbers identifiable as being intended exclusively for women or girls are not covered by this notice.

[FR Doc. 82-21017 Filed 8-3-82; 8:45 am]
BILLING CODE 3510-25-M

Performance Review Board Membership

This notice announces the appointment by the Department of Commerce Under Secretary for International Trade, Lionel H. Olmer, of the Performance Review Board for ITA. The appointment of the board members is for one year from the date of this announcement. The purpose of the International Trade Administration PRB is to review performance appraisal ratings and performance actions for recommendations to the appointing authority as well as other related matters. The names of the PRB members are:

International Trade Administration

Bohdan Denysyk, Deputy Assistant Secretary for Export Administration
Joseph F. Dennin, Deputy Assistant Secretary for Africa, the Near East and South Asia
J. Mishell George, Deputy to the Deputy Assistant Secretary for Industry Projects
Ann Hughes, Deputy Assistant Secretary for the Western Hemisphere
Richard L. McElheny, Director General for the United States and Foreign Commercial Service
Paul T. O'Day, Deputy Assistant Secretary for Trade Development
John Richards, Director, Office of Industrial Resource Administration

Minority Business Development Agency

Herbert S. Becker, Assistant Director for Policy, Research and Information.

Dated: July 29, 1982.

Thomas J. Lambiase,

Acting Personnel Officer, ITA.

[FR Doc. 82-21002 Filed 8-3-82; 8:45 am]
BILLING CODE 3510-25-M

Amendment to Notice of Initiation of Countervailing Duty Investigation; Cotton Yarn From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to notice of initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending the "Notice of Initiation of Countervailing Duty Investigation, Cotton Yarn from Peru." This amendment corrects *Tariff Schedules of the United States* item numbers listed in the Scope of Investigation section of the notice and an incorrect due date for the preliminary countervailing duty determination in the Initiation of Investigation section.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-3530.

SUPPLEMENTARY INFORMATION: The Department of Commerce published a "Notice of Initiation of Countervailing Duty Investigation, Cotton Yarn from Peru" in the **Federal Register** on July 13, 1982 (47 FR 30274). The Scope of Investigation section of the notice provided a list of *Tariff Schedules of the United States* item numbers covered by the investigation. We are amending that list to read as follows: 300.60, 301.01 through 301.60, 301.70, 301.80, 301.82, 301.84, 301.86, 301.88, 301.92, 301.94, 301.96, 301.98, 302.01 through 302.60, 302.70, 302.80, 302.82, 302.84, 302.86, 302.88, 302.92, 302.94, 302.96, and 302.98.

In addition, September 20, 1982, was incorrectly shown in the Initiation of Investigation section as the due date for the preliminary countervailing duty determination. The correct due date for the preliminary determination is September 8, 1982.

Dated: July 28, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-21057 Filed 8-3-82; 8:45 am]
BILLING CODE 3510-25-M

Amendment to Notice of Initiation of Countervailing Duty Investigation; Cotton Sheeting and Sateen From Peru

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to notice of initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending the "Notice of Initiation of Countervailing Duty Investigation, Cotton Sheeting and Sateen from Peru." This amendment corrects *Tariff Schedules of the United States* item numbers listed in the Scope of Investigation section of the notice and an incorrect due date for the preliminary countervailing duty determination in the Initiation of Investigation section.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–3530.

SUPPLEMENTARY INFORMATION: The Department of Commerce published a "Notice of Initiation of Countervailing Duty Investigation, Cotton Sheeting and Sateen from Peru" in the **Federal Register** on July 13, 1982 (47 FR 30273). The Scope of Investigation section of the notice is being amended to read as follows: The merchandise covered by this investigation is: (1) 100 percent carded cotton sheeting, not fancy or figured and not napped, made of singles yarn, with an average yarn number between 3 and 26, imported in Textile and Apparel Category 313, currently classified in the *Tariff Schedules of the United States* ("TSUS") under item numbers 320.36, 320.38, 320.40, and 320.44, and (2) 100 percent carded cotton sateen fabrics woven with a sateen weave and not napped, imported in Textile and Apparel Category 317, and currently classified in TSUS under item numbers 320.54 and 321.54.

In addition, September 20, 1982, was incorrectly shown in the Initiation of Investigation section as the due date for the preliminary countervailing duty determination. The correct due date for the prelimninary determination is September 8, 1982.

Dated: July 28, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-21058 Filed 8-3-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public scoping meetings.

SUMMARY: The Caribbean Fishery Management Council (Council) will hold scoping meetings to obtain comments and recommendations in relation to its intention to prepare an environmental impact statement and a generic fishery management plan (EIS/FMP) for the fishery resources of the Puerto Rican and St. Croix platforms. This action by the Council will eventually result in a single management plan for all the fisheries within the Council's area of authority, excluding the ocean pelagics. The purposes of the scoping process are discussed in 40 CFR 1501.7 of the Council on Environmental Quality's regulations implementing the National Environmental Policy Act (43 FR 55978). This notice is also intended to satisfy the requirement for a Notice of Intent to Prepare an EIS.

DATES: Individuals or organizations wishing to comment may do so at scoping meetings to be held as follows:

Tuesday, August 24, 1982—U.S. Virgin Islands

Tuesday, August 21, 1982—Santurce, Puerto Rico

HEARING LOCATIONS: August 24, 1982; Conference Room, St. Thomas Hotel and Marina, Long Bay, St. Thomas, U.S. Virgin Islands, 7:30 p.m. August 31, 1982; Conference Room, Pierre Hotel, De Diego Avenue, Santurce, Puerto Rico, 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918; telephone: (809) 753–4926.

Dated: July 29, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-21059 Filed 8-3-82; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: Quarterly Return of Withheld Federal Income Tax for Tax Exempt Organizations and Certain Payers of Pensions and Annuities
Type of request: Extension
Burden: 100,000 respondents; 10,00 reporting hours
Needs and uses: Question on IRS Form 941E is used to gather information on tax exempt organizations and pensions and annuities. Also, it is used to expand data coverage for tax exempt entities, State and local governments, and to clarify the status of certain payers of pensions and annuities to measure the business universe properly.
Affected Public: Tax exempt organizations and certain payers of pensions and annuities
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: Survey of Building and Zoning Permit Systems
Type of request: Extension
Burden: 1,500 respondents; 1,500 reporting hours
Needs and uses: This form is needed to update the universe of permit-issuing places in the United States. An updated universe is required to select reliable samples for estimating building permit authorizations. Estimates of building permits authorized are widely used for economic and business decisions.
Affected public: Local government building permit officials
Frequency: Annually
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census
Title: November 1982 Voter Registration and Voting Supplement
Type of request: New
Burden: 58,000 respondents; 986 reporting hours (FY 83)
Needs and uses: The November 1982 Voting and Registration supplement contains questions that have been asked every 2 years since 1964 concerning the biennial November elections. This supplement will provide data on the socioeconomic characteristics of voters and nonvoters and continue the data series built upon previous voting supplements.
Affected Public: Households interviewed in the November 1982 Current Population Survey
Frequency: Biennially
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Bureau of the Census

Title: Quarterly Survey of Residential Alterations and Repairs
Type of request: Extension
Burden: 3,400 respondents; 2,267 reporting hours
Needs and uses: These statistics are used by economic analysts to assess the effect of construction activity on the economy and for direct input to the National Income and Product Accounts. They are also used in market research conducted by manufacturers and distributors of building supplies and materials.
Affected Public: Owner occupants of 1–4 unit residential properties
Frequency: Quarterly
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Outlay Report and Request for Reimbursement for Construction Programs
Type of request: New
Burden: 200 respondents; 1,600 reporting hours
Needs and uses: Form is used by grantees to summarize expenditures made and Federal funds unexpended for each award, report on status of federal cash advanced and to request advances and reimbursements.
Affected Public: State and local governments, non-profit corporations and Indian tribes
Frequency: Quarterly
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Study of Business Responsiveness to Export Trading Company Concept
Type of Request: New
Burden: 250 respondents; 125 reporting hours
Needs and uses: The Commerce Department needs to gather information on how various businesses within a selected state (Missouri) will respond to the opportunity to combine to export goods and services or to provide services to facilitate exports. This will be used to create and improve Departmental programs to assist export trading companies, whether or not specifc legislation on such companies is enacted.
Affected public: Manufacturing industries, agri-business and one service industry all located in Missouri.
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Adminstration
Title: Quarterly Report on Guaranteed Loans
Type of request: Extension
Burden: 165 respondents; 242 reporting hours
Needs and uses: This report is necessary to keep EDA informed concerning the status of guaranteed loans.
Affected public: Banks in the United States that have made a loan that EDA guarantees.
Frequency: Quarterly
Respondent's obligation: Required to obtain or retain benefit
OMB Desk officer: Timothy Sprehe, 395–4814

Agency: Economic Development Administration
Title: Local Public Works Project Performance Report
Type of request: Extension
Burden: 3,000 respondents; 6,000 reporting hours
Needs and uses: This is a financial reporting form that is used by State and local governments to report on how Federal project funds are being utilized. EDA reviews such reports to ascertain whether proper use is being made of Federal funds.
Affected public: State and local governments
Frequency: 2 reports required (when project is 50% and 100% completed)
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Timothy Sprehe, 395–481

Agency: International Trade Administration
Title: Small Business Export Development Assistance Program (Financial Reports)
Type of request: New
Burden: 25 respondents; 100 reporting hours
Needs and uses: The information to be collected is needed in order to determine if the grantees are using their federal and matching funds as required by Congress.
Affected public: State and local government agencies, Small Business Development Centers, small businesses, non-profit corporations and Regional Commissions
Frequency: Quarterly
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Annual Report from Foreign Trade Zones
Type of request: New
Burden: 45 respondents; 900 reporting hours
Needs and uses: Annual reports from Foreign Trade Zones summarize their operations and activities. The information provides the basis of a consolidated annual report to Congress, as required by the Foreign Trade Zones Act. It is presently the only source of data on foreign trade projects in the U.S.
Affected public: State and local governments, agencies, port authorities, Chambers of Commerce, and related semi-public organizations
Frequency: Annually
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395–3785

Agency: International Trade Administration
Title: Trade Adjustment Technical Assistance Application and Post-Approval Forms
Type of request: New
Burden: 25 respondents; 1,600 reporting hours
Needs and uses: Forms are completed by organizations wishing to receive trade adjustment assistance to help firms and/or industries recover from the adverse effects of foreign competition. Also, they are used by the staff of the Office of Trade Adjustment Assistance to determine the need and justification for project approval, payments and the use of project funds.
Affected public: Nonprofit organizations, educational institutions, trade or industry associations, consulting firms, and firms
Frequency: On occasion, monthly, quarterly
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Market Assessment of National Ocean Survey's (NOS) Nautical Charts and Maps
Type of request: Preliminary Plan
Burden: 2,800 respondents; 670 reporting hours
Needs and uses: Legislation is pending to make the nautical chart program self-supporting which will require that NOS be far more knowledgeable about the market for nautical charts than in the past. Information on product acceptance and elasticity of demand will be critical for the program in the future.
Affected public: Boat owners and distributors of nautical charts
Frequency: Nonrecurring
Respondent's obligation: Voluntary
OMB desk officer: Ken Allen 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Linda Engelmeier,

Management Analyst, for Edward Michals Departmental Clearance Officer.

[FR Doc. 82–21016 Filed 8–3–82; 8:45 am]

BILLING CODE 3510–CW–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Hungarian People's Republic To Include a Review of Trade in Category 443 (Men's and Boys' Wool Suits)

July 29, 1982.

On July 27, 1982, the United States Government, pursuant to Article 3 of the Arrangement Regarding International Trade in Textiles (the MFA) and the bilateral agreement with the Government of the Hungarian People's Republic concerning consultations on cotton, wool, and man-made fiber textile and apparel products, requested the Government of the Hungarian People's Republic to enter into consultations concerning exports to the United States of men's and boys' wool suits in Category 443, produced or manufactured in Hungary.

A complete description of this category in terms of T.S.U.S.A. numbers was published in the **Federal Register** on

February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments, entry and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Hungary and exported to the United States during the twelve-month period beginning on July 27, 1982, may be restrained.

Anyone wishing to comment or provide data or information regarding the treament of Category 443 is invited to submit such comments or information in ten copies to Walter C. Lenahan, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waive in any respect of the exemption contained in 5 U.S.C. 553 (a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-21026 Filed 8-3-82; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 82-4]

Edgewood Chenille Co., Inc., a Corporation; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Edgewood Chenille Company, Inc., a corporation.

SUPPLEMENTARY INFORMATION:

Complaint

Nature of Proceeding

1. This is an adjudicative proceeding under the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission (hereinafter, the "Commission"), 16 CFR Part 1025, for the assessment of civil penalties pursuant to section 20 of the Consumer Product Safety Act (hereinafter, the "CPSA"), 15 U.S.C. 2069. This proceeding names as respondent Edgewood Chenille Company, Inc. (hereinafter, "Edgewood") for failing to comply with the reporting requirements of section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

Jurisdiction

2. The Commission has jurisdiction over the subject matter of this adjudicative proceeding pursuant to sections 15(b), 19(a)(4), 20, 27(a), and 30(d) of the CPSA, 15 U.S.C. 2064(b), 2068(a)(4), 2069, 2076(a) and 2079(d); and 16 CFR 1115.2(d).

Respondent

3. Respondent Edgewood Chenille Company, Inc. is a corporation organized and existing under the laws of the State of Georgia with its principal corporate offices located at Highway 41 North (P.O. Box 14), Tunnel Hill, Georgia 30755. Edgewood is a manufacturer within the meaning of section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

The Consumer Product

4. 100% cotton chenille robes are ladies' wearing apparel and are consumer products within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

5. Ladies' wearing apparel manufactured or distributed for sale or sold in commerce is regulated under the Flammable Fabrics Act, 15 U.S.C. 1191 *et seq.*, and must conform to the Standard for the Flammability of Clothing Textiles, 16 CFR Part 1610 (Standard).

6. Edgewood manufactured, distributed and/or sold at least 3,600 ladies' 100% cotton chenille garments from 1970 to December 1978.

Violations

7. On or about December 16, 1977, Edgewood filed its appearance in a lawsuit seeking damages for the wrongful death of a woman who died after her Edgewood 100% cotton chenille robe ignited.

8. On or about June 16, 1978, Edgewood had tests conducted on three samples of 100% cotton chenille fabric of the type used in the manufacture of its wearing apparel. One sample met the minimum requirements for class 1b, normal flammability. Two samples met the "minimum requirements for class 2a, intermediate flammability."

9. On or about June 18, 1978, a Commission representative observed for retail sale 100% cotton chenille women's jackets with the brand name "Wrappers Beverly Hills" manufactured by Edgewood and bearing a label which read: "Flammable do Not Use Near Sources of Ignition."

10. On or about June 26, 1978, Edgewood filed a continuing guaranty with the Commission based on the fact that reasonable and representative tests (as required by section 8(a) of the Flammable Fabrics Act, 15 U.S.C. 1197(a), and 16 CFR 1610.37) had been (and would be) performed on products to be marketed thereafter, showing that the products conformed to the applicable flammability standards.

11. After receiving the test results referred to in Paragraph 8 above, Edgewood did not conduct or have conducted further tests as required by 16 CFR 1610.37(b)(1)(i) and 1610.37(h).

12. On or about December 5, 1978, Zurich-American Insurance Companies notified Edgewood in Los Angeles of a fire incident which involved one of its 100% cotton chenille garments and occured on or about August 2, 1978.

13. On or about July 6, 1979, the Commission notifed Edgewood of the failure of one item of its 100% cotton chenille ladies' garments to conform to the Standard.

14. Section 15(b) of the CPSA, 15 U.S.C. 2064(b), requires every manufacturer, distributor and retailer of a consumer product distributed in commerce to immediately inform the Commission upon obtaining information that such product contains a defect which could create a substantial product hazard, as that term is defined in section 15(a) of the CPSA, 15 U.S.C. 2064(a).

15. Pursuant to section 30(d) of the CPSA, 15 U.S.C. 2079(d), and 16 CFR 1115.2(d), manufacturers, distrubutors, and retailers of consumer products

which are subject to regulation under the FFA must comply with the reporting requirements of section 15(b) of the CPSA.

16. Not later than July 6, 1979, Edgewood obtained information which reasonably supported the conclusion that the ladies' wearing apparel it manufactured and sold in commerce contained a defect (as described in paragraphs 7, 8, 9, 12 and 13) which could create a substantial product hazard.

17. Edgewood did not inform the Commission that its ladies' wearing apparel contained a defect which could create a substantial product hazard and was being distributed in commerce, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), and as that section is interpreted in 16 CFR 1115.13.

18. Edgewood's knowing failure to furnish the information required by section 15(b) constitutes a separate violation and offense under section 19(a)(4) of the CPSA, 15 U.S.C 2068(a)(4), with respect to each garment involved.

Relief Sought

Wherefore, after reviewing the facts in this matter in light of the statutory criteria, section 20(b) of the CPSA, 15 U.S.C. 2069(b), the staff of the Consumer Product Safety Commission believes that the following relief is in the public interest and requests that the Commission:

1. Determine that a civil penalty should be assessed against respondent;

2. Assess against Edgewood $50,000 for the above series of violations; and

3. Impose a civil penalty on Edgewood pursuant to section 20 of the CPSA, 15 U.S.C 2069.

Dated: July 23, 1982.

David Schmeltzer,

Associate Executive Director for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, Telephone: (301) 492–6621.

Dated: July 29, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–20998 Filed 8–3–82; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of The Air Force

USAF Scientific Advisory Board; Meeting

July 28, 1982.

The USAF Scientific Advisory Board Ad HOC Committee on Air Force Technical Applications Center (AFTAC) Technologies will meet at Patrick AFB, Florida on 28–29 September 1982. The purpose of the meeting is to review the technology applications currently being pursued at AFTAC. The meeting will convene at 9:00 am and adjourn at 5:00 pm on both days.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–20997 Filed 8–3–82; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on September 10, 1982, at the Naval Academy. The meeting will be comprised of two sessions, which will be open to the public. The first session will commence at 8:30 a.m. and end at 11:55 a.m. The second session will commence at 1:30 p.m. and end at 4:00 p.m. Both sessions will be held in room 2220, Nimitz Library.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

The contact officer will be Rear Admiral Robert W. McNitt, USN (Ret.), Secretary to the Board of Visitors, Dean of Admissions, U.S. Naval Academy, Annapolis, Maryland 21402, telephone (301) 267–4361.

Dated: July 30, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, Navy Department, Alternate Federal Register, Liaison Officer.

[FR Doc. 82–21006 Filed 8–3–82; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Record of Decision To Construct the Crow Butte Slough Crossing for the Ashe-Slatt 500-kV Transmission Line

AGENCY: Bonneville Power Administration (BPA), DOE. Cooperating agencies are U.S. Fish and Wildlife Service and U.S. Army Corps of Engineers.

ACTION: Notice.

Decision

The Bonneville Power Administration (BPA) has decided to install and operate an overhead double-circuit 500-kV transmission line crossing of the Crow Butte Slough of Lake Umatilla in Benton County, Washington. By this action BPA will close a 4,700-foot gap across Crow Butte Slough between two dead end towers of the Ashe-Willamette Valley 500-kV transmission line, a segment of the Federal Columbia River Transmission System connecting Hanford and Lower Snake electrical generation with load centers in the Willamette Valley. BPA will build this double circuit 500-kV line on the existing right-of-way.

Decision Summary

Planning and environmental analysis for the Ashe-Willamette Valley 500-kV transmission line began in 1974. Decisions on the route for the line were made on the basis of the environmental impact statement (EIS) supplement entitled "Final Facility Location Supplement to BPA's Fiscal Year 1976 Program EIS, Ashe-Willamette Valley (Ashe-Pebble Springs—FES 75–79)." This supplement was filed with the Council on Environmental Quality on September 16, 1975. The EIS supplement identified a transmission line route across Crow Butte Slough, Crow Butte Island, and the Columbia River, but did not show the line as crossing the portion of the island managed as Umatilla National Wildlife Refuge land. A decision to place the transmission line on refuge land was made after the facility location supplement was filed. BPA obtained a Section 10 permit from the U.S. Army Corps of Engineers (COE) to cros the Columbia River and Crow Butte Slough on September 19, 1979, and a right-of-way permit from COE on October 1, 1979.

In addition, BPA, COE, and the U.S. Fish and Wildlife Service (FWS) agreed that:

- Pursuant to the existing Rivers and Harbors Act Section 10 permit issued by COE, BPA would build a double-circuit overhead line across the Columbia River and refuge lands, conduct a study of the line's impact on wildlife use of the Crow Butte area, and provide reasonable mitigation for adverse effects if the study results show such mitigation is warranted;

- BPA would build a temporary, single-circuited overhead line across

Crow Butte Slough and would remove the line within 3 years;

• BPA would study the engineering, environmental, and economic feasibility of an underground crossing of Crow Butte Slough comparing all reasonable options, and comparing the "no-action" alternative of removing the temporary line after 3 years and leaving the Ashe-Willamette Valley line uncompleted.

The temporary single-circuit line across Crow Butte Slough has been built and is operating; the double-circuit line has been built across the Columbia River and refuge lands and is operating; draft and final EIS supplements have been prepared and the final EIS supplement, entitled "Crow Butte Slough Crossing, Final Supplement to Final EIS, Ashe-Slatt (Pebble Springs) 500-kV Transmission Line," was filed with the Environmental Protection Agency on April 28, 1982.

The wildlife study required by the Section 10 permit began in October 1979 with a preconstruction study. A report on the first phase of the post-construction study was published in September 1981. The second phase of the post-construction study is currently underway, and a final report is scheduled for September 30, 1982.

SUPPLEMENTARY INFORMATION:

Alternatives: Five general categories of alternatives were considered for crossing Crow Butte Slough: overhead lines; underground cables under the slough; underground cables in a new causeway; underground cables in the existing causeway (off the Ashe-Slatt right-of-way); and no action. For each of the underground cable categories, a number of cable types and methods of operation were possible. A total of 27 alternatives including the proposed action were considered. Table 1 defines and summarizes the major characteristics of each alternative.

The action that BPA has decided in favor of is Alternative 9 in Table 1. This overhead line involves the completion of the existing transmission line towers and the addition of a second circuit to the existing circuit. The tower height would be raised from about 120 feet to 180 feet.

A second overhead alternative (Alternative 10) involves the construction of a second set of towers (about 120 feet high) alongside the existing towers, and the installation of the second circuit on the new towers.

Eight underground cable alternatives (Alternatives 1–8) were considered for burial under the slough on the existing right-of-way. These represent the complete range of commercially feasible cable system technologies and methods of reliable operation and protection.

TABLE 1.—CROW BUTTE SLOUGH CROSSING ALTERNATIVES

Alternatives	Cable type [1]	Number of units	Cooling mode	Method of installation [2]	Route [3]
1	GITL	7	Forced water	U/W	R/W.
2	GITL	7	Self	U/W	R/W.
3	GITL	12	Self	U/W	R/W.
4	SCOF	12	Forced water	U/W	R/W.
5	SCOF	19	Self	U/W	R/W.
6	SCOF	7	Forced oil	U/W	R/W.
7	HPOF	9	Self	U/W	R/W.
8	HPOF	5	Forced oil	U/W	R/W.
9	Overhead	(5)		Single towers	R/W.
10	Overhead	(6)		Two towers	R/W.
11	GITL	7	Forced water	C	R/W.
12	GITL	7	Self	C	R/W.
13	GITL	12	Self	C	R/W.
14	SCOF	12	Forced water	C	R/W.
15	SCOF	19	Self	C	R/W.
16	SCOF	7	Forced oil	C	R/W.
17	HPOF	9	Self	C	R/W.
18	HPOF	5	Forced oil	C	R/W.
19	GITL	7	Forced water	C	Long.
20	GITL	7	Self	C	Long.
21	GITL	12	Self	C	Long.
22	SCOF	12	Forced water	C	Long.
23	SCOF	19	Self	C	Long.
24	SCOF	7	Forced oil	C	Long.
25	HPOF	9	Self	C	Long.
26	HPOF	5	Forced oil	C	Long.

." This involves removing the existing, temporary overhead line.

27—"No action

[1] GITL = Gas Insulated Transmission Line. SCOF = Self Contained Oil-filled Cable. HPOF = High Pressure Oil-filled Pipe-type Cable.
[2] U/W = Trenching underwater. C = Causeway burial, cables above water line.
[3] R/W = Existing right-of-way (direct route). Long = Existing causeway (indirect route).
[4] Double circuit.
[5] 2 Single circuits.

The same eight cable system options (Alternatives 11–18) were considered for burial above the water line, in an earthfilled causeway that would be constructed on the existing right-of-way.

A third category of eight cable system options (Alternatives 19–26) would involve burial in the existing causeway to Crow Butte Island. This causeway is not located on the present right-of-way and represents a longer route.

The no-action alternative (Alternative 27) involves removing the temporary overhead conductors, leaving a gap in the Ashe-Slatt line across Crow Butte Slough and thereby effectively eliminating the utility of the line.

Decision Factors: Four factors were considered in the decision to select the proposed action: technical feasibility, environmental impacts, reliability, and cost.

All of the alternatives considered were technically feasible. Therefore, technical feasibility was not an overriding factor in this decision.

As a result of the environmental study, it was determined that neither the action decided upon (Alternative 9), nor any of the action alternatives, would have a significant impact when all environmental issues were taken into consideration. Certain issues did favor certain alternatives. The environmentally preferred alternative was an underground crossing in a trench on the existing right-of-way using gas-insulated or self-contained oil-filled cables (Alternatives 1, 2, 4, 5, 6). This would have temporary construction impacts including some effect on access to the State park, and the visual impact

of cable termination stations. Overhead lines were less preferred, primarily because of two issues: potential refuge waterfowl collisions with the conductors and indirect esthetic impacts on recreation on public lands. The overall impacts of the different alternatives were rated as limited to insignificant, with only slight variation among the alternatives, in the EIS supplement for the Crow Butte crossing. It was thus concluded that overall environmental impacts were not sufficient to preclude selection of any alternative. Questions have been raised about the importance of the waterfowl collision issue, since on-going studies show little evidence of this effect, but a review of the EIS supplement shows that the above conclusion holds even without regard to this issue. Therefore, environmental concerns did not provide an overriding factor for this decision.

Since neither the technical feasibility factor nor the environmental impacts provided a clear basis for a decision, reliability and cost became the critical factors.

BPA studies have shown that the Ashe-Slatt line is needed to maintain the reliability of its system in the event that there are outages of certain transmission lines serving the Willamette Valley. For this reason the no-action alterative was not considered a viable alternative.

The costs for the proposed action and the different alternatives do vary considerably. A range of anticipated costs for each of the 27 alternatives as estimated by BPA is as follows:

Alternatives	Estimated costs
1 to 8	$8,700,000–$21,900,000
9	$700,000
10	$750,000
11 to 18	$8,200,000–$21,400,000
19 to 26	$17,400,000–$42,800,000
27	$100,000

The selected alternative (Alternative 9) was the least costly of the 26 action alternatives.

Mitigation: The following practicable means of mitigating environmental impacts resulting from this decision were identified in the EIS supplement for the Crow Butte crossing and will be carried out:

(1) The overhead line is designed to operate without protective ground wires across Crow Butte Slough. While this is at variance with normal BPA practice east of the Cascade Range, it has been estimated that this mitigation measure could reduce the waterfowl mortality rate by one half or more.

(2) The proposed action already includes routing in such a way as to minimize visibility from the State park to the extent possible. Furthermore, the existing viewshed in the Crow Butte area includes transmission lines along three corridors, including Ashe-Slatt. That is, visual impact mitigation by corridor sharing is already achieved by BPA policy and action to the extent possible. Direct visual impacts and indirect esthetic effects on recreation cannot be further mitigated practicably because geometric factors such as tower configurations, tower locations, line heights and line spacing are largely dictated by engineering requirements for stability and safety.

(3) Construction will avoid the period of peak waterfowl activity (November to March) and the critical goose nesting period (February and March). Other nesting activity occurs from March to June and smolt migration occurs from April to July, but construction will not occur until after this time, when critical biological activity has passed.

(4) Revegetation after construction will be used to mitigate impacts on wetlands resulting from the temporary disruptions of riparian habitats along the creek in Dead Canyon or in the creek delta marsh.

(5) For noise impacts associated with the proposed action, the potential for mitigation of sound levels at the source has already been planned by BPA in the project design. Bundled conductors are already installed on the existing Ashe-Slatt line and will be installed on the slough crossing.

(6) Potential scouring and erosion around the base of the towers will be mitigated by stabilizing the appropriate places with rock. In addition, affected areas will be revegetated.

(7) Herbicides will only be used when necessary and with caution, in accordance with the BPA policies set forth in BPA's transmission line right-of-way standard, impacts of which are discussed in detail in BPA's "Proposed Fiscal Year 1981 Program FEIS."

All practicable means to avoid or minimize environmental impacts now known to result from this decision have been adopted. Furthermore, ongoing studies may result in additional mitigation measures for the protection of water fowl. These measures will be carried out as required by the Corps of Engineers section 10 permit which states: "Bonneville Power Administration (BPA) and the U.S. Fish and Wildlife Service will jointly conduct a 3–4 year study of the transmission line's impact on wildlife use of the Crow Butte area. The study will begin in October of 1979. Based upon study results, BPA will provide mitigation as reasonably required to compensate for the effect of the aerial lines." These additional mitigation measures will be decided upon by BPA and FWS within 90 days after the joint study is completed. Measures being considered include purchase of productive wildlife land to supplement the Umatilla National Wildlife Refuge, the implementation of a waterfowl breeding program, or the provision of funds to upgrade the productivity of existing refuge lands.

Monitoring and Enforcement: BPA has adopted the following program to monitor and enforce the mitigation measures:

(1) As part of the on-going study of the transmission line's impact on wildlife use of the Crow Butte area, data will be gathered on the species listed by the Fish and Wildlife Service as endangered and threatened, namely bald eagles and peregrine falcons. Effects on these species, if any, will continue to be monitored for the duration of these studies.

(2) BPA will complete the post construction impact study of bird and waterfowl use of the Crow Butte area. Evidence of collisions of birds with the overhead wires will continue to be monitored for the duration of these studies.

Integration With Other Records: (1) Under Office of Management and Budget (OMB) Circular No. A–95, BPA has notified the Washington State A–95 Clearinghouse of its proposed actions through the draft and final EIS supplements sent to them. The A–95 Clearinghouse concluded that this project is not in conflict with the development plans, goals and objectives of the region and concurs with it. In particular, there are no conflicts with the Crow Butte park adjacent to the project. Copies of this Record of Decision will be sent to the appropriate A–95 Clearinghouses.

(2) To evaluate the possible effects of the proposed action on endangered species, BPA prepared a Biological Assessment, in accordance with section 7(a)(2) of the Endangered Species Act and implementing regulations (50 CFR 402.04). The Fish and Wildlife Service concurred by letter on May 17, 1981, with the findings of this asessment that the proposed action would have no effect on listed species.

(3) This project will involve installation in a 100-year floodplain in both Dead Canyon and Crow Butte Slough. The presence of the slough makes it impossible to connect the terminations of the Ashe-Slatt line without crossing a floodplain. The decision to locate in the floodplain was based on the Ashe-Pebble Springs EIS

facility location supplement. As part of the EIS supplement for the Crow Butte crossing, BPA prepared a Floodplain Assessment, which indicated that the proposed action (i.e., and overhead line tower structure at State Route 14 and in the slough) by design does not constrict flood flows, or otherwise affect floodplain values. Furthermore, the proposed action does not conflict with the intent or requirements of Executive Order 11988, issued after the route decision.

(4) This project will involve some construction activity in a wetland. Based on the prior route decision, there is no practicable alternative to such construction. In accordance with Executive Order 11990, BPA prepared a Wetlands Assessment which indicated that the crossing of Crow Butte Slough necessarily had at least some temporary impact on riparian habitats either along the creek in Dead Canyon or in the delta marsh, depending on the alternative selected. The decision to construct Alternative 9 has the least impact of any of the alternatives.

(5) This project is expected to involve the occasional use of herbicides to control vegetation in tower areas and possibly along the right-of-way if required. Procedures governing BPA's use of herbicides are set forth in BPA's transmission line right-of-way standard. Impacts of vegetation management, including the use of herbicides, are discussed in detail in BPA's "Proposed Fiscal Year 1981 Program FEIS."

(6) This project does not affect property on or eligible for the National Register of Historic Places and no known historic or cultural resources would be affected.

(7) This project does not involve land designated by the Soil Conservation Service as either prime or unique farmland.

Permits: There are permit requirements which must be met before construction can proceed:

The proposed action involves work and the installation of structures over navigable waters. A rivers and Harbors Act Section 10 permit is required from the Corps of Engineers. The stipulations of the Section 10 permit, including the conversion of the status of the existing structures from temporary to permanent, are the sole remaining condition to commencement of construction.

No modification of the existing right-of-way permit will be required for this project since it will occur in the present right-of-way.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Signed in Portland, Oregon, this 8th day of July 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82–21024 Filed 8–3–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Powerine Oil Co., Inc.; Proposed Remedial Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Proposed Remedial Order to Powerine Oil Company, Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA), of the Department of Energy (DOE) gives notice that a Proposed Remedial Order (PRO) was issued on July 22, 1982, to the Powerine Oil Company (Powerine), which is located at 12354 Lakeland Road, Santa Fe Springs, California 90670. Any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before August 19, 1982.

Powerine is the owner and operator of a refinery located in Santa Fe Springs, California. During the period of price controls, from September 1973 through the end of January 1981, Powerine engaged in the production and sale of refined petroleum products, such as gasoline. Powerine sold these products in the States of California, Oregon, Washington, Nevada, Arizona, Utah, New Mexico, and Texas.

In this Proposed Remedial Order, ERA sets forth proposed findings of fact and conclusions of law concerning Powerine's pricing of gasoline and No. 2 oils under the refiner price rules in 10 CFR Part 212, Subpart E. Between September 1973 and September 1979, Powerine is alleged to have overcharged its gasoline customers by $11,740,922 and its No. 2 oils customers by $484,684.

Specifically, Powerine is charged with violating the maximum allowable price rule in § 212.83(a)(1) by imposing price increases which exceeded the increased costs incurred and available for passthrough in the prices for gasoline and No. 2 oils. ERA computed the overcharges by comparing Powerine's available increased costs to its recoveries after making adjustments to correct for several violations of the regulations governing the measurement of increased costs and recoveries. The alleged violations concerned: (1) The overstatement of increased crude oil costs between January 1974 and January 1976 by neglecting to include the proceeds from the disposition of fee-free import licenses; (2) the failure to prepare or maintain records to support claims of increased raw material transportation costs in 1977; (3) the inclusion of unlawful amounts of increased non-product costs between January 1974 and March 1975; (4) the overstatement of increased refinery labor costs incurred in 1979; (5) the improper reallocation of costs from the aviation jet fuel category to gasoline after the decontrol of aviation jet fuel; (6) noncompliance with the "price maintenance" rule by passing through more than allowable amounts of banked gasoline costs in 1979; and (7) for the period from August 1973 through September 1976, the failure to compute recoveries in accordance with § 212.83(h). As a remedy, Powerine would be required to refund $12,225,606 plus the interest that has accrued from the dates of the violations.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Patrick J. O'Hern, Director, San Francisco Office, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105.

Aggrieved persons may object to this Proposed Remedial Order by filing a Notice of Objection to the Proposed Powerine Oil Company Remedial Order. This notice must comply with the requirements of 10 CFR 205.193. To be considered, a Notice of Objection must be filed with: Office of Hearings and Appeals, Department of Energy, 12th & Pennsyvlania Avenue NW., Washington, D.C. 20461.

The notice must be filed in duplicate, by 4:30 p.m. e.d.t. on or before August 19, 1982, or the first federal workday thereafter. In addition, a copy of the Notice of Objection must, on the same day as filed, be served on Powerine and on each of the following persons pursuant to 10 CFR 205.193(c):

Patrick J. O'Hern, Director, San Francisco Office, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street, Sixth Floor, San Francisco, CA 94105

George Kielman, Deputy Solicitor, Economic Regulatory Administration, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

No data or information which is confidential should be included in any Notice of Objection.

Issued in San Francisco, California on the 22nd day of July, 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-21021 Filed 8-3-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Consent Order With U.S.A. Petroleum Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives the notice required by 10 CFR 205.199J(c) that it has signed a Consent Order with U.S.A. Petroleum Company (USA Petroleum). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the exceptions noted in the Consent Order, for the period August 19, 1973 through January 27, 1981 when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). USA Petroleum has agreed to make a refund payment of $1.75 million.

As required by the regulation cited above, ERA will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. ERA will consider any comments received before determining whether to make the Consent Order final.

Comments:

To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this notice. Address comments to: U.S.A. Petroleum Company, Consent Order Comments, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: James M. West, Senior Attorney, Economic Regulatory Administration, Department of Energy, 845 South Figureroa Street, Suite 410, Los Angeles, California 90017, (213) 688-4014.

Copies of the Consent Order may be received free of charge by request in person or by written request to: U.S.A. Petroleum Company, Consent Order Request, Economic Regulatory Administration, U.S. Department of Energy, 845 South Figueroa Street, Suite 410, Los Angeles, California 90017.

SUPPLEMENTARY INFORMATION: U.S.A. Petroleum Company is a California based corporation which engaged in sales of crude oil and refined petroleum products during the time period August 19, 1973 through January 27, 1981. It is headquartered at 1633 26th Street, Santa Monica, California 90406. Prior to February 1, 1976, USA Petroleum was classified as a "reseller" and "reseller-retailer" under the Federal Petroleum Price Control Regulations (the Regulations). In February of 1976, the firm began operating a refinery and was thereafter classified as a refiner.

ERA conducted audits of USA Petroleum's books and records relating to the firm's compliance with the Regulations. During the audits, questions and issues were raised. Three Notices of Probable Violation were issued. Except for matters specifically excluded from the Proposed Consent Order (such as obligations which may arise under the final "entitlements list" for January 1981), this Consent Order resolves all civil issues, whether or not previously raised in an enforcement proceeding, concerning the allocation and sale of crude oil or refined products by the firm or its subsidiaries. The subsidiaries named and included in the Consent Order are: Transworld Oil Company; Supersave Petroleum Inc.; Gasolinas de Puerto Rico Corporation; USA Gasoline Corporation; USA Petroleum Corporation; and USA Lubricants Corporation (formerly M-K Oil Company).

Neither ERA nor USA Petroleum has retreated from the positions that they ahve taken previously on the issues addressed by this Consent Order, and each believes that its positions on these issues are meritorious. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. ERA believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of its audit of USA Petroleum and that the Consent Order is in the public interest.

The Consent Order requires a refund payment of $1.75 million in eight quarterly installment payments commencing 60 days after the effective date of the Consent Order. The funds will be held by DOE in an interest bearing escrow account. ERA will undertake to determine separately an appropriate disbursement of the funds.

The Consent Order also provides details concerning the conclusion of the audit, confidentiality of audit data, recordkeeping and procedures concerning enforcement of the provisions of the Consent Order. Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which USA Petroleum has waived its right to an administrative or judicial appeal. The Consent Order does not constitute an admission by USA Petroleum nor a finding by ERA of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on the thirtieth day following publication of this notice will be considered by ERA before determining whether to adopt the Consent Order as a final order. Modifications of the Consent Order that, in the opinion of ERA, significantly change the terms or impact of the Consent Order will be published for comment.

If, after considering the comments it has received, DOE determines to issue the Consent Order as a final order, the Consent Order will be made final and effective by notice to USA Petroleum. Pursuant to 10 CFR 205.199J(c), DOE will thereafter promptly publish in the **Federal Register** notice of the action taken on this Consent Order and an appropriate explanation of that action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued this 22nd day of July 1982 in San Francisco, California.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-21020 Filed 8-3-82; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABCO ENERGY CORP				RECEIVED:	07/08/82	JA: TX			
8242413	F-7C-052501	4223531827		103		WINTERBOTHAM "K" #3	DOVE CREEK (CANYON -D	1029.4	INTERNORTH INC
8242414	F-7C-052502	4223531829		103		WINTERBOTHAM "L" #1	DOVE CREEK (CANYON -D	34.1	INTERNORTH INC
8242415	F-7C-052303	4223531798		103		WINTERBOTHAM K-1 #2	DOVE CREEK (CANYON -D	351.0	INTERNORTH INC
-AKERS AND FULTZ INC				RECEIVED:	07/08/82	JA: TX			
8242572	F-09-053319	4223734386		103		TOM DAVIS #6	MARINA MAG (CONGLOMER	36.0	CITIES SERVICE CO
-AMOCO PRODUCTION CO				RECEIVED:	07/08/82	JA: TX			
8242576	F-8A-053326	4230330801		103		ANTON-IRISH CLEARFORK UNIT #455	ANTON-IRISH	7.3	PIONEER CORP
8242337	F-08-050915	4213533805		102-4		DAVID FASKEN BP #1	FASKEN SOUTH (STRAWN)	18.6	AMOCO PRODUCTION
8242330	F-08-050641	4237132949		102-2		G R WHITE #1	SHEFFIELD NORTHWEST (	0.8	NORTHERN NATURAL
8242527	F-08-053211	4213533758		103		GOLDSMITH LANDRETH DEEP UNIT #197	GOLDSMITH (CLEARFORK)	0.3	PHILLIPS PETROLEU
8242528	F-08-053212	4213533821		103		GOLDSMITH LANDRETH DEEP UNIT #213	GOLDSMITH (CLEARFORK)	5.5	PHILLIPS PETROLEU
8242575	F-06-053324	4220330946		103	107-TF	JAMES H HARRIS GAS UNIT "B" #1	WOODLAWN (COTTON VALL	250.0	TEXAS GAS TRANSMI
8242382	F-7C-051943	4223531851		103		JANE ELIZABETH CHARLTON #3	BROOKS (CANYON K)	51.0	NORTHERN NATURAL
8242411	F-03-052429	4205131891		102-4		JOSEPH J SKRIVANEK JR #1	STONE CITY (AUSTIN CH	36.0	FERGUSON CROSSING
8242546	F-10-053254	4239330886		103		LIPS RANCH B #25	HANSFORD - L MORROW	120.0	TRANSWESTERN PIPE
8242526	F-08-053210	4222731961		103		MRS CORA LEE ECHOLS "B" #22	IATAN EAST (HOWARD)	0.3	GETTY OIL CO
8242374	F-03-051744	4203317460		103		OLD OCEAN UNIT #232	OLD OCEAN E (F-20)	1825.0	AMOCO GAS CO
8242574	F-06-053323	4220330919		103	107-TF	PEGGY R PIERCE GAS UNIT #1	WOODLAWN (COTTON VALL	82.9	TEXAS GAS TRANSMI
-APEX PETROLEUM INC				RECEIVED:	07/08/82	JA: TX			
8242312	F-7B-049501	4208332787		102-4		HERRING #4	WILDCAT	177.0	LONE STAR GAS CO
8242313	F-7B-049502	4208332826		102-4		MCFARLAND #8 (098507)	HERRING (WINCHELL)	9.0	LONE STAR GAS CO
-ARCADIA REFINING CO				RECEIVED:	07/08/82	JA: TX			
8242236	F-06-035890	4240100000		103	107-TF	VERNON POOL UNIT #1 #090736	CYRIL (COTTON VALLEY)	0.0	UNITED GAS PIPELI
-ARK ENERGY INC				RECEIVED:	07/08/82	JA: TX			
8242245	F-04-041311	4204730926		102-4		ED RACHAL FOUNDATION (I D #N/A)	BOEDECHER (VICKSBURG	116.0	CHANNEL INDUSTRIE
-ATWOOD EXPLORATION CO				RECEIVED:	07/08/82	JA: TX			
8242354	F-04-051349	4224931524		102-4		H J MOSSER #3	PAISANO (VICKSBURG)	145.0	NUE-WELLS PIPELIN
-AUSTEX ENERGY CO INC				RECEIVED:	07/08/82	JA: TX			
8242278	F-7B-046785	4236332746		102-4		H DAVENPORT ESTATE #1 (098261)	AUSTEX (BIG SALINE)	196.0	SOUTHWESTERN GAS
-B B C OIL OPERATING CO				RECEIVED:	07/08/82	JA: TX			
8242573	F-09-053321	4223700000		108		E B ABERNATHIE	RUSMAG	9.0	LONE STAR GAS CO
-BAY ROCK CORPORATION				RECEIVED:	07/08/82	JA: TX			
8242336	F-04-050908	4206130428		102-2	103	AGNES BROWNE #1 GAS UNIT	LOS FRESNOS (MIOCENE	1368.8	INTRASTATE GATHER
-BILL J GRAHAM				RECEIVED:	07/08/82	JA: TX			
8242473	F-08-052955	4237100000		103		BENOIT #1	LEHN APCO (1600)	12.5	EL PASO NATURAL G
8242472	F-08-052954	4237100000		103		BENOIT #2	LEHN APCO (1600)	12.5	EL PASO NATURAL G
-BLUESKY OIL & GAS INC				RECEIVED:	07/08/82	JA: TX			
8242267	F-03-046346	4205131360		102-2		GERLAND #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-BROCK PETROLEUM CORP				RECEIVED:	07/08/82	JA: TX			
8242452	F-08-052842	4217731254		102-2	103	J P JONES #1	PEACH CREEK (AUSTIN C	60.0	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BTA OIL PRODUCERS				RECEIVED:	07/08/82	JA: TX			
8242439	F-08-052747	4217331277		103		8102 JV-P GLASS -B- #2	BLALOCK LAKE E (WOLFC	73.0	PHILLIPS PETROLEU
-C F LAWRENCE & ASSOC INC				RECEIVED:	07/08/82	JA: TX			
8242401	F-7C-052281	4210500000		103		TODD "T" #1	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
8242400	F-7C-052280	4210500000		103		TODD "T" #2	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
-CAG PETROLEUM CORP				RECEIVED:	07/08/82	JA: TX			
8242258	F-03-045830	4205131762		102-2		TONN #1	GIDDINGS AUSTIN CHALK	365.0	CLAJON GAS CO
-CHARLES H BENTLEY				RECEIVED:	07/08/82	JA: TX			
8242447	F-09-052771	4250300000		102-4		GEORGE C BIRDWELL #1-L	GRAHAM SE (3350 STRAW	35.0	SUN GAS TRANSMISS
8242446	F-09-052770	4250335096		102-4		GEORGE C BIRDWELL #2	BRIR LOWER CADDO	22.0	SUN GAS TRANSMISS
8242445	F-09-052768	4250334604		102-4		VAUGHAN #1	VAUGHAN MARBLE FALLS	108.0	SUN GAS TRANSMISS
-CHEVRON U S A INC				RECEIVED:	07/08/82	JA: TX			
8242553	F-8A-053273	4241532137		103		SACROC UNIT #39-7	KELLY-SNYDER	21.0	EL PASO NATURAL G
8242554	F-8A-053271	4241532149		103		SACROC UNIT #49-11	KELLY-SNYDER	56.0	EL PASO NATURAL G
8242551	F-8A-053271	4241532119		103		SACROC UNIT #72-6	KELLY-SNYDER	10.0	EL PASO NATURAL G
8242555	F-8A-053275	4241532158		103		SACROC UNIT #73-8	KELLY-SNYDER	52.0	EL PASO NATURAL G
8242552	F-8A-053272	4241532212		103		SACROC UNIT #75-11	KELLY-SNYDER	57.0	EL PASO NATURAL G
8242560	F-08-053288	4249531438		103		W E BAIRD #18-69C	KEYSTONE (CLEARFORK)	5.4	TRANSWESTERN PIPE
8242561	F-08-053289	4249531435		103		W E BAIRD #18-73C	KEYSTONE (CLEARFORK)	50.0	TRANSWESTERN PIPE
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	07/08/82	JA: TX			
8242306	F-7B-048938	4236732193		102-4		STACHAR #1	CLAYTON (CONGL)	0.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	07/08/82	JA: TX			
8242489	F-08-053108	4200333012		103		NORTH DOLLARHIDE UNIT #111	DOLLARHIDE (DEVONIAN)	10.0	UNION OIL CO OF C
8242373	F-08-051716	4213505553		108		TXL X #1		0.1	PHILLIPS PETROLEU
8242372	F-08-051715	4213505554		108		TXL X #2		0.0	PHILLIPS PETROLEU
8242369	F-08-051712	4213505556		108		TXL X #4		0.1	PHILLIPS PETROLEU
8242371	F-08-051714	4213505557		108		TXL X #5		0.7	PHILLIPS PETROLEU
8242384	F-08-051986	4213505558		108		TXL X #6	HARPER MG 4/26/82	8.0	PHILLIPS PETROLEU
8242370	F-08-051713	4213505559		108		TXL X #7		0.3	PHILLIPS PETROLEU
8242593	F-8A-053374	4216531983		103		WEST SEMINOLE SAN ANDEWS UNIT #1211	SEMINOLE WEST	54.0	CITIES SERVICE CO
8242602	F-8A-053387	4216531628		103		WEST SEMINOLE SAN ANDRES #618	SEMINOLE WEST	34.0	CITIES SERVICE CO
8242592	F-8A-053373	4216531985		103		WEST SEMINOLE SAN ANDRES UNIT #1212	SEMINOLE WEST	43.0	CITIES SERVICE CO
8242590	F-8A-053371	4216531974		103		WEST SEMINOLE SAN ANDRES UNIT #1214	SEMINOLE WEST	18.0	CITIES SERVICE CO
8242589	F-8A-053370	4216531975		103		WEST SEMINOLE SAN ANDRES UNIT #1215	SEMINOLE WEST	38.0	CITIES SERVICE CO
8242588	F-8A-053369	4216531986		103		WEST SEMINOLE SAN ANDRES UNIT #1216	SEMINOLE WEST	25.0	CITIES SERVICE CO
8242584	F-8A-053356	4216532297		103		WEST SEMINOLE SAN ANDRES UNIT #1310	SEMINOLE WEST	26.0	CITIES SERVICE CO
8242587	F-8A-053368	4216532301		103		WEST SEMINOLE SAN ANDRES UNIT #1313	SEMINOLE WEST	23.0	CITIES SERVICE CO
8242481	F-8A-053097	4216531626		103		WEST SEMINOLE SAN ANDRES UNIT #310	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242482	F-8A-053098	4216531631		103		WEST SEMINOLE SAN ANDRES UNIT #311	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242483	F-8A-053099	4216531743		103		WEST SEMINOLE SAN ANDRES UNIT #312	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242484	F-8A-053100	4216531743		103		WEST SEMINOLE SAN ANDRES UNIT #313	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242485	F-8A-053101	4216531745		103		WEST SEMINOLE SAN ANDRES UNIT #314	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242486	F-8A-053102	4216531787		103		WEST SEMINOLE SAN ANDRES UNIT #315	SEMINOLE WEST	61.0	CITIES SERVICE CO
8242487	F-8A-053103	4216531786		103		WEST SEMINOLE SAN ANDRES UNIT #316	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242488	F-8A-053104	4216531790		103		WEST SEMINOLE SAN ANDRES UNIT #317	SEMINOLE WEST	67.0	CITIES SERVICE CO
8242594	F-8A-053377	4216531788		103		WEST SEMINOLE SAN ANDRES UNIT #318	SEMINOLE WEST	40.0	CITIES SERVICE CO
8242597	F-8A-053382	4216531789		103		WEST SEMINOLE SAN ANDRES UNIT #319	SEMINOLE WEST	56.0	CITIES SERVICE CO
8242596	F-8A-053381	4216531838		103		WEST SEMINOLE SAN ANDRES UNIT #320	SEMINOLE WEST	29.0	CITIES SERVICE CO
8242598	F-8A-053383	4216531632		103		WEST SEMINOLE SAN ANDRES UNIT #614	SEMINOLE WEST	74.0	CITIES SERVICE CO
8242599	F-8A-053384	4216531630		103		WEST SEMINOLE SAN ANDRES UNIT #615	SEMINOLE WEST	28.0	CITIES SERVICE CO
8242600	F-8A-053385	4216531627		103		WEST SEMINOLE SAN ANDRES UNIT #616	SEMINOLE WEST	34.0	CITIES SERVICE CO
8242601	F-8A-053386	4216531629		103		WEST SEMINOLE SAN ANDRES UNIT #617	SEMINOLE WEST	14.0	CITIES SERVICE CO
8242595	F-8A-053378	4216531836		103		WEST SEMINOLE SAN ANDRES UNIT #619	SEMINOLE WEST	17.0	CITIES SERVICE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242604	F-8A-053389	4216531834		103		WEST SEMINOLE SAN ANDRES UNIT #621	SEMINOLE WEST	49.0	CITIES SERVICE CO
8242603	F-8A-053388	4216531833		103		WEST SEMINOLE SAN ANDRES UNIT #622	SEMINOLE WEST	30.0	CITIES SERVICE CO
8242591	F-8A-053372	4216531832		103		WEST SEMINOLE SAN ANDRES UNIT #623	SEMINOLE WEST	74.0	CITIES SERVICE CO
8242585	F-8A-053357	4216531831		103		WEST SEMINOLE SAN ANDRES UNIT #624	SEMINOLE WEST	33.0	CITIES SERVICE CO
8242582	F-8A-053354	4216531980		103		WEST SEMINOLE SAN ANDRES UNIT #625	SEMINOLE WEST	13.0	CITIES SERVICE CO
8242583	F-8A-053355	4216531981		103		WEST SEMINOLE SAN ANDRES UNIT #712	SEMINOLE WEST	25.0	CITIES SERVICE CO
-CLEAR FORK GAS CO				RECEIVED:		07/08/82 JA: TX			
8242522	F-7B-053202	4244732427		102-2		OTTO TUGGLE #3	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
8242523	F-7B-053203	4244732904		102-2		OTTO TUGGLE #4	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
8242326	F-7B-050375	4244732336		102-2		SULLIVAN #4	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
-CLEMCO INC				RECEIVED:		07/08/82 JA: TX			
8242388	F-86-052098	4249930991		103		J E KEMP #1	QUITMAN (PETTIT)	20.0	CRA INC
-COBRA OIL AND GAS CORPORATION				RECEIVED:		07/08/82 JA: TX			
8242342	F-09-051056	4207732270		103		JOE MAYO #1 WELL #1 (RRC #21222)	JOY NW (MARBLE FALLS)	27.0	SANFORD P FAGADAU
-COLA PETROLEUM INC				RECEIVED:		07/08/82 JA: TX			
8242435	F-10-052725	4217930725		103		ALMA #1	EAST PANHANDLE	0.0	PHILLIPS PETROLEU
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:		07/08/82 JA: TX			
8242605	F-03-053396	4205132211		102-2		COLUMBIA PROFESSIONAL BUILD INC #3	GIDDINGS (AUSTIN CHAL	104.0	FERGUSON CROSSING
-COMMAND ENERGY CORP				RECEIVED:		07/08/82 JA: TX			
8242304	F-7B-048677	4213330742		102-4		BRANDON #1	BYRNES (DUFFER)	0.0	CORONADO TRANSMIS
8242273	F-7B-046562	4214300000		102-4		CLAUDE BAYS #3 ID NO 92353	BYRNES (DUFFER)	0.0	CORONODO TRANSMIS
8242305	F-7B-048697	4213300000		102-4		T T FAIR #6 RRC#	FAIR (MARBLE FALLS LO	0.0	NORTHERN GAS PROD
8242315	F-7B-049705	4214300000		102-4		WHITEFIELD #1 RRC #	BYRNES (DUFFER)	100.0	CORONADO TRANSMIS
-CONOCO INC				RECEIVED:		07/08/82 JA: TX			
8242468	F-08-052933	4238900000		108		FORD GERALDINE UNIT #145 ID #21021	GERALDINE/FORD/	1.1	EL PASO NATURAL G
8242465	F-08-052916	4238900000		108		FORD GERALDINE UNIT #160 ID #21021	GERALDINE/FORD/	0.3	EL PASO NATURAL G
8242464	F-08-052915	4238900000		108		FORD GERALDINE UNIT #177 ID #21021	GERALDINE/FORD/	1.6	EL PASO NATURAL G
8242456	F-7B-052906	4238900000		108		FORD GERALDINE UNIT #232 ID #21021	GERALDINE/FORD/	2.4	PHILLIPS PETROLEU
8242463	F-08-052914	4210900000		108		FORD GERALDINE UNIT #250 ID #21021	GERALDINE/FORD/	0.9	PHILLIPS PETROLEU
8242469	F-08-052934	4238900000		108		FORD GERALDINE UNIT #307 ID#21021	GERALDINE/FORD/	5.3	EL PASO NATURAL G
8242470	F-08-052935	4222700000		108		G O CHALK -C- #6 ID #02687	HOWARD-GLASSCOCK	0.1	PHILLIPS PETROLEU
8242508	F-08-053167	4222732621		103		H R CLAY - E #59 ID #18993	HOWARD-GLASSCOCK	4.0	PHILLIPS PETROLEU
8242455	F-08-052905	4222700000		108		H R CLAY -E ID #02692	HOWARD-GLASSCOCK	1.5	PHILLIPS PETROLEU
8242432	F-08-052615	4222732620		103		H R CLAY -E- #57 ID #18993	HOWARD-GLASSCOCK	4.0	PHILLIPS PETROLEU
8242471	F-08-052936	4213533326		108		L E WIGHT -4- #28 ID #23778	NORTH COWDEN	1.2	AMOCO PRODUCTION
8242457	F-7B-052907	4215130416		108		LUCIE MAE WILSON #16 ID #01915	ROUND TOP/CANYON SAND	7.7	LONE STAR GAS CO
8242458	F-08-052908	4215130789		108		LUCIE MAE WILSON #17 ID #01915	ROUND TOP/CANYON SAND	8.5	LONE STAR GAS CO
8242459	F-7B-052909	4215130417		108		LUCIE MAE WILSON ID #01915	ROUND TOP/CANYON SAND	4.2	LONE STAR GAS CO
8242460	F-7B-052910	4215100000		108		ROUND TOP PALO PINTO #102 ID#11416	ROUND TOP/PALO PINTO	0.2	LONE STAR GAS CO
8242466	F-7B-052917	4215100000		108		ROUND TOP PALO PINTO #39 ID#11416	ROUND TOP/PALO PINTO	0.1	LONE STAR GAS CO
8242461	F-08-052912	4213532950		108		WIGHT UNIT #126 ID #20661	NORTH COWDEN	0.7	AMOCO PRODUCTION
8242462	F-08-052913	4213500000		108		WIGHT UNIT #55 ID #20661	NORTH COWDEN	1.0	AMOCO PRODUCTION
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:		07/08/82 JA: TX			
8242383	F-04-051960	4235531658		102-4		PFENNING #1	STRATTON (J-10 E)	0.0	CENTRAL POWER & L
-COSTA RESOURCES INC				RECEIVED:		07/08/82 JA: TX			
8242261	F-08-046011	4210332518		103		REYNOLDS #1	COSTA (CLEARFORK UPPE	127.7	PERRY GAS PROCESS
8242260	F-08-045950	4210300000		103		ROGERS #2	COSTA (CLEARFORK) UPP	0.0	PERRY GAS PROCESS
-CRUDE RESOURCES INC				RECEIVED:		07/08/82 JA: TX			
8242393	F-7C-052183	4239900000		102-4		SMITH #1	CREWS-SHARP	110.0	LONE STAR GAS CO
-DALCO PETROLEUM U S LTD				RECEIVED:		07/08/82 JA: TX			
8242243	F-06-041117	4218330450		102-4	103	CITY OF KILGORE #1 DRILLNG #091877	WILLOW SPRINGS WEST (	301.0	UNITED GAS PIPE L
8242243	F-06-041117	4218330450		107-TF		CITY OF KILGORE #1 DRILLNG #091877	WILLOW SPRINGS WEST (	300.0	UNITED GAS PIPE L
-DANIEL OIL COMPANY				RECEIVED:		07/08/82 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
*8242606	F-7C-053397	4223500000		108		W M NOELKE EST #1
-DAVIS OIL COMPANY				RECEIVED:	07/08/82	JA: TX
8242265	F-03-046163	4203931565		102-4		FLORANCE L CRAMB UNIT #2
8242397	F-7C-052222	4209530584		102-4		MYRTLE FAVOR ESTATE #1
-DEMINEX US OIL COMPANY				RECEIVED:	07/08/82	JA: TX
8242453	F-7B-052885	4225300000		103		DUGAN A #8
-DISCOVERY OPERATING INC				RECEIVED:	07/08/82	JA: TX
*8242416	F-8A-052506	4222732655		103		CATES #1
-DON BIBLE PRODUCTION CO				RECEIVED:	07/08/82	JA: TX
8242264	F-7B-046159	4208300000		102-2		JOHN HENSLEY 1-A
-DON H HANVEY OIL INTERESTS INC				RECEIVED:	07/08/82	JA: TX
8242579	F-7B-053335	4213333384		102-4		WAGLEY-PEEL #1 (099044)
-DONALD C SLAWSON				RECEIVED:	07/08/82	JA: TX
8242316	F-02-049745	4229732689		103		KITTY BURNS #1-A
-EADS OPERATING CO				RECEIVED:	07/08/82	JA: TX
8242334	F-02-050832	4228531641		103		HAMMAN UNIT #1
-EDWARDS ENERGY CORP				RECEIVED:	07/08/82	JA: TX
8242480	F-7C-053095	4208100000		103		CARR ESTATE #1
-EDWIN L COX				RECEIVED:	07/08/82	JA: TX
8242324	F-04-050244	4247933239		103	107-TF	OLMITOS RANCH #2
-ENERGY RESERVES GROUP INC				RECEIVED:	07/08/82	JA: TX
8242263	F-7C-046109	4223531468		108		ELA C SUGG 73 #1
8242302	F-10-048461	4235700000		108		HAWK #079
8242586	F-7C-053362	4208131076		103		J E CHAPPELL"A" #10
-ENSERCH EXPLORATION INC				RECEIVED:	07/08/82	JA: TX
8242286	F-06-047238	4222530396		103		R S & H H DAILEY #7
8242240	F-02-037869	4228531419		107-TF		VLASTA SIMEK #1
-ENSOURCE INC				RECEIVED:	07/08/82	JA: TX
8242276	F-7B-046692	4213331710		103		WILLEMS #1
-ERSO INC				RECEIVED:	07/08/82	JA: TX
8242368	F-06-051689	4236500000		103	107-TF	CARTHAGE GAS UNIT #45
-ESTATE OIL & GAS CORP				RECEIVED:	07/08/82	JA: TX
8242394	F-05-052190	4216130670		102-2	107-TF	CITY OF FAIRFIELD #1 ID 098584
8242233	F-06-030828	4220330712		102-4		IVY WILLIAMS HEIRS #2-C 89520
-EXXON CORPORATION				RECEIVED:	07/08/82	JA: TX
8242356	F-03-051382	4224531427		103		AMELIA OIL UNIT #43 #4
8242438	F-08-052730	4210332752		103		CORDONA LAKE UNIT #66
8242437	F-08-052729	4210332757		103		CORDONA LAKE UNIT #67
8242450	F-08-052817	4200333013		103		FULLERTON CLEARFORK UNIT #1341
8242449	F-08-052816	4200333139		103		FULLERTON CLEARFORK UNIT #745
8242436	F-08-052728	4200332891		103		FULLERTON CLEARFORK UNIT #941
8242350	F-03-051285	4207131176		103		GALVESTON BAY STATE "A" #181
8242344	F-06-051160	4207330450		103		HARRY LEE CARTER C #13
8242279	F-08-046869	4210332629		103		J B TUBB A/C 1 #258U
8242440	F-04-052754	4242731603		103		J C MCGILL JR STATE 23 (098973)
8242418	F-08-052535	4210300000		108		J C TUBB A/C 1 # 97U
8242326	F-08-050872	4210332609		103		J C TUBB A/C 1 #254L
8242419	F-08-052539	4210300000		108		J C TUBB A/C 1 #68U
8242322	F-08-050116	4210332669		103		J C TUBB A/C1 #255U
8242229	F-08-020187	4200330929		108-SA		J E PARKER A/C 10 #83
*8242532	F-04-053222	4227331535		102-4		K R BORREGOS MB-29 (09996)
8242386	F-7C-052009	4243131014		103		LOU E JOHNSON ESTATE A/C 1 #30
8242510	F-04-053174	4204700009		108		MCGILL BROS 383-F (07040)

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FIELD NAME	PROD	PURCHASER
MERTZON (CANYON)	7.5	CRA INC
HOT CHOCOLATE (10,300	700.0	VALERO TRANSMISSI
PAINT ROCK SW (GARDNE	200.0	LONE STAR GAS CO
CRESLENN (UPPER STRAW	8.0	DENACO INC
ACKERLY (DEAN SAND)	16.2	TEXACO INC
COLEMAN COUNTY REGULA	45.8	ODESSA NATURAL CO
ADRIENNE (DUFFER)	104.0	LONE STAR GAS CO
KITTY BURNS (9600')	400.0	HOUSTON PIPELINE
HOPE	72.0	VALERO TRANSMISSI
JAMESON STRAWN	54.0	SUN EXPLORATION &
MUJERES CREEK (LOBO 6	700.0	EL PASO NATURAL G
SPRABERRY	0.8	NORTHERN NATURAL
FARNSWOTH	1.8	PHILLIPS PETROLEU
JAMESON (STRAWN)	36.4	UNION TEXAS PETRO
NAVARRO CROSSING	310.0	LONE STAR GAS CO
SWEETHOME	900.0	VALERO TRANSMISSI
FOSTER (MARBLE FALLS)	18.3	ODESSA NATURAL CO
CARTHAGE (COTTON VALL	6.0	TENNESSEE GAS PIP
REED (HAYNESVILLE)	182.5	UNTIED TEXAS TRAN
LANSING NORTH (TRAVIS	73.0	TEJAS GAS CORP
AMELIA (FRIO 6)	20.0	HOUSTON PIPELINE
CORDONA LAKE	1.0	ODESSA NATURAL GA
CORDONA LAKE	20.0	ODESSA NATURAL GA
FULLERTON	15.0	PHILLIPS PETROLEU
FULLERTON	15.0	PHILLIPS PETROLEU
FULLERTON	15.0	PHILLIPS PETROLEU
RED FISH REEF (FB B-1	365.0	HOUSTON PIPELINE
NECHES (WOODBINE)	41.1	UNITED GAS PIPELI
SAND HILLS (MCKNIGHT)	5.0	EL PASO NATURAL G
KELSEY SE (29-A)	600.0	TRUNKLINE GAS CO
SAND HILLS (MC/KNIGHT	4.0	EL PASO NATURAL G
SAND HILLS (TUBB)	19.0	EL PASO NATURAL G
SAND HILLS (WICHITA-A	16.0	EL PASO NATURAL G
SAND HILLS (JUDKINS)	79.0	EL PASO NATURAL G
GOLDSMITH NORTH	18.0	NORTHERN NATURAL
STRATTON (N-28W)	61.0	ARMCO STEEL CORP
JAMESON (STRAWN)	34.0	
KELSEY DEEP (15-K)	2.0	TRUNKLINE GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242340	F-04-050978	4204730972		102-4		MCGILL BROS 477 (098650)	KELSEY DEEP (ZONE 22-	500.0	TRUNKLINE GAS CO
8242319	F-04-049933	4226130615		107-DP		MRS S K EAST "B" 35 (098794)	SARITA EAST (FRIO)	219.0	TEJAS GAS CORP
8242391	F-8A-052170	4216532264		103		ROBERTSON CLEARFORK UNIT 9401	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8242406	F-08-052387	4249531424		103		YARBROUGH & ALLEN #93	ARENOSO (STRAWN DETRI	15.0	PHILLIPS PETROLEU
-FAGIN PRODUCTION CORP				RECEIVED:	07/08/82	JA: TX			
8242352	F-7C-051306	4243532549		103	107-TF	GALBREATH #1 096951	SAWYER (CANYON)	130.0	EL PASO NATURAL G
-FARMERS OIL & GAS EXPLORATION				RECEIVED:	07/08/82	JA: TX			
8242517	F-7B-053189	4236732223		102-4		LEWELLING "A" #1 #099039	GLENDA SUE S (CONGL)	219.0	SOUTHWESTERN GAS
-FRAC INC				RECEIVED:	07/08/82	JA: TX			
8242501	F-08-053146	4200333049		103		THORNBERRY "4" #5	FUHRMAN MASCHO	5.4	PHILLIPS PETROLEU
8242500	F-08-053144	4200333112		103		UNIVERSITY "7" #4	FUHRMAN MASCHO	9.1	PHILLIPS PETROLEU
-FRED C MERGNER & ASSOCIATES INC				RECEIVED:	07/08/82	JA: TX			
8242274	F-7B-046563	4214300000		102-4		H W KEITH #1 RRC ID #90152	BYRNES (DUFFER)	0.0	CORONADO TRANSMIS
8242266	F-7B-046280	4214300000		102-4		PEARL KEITH #1 RRC ID #83776	BYRNES (DUFFER)	0.0	CORONADO TRANSMIS
8242272	F-7B-046559	4214300000		102-4		WANDA KEITH #1 RRC ID #83774	BYRNES (DUFFER)	0.0	CORONADO TRANSMIS
-G R WHITTINGTON				RECEIVED:	07/08/82	JA: TX			
8242365	F-10-051557	4223300000		103		JAMESON #0-2	PANHANDLE	7.3	PANHANDLE PRODUCI
8242363	F-10-051554	4223300000		103		JAMESON #0-4	PANHANDLE	3.2	HUTCHINSON
8242364	F-10-051555	4223300000		103		JAMESON #0-5	PANHANDLE	31.3	PANHANDLE PRODUCI
8242362	F-10-051553	4223300000		103		JAMESON #0-6	PANHANDLE	29.8	PANHANDLE PRODUCI
8242361	F-10-051552	4223300000		103		JAMESON #0-7	PANHANDLE	71.2	PANHANDLE PRODUCI
-GARY D TURNER DBA TURNER PROPERTIES				RECEIVED:	07/08/82	JA: TX			
8242284	F-08-047111	4222732564		103		S F BUCHANAN #1	BIG SPRING (FUSSELMAN	30.3	PHILLIPS PETROLEU
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	07/08/82	JA: TX			
8242454	F-02-052895	4212300000		108		DIEBEL A UNIT #2-T	ARNECKEVILLE (WILCOX	20.0	TEXAS EASTERN TRA
-GEOSOUTHERN ENERGY CORP				RECEIVED:	07/08/82	JA: TX			
8242277	F-03-046740	4205100000		102-2	103	CRICKET #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-GERALD STEINBERGER				RECEIVED:	07/08/82	JA: TX			
8242502	F-09-053150	4207732595		103		BROWN WELL #1 - 22077	BLUE GROVE (CADDO)	20.0	FAGADAU ENERGY CO
-GETTY OIL COMPANY				RECEIVED:	07/08/82	JA: TX			
8242431	F-02-052607	4228500000		107-TF		FRED MELNAR ESTATE #1 ID NO 87617	WORD	0.0	VALERO TRANSMISSI
8242332	F-08-050771	4230130306		103		MADERA 35-76 #1	GRICE E (STRAWN)	339.0	INTRATEX GAS CO
8242317	F-08-049921	4237133463		103		MANZANITA "17" #1	MANZANITA (DEVONIAN)	1132.0	INTRATEX GAS CO
-GOLDKING PRODUCTION COMPANY				RECEIVED:	07/08/82	JA: TX			
8242251	F-03-043636	4216700000		103		ADRIANCE #1	ALTA LOMA W	460.0	HOUSTON PIPE LINE
-GRUY MANAGEMENT SERVICE CO				RECEIVED:	07/08/82	JA: TX			
8242404	F-06-052329	4236500000		108		ROSA JONES 2-T/29927	CARTHAGE	19.4	TEXAS GAS TRANSMI
8242405	F-06-052330	4236500000		108		ROSCOE ROBINSON 1-C/29930	CARTHAGE FIELD	18.9	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	07/08/82	JA: TX			
8242557	F-08-053283	4213533843		103		GOLDSMITH SAN ANDRES UNIT B-175	GOLDSMITH SAN ANDRES	137.0	PHILLIPS PETROLEU
8242381	F-09-051912	4249700000		103		I G YATES #9	BOONSVILLE (CADDO CON	64.2	NATURAL GAS PIPEL
8242389	F-10-052102	4221130673		108		J W CAMPBELL #1-56	RED DEER CREEK	14.0	TRANSWESTERN PIPE
-H & R OILS INC				RECEIVED:	07/08/82	JA: TX			
8242399	F-7C-052255	4239932149		102-2		KING J H #2	DEIKE (GARDNER)	125.0	UNION TEXAS PETRO
-H & S PRODUCTION INC				RECEIVED:	07/08/82	JA: TX			
8242357	F-09-051385	4223700000		102-4		ELMER LEWIS #1	ELMER (CONGL)	70.0	LONE STAR GAS CO
8242490	F-7B-053123	4215100000		103		PERKINS #1	SYLVESTER (GOEN	18.8	LONE STAR GAS CO
-H C W EXPLORATION INC				RECEIVED:	07/08/82	JA: TX			
8242398	F-08-052241	4210332700		103		ABELL DEVONIAN UNIT #29	ABELL (DEVONIAN)	36.5	NORTHERN GAS PROD
-H L BROWN JR				RECEIVED:	07/08/82	JA: TX			
8242380	F-8A-051886	4203330743		103		MILLER 368 #3	LUCY N E (STRAWN B)	18.3	SUN OIL CO
-HINTON PRODUCTION COMPANY				RECEIVED:	07/08/82	JA: TX			
8242254	F-06-044800	4240131266		102-4	107-TF	J W MCDAVID #1	HENDERSON NORTH (COTT	500.0	UNITED GAS PIPELI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HNG OIL COMPANY				RECEIVED:	07/08/82	JA: TX
8242385	F-04-051993	4250531301		107-TF		SERAPIO VELA HEIRS #3
-HOME PETROLEUM CORPORATION				RECEIVED:	07/08/82	JA: TX
8242323	F-02-050198	4205700000		103		KATHERINE M SELLS #1
-HONDO OIL & GAS COMPANY				RECEIVED:	07/08/82	JA: TX
8242433	F-08-052654	4210931522		103		HAWKINS-GRUBB #1
-HUGHES & HUGHES				RECEIVED:	07/08/82	JA: TX
8242360	F-02-051523	4202531822		102-4		EDWIN BROWN "B" #4
-IKE LOVELADY INC				RECEIVED:	07/08/82	JA: TX
8242538	F-7C-053242	4245130815		102-4	103	CLAUDIA MAE #1
8242539	F-7C-053243	4245130828		102-4	103	CLAUDIA MAE #2
8242476	F-7C-053055	4241331023		103		ENOS #3 #07680
8242540	F-7C-053244	4245130829		102-4	103	LARRY J #1
8242541	F-7C-053245	4245130857		102-4	103	URBAN #1
8242542	F-7C-053246	4245130882		102-4	103	URBAN #2
8242534	F-7C-053238	4245130705		102-4	103	WEATHERFORD #1
8242535	F-7C-053239	4245130767		102-4	103	WEATHERFORD #2
8242536	F-7C-053240	4245130793		102-4	103	WEATHERFORD #3
8242537	F-7C-053241	4245130808		102-4	103	WEATHERFORD #4
-INDEPENDENT EXPLORATION CO				RECEIVED:	07/08/82	JA: TX
8242246	F-02-041402	4228531581		102-4		CARROLL-BELLINGER #2T
-INDIAN WELLS OIL CO				RECEIVED:	07/08/82	JA: TX
8242358	F-7C-051449	4223531855		102-2		RICHEY #54A-6
8242333	F-7C-050798	4223531831		103		RICHEY 43A-4
-INEXCO OIL COMPANY				RECEIVED:	07/08/82	JA: TX
8242328	F-04-050441	4235531800		102-4		CAIN-SECHRIST #1
-INTEGRAL ENERGY CORP				RECEIVED:	07/08/82	JA: TX
8242247	F-03-041837	4232100000		103		STATE TRACT 303 #2-U
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	07/08/82	JA: TX
8242252	F-7B-043923	4236300000		108		C H BELDING #1 034388
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	07/08/82	JA: TX
8242434	F-7C-052674	4210533709		102-4		UNIVERSITY 29-19 #1
8242378	F-7C-051807	4210533986		102-4		UNIVERSITY 30-15 #2
8242377	F-7C-051805	4210533929		103	107-TF	UNIVERSITY 30-2 #1
8242383	F-7C-048520	4210533703		102-4		UNIVERSITY 31-10E #2
8242366	F-7C-051611	4210500000		102-4		UNIVERSITY 33-10 #1
-J M HUBER CORPORATION				RECEIVED:	07/08/82	JA: TX
8242497	F-10-053138	4223331241		103		BRYAN MAYFIELD UNIT #5-7
8242496	F-10-053137	4223331323		103		HODGES #12
8242494	F-10-053135	4223331327		103		HODGES #8
8242495	F-10-053136	4223331324		103		HODGES #9
-JAH INC				RECEIVED:	07/08/82	JA: TX
8242293	F-04-047849	4240931566		102-4		J M DRUMMOND HEIRS #1
-JAMES K ANDERSON INC				RECEIVED:	07/08/82	JA: TX
8242441	F-7C-052756	4241331086		102-4		MCGREGOR #2
-JOHN L COX				RECEIVED:	07/08/82	JA: TX
8242341	F-08-050982	4231732506		103		WEEK #1-X RRC #21165
-JOHN OATES TRUSTEE				RECEIVED:	07/08/82	JA: TX
8242428	F-10-052570	4223300000		108		STEVENSON #1
8242427	F-10-052569	4223300000		108		STEVENSON #2
8242426	F-10-052568	4223300000		108		STEVENSON #3
8242425	F-10-052567	4223300000		108		STEVENSON #4
8242424	F-10-052566	4223300000		108		STEVENSON #5

FIELD NAME	PROD	PURCHASER
ROLETA (7483)	463.5	HOUSTON PIPELINE
NOLTY (FRIO 8400)	0.0	CHANNEL INDUSTRIE
FORD WEST (4100)	36.5	CONOCO INC
NORBEE S E (HOCKLEY 4	55.0	UNITED GAS PIPE L
VERIBEST EAST (STRAWN	36.5	SUN OIL CO
VERIBEST EAST (STRAWN	36.5	SUN OIL CO
CHEANEY (HARKEY)	25.5	ARCO OIL & GAS CO
VERIBEST EAST (STRAWN	18.2	SUN OIL CO
VERIBEST EAST (STRAWN	18.2	SUN OIL CO
VERIBEST EAST (STRAWN	18.2	SUN OIL CO
VERIBEST EAST (STRAWN	36.5	SUN OIL CO
VERIBEST EAST (STRAWN	27.3	SUN OIL CO
VERIBEST EAST (STRAWN	36.5	SUN OIL CO
VERIBEST EAST (STRAWN	18.2	SUN OIL CO
HOPE MIO 2660	338.0	VALERO TRANSMISSI
PROBANDT (CANYON)	0.0	NORTHERN NATURAL
PROBANDT (CANYON)	0.0	NORTHERN NATURAL
AIRPORT (LUNDBERG)	73.0	
OYSTER LAKE W (1900)	146.0	DOW CHEMICAL CO
BELDING (BEND CONG)	16.2	LONE STAR GAS CO
UNIVERSITY 29 (STRAWN	120.0	
UNIVERSITY 31 (QUEEN)	60.0	
OZONA (CANYON SAND)	210.0	
UNIVERSITY 31 (STRAWN	300.0	PHILLIPS PETROLEU
UNIVERSITY 31 (QUEEN)	30.0	
PANHANDLE	37.0	COLORADO INTERSTA
PANHANDLE	37.0	COLORADO INTERSTA
PANHANDLE	40.0	COLORADO INTERSTA
PANHANDLE	37.0	COLORADO INTERSTA
WEBB (9600) FIELD	75.0	
FT MCKAVITT W (CANYON	110.0	ARCO OIL & GAS CO
SPRABERRY (TREND AREA	5.0	PHILLIPS PETROLEU
PANHANDLE	0.0	PANHANDLE PRODUCI
PANHANDLE	0.0	PANHANDLE PRODUCI
PANHANDLE	0.0	PANHANDLE PRODUCI
PANHANDLE	0.0	PANHANDLE PRODUCI
PANHANDLE	0.0	PANHANDLE PRODUCI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242423	F-10-052565	4223300000		108		STEVENSON #7	PANHANDLE	0.0	PANHANDLE PRODUCI
8242422	F-10-052564	4223300000		108		STEVENSON #8	PANHANDLE	0.0	PANHANDLE PRODUCI
8242421	F-10-052563	4223300000		108		STEVENSON #9	PANHANDLE	0.0	PANHANDLE PRODUCI
-KILLAM & HURD LTD				RECEIVED:		07/08/82 JA: TX			
8242280	F-04-046875	4247932975		102-4		PUIG BLK 111 #1	GLEN NORTH (PETTUS)	0.0	
-LARIO OIL & GAS COMPANY				RECEIVED:		07/08/82 JA: TX			
8242408	F-08-052401	4217331191		103		COOPER 1-X	BLALOCK LAKE WEST (WO	136.0	PHILLIPS PETROLEU
-LEAR PETROLEUM CORPORATION				RECEIVED:		07/08/82 JA: TX			
8242242	F-03-040472	4224531600		102-2		LEAR J M CARPENTER #1	NOME N E (12,800)	900.0	PRODUCER'S GAS CO
-LYONS PETROLEUM INC				RECEIVED:		07/08/82 JA: TX			
8242325	F-02-050365	4217531529		102-4	103	J A COHN #1	GANTT (FRIO 2140)	36.0	TRANSCONTINENTAL
-M S KLOTZMAN EXPLORATION				RECEIVED:		07/08/82 JA: TX			
8242283	F-04-047070	4235537953		102-4		H E CARBERRY	FARENTHOLD (5650' FRI	146.0	NUE-WELLS PIPE LI
-MCR OIL CORP OF TEXAS				RECEIVED:		07/08/82 JA: TX			
8242307	F-10-048970	4221100000		108		MATHERS RANCH #11	CANADIAN SE - DOUGLAS	8.0	NORTHERN NATURAL
-MCZ INC				RECEIVED:		07/08/82 JA: TX			
8242518	F-03-053196	4204100000		102-2		LUCY HARRISION UNIT 1 #1-U	KURTEN (WOODBINE)	95.0	FERGUSON CROSSING
-MEG PETROLEUM CORP				RECEIVED:		07/08/82 JA: TX			
8242375	F-7B-051749	4235331153		103		MCLAUGHLIN #2	JMM SOUTH (COOK)	344.0	SUN GAS CO
-MID-TEXAS PETROLEUM INC				RECEIVED:		07/08/82 JA: TX			
8242239	F-03-037170	4214900000		102-2		BURKHARDT #1	GIDDINGS	0.0	CLAJON GAS CO
8242259	F-03-045833	4214900000		102-2		MEINERS-FRENZEL UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-MILES PRODUCTION CO				RECEIVED:		07/08/82 JA: TX			
8242346	F-09-051274	4223700000		102-4		M P HOEFLE #1 ID # PENDING	ANTELOPE S E (MARBLE	200.0	SOUTHWESTERN GAS
8242347	F-09-051275	4223733175		102-4		M P HOEFLE #2 ID #22059	AMENDED TO ANTELOPE S	150.0	SOUTHWESTERN GAS
8242348	F-09-051277	4223733574		102-4		M P HOEFLE #4	ANTELOPE SE (MARBLE F	5.0	SOUTHWESTERN GAS
8242349	F-09-051278	4223733798		102-4		M P HOEFLE #5 ID #20651	ANTELOPE SE (MARBLE F	5.0	SOUTHWESTERN GAS
8242295	F-09-048303	4223733717		102-4	103	M P HOEFLE "B" #2	ANTELOPE S E (MARBLE	401.0	SOUTHWESTERN GAS
8242296	F-09-048304	4223733906		102-4	103	M P HOEFLE "B" #3	ANTELOPE S E (MARBLE	248.0	SOUTHWESTERN GAS
8242297	F-09-048306	4223700000		102-4		M P HOEFLE "C" #1	ANTELOPE S E (MARBLE	638.0	SOUTHWESTERN GAS
8242298	F-09-048307	4223734164		102-4	103	M P HOEFLE "D" #1	ANTELOPE S E (MARBLE	290.0	SOUTHWESTERN GAS
8242301	F-09-048310	4223700000		102-4		M P HOEFLE "D" #2	ANTELOPE S E (MARBLE	316.0	SOUTHWESTERN GAS
8242299	F-09-048308	4223733907		102-4	103	M P HOEFLE "G" #1	ANTELOPE S E (MARBLE	65.0	SOUTHWESTERN GAS
8242343	F-09-051145	4223734236		102-4		M P HOEFLE "H" WELL #1	ANTELOPE SE (MARBLE F	60.0	SOUTHWESTERN GAS
8242300	F-09-048309	4223733962		102-4	103	R D MONTGOMERY #1	ANTELOPE S E (MARBLE	91.0	SOUTHWESTERN GAS
-MILLS BENNETT ESTATE				RECEIVED:		07/08/82 JA: TX			
8242429	F-04-052602	4204700000		108		BENNETT MILLS ESTATE FEE #5	MILLS BENNETT (D SAND	0.0	TEXAS EASTERN TRA
-MINERAL DEVELOPMENT INC				RECEIVED:		07/08/82 JA: TX			
8242558	F-08-053234	4237133440		103		SCHARFF-BLACKMON "A" #1 #26915	PECOS VALLEY (HIGH GR	9.4	PERRY PIPELINE CO
8242559	F-08-053285	4237133440		103		SCHARFF-BLACKMON "A" #7 #26915	PECOS VALLEY (HIGH GR	9.4	PERRY PIPELINE CO
-MITCHELL ENERGY CORPORATION				RECEIVED:		07/08/82 JA: TX			
8242256	F-09-044873	4223700000		108		C A MCMURTRY #5 94664	JERMYN WEST (MARBLE F	8.0	SOUTHWESTERN GAS
8242359	F-7B-051519	4236732241		103		C L CAVNESS #4	RENO (CONGL)	43.0	NATURAL GAS PIPEL
8242271	F-09-046455	4223700000		108		FLOYD NASH B #1 55421	BARTONS CHAPEL (E CON	5.4	BRAZOS OIL & GAS
8242292	F-09-047761	4223700000		108		J R HALSELL #2 ID #21186	ARCO/CONGLOMERATE	10.0	SOUTHWESTERN GAS
8242269	F-09-046447	4249700000		108		J V HAMPTON #1 28667	BOONSVILLE (BEND CONG	10.9	NATURAL GAS PIPEL
8242396	F-7B-052207	4205900000		108		KENNETH M GEORGE #2 #12572	PUTNAM WEST (DUFFER)	8.6	LONE STAR GAS CO
8242270	F-09-046451	4249700000		108		LAWRENCE TAYLOR #1 51127	BOONSVILLE (BEND CONG	11.9	NATURAL GAS PIPEL
8242395	F-09-052199	4249700000		108		M L WAGGONER #11 #29310	BOONSVILLE (BEND CONG	13.4	LONE STAR GAS CO
8242311	F-09-049188	4249700000		108		N R ROBERTS B #2 #83824	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		07/08/82 JA: TX			
*8242310	F-04-049103	4224900000		108-SA		CHURCH OF BRETHERN #6	LAGLORIA/LOHMAN	18.7	NATURAL GAS PIPEL
*8242309	F-04-049101	4224900000		108-SA		LAGLORIA GAS UNIT #42	LAGLORIA/LOS OLMOS	10.4	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8242420	F-08-052542	4230130352		102-4		W D JOHNSON #2
-MONSANTO COMPANY				RECEIVED:	07/08/82	JA: TX
8242529	F-8A-053215	4207931548		103		CALVIN #39-107
8242530	F-08-053216	4249531459		103		MITCHELL #3
8242531	F-8A-053217	4207931549		103		WOOD #46-812
-MOODY & PHILLIPS				RECEIVED:	07/08/82	JA: TX
8242255	F-09-044834	4223700000		102-4		S W RALEY #2 (20811)
-MOODY ENERGY CO				RECEIVED:	07/08/82	JA: TX
8242477	F-10-053066	4221131402		103		WRIGHT #5 (LEASE NO 04969)
-MORAN EXPLORATION INC				RECEIVED:	07/08/82	JA: TX
8242351	F-7C-051287	4246131811		103		UNIVERSITY "9" #1
-MOSBACHER PRODUCTION CO				RECEIVED:	07/08/82	JA: TX
8242314	F-03-049702	4240700000		108		FOSTER LBR CO #1
-MR OIL CO				RECEIVED:	07/08/82	JA: TX
8242509	F-08-053170	4247532540		103		HAWKINS #12 #26713
8242506	F-08-053163	4249531122		103		UNIVERSITY "A" #2 #25636
-MWJ PRODUCING CO				RECEIVED:	07/08/82	JA: TX
8242549	F-7C-053260	4223531871		103		HENRY "A" #2
8242547	F-7C-053258	4223531872		103		HENRY "A" #3
8242548	F-7C-053259	4223551876		103		HENRY "A" #4
-N D STOVALL & SON				RECEIVED:	07/08/82	JA: TX
8242367	F-09-051658	4250335670		102-4		MC KNIGHT #1 FIELD 34680 400
-N T E OF NORMAN OKLAHOMA INC				RECEIVED:	07/08/82	JA: TX
8242392	F-09-052178	4218130852		103		ROBERT MINSHEW #1-A
-NEUMIN PRODUCTION CO				RECEIVED:	07/08/82	JA: TX
8242345	F-02-051176	4217531546		103		CARLYN HURST #1 (SIDETRACK)
8242253	F-02-044671	4205731064		102-4		STATE TRACT 85 WELL #1
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	07/08/82	JA: TX
8242248	F-09-042757	4249732252		103		E L BLACK UNIT #2
-OXOCO EXPLORATION CORP				RECEIVED:	07/08/82	JA: TX
8242467	F-03-052931	4228730614		103		GUS BAMSCH #1
-OXY PETROLEUM INC				RECEIVED:	07/08/82	JA: TX
8242231	F-04-028826	4270330182		102-4		STATE LEASE M-77985 #1-U
-PECOS OPERATORS INC				RECEIVED:	07/08/82	JA: TX
8242516	F-08-053188	4247532192		103		DOANE #1
8242515	F-08-053187	4247532192		103		DOANE #2
8242514	F-08-053186	4247532476		103		DOANE #3
8242524	F-08-053204	4247532397		103		TOWNSEND #1
8242525	F-08-053205	4247532497		103		TOWNSEND #2
-PENNZOIL PRODUCING COMPANY				RECEIVED:	07/08/82	JA: TX
8242338	F-06-050917	4236531334		103	107-TF	HULL # A-23
8242331	F-06-050666	4236531398		103	107-TF	ROBERSON UNIT #3
-PETRO-LEWIS CORPORATION				RECEIVED:	07/08/82	JA: TX
*8242234	F-04-033142	4204700000		103		JORDAN #2
*8242503	F-04-053157	4204700000		103		JORDAN #2-LT
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/08/82	JA: TX
8242235	F-10-034627	4248300000		108		DESON #13
8242268	F-10-046432	4229500000		108		PEERY A #3
8242282	F-7C-046976	4210533396		103		UNIVERSITY LANDS D #2
-PINTO PETROLEUM INC				RECEIVED:	07/08/82	JA: TX
8242444	F-7B-052760	4213333070		102-4		HAL B PAGE "A" #2 (18417)
8242443	F-7B-052759	4213333136		102-4		HAL B PAGE "C" #4 (18416)
8242442	F-7B-052758	4213333135		102-4		HAL B PAGE "D" #5 (18415)

FIELD NAME	PROD	PURCHASER
DIMMIT (CHERRY CANYON	81.8	INTRATEX GAS CO
LEVELLAND	6.0	CITIES SERVICE CO
MONAHANS NE (PENN DET	15.0	EL PASO NATURAL G
LEVELLAND	7.0	CITIES SERVICE CO
RALEY (4120 CONG)	0.0	LONE STAR GAS CO
MATHERS RANCH (DOUGLA	0.0	INTERNORTH INC
BENEDUM (SPRABERRY)	0.0	PHILLIPS PETROLEU
COLD SPRINGS W (WILCO	7.0	TENNESSEE GAS PIP
PAYTON	23.0	WARREN PETROLEUM
WAR-WINK (DELAWARE 50	7.0	PHILLIPS PETROLEU
CHRISTI (CANYON 6800)	11.0	INTER NORTH INC
CHRISTI (CANYON 6800)	11.0	NORTHERN NATURAL
CHRISTI (CANYON 6800)	15.0	NORTHERN NATURAL
GIBBS CREEK (CONGLOME	108.0	SOUTHWESTERN GAS
SHERMAN (PENN 8900)	196.0	WARREN PETROLEUM
SLICK (SLICK 7,400')	148.0	UNITED TEXAS TRAN
PANTHER REEF S W (FRI	0.0	ALUMINUM CO OF AM
BOONESVILLE (BEND CON	150.0	NATURAL GAS PIPEL
GIDDINGS (BUDA)	5.0	PGP GAS PRODUCTS
MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
WARD SOUTH	3.7	WESTAR TRANSMISSI
WARD SOUTH	3.7	WESTAR TRANSMISSI
WARD SOUTH	7.0	WESTAR TRANSMISSI
WARD SOUTH	7.0	WESTAR TRANSMISSI
WARD SOUTH	3.7	WESTAR TRANSMISSI
CARTHAGE/COTTON VALLE	0.0	UNITED GAS PIPELI
BETHANY EAST/COTTON V	400.0	UNITED GAS PIPE L
LA GLORIA	365.0	TRANSCONTINENTAL
LAGLORIA (HORNSBY A)	21.2	NATURAL GAS PIPEL
PANHANDLE WHEELER	0.0	
KIOWA CREEK UPPER MOR	8.8	TRANSWESTERN PIPE
LANCASTER HILL (STRAW	940.0	EL PASO NATURAL G
PAGE (CADDO)	18.0	LONE STAR GAS CO
PAGE (BIG SALINE)	20.0	LONE STAR GAS CO
PAGE (BIG SALINE)	11.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-R A W ENERGY CORP				RECEIVED:	07/08/82	JA: TX			
8242241	F-7B-038687	4249700000		102-4		JONES "B" - 1	JONES (STRAWN 3000)	400.0	SOUTHWESTERN GAS
-RALPH L WAY INC				RECEIVED:	07/08/82	JA: TX			
8242571	F-7C-053315	4210533862		103		UNIVERSITY-DYCO "D" #2	FARMER (SAN ANDRES)	14.0	INTERNORTH INC
8242570	F-7C-053314	4210533863		103		UNIVERSITY-DYCO "D" #5	FARMER (SAN ANDRES)	12.6	INTERNORTH INC
-RAMBLER OIL CO				RECEIVED:	07/08/82	JA: TX			
8242288	F-04-047245	4247932924		103	107-TF	LINCOLN #1	OLMITOS WEST (A ZONE)	0.0	VALERO TRANSMISSI
8242287	F-04-047244	4247932922		103	107-TF	WILLIAMSON #1	OLMITOS WEST (B ZONE)	0.0	VALERO TRANSMISSI
-RANKIN OIL CO				RECEIVED:	07/08/82	JA: TX			
8242479	F-08-053080	4200332008		103		BROWN - 1	FUHRMAN MASCHO	19.0	PHILLIPS PETROLEU
8242478	F-08-053077	4200332420		103		LEONA B-1	FUHRMAN MASCHO	13.0	PHILLIPS PETROLEU
-RAY H EUBANK				RECEIVED:	07/08/82	JA: TX			
8242232	F-06-029838	4220330614		103		BLACK-CLARK #1-C 89732	LANSING NORTH (TRAVIS	365.0	TEJAS GAS CORP
-RELIANCE ENERGY & MINERALS CORP				RECEIVED:	07/08/82	JA: TX			
8242417	F-03-052531	4205132093		102-2		SMITTER #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-RENDOVA OIL CO				RECEIVED:	07/08/82	JA: TX			
8242451	F-08-052842	4238931029		102-4		WORSHAM #2	SCOTT (CHERRY CANYON)	109.5	INTRATEX GAS CO
-REO INDUSTRIES INC				RECEIVED:	07/08/82	JA: TX			
8242581	F-10-053347	4223300000		103		WHITTENBURG 1-15	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242566	F-10-053306	4223300000		103		WHITTENBURG 32-5	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242568	F-10-053308	4223300000		103		WHITTENBURG 32-6	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242565	F-10-053305	4223300000		103		WHITTENBURG 33-13	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242563	F-10-053301	4223300000		103		WHITTENBURG 33-17	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242564	F-10-053303	4223300000		103		WHITTENBURG 33-18	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242567	F-10-053307	4223300000		103		WHITTENBURG 33-6A	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
8242569	F-10-053309	4223300000		103		WHITTENBURG 33-7	PANHANDLE HUTCHINSON	72.0	TRANS-PAN PIPELIN
-RETAMCO INC				RECEIVED:	07/08/82	JA: TX			
8242474	F-03-052960	4228730830		102-2		MUELLER #1	HOOKER CREEK (NAVARRO	73.4	PHILLIPS PETROLEU
-RHONDA OPERATING CO				RECEIVED:	07/08/82	JA: TX			
8242257	F-7B-045432	4214330559		102-4	103	B W WILLIAMS #1	WILLMAN (BIG SALINE)	43.8	SOUTHWESTERN GAS
-RIDGE OIL CO				RECEIVED:	07/08/82	JA: TX			
*8242403	F-7B-052320	4242933249		102-4	103	COFFMAN #1	RANGER NW (MARBLE FAL	33.1	COMPRESSOR RENTAL
*8242402	F-7B-052319	4242933192		102-4	103	JONES #1	RANGER (BLACK LIME WE	27.0	COMPRESSOR RENTAL
-RIO BRAVO OIL CO INC				RECEIVED:	07/08/82	JA: TX			
8242448	F-02-052804	4217531579		102-4		G A RAY #1	HORDES CREEK (MACKHAN	100.0	UNITED GAS PIPELI
-ROBERT P LAMMERTS				RECEIVED:	07/08/82	JA: TX			
*8242387	F-03-052035	4220100000		102-4		W R PARKER #2	GUMGULLY WEST	0.0	UNITED TEXAS TRAN
-ROBERTS & HAMMACK INC				RECEIVED:	07/08/82	JA: TX			
8242327	F-05-050404	4228930422		103		JIM HENSON #1	RED OAK (SUB-CLARKSVI	50.0	LONE STAR GAS CO
-ROME EXPLORATION CO INC				RECEIVED:	07/08/82	JA: TX			
8242308	F-01-049018	4250700000		102-4		L LYLES #9	LYLES RANCH	0.0	ESPERANZA PIPE LI
-SAGE ENERGY CO				RECEIVED:	07/08/82	JA: TX			
8242578	F-08-053333	4249500000		103		SEALY SMITH 88 "A-1" RRC ID #.98640	WARD NORTH ESTES	0.0	EL PASO NATURAL G
8242577	F-7C-053332	4238300000		103		UNIVERSITY 5-G RRC #08875	FARMER (SAN ANDRES)	0.0	INTERNORTH INC
-SANDERS OIL & GAS INC				RECEIVED:	07/08/82	JA: TX			
8242318	F-09-049927	4223733279		103		NEAL ANDERSON #1	BARTONS CHAPEL S (446	125.0	SOUTHWEST GAS PIP
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	07/08/82	JA: TX			
8242430	F-03-052606	4228731210		102-2	103	LANETTA #1	GIDDINGS (AUSTIN CHAL	109.5	PERRY PIPELINE CO
8242355	F-03-051375	4228731182		102-2	103	PLACKE #3	GIDDINGS (AUSTIN CHAL	365.0	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	07/08/82	JA: TX			
8242290	F-08-047374	4231732429		103		STEPHENS #1	BREEDLOVE EAST (SPRAB	27.4	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	07/08/82	JA: TX			
8242512	F-8A-083184	4250132040		103		DENVER UNIT #5519	WASSON	11.7	SHELL OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242511	F-8A-053183	4250132048		103		DENVER UNIT #5815	WASSON	7.3	SHELL OIL CO
8242294	F-8A-048132	4216531871		103		DENVER UNIT #7431	WASSON	14.6	SHELL OIL CO
-SOHIO PETROLEUM CO				RECEIVED:		07/08/82 JA: TX			
8242498	F-7C-053139	4246131795		103		A P HILL "14" #1	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
8242499	F-7C-053140	4217331270		103		J C BRYANS "B" #6	CALVIN (DEAN)	0.0	EL PASO NATURAL G
-SOUTHERN CRUDE OIL RESOURCES INC				RECEIVED:		07/08/82 JA: TX			
8242339	F-7B-050923	4236332757		102-4		MAYS #1	ORAN (SHALE)	0.0	LONE STAR GAS CO
-STAR DUST MINES INC				RECEIVED:		07/08/82 JA: TX			
8242493	F-10-053126	4223300000		103		JAMESON A 1A	PANHANDLE HUTCHINSON	440.0	PANHANDLE PRODUCI
8242492	F-10-053125	4223300000		103		JAMESON A 1B	PANHANDLE HUTCHINSON	440.0	PANHANDLE PRODUCI
8242491	F-10053124	4223300000		103		JAMESON 1D	PANHANDLE HUTCHINSON	440.0	PANHANDLE PRODUCI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		07/08/82 JA: TX			
8242521	F-7B-053199	4243331313		103		BOYD CONGLOMERATE UNIT #70	BOYD (CONGLOMERATE)	7.0	CITIES SERVICE CO
8242520	F-7B-053198	4243331301		103		BOYD CONGLOMERATE UNIT #72	BOYD (CONGLOMERATE)	0.4	CITIES SERVICE CO
8242519	F-7B-053197	4243331302		103		BOYD CONGLOMERATE UNIT #73	BOYD (CONGLOMERATE)	0.4	CITIES SERVICE CO
8242475	F-04-053039	4242700000		108		C L DE GARZA #23	SUN NORTH/F-2	9.0	
*8242580	F-8A-053338	4207931494		103		LEAGUE 91 PROJECT #4-11	SLAUGHTER	3.0	AMOCO PRODUCTION
-SUNEX ENERGY CORP				RECEIVED:		07/08/82 JA: TX			
8242230	F-7C-028678	4245130650		102-4	103	W L KELLERMEIER #1	R L G (CANYON LOWER)	73.0	LONE STAR GAS CO
-TENNECO OIL COMPANY				RECEIVED:		07/08/82 JA: TX			
8242329	F-10-050612	4239330858		102-2		MORRISON #3-8	CATS CREEK	185.0	TRANSWESTERN PIPE
-TEXAS INTERNATIONAL PET CORP				RECEIVED:		07/08/82 JA: TX			
8242275	F-03-046631	4205130000		102-2		VARISCO #1	GIDDINGS (AUSTIN CHAL	547.0	CLAJON GAS CO
-TEXON PETROLEUM CORP				RECEIVED:		07/08/82 JA: TX			
8242390	F-08-052110	4237133643		102-4		DRO #1 098243	ABELL (GRAYBURG 2050)	36.0	
-THREE D OIL CO				RECEIVED:		07/08/82 JA: TX			
8242550	F-10-053266	4234130729		103		B & T (04978) #1	PANHANDLE MOORE COUNT	73.0	DIAMOND SHAMROCK
-THREE-B OIL CO				RECEIVED:		07/08/82 JA: TX			
8242505	F-08-053161	4237133190		103		KENNEDY CORDZ #1 #26198	PAYTON	36.5	EL PASO NATURAL G
8242504	F-08-053160	4237133261		103		PCWD #2 #26334	PAYTON	14.6	EL PASO NATURAL G
-TIPPERARY OIL AND GAS CORP				RECEIVED:		07/08/82 JA: TX			
8242335	F-03-050862	4214900000		103		ELLISOR "C" #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8242291	F-03-047553	4214931289		103		LEHMANN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TOM BRIGHTMAN				RECEIVED:		07/08/82 JA: TX			
8242244	F-09-041192	4250333249		103		J A DRIVER #3	YOUNG COUNTY REGULAR	800.0	SUN GAS TRANSMISS
-TXO PRODUCTION CORP				RECEIVED:		07/08/82 JA: TX			
8242353	F-08-051314	4237133734		103		CHAMPLIN CITIES SERVICE #5	PUTNAM (WOLFCAMP)	500.0	NORTHERN NATURAL
8242237	F-03-037018	4214930608		102-2		GOLDAPP #1	GIDDINGS (BUDA)	0.0	CLAYJON GAS CO
8242238	F-03-037019	4214930776		102-2		GOLDAPP #2	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8242285	F-02-047135	4229732670		102-4		HILL H-1	CORNELIA (2475')	0.0	DELHI GAS PIPELIN
8242376	F-05-051777	4216100000		103	107-TF	POWERS "E" #1	FRAZIER (COTTON VALLE	6.0	DELHI GAS PIPELIN
-U S OPERATING INC				RECEIVED:		07/08/82 JA: TX			
8242289	F-03-047265	4205131875		102-2		KATE #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
-UNION OIL COMPANY OF CALIF				RECEIVED:		07/08/82 JA: TX			
8242281	F-06-046910	4236531279		103	107-TF	L T POSS #2	CARTHAGE	220.0	UNITED GAS PIPE L
-VAN OIL CORP				RECEIVED:		07/08/82 JA: TX			
8242412	F-7B-052455	4213333044		102-4		D D CASTLE #1 (18438)	VAN (MARBLE FALLS)	146.0	ODESSA NATURAL CO
-W L BRUCE OPERATOR				RECEIVED:		07/08/82 JA: TX			
8242513	F-10-053185	4234130760		103		JANE #5 04780	PANHANDLE	0.0	PHILLIPS PETROLEU
-W R EDWARDS JR				RECEIVED:		07/08/82 JA: TX			
8242562	F-10-053300	4223300000		103		MERCHANT #8	PANHANDLE HUTCHINSON	250.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:		07/08/82 JA: TX			
*8242507	F-08-053166	4243131090		103		HILDEBRAND #4726	CONGER (PENN)	227.4	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	07/08/82	JA: TX			
8242556	F-08-053279	4210332880		103		M B MCKNIGHT #126	SAND HILLS (MCKNIGHT)	19.2	EL PASO NATURAL G
8242410	F-08-052406	4210332826		103		P J LEA #132	LEA (TUBB)	21.7	EL PASO NATURAL G
8242409	F-08-052405	4210332849		103		P J LEA #133	LEA (TUBB)	18.9	EL PASO NATURAL G
8242544	F-08-053251	4210332818		103		STATE "EG" #31	DUNE	11.2	EL PASO NATURAL G
8242545	F-08-053252	4210332817		103		STATE "EG" #32	DUNE	4.7	EL PASO NATURAL G
-WARRIOR MANAGEMENT CO				RECEIVED:	07/08/82	JA: TX			
8242262	F-02-046033	4217531531		103		COUTRET #2	ALBRECHT (COOK MOUNTA	182.5	CORONADO TRANSMIS
8242321	F-04-050077	4247933105		102-4		MCNARY #1	MCNARY (HIRSCH 6950'	442.0	TRANSCONTINENTAL
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	07/08/82	JA: TX			
8242379	F-09-051830	4223734090		103		SHANAFELT TRUST #1 ID#21902	JACK COUNTY REGULAR	15.0	
-WOOD & LOCKER INC				RECEIVED:	07/08/82	JA: TX			
8242543	F-08-053248	4217331197		103		ZANT 38 #1	SPRABERRY (TREND AREA	26.0	EL PASO NATURAL G
-WOOD MCSHANE & THAMS				RECEIVED:	07/08/82	JA: TX			
8242407	F-08-052394	4249531425		103		KEYSTONE CATTLE CO #4	KEYSTONE SW (SAN ANDR	18.0	PIONEER NATURAL G
-WY-VEL CORP				RECEIVED:	07/08/82	JA: TX			
8242533	F-10-053224	4206531088		103		HODGES (05044) #1	PANHANDLE-CARSON	5.7	GETTY OIL CO
-ZONERGY INC				RECEIVED:	07/08/82	JA: TX			
8242249	F-01-043122	4217731119		102-2		HALAMICEK #1	PEACH CREEK (AUSTIN C	0.0	TIPPERARY GATHERI
*8242250	F-03-043500	4205131928		102-2		SOMERVILLE PLACE #2	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO

OTHER PURCHASERS VOLUME NO :698

8242234	NATURAL GAS P L CO OF AMERICA
8242250	E I DUPONT DE NEMOURS & CO INC
8242309	TRANSCONTINENTAL GAS PIPELINE CORP
8242310	TRANSCONTINENTAL GAS PIPELINE CORP
8242387	UNITED TEXAS TRANSMISSION CO
8242402	LONE STAR GAS CO
8242403	LONE STAR GAS CO
8242416	PIONEER NATURAL GAS CO
8242503	TRANCONTINENTAL GAS PL CORP
8242507	VALERO TRANSMISSION CO
8242532	E I DUPONT DE NEMOURS & CO INC
8242580	EL PASO NATURAL GAS CO
8242606	INTER NORTH INC

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before August 19, 1982.

Categories within each NGPA section are indicated by the following codes:

102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20945 Filed 8–3–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
						OHIO DEPARTMENT OF NATURAL RESOURCES			
-AMTEX OIL AND GAS INC				RECEIVED: 07/12/82		JA: OH			
8242752		3415122755		108		GLESSNER #1	SUGAR CREEK	25.0	COLUMBIA GAS TRAN
8242751		3415122756		108		GLESSNER #2	SUGAR CREEK	25.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED: 07/12/82		JA: OH			
8242756		3410322799		103	107-TF	C YOUNG UNIT #1	GRANGER	15.3	COLUMBIA GAS TRAN
8242757		3410322954		103	107-TF	CRUM #3	MONTVILLE	54.8	COLUMBIA GAS TRAN
8242754		3410322731		103	107-TF	GRUBISS #1	WESTFIELD	36.6	COLUMBIA GAS TRAN
8242755		3410322732		103	107-TF	GRUBISS-BERGSTROM #1	WESTFIELD	25.6	COLUMBIA GAS TRAN
8242753		3410322670		103	107-TF	SPRAGUE UNIT #1	HINCKLEY	14.6	COLUMBIA GAS OF O
-BARTLO OIL AND GAS COMPANY				RECEIVED: 07/12/82		JA: OH			
8242758		3410322996		103	107-TF	A P LAFATCH #1-A	W RICHFIELD	15.0	
8242759		3415321151		103	107-TF	F C HATTON #1	WEST RICHFIELD	20.0	
-BELDEN & BLAKE & CO #79				RECEIVED: 07/12/82		JA: OH			
8242768		3401921543		103	107-TF	R & L CARSON #1 - 341186	MINERVA	36.5	
8242769		3401921546		103	107-TF	V & L DENINGER #2 - 1-341189	MALVERN	36.5	
-BELDEN & BLAKE & CO. 78				RECEIVED: 07/12/82		JA: OH			
8242767		3401921540		103	107-TF	T & E MYERS 1-341183	MALVERN	36.5	
8242766		3401921539		103	107-TF	W & C TABLER #1 - 1-341182	MALVERN	36.5	
-BELDEN & BLAKE OIL PRODUCTION				RECEIVED: 07/12/82		JA: OH			
8242785		3415122064		108		C & R ROSE COMM #1 1-548		3.0	
8242787		3415122159		108		D & S LOZIER COMM #1 1-573		3.0	
8242777		3415121801		108		FRITCHLEY COMM #1 1-516		3.0	
8242779		3415121871		108		G NOFSINGER #8 1-507		3.0	
8242783		3415121970		108		G NOFSINGER COMM #11 1-531		3.0	
8242770		3401922047		108		G NOFSINGER COMM #12 1-539		3.0	
8242765		3401920542		108		HICKORY CARROLL COMM #6 1-571		3.0	
8242762		3401920333		108		HICKORY CLAY CO #1 1-495		3.0	
8242781		3415121914		108		J MAYERS #2 1-512		3.0	
8242761		3401920290		108		JAMES BROS COAL #1 1-465		3.0	
8242764		3401920528		108		JAMES BROS COAL CO #3 1-562		3.0	
8242775		3415121750		108		L & G THOUVENIN #1 1-492		3.0	
8242773		3415120981		108		L V LANTZER COMM #1 1-0272		3.0	
8242760		3401920266		108		LUCAS MYERS COMM #1 1-0418		3.0	
8242788		3415122171		108		MAGNOLIA MINING #4 1-579		3.0	
8242776		3415121800		108		MAGNOLIA MINING CO #1 1-494		3.0	
8242780		3415121872		108		MAGNOLIA MINING CO #2 1-508		3.0	
8242784		3415122030		108		MAGNOLIA MINING CO #3 1-538		3.0	
8242786		3415122127		108		R & O GILL COMM #1 1-568		3.0	
8242772		3415120972		108		R SHOEMAKER COMM #1 - 1-257		3.0	
8242782		3415121956		108		W & N BLACKMER COMM #1 1-527		3.0	
8242774		3415121145		108		WARREN BOWMAN #2 1-0449		3.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242763		3401920423		108		WHITACRE-GREER #13 1-536		3.0	
8242771		3415120758		108		1-0282 - REPUBLIC STEEL #3 1-0282		3.0	
8242778		3415121862		108		1-503 - J & C BRESSLER COMM #I 1-5*		3.0	
-CHARLES O LIGHTHIZER				RECEIVED:	07/12/82	JA: OH			
8242982		3411926220		107-TF		MILLER #4	ADAMSVILLE	0.0	COLUMBIA GAS TRAN
-CLARENCE SHERMAN				RECEIVED:	07/12/82	JA: OH			
8243028		3415723722		103	107-TF	HOLMES-TROYER UNIT #1	AUBURN	16.0	EAST OHIO GAS CO
8243027		3415723710		103	107-TF	RICHARD ZIMMERMAN #2	BALTIC	87.6	EAST OHIO GAS CO
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	07/12/82	JA: OH			
8242807		3400921137		108		ABBOTT P SMITH 709372	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242936		3416920070		108		ALBERT E MCLENNAN 708386	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242935		3416920063		108		ALBERT M WACKER 708327	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242834		3407520297		108		ALFRED A TESCH 708683	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242905		3412720894		108		ALFRED F ALFMAN 708292	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242850		3409300019		108		ALVIN D KING 708731	NORTH DIST ST OF OHIO	1.8	COLUMBIA GAS TRAN
8242844		3407521235		108		AMOS D YODER 710411	SOUTH DIST ST OF OHIO	0.1	COLUMBIA GAS TRAN
8242849		3409300005		108		ANNA BALOGH 709032	NORTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242822		3403121210		108		ARCHIE WILLIAMSON 709968	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242830		3405320105		108		ARDELL SMITH 710214	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242825		3403500012		108		BENNY BURDA 709588	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242913		3412721595		108		CARRIE ESTHER BROWN 709011	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242865		3410320567		108		CARROLL R SHAW GDN 707986	NORTH DIST ST OF OHIO	3.0	COLUMBIA GAS TRAN
8242829		3405320104		108		CASBY MEADOWS III 710201	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242801		3400920692		108		CECIL GWINN 707780	SOUTH DIST ST OF OHIO	0.7	COLUMBIA GAS TRAN
8242813		3400921227		108		CHARLES D MCAFEE 709505	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242896		3411920550		108		CHARLES EDWARD JONES 708002	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242851		3409300024		108		CHARLES K LINGSHIRN 703667	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242901		3411921612		108		CHARLES LIGHTHIZER 710081	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242885		3410520555		108		CHARLES MILLER 708021	SOUTH DIST ST OF OHIO	0.8	COLUMBIA GAS TRAN
8242891		3411500680		108		CHARLES T GODFREY 709335	SOUTH DIST STE OF OHI	0.6	COLUMBIA GAS TRAN
8242940		3416920093		108		CHARLES T URBAN JR 708711	NORTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242842		3407521220		108		CHRIST MILLER 710359	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242810		3400921165		108		CLARENCE THOMPSON 709445	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242796		3400521883		108		CLAYTON L HARTSEL 710258	NORTH DIST STE OF OHI	3.0	COLUMBIA GAS TRAN
8242797		3400521922		108		CLAYTON M HINES 710302	NORTH DIST STE OF OHI	3.0	COLUMBIA GAS TRAN
8242934		3416920055		108		DALE MCILVAINE 708313	NORTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242894		3411520956		108		DAVID R OBRIEN 710061	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242880		3410521182		108		DOLORES R DAY 709525	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242845		3408900002		108		DONALD D HILL 708417	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242862		3410320097		108		DONALD E KRUSH 708606	NORTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242872		3410321049		108		DONALD LEHKY ETAL 709469	SOUTH DIST STE OF OHI	5.0	COLUMBIA GAS TRAN
8242914		3412722149		108		DONALD RADKOSKI 710303	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242832		3405220113		108		E B DAY 710313	SOUTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242791		3400520279		108		E S SPOTTS 708107	NORTH DIST STE OF OHI	1.0	COLUMBIA GAS TRAN
8242846		3418920707		108		EARL O HANKINSON 708268	SOUTH DIST STE OF OHI	4.0	COLUMBIA GAS TRAN
8242888		3410521335		108		EDNA M SUMMERFIELD 710229	SOUTH DIST STE OF OHI	5.0	COLUMBIA GAS TRAN
8242920		3411921704		108		EDNA MAE CULP 710341	SOUTH DIST STE OF OHI	2.0	COLUMBIA GAS TRAN
8242856		3409320049		108		EDWARD J RATUSZ 708708	NORTH DIST ST OF OHIO	3.0	COLUMBIA GAS TRAN
8242929		3416900031		108		EDWARD W LEYMAN ETAL 702447	NORTH DIST ST OF OHIO	4.0	COLUMBIA GAS TRAN
8242892		3411520537		108		EFFIE JACKSON 708307	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242900		3411921602		108		ELLA RIDER VIRTA 710043	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242883		3410521288		108		ERMA JOHNSTON 710056	SOUTH DIST ST OF OHIO	6.0	COLUMBIA GAS TRAN
8242811		3400921176		108		ERNEST H WADE 709458	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242897		3411900643		108		EST/O L RANKIN 707803	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242919		3411921456		108		ESTHER SMITH EVANS 709631	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242803		3400920706		108		ETHEL L LAVELLE 707832	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242805		3400921083		108		ETHEL L LAVELLE 709267	SOUTH DIST ST OF OHIO	0.1	COLUMBIA GAS TRAN
8242806		3400921100		108		ETHEL L LAVELLE 709299	SOUTH DIST ST OF OHIO	0.4	COLUMBIA GAS TRAN
8242853		3409300026		108		F J REIGELSBERGER 703705	NORTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242906		3412720914		108		FOREST M SCHOOLEY 708325	SOUTH DIST ST OF OHIO	0.4	COLUMBIA GAS TRAN
8242908		3412721080		108		FOREST M SCHOOLEY 708532	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242831		3405320109		108		FRANCIS O RIFE 710248	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242821		3403120928		108		GENE L OAKES 709582	SOUTH DIST ST OF OHIO	1.0	COLUMBIA GAS TRAN
8242794		3408520291		108		HAROLD E JOSEPH 708141	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242953		3416921302		108		HAROLD W SNYDER 710396	NORTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242818		3400921377		108		HARRY HOUSKA ETUX 710239	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242898		3411921212		108		HELEN E MILES 709050	SOUTH DIST ST OF OHIO	3.0	COLUMBIA GAS TRAN
8242899		3411921218		108		HELEN E MILES 709077	SOUTH DIST ST OF OHIO	2.0	COLUMBIA GAS TRAN
8242921		3412700832		108		HELEN JO LAMBRIGHT 705032	SOUTH DIST ST OF OHIO	3.0	COLUMBIA GAS TRAN
8242860		3409320799		108		HENRY H SCHRIVER 710311	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242870		3410320971		108		HENRY SOFAS 709349	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242895		3411900382		108		HERMAN BUSH 709550	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242840		3407521198		108		ISAAC A MAST ETUX 710329	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242839		3407521184		108		ISAAC MAST 710290	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242843		3407521225		108		JACOB E SCHLABACH 710373	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242927		3415720191		108		JACOB MOHART 709760	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242916		3411520875		108		JARED J FERGUSON 709594	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8242827		3405320101		108		JOHN E HALLIDAY 710148	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242828		3405320102		108		JOHN E HALLIDAY 710192	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242800		3400900802		108		JOHN F SCHMITTAUER 709426	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242904		3411921729		108		JOHN K CRAIG 710422	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242910		3412721211		108		JOHN REED 708614	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242917		3411921285		108		JOHN T SEIBERT 709371	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242911		3412721272		108		JOHN TOKI 708666	SOUTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8242893		3411520876		108		JOHN W GLENN 709607	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242841		3407521217		108		JONAS J RABER 710358	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242836		3407520480		108		JONAS SWARTZENTRUBER 709055	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242852		3409300025		108		JULIA KRAKER 703680	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242928		3415720389		108		KENNETH H DALLAS 709753	SOUTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8242950		3416921170		108		KENNETH M BECKER 710242	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242930		3416900064		108		KENNETH R MILLER 706016	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242812		3407921187		108		KNOX JOHNSON 709472	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242945		3416921079		108		L D GODWIN 710207	NORTHERN DIST ST OF O	1.0	COLUMBIA GAS TRAN
8242949		3416921168		108		L D GODWIN 710243	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242952		3416921242		108		L D GODWIN 710310	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242954		3416921310		108		L D GODWIN 710421	NORTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8242799		3400900801		108		LEE W MARQUIS 709306	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242857		3409320136		108		LELAND O DURKEE 706755	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242854		3409300027		108		LENA EGO 703766	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242941		3416920123		108		LESTER W GEISER 710173	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242823		3403500010		108		LIA OSBORNE ETAL 709355	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242826		3405320064		108		LM BRENISER 708019	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242926		3415120947		108		LOGAN COAL & SUPPLY 709773	NORTHERN DIST STE OF	0.1	COLUMBIA GAS TRAN
8242915		3412722160		108		LORRAINE ALFMAN 710334	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242847		3408920712		108		LOUIS J RAUCH 708277	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242859		3409320420		108		M P DURKEE 708732	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242931		3416900086		108		MABEL HAAS 701037	NORTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8242878		3410521073		108		MARGARET TITUS 709338	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242907		3412721013		108		MARIE E RUSSELL 708462	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242909		3412721164		108		MARIE E RUSSELL 708603	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242855		3409300034		108		MARIE KLEIN AGT 708310	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242858		3409320317		108		MARION LISLE 707827	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242835		3407520299		108		MARY DEWEESE 708101	SOUTHERN DIST STE OF	0.8	COLUMBIA GAS TRAN
8242903		3411921670		108		MCGRAW-EDISON CO 710219	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242933		3416920043		108		MELVIN A GERSPACHER 703974	NORTHERN DIST STE OF	5.0	COLUMBIA GAS TRAN
8242942		3416920126		108		MELVIN A GERSPACHER 708808	NORTHERN DIST STE OF	0.5	COLUMBIA GAS TRAN
8242938		3416920090		108		MELVIN A GERSPACHER 708858	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242922		3412721827		108		MERL H DAVIS 708461	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242912		3412721283		108		MERL H DAVIS 708712	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242951		3416921238		108		MICHAEL E YODER 710420	NORTHERN DIST STE OF	0.3	COLUMBIA GAS TRAN
8242868		3410320610		108		MICHAEL KURUC 708199	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242946		3416921114		108		MILDRED D HARTMAN 710210	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242918		3411921421		108		MURIEL H SHAVER 709580	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8242944		3416921028		108		MYRTLE POTATO FARMS 710181	NORTHERN DIST STE OF	8.0	COLUMBIA GAS TRAN
8242947		3416921121		108		MYRTLE POTATO FARMS 710215	SOUTHERN DIST STE OF	0.4	COLUMBIA GAS TRAN
8242820		3401300293		108		NADA LYNN GEORGE 709642	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8242833		3405320114		108		NATHAN H CLAY 710345	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242902		3411921631		108		NETTIE GRACE WATSON 710145	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242874		3410321074		108		NOBLE A STUART 709530	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242863		3410320355		108		OLD PHOENIX NATL BANK 706950	NORTHERN DIST STE OF	6.0	COLUMBIA GAS TRAN
8242819		3400927080		108		OLIVE V EDDY TRUSTEE 709264	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8242814		3400921249		108		OLIVE V EDDY TRUSTEE 709581	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242889		3410521343		108		OSCAR WEBER 710279	SOUTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242864		3410320554		108		PAUL W LAWTON 707962	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242887		3410521332		108		PEARL F EDWARDS 710223	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242890		3410521352		108		PEARL F EDWARDS 710338	SOUTHERN DIST STE OF	2.0	
8242817		3400921361		108		PETER G COULADIS 710218	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242815		3400921251		108		RAY & LOIS CHADWELL 709593	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242798		3400523283		108		RICHARD C GRIMWOOD 708240	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242816		3400921352		108		RICHARD E SHOEMAKER 710138	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242802		3400920705		108		ROBERT DISHONG 707831	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242882		3410521287		108		ROBERT H BURSON 709601	NORTHERN DIST STE OF	2.0	COLUMBIA
8242876		3410321271		108		ROBERT HENFIELD 710208	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242793		3400520287		108		ROBERT J KURTZ 708162	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242867		3410320592		108		ROBERT J TOTH 708127	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242808		3400921140		108		ROBERT P FOCKLER 709389	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242798		3400520231		108		ROBERT R BONNELL 707815	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242869		3410320805		108		ROBERT ZAKRAJSEK 708954	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242873		3410321063		108		ROBERT ZAKROJSEK 709501	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8242804		3400920807		108		RONALD DOUGAN 708430	NORTHERN DIST STE OF	4.0	COLUMBIA GAS TRAN
8242932		3416900088		108		ROSE N REBER 704055	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242925		3415100371		108		ROY BRIDENBAUGH 709774	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242824		3403500011		108		ROYALTON-BENNETT DEV 709415	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242939		3416920092		108		RT 71 REALTY CO 708555	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242924		3412721840		108		RUTH PORTER HOLLAND 709798		1.0	COLUMBIA GAS TRAN
8242861		3410300007		108		SAMUEL R GYNN 708283	NORTHERN DIST STE OF	6.6	COLUMBIA GAS TRAN
8242943		3416920129		108		STANLEY L SMITH 708849	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242877		3410500147		108		SYLVIA POOL 708367	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242879		3410521128		108		TCO 709465			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242875		3410321090		108		TERRACO ENTERPRISES 709615	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242792		3400525283		108		TERRENCE E HALLETT 708116	NORTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242923		3412721567		108		THOMAS A WILSON 709023	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242809		3400921155		108		THOMAS F BOWLER 709420	SOUTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242866		3410320589		108		THOMAS L FECKNER 708060	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242795		3400521636		108		THOMAS T CLARK 708194	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242871		3410320973		108		TONY A PIVATO 709346	NORTHERN DIST STE OF	2.0	COLUMBIA GAS TRAN
8242937		3416920089		108		TRIPLE S INVESTMENT 708518	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242884		3410520551		108		VERNAL WELL 708008	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8242837		3407520832		108		VERNON L JONES 709587	SOUTHERN DIST STE OF	0.6	COLUMBIA GAS TRAN
8242886		3410521314		108		WALLACE DAMEWOOD 710177	SOUTHERN DIST STE OF	3.0	COLUMBIA GAS TRAN
8242948		3416921150		108		WAYNE B SCHMID 710230	NORTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242881		3410521191		108		WAYNE E RITCHIE 709553	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242848		3408321315		108		WILBUR S MILLER 710147	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
8242838		3407521173		108		WILBUR S MILLER 710249	SOUTHERN DIST STE OF	1.0	COLUMBIA GAS TRAN
-DAVID A WALDRON & ASSOC INC				RECEIVED: 07/12/82 JA: OH					
8243040		3413322792		103	107-TF	BIVENS #2	EDINBURG	15.0	
-DISCOVERY OIL LTD				RECEIVED: 07/12/82 JA: OH					
8242957		3416922739	D	107-TF		ELWOOD M STOUT #3	RITTMAN	0.0	COLUMBIA GAS TRAN
8242956		3416322989		107-TF		LETZELTER #1A	WESTFIELD CENTER	0.0	
8242955		3407522468		107-TF		MAYNARD HARDIN #1	HARDY	775.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED: 07/12/82 JA: OH					
8242958A		3408924283		103		HELEN L RICHTER #1	BOWLING GREEN	12.0	COLUMBIA GAS TRAN
8242958B		3408924283	D	107-TF		HELEN L RICHTER #1	BOWLING GREEN	12.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED: 07/12/82 JA: OH					
8242959		3416922508		103	107-TF	GEISER WB-2A	PAINT	18.0	
-ENERGY UNLIMITED INC				RECEIVED: 07/12/82 JA: OH					
8242965		3411122178	D	107-DV		ARMSTRONG #3	WASHINGTON TOWNSHIP	0.0	COLUMBIA GAS TRAN
8242960		3400922414		107-DV		DOUGLAS #1	LODI TWP	0.0	COLUMBIA GAS TRAN
8242961		3400922478		107-DV		ELSEA #2	LODI TWP	0.0	COLUMBIA GAS TRAN
8242964		3400922547		107-DV		GOLDSBERRY #3	LODI TWP	0.0	COLUMBIA GAS TRAN
8242963		3400922508		107-DV		L KING #1	LODI TWP	0.0	COLUMBIA GAS TRAN
8242962		3400922489		103	107-DV	SCHLOSS #2	CARTHAGE TWP	0.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 07/12/82 JA: OH					
8242966		3401921530		103	107-TF	KLOTZ #2	BROWN	36.5	M B OPERATING CO
-EVERFLOW EASTERN INC				RECEIVED: 07/12/82 JA: OH					
8242967A		3415723641		103		THOMAS #2	SANDY	0.0	
8242967B		3415723641	D	107-TF		THOMAS #2	SANDY	0.0	
8242968A		3415723642		103		THOMAS #4	SANDY	0.0	
8242968B		3415723642	D	107-TF		THOMAS #4	SANDY	0.0	
-GNC ENERGY CORP				RECEIVED: 07/12/82 JA: OH					
8242970		3411522599		103	107-TF	CHARLES & THEA NICHOLS #3	RINGGOLD	15.0	
8242969		3411522404		107-TF		WAYNE & BEVERLY KAHLE #2	RINGGOLD	15.0	
-HOPCO RESOURCES INC				RECEIVED: 07/12/82 JA: OH					
8242972A		3412725201		103		COBLE #1	GLENFORD	12.0	COLUMBIA GAS TRAN
8242972B		3412725201	D	107-TF		COBLE #1	GLENFORD	12.0	COLUMBIA GAS TRAN
8242971		3411926139		103	107-TF	R PRIOR #B1	DRESDEN	12.0	COLUMBIA GAS TRAN
-INLAND DRILLING CO INC				RECEIVED: 07/12/82 JA: OH					
8242973		3413322400		103	107-TF	BOONE-KWASNY #1	GARRETSVILLE	0.3	
-IRVIN PRODUCING COMPANY				RECEIVED: 07/12/82 JA: OH					
8242974		3411522633		103	107-TF	KENNETH OGG #1	DEAVERTOWN	0.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 07/12/82 JA: OH					
8242995		3407523708		107-TF		ALBERT RABER #1-6222	NEW BEDFORD	2.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242994		3407523341		107-TF		ANDREW N YODER #1-18	NEW BEDFORD	4.0	COLUMBIA GAS TRAN
8242993		3407523339		107-TF		ANDREW N YODER #1-6216	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
8242990		3403123928		107-TF		BEN V BEACHY UNIT #7	KEENE	4.0	COLUMBIA GAS TRAN
8242991		3403124352		107-TF		BERNICE M DAUGHERTY #4	NEW BEDFORD	6.0	COLUMBIA GAS TRAN
8242989		3403122302		107-TF		DONALD L MIZER #1	KEENE	2.0	COLUMBIA GAS TRAN
8242992		3407523024		107-TF		JOHN H ZOOK UNIT #1-25	WILMONT	4.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	07/12/82	JA: OH			
8242986		3407522515		107-TF		ANDY & MARY ERB #2	MECHANIC	10.0	COLUMBIA GAS TRAN
-KING DRILLING CO				RECEIVED:	07/12/82	JA: OH			
8242976		3416922881		107-TF		CLAIR GEISER #1	ORVILLE	10.0	COLUMBIA GAS TRAN
8242975		3410322958		107-TF		JUILLERAT #1	SEVILLE	10.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	07/12/82	JA: OH			
8242977		3412725410		107-TF		COFFMAN #2	NEW LEXINGTON	5.0	FORAKER GAS CO
8242978		3412725530		107-TF		JOSEPH ESSINGTON #1	FULTONHAM	6.0	FORAKER GAS CO
-LEADER EQUITIES INC				RECEIVED:	07/12/82	JA: OH			
8242981		3411926155		103	107-TF	BRENNEN #2	CASS	14.0	
8242979		3411522650		103	107-TF	CROW #1	MEIGSVILLE	13.0	
8242980		3411522701		103	107-TF	DOTY #2	MEIGSVILLE	14.0	
-LOMAK PETROLEUM INC				RECEIVED:	07/12/82	JA: OH			
8242983		3411925897		107-TF		E DEARINGER #2	HARRISON	12.0	COLUMBIA GAS TRAN
-MARTIN EXCAVATING INC				RECEIVED:	07/12/82	JA: OH			
8242984		3407523432		107-TF		BETH AMY #2	MECHANIC	3.0	COLUMBIA GAS TRAN
-MASH INVESTMENT CO A PARTNERSHIP				RECEIVED:	07/12/82	JA: OH			
8242985		3415522146		103	107-TF	MASH #6	CHAMPION	39.0	
-MEIGS JOINT VENTURE				RECEIVED:	07/12/82	JA: OH			
8242987		3411924740		107-RT		GALLOGHY #6	MEIGS	1.2	COLUMBIA GAS TRAN
-MELLENCO INC				RECEIVED:	07/12/82	JA: OH			
8242988		3410322963		103	107-TF	MCILVRIED #3	GRANGER	20.0	
-MUSK JOINT VENTURE				RECEIVED:	07/12/82	JA: OH			
8242997		3411924715		107-RT		DRAKE #2	BLUE ROCK	1.7	COLUMBIA GAS TRAN
8242996		3411924681		107-RT		WHITE #4	BLUE ROCK	0.7	COLUMBIA GAS TRAN
-NUCORP ENERGY COMPANY				RECEIVED:	07/12/82	JA: OH			
8242998		3400721667		103	107-TF	CARTER #2	DORSET TOWNSHIP	18.0	OHIO GAS CO
8242999		3400721885		103	107-TF	GIBBS #1	NEW LYME TOWNSHIP	0.0	OHIO GAS CO
-ONEAL PETROLEUM INC				RECEIVED:	07/12/82	JA: OH			
8243004		3411522502		107-TF		BARKHURST #2	STOCKPORT	2.0	COLUMBIA GAS TRAN
8243008		3411522735		107-TF		CHEESEMAN #2	STOCKPORT	31.0	COLUMBIA GAS TRAN
8243003		3411522361		107-TF		COUNTY INFIRMARY #3	MORGAN	6.0	COLUMBIA GAS TRAN
8243001		3411522128		107-TF		EVA HILL #2	PENN	8.0	COLUMBIA GAS TRAN
8243006		3411522573		107-TF		G DEARTH #5	STOCKPORT	21.0	COLUMBIA GAS TRAN
8243002		3411522130		107-TF		J TAYLOR #1	MORGAN	6.0	COLUMBIA GAS TRAN
8243005		3411522503		107-TF		JUTTE #1	PENN	9.0	COLUMBIA GAS TRAN
8243007		3411522604		107-TF		WM E WRIGHT #2	PENN	5.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	07/12/82	JA: OH			
8243010		3411926259		103	107-TF	CARL ROBERTS #2	GRATIOT	10.0	
8243011		3411926260		107-TF		JOHN GIBSON UNIT #1	OTSEGO	10.0	
8243012		3411926324		107-TF		STADLER-IRVIN UNIT #1	WAYNE	16.0	
-PAUL J OBERMILLER				RECEIVED:	07/12/82	JA: OH			
8243000		3416923071		103	107-TF	DEFORREST E FREED #1	PITTMAN	12.0	COLUMBIA GAS OF O
-PEERLESS/TRANSATLANTIC OHIO 82				RECEIVED:	07/12/82	JA: OH			
8243015		3400721990		103	107-TF	FABIAN #P-1	COLEBROOK	25.0	EAST OHIO GAS CO
8243016		3415521729		103	107-TF	HRYHORCIW #P-1	GREENE	30.0	
8243014		3400721988		103	107-TF	SIEK #P-1	COLEBROOK	35.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PENWIN JOINT VENTURE				RECEIVED: 07/12/82		JA: OH			
8243019		3411924588		107-RT		MOORE #4	BLUE ROCK	1.4	COLUMBIA GAS TRAN
8243017		3411924488		107-RT		PARKER #3	BLUE ROCK	0.9	COLUMBIA GAS TRAN
8243018		3411924496		107-RT		PARKER #4	BLUE ROCK	0.9	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED: 07/12/82		JA: OH			
8243013		3408721684		103	107-TF	LAKE CARDINAL #6	ROME	10.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED: 07/12/82		JA: OH			
8243020		3407322624		103	107-TF	SUNDAY CREEK COAL CO #47	WARD	14.6	COLUMBIA GAS TRAN
8243021		3407322649		103	107-TF	SUNDAY CREEK COAL CO #58	WARD	14.6	COLUMBIA GAS TRAN
-ROBERT D CHARLEBOIS				RECEIVED: 07/12/82		JA: OH			
8242789		3415522123		103	107-TF	HILAND WELL #1	SOUTHINGTON	1.0	COLUMBIA GAS TRAN
-ROBERT W ORR JR				RECEIVED: 07/12/82		JA: OH			
8243009		3411926248		103	107-TF	OHIO STATE GRANGE #1	DRESDEN SOUTH	2.0	COLUMBIA GAS TRAN
-SALT CREEK JOINT VENTURE				RECEIVED: 07/12/82		JA: OH			
8243023		3411924846		107-TF		G & J WILSON #3	SALT CREEK	0.8	COLUMBIA GAS TRAN
8243026		3411924860		107-TF		G & J WILSON #8	SALT CREEK	0.8	COLUMBIA GAS TRAN
8243024		3411924857		107-TF		SHOOK #3	WAYNE	0.8	COLUMBIA GAS TRAN
8243025		3411924858		107-TF		SHOOK #4	SALT CREEK	0.8	COLUMBIA GAS TRAN
8243022		3411924766		107-RT		WHEELER #1	SALT CREEK	0.8	COLUMBIA GAS TRAN
-TITAN ENERGY CORP				RECEIVED: 07/12/82		JA: OH			
8243029		3415521674		103	107-TF	LAMBERT UNIT #1	SHARON WEST	20.0	COLUMBIA GAS TRAN
8243030		3415522037		103	107-TF	MCCALLION - UNIT #1	ORANGEVILLE	20.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED: 07/12/82		JA: OH			
8243031		3405923049		103	107-TF	BLACKWOOD #4	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8243033		3405923256		103	107-TF	C CRAMBLETT #2	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8243032		3405923065		103	107-TF	H SMITH #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8243034		3406720535		103	107-TF	R D & SHIRELY EMERICK #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8243035		3406720537		103	107-TF	W DYER/M ROGERS #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
-TWINOAKS OIL & GAS				RECEIVED: 07/12/82		JA: OH			
8243036A		3416923255		103		ROBERT WALSH #1	DOYLESTOWN	60.0	YANKEE RESOURCES
8243036B		3416923255	D	107-TF		ROBERT WALSH #1	DOYLESTOWN	60.0	YANKEE RESOURCES
8243037A		3416923256		103		ROBERT WALSH #2	DOYLESTOWN	50.0	YANKEE RESOURCES
8243037B		3416923256	D	107-TF		ROBERT WALSH #2	DOYLESTOWN	50.0	YANKEE RESOURCES
-VIKING RESOURCES CORP				RECEIVED: 07/12/82		JA: OH			
8243039		3413322673		103	107-TF	MARTIN UNIT #1	PALMYRA	30.0	
8243038		3413322610		103	107-TF	T MIX UNIT #5	DEERFIELD	30.0	

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before August 19, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservior on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20927 Filed 8–3–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-NAHAMA & WEAGANT ENERGY CO				RECEIVED:	07/12/82	JA: CA			
8242746	82-6-0006	0411320636		102-4		CACHE BASIN #12	CROSSROADS GAS	500.0	SHELL OIL CO
8242748	81-6-0004	0411320586		102-4		CACHE BASIN #5	CONWAY RANCH GAS	700.0	SHELL OIL CO
8242747	81-6-0005	0411320600		102-4		CACHE BASIN #5A	CONWAY RANCH GAS	700.0	SHELL OIL CO
8242745	81-6-0006	0411320587		102-4		CACHE BASIN #9	CROSSROADS GAS	145.0	SHELL OIL CO
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	07/12/82	JA: CA			
8242744	82-6-0008	0402120222		102-4		NYBERG GAS UNIT 5 #1 API #02120222	WILLOWS BEEHIVE BEND	500.0	PACIFIC GAS & ELE
-TXO PRODUCTION CORP				RECEIVED:	07/12/82	JA: CA			
8242743	82-6-0009	0406720190		102-4		GAMBLE 16-1	RIVER ISLAND GAS	100.0	PACIFIC GAS & ELE
8242742	82-6-0011	0407720387		102-4		KAESLIN 4-1	HARTE GAS	100.0	PACIFIC GAS & ELE
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-AMOCO PRODUCTION CO				RECEIVED:	07/08/82	JA: NM			
8242609		3004524649		103		GARCIA GAS COM "B" #1E	BASIN DAKOTA	13.0	EL PASO NATURAL G
8242632		3003906253		108		JICARILLA GAS COM "A" #1	SOUTH BLANCO - PICTUR	21.0	NORTHWEST PIPELIN
8242629		3004507786		108		MADDOX GAS COM "A" #1	AZTEC-PICTURED CLIFFS	20.0	EL PASO NATURAL G
8242610		3004525021		103		SAMMONS GAS COM "B" #1A	BLANCO - MESAVERDE	37.0	EL PASO NATURAL G
8242608		3002526980		103		STATE A #38	WILDCAT YATES	9.1	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	07/08/82	JA: NM			
8242631		3002509924		108		A M YORK #2	PENROSE SKELLY GRBG D	4.0	WARREN PETROLEUM
8242630		3002508867		108		D D HARRINGTON OIL #4	EUNICE 7 RV QN SOUTH	16.0	PHILLIPS PETROLEU
-BLANKS ENERGY CORP				RECEIVED:	07/08/82	JA: NM			
8242640		3002500000		103		ARCO STATE #1	ARCO STATE	0.0	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED:	07/08/82	JA: NM			
8242639		3001523993		103		STATE-DB #1	UNDESIGNATED NORTH TU	144.0	EL PASO NATURAL G
-DOME PETROLEUM CORP				RECEIVED:	07/08/82	JA: NM			
8242622		3004320470		107-TF		DOME STATE 32-22-6 #2	RUSTY CHACRA EXTENSIO	663.9	SOUTHWEST GAS COR
-EL PASO NATURAL GAS COMPANY				RECEIVED:	07/08/82	JA: NM			
8242636		3003905573		108		LINDRITH UNIT #49	BLANCO SOUTH - PICTUR	22.0	EL PASO NATURAL G
8242637		3003907097		108		SAN JUAN 28-6 UNIT #67	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	07/08/82	JA: NM			
8242619		3002507008		108		F F HARDISON "B" #1	BLINEBRY - DRINKARD	19.0	EL PASO NATURAL G
8242614		3002507010		108		F F HARDISON "B" #3	DRINKARD	7.0	EL PASO NATURAL G
8242620		3002500000		108		F F HARDISON "B" #5	DRINKARD	2.0	EL PASO NATURAL G
8242615		3002506809		108		F F HARDISON "B" #6	DRINKARD	20.0	EL PASO NATURAL G
8242618		3002510122		108		J L GREENWOOD #15	DRINKARD	4.0	GETTY OIL CO
8242613		3002500000		108		NEW MEXICO "BM" STATE #3	JUSTIS BLINEBRY	5.0	EL PASO NATURAL G
8242611		3002525953		108		NEW MEXICO "CV" STATE #1	COMMANCHE STATELINE Y	1.0	EL PASO NATURAL G
8242612		3002526048		108		NEW MEXICO "CV" STATE #2	COMANCHE SL YATES	1.0	EL PASO NATURAL G
8242616		3002526015		108		NEW MEXICO "M" STATE #49	DRINKARD	2.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8242617		3002525281		108		NEW MEXICO "S" STATE #31
-GETTY OIL COMPANY				RECEIVED:	07/08/82	JA: NM
8242623		3002527381		103		MYERS LANGLIE MATTIX UNIT #58
-GULF OIL CORPORATION				RECEIVED:	07/08/82	JA: NM
8242627		3002527469		102-3		NORTH ROCK LAKE UNIT #1
-HNG OIL COMPANY				RECEIVED:	07/08/82	JA: NM
8242628		3001500000		102-2		SMITH "10" COM #1
-HUNT OIL COMPANY				RECEIVED:	07/08/82	JA: NM
8242626		3002527135		102-4		STATE 4 #1
-INEXCO OIL COMPANY				RECEIVED:	07/08/82	JA: NM
8242644		3001523598		102-4		SOUTHLAND ROYALTY STATE #1
-INTEGRATED ENERGY INC				RECEIVED:	07/08/82	JA: NM
8242621		3004320400		102-2		STATE 32-22-6/1
-KIMBARK OIL & GAS CO				RECEIVED:	07/08/82	JA: NM
8242638		3002527539		103		NEW MEXICO STATE 1-4
-MESA PETROLEUM CO				RECEIVED:	07/08/82	JA: NM
8242607		3004500000		108-PB		STATE COM AA #23
8242642		3000561378		102-2		WESTERN COM #1
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	07/08/82	JA: NM
8242641		3004500000		108		AZTEC #2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/08/82	JA: NM
8242635		3002502874		108		EVGBSAU 2631 #22
-SHELL OIL CO				RECEIVED:	07/08/82	JA: NM
8242634		3002500000		108		N HOBBS (G-SA) UNIT SEC 23 #441
8242633		3002500000		108		PEARL QUEEN EAST UNIT #25
-TEXACO INC				RECEIVED:	07/08/82	JA: NM
8242624		3002500000		103		W H WEIR "A" #12
-UNION TEXAS PETROLEUM				RECEIVED:	07/08/82	JA: NM
8242625		3004525112		103		CULPEPPER-MARTIN #1A
-YATES PETROLEUM CORPORATION				RECEIVED:	07/08/82	JA: NM
8242643		3000561297		102-2		SKINK "SK" STATE #1
**********						
OKLAHOMA CORPORATION COMMISSION						
**********						
-ANDOVER OIL COMPANY				RECEIVED:	07/08/82	JA: OK
8242688	17648	3501722104		102-2	103	ROTHER #10-2
-ANTHEM ENERGY INC				RECEIVED:	07/08/82	JA: OK
8242683	14773	3507323320		103		MEYER #4-1
-APACHE CORPORATION				RECEIVED:	07/08/82	JA: OK
8242687	19446	3514920193		107-DP		COON #1-16
-CALVERT DRILLING CO				RECEIVED:	07/08/82	JA: OK
8242691	17641	3511921724		103		GIBSON #2
-CHASE EXPLORATION CORP				RECEIVED:	07/08/82	JA: OK
8242673	12512	3507121534		108		BREEDLOVE 1-29
8242671	12418	3507120817		108		BRUCE 1-6
8242657	12491	3507121230		108		COFFEE #2-1
8242656	12423	3507120962		108		DAY 1-27
8242659	12502	3507121121		108		SHEIK #1-29
8242674	12514	3507120911		108		THAIN #1-27
8242658	12499	3507121609		108		VOEGELE #1-20
8242667	12518	3507121208		108		VOEGELE 1-28
8242672	12511	3507121500		108		WOOD 2-6
-COTTON PETROLEUM CORPORATION				RECEIVED:	07/08/82	JA: OK

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FIELD NAME	PROD	PURCHASER
WANTZ ABO	14.0	EL PASO NATURAL G
LANGLIE MATTIX	18.3	EL PASO NATURAL G
UNDESIGNATED MORROW	0.0	EL PASO NATURAL G
UNDESIGNATED MORROW	3285.0	LLANO INC
NORTH GRAMA RIDGE-BON	58.0	PHILLIPS PETROLEU
CHOSA DRAW UNIT	600.0	EL PASO NATURAL G
RUSTY CHACRA	480.0	SOUTHWEST GAS COR
WILDCAT (DEVONIAN)	73.0	WARREN PETROLEUM
AZTEC PICTURED CLIFFS	0.0	EL PASO NATURAL G
PECOS SLOPE ABO	90.0	
BLANCO MESAVERDE	13.0	NORTHWEST PIPELIN
VACUUM GB/SA POOL	0.5	EL PASO NATURAL G
HOBBS (G-SA)	8.6	PHILLIPS PETROLEU
PEARL QUEEN	0.7	PHILLIPS PETROLEU
SKAGGS DRINKARD	219.0	EL PASO NATURAL G
BLANCO MESAVERDE	111.1	SOUTHERN UNION GA
UND ABO	0.0	TRANSWESTERN PIPE
	180.0	DELHI GAS PIPELIN
WEST LOYAL	73.0	PHILLIPS PETROLEU
	292.0	
SE RIPLEY	25.0	SUN GAS CO
UNNAMED	0.0	CITIES SERVICE GA
UNNAMED	6.6	CITIES SERVICE GA
UNNAMED	1.7	CITIES SERVICE GA
UNNAMED	0.0	CITIES SERVICE GA
UNNAMED	0.0	CITIES SERVICE GA
UNNAMED	0.5	CITIES SERVICE GA
UNNAMED	0.4	CITIES SERVICE GA
UNNAMED	0.2	CITIES SERVICE GA
UNNAMED	0.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242690	19494	3505121208		107-DP		MCCARTY #1	S W VERDEN	0.0	UNITED GAS PIPELI
8242682	14750	3513920681		108		STRICKLIN #1	KRIDER	0.0	WESTERN GAS INTER
-ENERGY RESERVES GROUP INC				RECEIVED:		07/08/82 JA: OK			
8242665	13767	3504930057		108		LINDSAY TOWNSITE 1A #1	GOLDEN TREND	16.7	WARREN PETROLEUM
-FALCON PETROLEUM COMPANY				RECEIVED:		07/08/82 JA: OK			
8242685	15283	3573921263		103		WHITEHAIR #1 139-70868	GUYMON-HOUGETON	42.0	PHILLIPS PETROLEU
-HARPER OIL COMPANY				RECEIVED:		07/08/82 JA: OK			
8242686	15285	3504321339		103		DONNA #1	WEST FONDA	18.0	PHILLIPS PETROLEU
-JONES & PELLOW OIL CO				RECEIVED:		07/08/82 JA: OK			
8242679	14672	3508700000		108		GIMENO #1	DIBBLE	17.8	SUN PRODUCTION CO
8242677	14670	3508700000		108		MCCLAIN #1	DIBBLE	4.0	SUN PRODUCTION CO
8242678	14671	3508700000		108		MCGREW #1	DIBBLE	8.0	SUN PRODUCTION CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:		07/08/82 JA: OK			
8242680	14741	3504700000		108		H V HUNTER #1	E WAUKOMIS	7.0	EXXON CORP
-LEBEN OIL CORP				RECEIVED:		07/08/82 JA: OK			
8242681	14744	3505100000		108		MUTZ #1-23	N W CHITWOOD	2.0	MOBIL OIL CORP
-PETRO-LEWIS CORPORATION				RECEIVED:		07/08/82 JA: OK			
8242675	14100	3501100000		108		SEELKE 16-1	STAR WEST	7.2	PHILLIPS PETROLEU
-R J WALKER OIL CO INC				RECEIVED:		07/08/82 JA: OK			
8242689	17344	3504921546		103		HART #1		275.0	WARREN PETROLEUM
8242692	17343	3592166900		102-4	103	HART RANCH #2		220.0	WARREN PETROLEUM
-RICKS EXPLORATION CO				RECEIVED:		07/08/82 JA: OK			
8242684	15280	3501922147		102-2		STATE PARK 22A	WILDCAT	478.0	DELHI GAS PIPELIN
8242693	15288	3515321119		103		TOMMY 31D	WEST SHARON	2.0	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)				RECEIVED:		07/08/82 JA: OK			
8242668	13216	3507300000		108		ALTA CHOATE #1	SW LACY	15.0	ARKANSAS LOUISIAN
8242664	08196	3512300000		108		BROGDEN-WITHERSPOON #1	FITTS	6.2	KOCH OIL CO
8242669	13217	3507300000		108		HITT #1	LACEY SW	11.0	ARKANSAS LOUISIAN
8242670	13218	3515100000		108		MARSHALL #1L & 1U	OAKDALE	17.0	AMINOIL USA INC
8242676	14357	3504700000		108		S E FLYNN #38-1	S E FLYNN	1.5	EXXON CO USA
8242663	04336	3505300000		108		S W WAKITA UNIT #2-1	SOUTH WEST WAKITA	4.0	
8242662	04335	3505300000		108		S W WAKITA UNIT #3-1	SOUTH WEST WAKITA	2.0	
8242660	04333	3505300000		108		S W WAKITA UNIT #4-4	SOUTH WEST WAKITA	4.0	
8242661	04334	3505300000		108		S W WAKITA UNIT #9-3	SOUTH WEST WAKITA	0.0	
-WILLIAM EARL PIERCE				RECEIVED:		07/08/82 JA: OK			
8242666	13221	3514721001		103		DAVIS #2	BARTLESVILLE	60.0	PHILLIPS PETROLEU
**********									
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
**********									
-C & C TROYER BROTHERS				RECEIVED:		07/09/82 JA: PA			
8242734	11369	3704921547		102-2		WILLIAM LYSLE DONNELL #1 (#53)	WATERFORD	30.0	NATIONAL FUEL GAS
8242735	11368	3704921597		107-TF		WILLIAM LYSLE DONNELL #1 (#53)	WATERFORD	30.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		07/09/82 JA: PA			
8242695	11975	3702300000		108		PA DEPT OF ENVIRONMENTAL RES TR20	GIBSON	3.0	GENERAL SYSTEM PU
8242696	11977	3706504850		108		R & P COAL WN-1056	YOUNG	14.0	GENERAL SYSTEM PU
-EUGENE MITCHELL				RECEIVED:		07/09/82 JA: PA			
8242705	11253	3704920768		107-TF		MITCHELL HEARD JOST #3	WATERFORD (QUAD)	12.0	NATIONAL FUEL GAS
-FELMONT OIL CORPORATION				RECEIVED:		07/09/82 JA: PA			
8242697	12016	3706326555		102-4		DONALD HICKOK #1 F-340	PINETON	0.0	COLUMBIA GAS TRAN
-G H DAGGETT & CO				RECEIVED:		07/09/82 JA: PA			
8242694	0883	3706320422		108		ANNA E BARISH	PUNXSUTAWNEY DRIFTWOO	1.0	COLUMBIA GAS TRAN
-KALTSAS OIL CO				RECEIVED:		07/09/82 JA: PA			
8242700	13339	3704920811		107-TF		LENT & GERALD ORTON SW E-2	VENANGO	25.6	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8242698	13337	3704920810		107-TF		LLOYD SCHWAB #1 SN E-1	GREENFIELD	18.3	COLUMBIA GAS TRAN
8242699	13338	3704920812		107-TF		WEBSTER HALLORAN SN E3	VENANGO	25.6	COLUMBIA GAS TRAN
-MID-PENN ENERGY CORP				RECEIVED:	07/09/82	JA: PA			
8242702	11994	3703321186		103		CHARLES MC CRACKEN #1	GRAMPIAN	35.0	CONSOLIDATED GAS
8242701	11993	3703321213		103		CLARENCE A KEISER #2	GRAMPIAN	40.0	CONSOLIDATED GAS
8242703	11995	3703321199		103		HOWARD SHAFFER #1	GRAMPIAN	60.0	CONSOLIDATED GAS
8242704	11996	3703321238		103		HOWARD SHAFFER #2	GRAMPIAN	45.0	CONSOLIDATED GAS
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	07/09/82	JA: PA			
8242706	12029	3704700000		108		ADAM EBERLY #4413	MILLSTONE TOWNSHIP	5.2	GENERAL SYSTEM PU
8242717	12040	3706500000		108		D B SMITH #3769	WINSLOW TOWNSHIP	10.0	GENERAL SYSTEM PU
8242710	12033	3706500000		108		DAVID CHITISTER #2460	KNOX TOWNSHIP	2.8	GENERAL SYSTEM PU
8242714	12037	3703100000		108		E C & S B MERCER #3393	LIMESTONE TOWNSHIP	9.0	GENERAL SYSTEM PU
8242721	12045	3706500000		108		E SMITH #3744	WINSLOW TOWNSHIP	5.6	GENERAL SYSTEM PU
8242708	12031	3704700000		108		GATZ & LOEBMAN #651	MILLSTONE TOWNSHIP	4.1	GENERAL SYSTEM PU
8242715	12038	3703100000		108		H C AARON #3395	LIMESTONE TOWNSHIP	4.1	GENERAL SYSTEM PU
8242719	12043	3706500000		108		HENRY ALLSHOUSE #3076	ROSE TOWNSHIP	1.4	GENERAL SYSTEM PU
8242709	12032	3704700000		108		J G BARR #614	MILLSTONE TOWNSHIP	8.5	GENERAL SYSTEM PU
8242711	12034	3706500000		108		J SNYDER #3791	WINSLOW TOWNSHIP	4.0	GENERAL SYSTEM PU
8242712	12035	3706500000		108		JOHN MATHEWS #2198	KNOX TOWNSHIP	3.3	GENERAL SYSTEM PU
8242716	12039	3706500000		108		LM & HW REITZ #2929	ROSE TOWNSHIP	1.6	GENERAL SYSTEM PU
8242713	12036	3703100000		108		M A HAMLER #3353	LIMESTONE TOWNSHIP	1.3	GENERAL SYSTEM PU
8242707	12030	3706500000		108		PA STATE FOREST FARM #4338	POLK TOWNSHIP	8.9	GENERAL SYSTEM PU
8242718	12041	3706500000		108		RACHEL BURNS #3355	ROSE TOWNSHIP	1.2	GENERAL SYSTEM PU
8242720	12044	3706500000		108		W A ANDREWS #3683	PINECREEK TOWNSHIP	9.3	GENERAL SYSTEM PU
-PHILLIPS PRODUCTION CO				RECEIVED:	07/09/82	JA: PA			
8242726	11970	3706324529		108		ARTHUR J WHITE #1	EAST MAHONING	18.0	COLUMBIA GAS TRAN
8242725	11969	3706324438		108		CHARLES S BEATTY #1	EAST MAHONING	8.0	COLUMBIA GAS TRAN
8242731	11985	3706325376		108		CLIFFORD T KNECHT #1	EAST MAHONING	6.0	COLUMBIA GAS TRAN
8242724	11968	3706324773		108		EDWARD P AVEY #1	EAST MAHONING	2.0	COLUMBIA GAS TRAN
8242723	11967	3706324774		108		EDWARD P AVEY #2	E MAHONING	7.0	COLUMBIA GAS TRAN
8242727	11971	3706324536		108		FRANK W CLAWSON & LOUIS EMANUEL #1	EAST MAHONING	11.0	COLUMBIA GAS TRAN
8242722	11966	3706324288		108		HELEN L BRAUGHLER #1	GRANT	4.0	COLUMBIA GAS TRAN
8242733	11990	3706325682		108		LEONARD MYERS #1	EAST MAHONING	7.0	COLUMBIA GAS TRAN
8242732	11986	3706325587		108		MINTA M FORSHA #1	EAST MAHONING	4.0	COLUMBIA GAS TRAN
8242728	11972	3706324554		108		RUSSELL P OLSON JR #1	EAST MAHONING	11.0	COLUMBIA GAS TRAN
8242730	11974	3706324541		108		W S BLACK #1	EAST MAHONING	6.0	COLUMBIA GAS TRAN
8242729	11973	3706324954		108		W S BLACK #3	EAST MAHONING	6.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED:	07/09/82	JA: PA			
8242736	11409	3712329525		103		SHEFFIELD PARTNERSHIP 361-4		30.0	NATIONAL FUEL GAS
-VINEYARD OIL & GAS CO				RECEIVED:	07/09/82	JA: PA			
8242737	11360	3704921707		102-2		MARSH #2	DRUMLIN	12.0	NATIONAL FUEL GAS
8242739	11359	3704921707		107-TF		MARSH #2	DRUMLIN	12.0	NATIONAL FUEL GAS
8242738	11371	3704921717		102-2		ZIMMERLY #1	DRUMLIN	12.0	NATIONAL FUEL GAS
8242740	11372	3704921717		107-TF		ZIMMERLY #1	DRUMLIN	12.0	NATIONAL FUEL GAS
-ZETA S T JOINT VENTURE 80				RECEIVED:	07/09/82	JA: PA			
8242741	12007	3706326505		103		DUKE #2	NONE	25.0	COLUMBIA GAS TRAN
**********									
UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-FRANK B ADAMS				RECEIVED:	07/12/82	JA: UT			
8242750	K-104-5	4301930808		102-4		ADAMS & DIZDAR #2 JOUFLAS	GREATER CISCO AREA	0.0	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	07/12/82	JA: UT			
8242749	K-135-2	4301930759		103		UTAH STATE #2	UNDESIGNATED DAKOTA	16.7	NORTHWEST PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-FRANKLIN ADKINS			RECEIVED: 07/08/82		JA: WV				
8242651		4709921716		107-DV		COPLEY #1	LINCOLN	14.6	COLUMBIA GAS TRAN
8242652		4709921743		107-DV		DAVID JERRELL #1	LINCOLN	12.5	COLUMBIA GAS TRAN
8242654		4709921712		107-DV		MAYNARD #1	LINCOLN DISTRICT	14.3	COLUMBIA GAS TRAN
8242655		4704321625		107-DV		MESSENGER #2	SHERIDAN DISTRICT	6.4	COLUMBIA GAS TRAN
8242647		4709921685		107-DV		PENNINGTON #1	LINCOLN	7.2	COLUMBIA GAS TRAN
8242646		4709921619		107-DV		PERRY #1	LINCOLN	7.2	COLUMBIA GAS TRAN
8242648		4709921688		107-DV		PERRY #2	LINCOLN DISTRICT	6.0	COLUMBIA GAS TRAN
8242645		4709921608		107-DV		PORTER #1	LINCOLN DISTRICT	7.8	COLUMBIA GAS TRAN
8242653		4701120682		107-DV		PRATT #1	MECOMAS DISTRICT	10.8	COLUMBIA GAS TRAN
8242650		4709921711		107-DV		SMITH #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN
8242649		4709921698		107-DV		WATTS #1	LINCOLN DISTRICT	15.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before August 19, 1982.

Categories within each NGPA sections are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20946 Filed 8–3–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: July 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ATTICA GAS VENTURE CORP				RECEIVED:	07/12/82	JA: KS			
8243041	K82-0045	1507720755		103		ATTICA HOSPITAL #1	SULLIVAN	300.0	PEOPLES NATURAL G
-BEREN CORPORATION				RECEIVED:	07/12/82	JA: KS			
8243042	K82-0360	1515121046		102-4		PAULINE "A" #1	CARVER-ROBBINS WEST	72.0	PANHANDLE EASTERN
LOUISIANA OFFICE OF CONSERVATION									
-BLUEBIRD OIL & GAS PROD CO				RECEIVED:	07/13/82	JA: LA			
8243176	82-1320	1707321868		103		LIEBER ESTATE #1	MONROE	12.8	CUSTER K PRIMOS
8243161	82-1321	1707321869		103		LIEBER ESTATE #2	MONROE	12.7	CUSTER K PRIMOS
-CAPITAL GAS INC				RECEIVED:	07/13/82	JA: LA			
8243167	82-1263	1707300625		108		LEIBER #1 HSU 878	MONROE	8.0	IMC PIPELINE CO I
-CRYSTAL OIL COMPANY				RECEIVED:	07/13/82	JA: LA			
8243226	82-2987	1701521405		102-2	107-TF	HAMITER #1	ARKANA	233.6	ARKANSAS LOUISANA
8243248	82-2986	1701521488		102-2		INTERNATIONAL PAPER CO "B" #1	ARKANA	488.3	ARKANSAS LOUISIAN
8243165	82-1272	1708120411		108		POSEY "A" #1	GAHAGAN	0.0	LOUISIANA INTRAST
-D-RAM CONSTRUCTION CO				RECEIVED:	07/13/82	JA: LA			
8243243	82-1315	1707321781		103	108	HALLEY #1	MONROE	0.0	IMC PIPELINE CO I
8243188	82-1413	1707321773		108		POGUE #1	MONROE	0.0	IMC PIPELINE CO I
8243121	82-1414	1707321774		108		POGUE #2	MONROE	0.0	IMC PIPELINE CO I
8243120	82-1415	1707321775		108		POGUE #3	MONROE	0.0	IMC PIPELINE CO I
8243187	82-1416	1707321779		108		POWELL #1	MONROE	0.0	IMC PIPELINE CO I
8243242	82-1314	1707321780		103	108	POWELL #2	MONROE GAS	0.0	IMC PIPELINE CO I
8243186	82-1412	1707321772		108		THOMPSON #1	MONROE GAS	0.0	IMC EXPLORATION C
-DEW OIL & GAS COMPANY INC				RECEIVED:	07/13/82	JA: LA			
*8243217	82-2120	1705320569		102-4		N E JAENKE #2	LAKE ARTHUR	182.5	TENNESSEE GAS PIP
-ELGIE CO INC				RECEIVED:	07/13/82	JA: LA			
8243101	82-0486	1701724412		103		N SONIAT #5 PXY SU H	GREENWOOD-WASKOM	60.0	TEXAS EASTERN TRA
-EXXON CORPORATION				RECEIVED:	07/13/82	JA: LA			
8243132	82-3721	1771720169		107-DP		SL 799 #BB-5	GRAND ISLE BLOCK 16	1645.0	COLUMBIA GAS TRAN
-F E HARGRAVES & SONS DRLG CO INC				RECEIVED:	07/13/82	JA: LA			
8243166	82-1275	1711920108		108		DAVID LEWIS #1 BL RA SUE	MINDEN	0.0	TEXAS GAS TRANSMI
-FLYNN ENERGY CORP				RECEIVED:	07/13/82	JA: LA			
8243148	82-1570	1700720303		102-4		COTTEN #18-1	E LAKE PALOURDE FIELD	48.1	TEXAS GAS TRANSMI
-FOUR STAR DEVELOPMENT CORPORATION				RECEIVED:	07/13/82	JA: LA			
8243245	82-1318	1711121605		108		EXXON ARCO #1	MONROE	8.0	IMC PIPELINE CO I
-GAS RESOURCES INC				RECEIVED:	07/13/82	JA: LA			
8243160	82-1308	1711123226		103		EXXON #29	MONROE	16.0	IMC PIPELINE CO I
-GATOR HAWK GAS CO				RECEIVED:	07/13/82	JA: LA			
8243179	82-1405	1707321857		103		C L HART #1	MONROE	3.8	IMC PIPELINE CO I
8243099	82-1404	1707321853		103		HEMPHILL #7	MONROE	5.9	IMC PIPELINE CO I

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GLENDA PETROLEUM CORP				RECEIVED:	07/13/82	JA: LA			
8243107	82-2872	1707321542		108		PENNZOIL 28 #10 S/N 176973	MONROE	10.0	UNITED GAS PIPELI
8243108	82-2873	1707321543		108		PENNZOIL 28 #11 S/N 176974	MONROE	10.0	UNITED GAS PIPELI
8243109	82-2874	1707321544		108		PENNZOIL 28 #12 S/N 176975	MONROE	10.0	UNITED GAS PIPELI
8243110	82-2875	1707321545		108		PENNZOIL 28 #13 S/N 176976	MONROE	10.0	UNITED GAS PIPELI
8243221	82-2837	1707321546		108		PENNZOIL 28 #14 S/N 176977	MONROE	10.0	UNITED GAS PIPELI
8243222	82-2838	1707321547		108		PENNZOIL 28 #15 S/N 176978	MONROE	10.0	UNITED GAS PIPELI
8243236	82-2845	1707321514		108		PENNZOIL 28 #2 S/N 170674	MONROE	12.0	UNITED GAS PIPELI
8243141	82-2870	1707321518		108		PENNZOIL 28 #6 S/N 176971	MONROE	10.0	UNITED GAS PIPELI
8243237	82-2846	1707321539		108		PENNZOIL 28 #7 S/N 170766	MONROE	11.0	UNITED GAS PIPELI
8243220	82-2836	1707321540		108		PENNZOIL 28 #8 S/N 170767	MONROE	12.0	UNITED GAS PIPELI
8243106	82-2871	1707321541		108		PENNZOIL 28 #9 S/N 176972	MONROE	10.0	UNITED GAS PIPELI
8243225	82-2844	1707321508		108		PENNZOIL 4 #13 S/N 170668	MONROE	10.0	UNITED GAS PIPELI
8243238	82-2862	1707321486		108		PENNZOIL 4 #2 S/N 170603	MONROE	12.0	UNITED GAS PIPELI
8243239	82-2863	1707321487		108		PENNZOIL 4 #3 S/N 170604	MONROE	12.0	UNITED GAS PIPELI
8243240	82-2864	1707321491		108		PENNZOIL 4 #7 S/N 170608	MONROE	10.0	UNITED GAS PIPELI
8243224	82-2843	1707321493		108		PENNZOIL 4 #9 S/N 170610	MONROE	10.0	UNITED GAS PIPELI
8243228	82-2865	1707321492		108		PENNZOIL 4 #8 S/N 170609	MONROE	10.0	UNITED GAS PIPELI
8243177	82-1411	1707321509		103		PENNZOIL 5 #5 S/N 176964	MONROE	16.0	UNITED GAS PIPELI
8243178	82-1410	1707321760		103		STEELE WILLIAMS #1 S/N 175150	MONROE	12.0	UNITED GAS PIPELI
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	07/13/82	JA: LA			
8243214	82-1492	1707522903		102-4		N C HERO #1	STELLA	438.0	UNITED GAS PIPE L
-HADDOX PETROLEUM CORP				RECEIVED:	07/13/82	JA: LA			
8243219	82-2896	1711123332		108		MOBIL - IP #1	MONROE	20.9	MID LOUISIANA GAS
8243128	82-2897	1711122233		108		MOBIL-IP #2	MONROE	20.9	MID-LOUISIANA GAS
-HOGAN EXPLORATION INC				RECEIVED:	07/13/82	JA: LA			
8243205	82-0805	1702120728		102-4		REGGIE MCDANIEL #1	KELLY SCHOOL	40.0	TRUNKLINE GAS CO
-IMC EXPLORATION COMPANY				RECEIVED:	07/12/82	JA: LA			
8243068	82-1565	1711123366		108		GRAYLING LUMBER CO #N-274	MONROE	14.0	IMC PIPELINE CO I
-IMC EXPLORATION COMPANY				RECEIVED:	07/13/82	JA: LA			
8243113	82-1560	1707321813		108		COLE T #36	MONROE	21.0	IMC PIPELINE CO I
8243116	82-1561	1707321814		108		COLE T #38	MONROE	21.0	IMC PIPELINE CO I
8243146	82-1562	1707321815		108		COLE T #40	MONROE	21.0	IMC PIPELINE CO I
8243124	82-1265	1711123309		108		GRAYLING LUMBER CO #N-270	MONROE	18.0	IMC PIPELINE CO I
8243215	82-1564	1711123365		108		GRAYLING LUMBER CO #N-273	MONROE	14.0	IMC PIPELINE CO I
8243145	82-1566	1711123373		108		GRAYLING LUMBER CO #N-275	MONROE	12.0	IMC PIPELINE CO I
8243144	82-1567	1711123374		108		GRAYLING LUMBER CO #N-276	MONROE	12.0	IMC PIPELINE CO I
8243125	82-1266	1707321812		108		PACE LAKE #7	MONROE	16.0	IMC PIPELINE CO I
8243241	82-1302	1711123166		108		RABUN #35	MONROE	19.0	PETRO-LEWIS FUNDS
8243172	82-1303	1711123167		108		RABUN #36	MONROE	19.0	PETRO-LEWIS FUNDS
8243216	82-1563	1711123362		108		REPPOMD # N-271	MONROE	9.0	IMC PIPELINE CO I
8243200	82-1301	1706721661		108		TENSAS DELTA #F-345	MONROE	11.0	IMC PIPELINE CO I
8243173	82-1304	1707321788		108		UNION PRODUCING CO T #14	MONROE	13.0	IMC PIPELINE CO I
8243175	82-1305	1707321789		108		UNION PRODUCING CO T #15	MONROE	11.0	IMC PIPELINE CO I
8243174	82-1306	1707321783		108		UNION PRODUCING CO T #17	MONROE	17.0	IMC PIPELINE CO I
-JOHN O CLAY EXPLORATION INC				RECEIVED:	07/13/82	JA: LA			
8243234	82-2985	1702120482		102-4		HERMAN HOGG #1	SWIM LAKE	90.0	LOUISIANA INTRAST
-LINVILLE NATURAL GAS CO INC				RECEIVED:	07/13/82	JA: LA			
8243117	82-1298	1711100510		108		ANTLEY #1	MONROE	9.0	IMC PIPELINE CO I
8243198	82-1299	1711100509		108		ANTLEY #2	MONROE	2.0	IMC PIPELINE CO I
8243199	82-1300	1711121335		108		ANTLEY #4	MONROE	5.0	IMC PIPELINE CO I
8243119	82-1296	1711100552		108		B E MCKINNIE #1	MONROE	3.0	IMC PIPELINE CO I
8243118	82-1297	1711100532		108		B E MCKINNIE #2	MONROE	3.0	IMC PIPELINE CO I

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LYNAL INC				RECEIVED:		07/13/82 JA: LA			
8243184	82-0141	1705520139		102-4		BELLA CHAPPUIS #1	ANSE LA BUTTE	438.0	UNITED GAS PIPELI
-MARSHALL EXPLORATION INC				RECEIVED:		07/13/82 JA: LA			
8243244	82-1316	1703121426		108		WOODROW HORN #2 VUA	LOGANSPORT	12.0	SOUTHERN NATURAL
-MAY PETROLEUM INC				RECEIVED:		07/13/82 JA: LA			
8243131	81-2845	1705520200		103		V GUILBEAU #1 CAM A RB SUA (169310)	SCOTT	365.0	LOUISIANA INTRAST
-MID LOUISIANA GAS COMPANY				RECEIVED:		07/13/82 JA: LA			
8243111	82-1430	1711123064		108		MLGC FEE GAS #1018	MONROE GAS FIELD	113.3	MID LOUISIANA GAS
8243190	82-1431	1711123070		108		MLGC FEE GAS #1022	MONROE GAS FIELD	139.6	MID LOUISIANA GAS
8243192	82-1432	1711123117		108		MLGC FEE GAS #1039	MONROE GAS FIELD	154.7	MID LOUISIANA GAS
8243170	82-1433	1711123118		108		MLGC FEE GAS #1040	MONROE GAS FIELD	148.7	MID LOUISIANA GAS
8243152	82-1430	1711123147		108		MLGC FEE GAS #1046	MONROE GAS FIELD	138.6	MID LOUISIANA GAS
8243151	82-1435	1711123148		108		MLGC FEE GAS #1047	MONROE GAS FIELD	113.4	MID LOUISIANA GAS
8243153	82-1436	1711123152		108		MLGC FEE GAS #1051	MONROE GAS FIELD	106.5	MID LOUISIANA GAS
8243149	82-1285	1711101970		108		MLGC FEE GAS #111	MONROE GAS FIELD	55.5	MID LOUISIANA GAS
8243159	82-1286	1711102140		108		MLGC FEE GAS #114	MONROE GAS FIELD	42.2	MID LOUISIANA GAS
8243158	82-1287	1711101494		108		MLGC FEE GAS #117	MONROE GAS FIELD	12.5	MID LOUISIANA GAS
8243189	82-1422	1711102490		108		MLGC FEE GAS #138	MONROE GAS FIELD	188.6	MID LOUISIANA GAS
8243100	82-1423	1711102093		108		MLGC FEE GAS #144	MONROE GAS FIELD	154.9	MID LOUISIANA GAS
8243191	82-1424	1711102086		108		MLGC FEE GAS #145	MONROE GAS FIELD	81.8	MID LOUISIANA GAS
8243104	82-1425	1711101521		108		MLGC FEE GAS #177	MONROE GAS	38.5	MID LOUISIANA GAS
8243168	82-1280	1711101981		108		MLGC FEE GAS #220	MONROE GAS	39.6	MID LOUISIANA GAS
8243201	82-1281	1711101537		108		MLGC FEE GAS #221	MONROE GAS FIELD	41.5	MID LOUISIANA GAS
8243103	82-1426	1711102218		108		MLGC FEE GAS #23	MONROE GAS FIELD	24.1	MID LOUISIANA GAS
8243122	82-1282	1711121466		108		MLGC FEE GAS #231	MONROE GAS FIELD	62.2	MID LOUISIANA GAS
8243150	82-1283	1711102532		108		MLGC FEE GAS #260	MONROE GAS FIELD	55.2	MID LOUISIANA GAS
8243102	82-1427	1707300270		108		MLGC FEE GAS #42	MONROE GAS FIELD	59.0	MID LOUISIANA GAS
8243185	82-1428	1711100000		108		MLGC FEE GAS #45	MONROE GAS FIELD	41.5	MID LOUISIANA GAS
8243112	82-1429	1707300269		108		MLGC FEE GAS #99	MONROE GAS FIELD	31.4	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO XIV				RECEIVED:		07/13/82 JA: LA			
8243140	82-2100	1707321835		103		THIBEAUX #2	MONROE	0.0	PETRO-LEWIS CORP
-PRIMOS PRODUCTION CO				RECEIVED:		07/13/82 JA: LA			
8243230	82-2850	1711122882		108		PETRO LEWIS FROST LUMBER #7	MONROE	23.4	PETRO LEWIS FUNDS
8243229	82-2849	1711123201		108		PETRO LEWIS H P REARDON #4	MONROE	44.8	PETRO LEWIS FUNDS
8243247	82-2852	1711122850		108		PETRO-LEWIS FROST LUMBER #10	MONROE	16.4	PETRO-LEWIS FUNDS
8243223	82-2839	1711122851		108		PETRO-LEWIS FROST LUMBER #11	MONROE	16.4	PETRO LEWIS FUNDS
8243143	82-2840	1711122883		108		PETRO-LEWIS FROST LUMBER #13	MONROE	23.4	PETRO-LEWIS FUNDS
8243138	82-2856	1711123171		108		PETRO-LEWIS FROST LUMBER #76	MONROE	37.4	PETRO-LEWIS FUNDS
8243137	82-2857	1711123198		108		PETRO-LEWIS FROST LUMBER #77	MONROE	39.7	PETRO-LEWIS FUNDS
8243246	82-2851	1711122890		108		PETRO-LEWIS FROST LUMBER #9	MONROE	36.3	PETRO-LEWIS FUNDS
8243139	82-2848	1711123200		108		PETRO-LEWIS H P REARDON #3	MONROE	44.8	PETRO-LEWIS FUNDS
8243134	82-2860	1711122913		108		PETRO-LEWIS HOLLIS #4	MONROE	11.8	PETRO-LEWIS FUNDS
8243133	82-2861	1711123351		108		PETRO-LEWIS HOLLIS #5	MONROE	26.5	PETRO-LEWIS FUNDS
8243135	82-2859	1711123155		108		PETRO-LEWIS J S HANDY #3	MONROE	11.9	PETRO-LEWIS FUNDS
8243136	82-2858	1711123199		108		PETRO-LEWIS MARTIN #1	MONROE	25.6	PETRO-LEWIS FUNDS
8243147	82-2842	1711123238		108		PETRO-LEWIS UNION POWER #31	MONROE	41.5	PETRO-LEWIS FUNDS
8243142	82-2841	1711123214		108		PETRO-LEWIS UNION POWER #33	MONROE	39.3	PETRO-LEWIS FUNDS
8243218	82-2847	1711123239		108		PETRO-LEWIS UNION POWER #35	MONROE	41.5	PETRO-LEWIS FUNDS
-PRIMOS-DEAN PRODUCING CO				RECEIVED:		07/13/82 JA: LA			
8243126	82-1267	1711121760		108		BIRD #1	MONROE	17.0	IMC PIPELINE CO I
8243127	82-1268	1711121801		108		BIRD #2	MONROE	17.0	IMC PIPELINE CO I
8243156	82-1269	1711121871		108		OPAL BOYD #1	MONROE	5.0	IMC PIPELINE CO I
8243169	82-1264	1711122131		108		OPAL BOYD #2	MONROE	16.0	IMC PIPELINE CO I

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PRIMOS-LUFFEY GAS CO				RECEIVED:	07/13/82	JA: LA			
8243155	82-1270	1711100000		108		HOWARD #1	MONROE	3.0	IMC PIPELINE CO I
8243162	82-1271	1711102210		108		HOWARD #3	MONROE	4.0	IMC PIPELINE CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	07/13/82	JA: LA			
8243232	82-2984	1710101531		108-ER		BI N VUA #1-55	BELLE ISLE	0.0	UNITED GAS PIPELI
8243207	82-1312	1703100003		108		HINKE ELROE -A- #1	GROGAN	15.0	TENNESSEE GAS PIP
8243233	82-2983	1708520476		108-ER		LOGAN #85	PLEASANT HILL	0.0	LOUISIANA INTRAST
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	07/13/82	JA: LA			
8243203	82-0637	1708320487		103		DELHI UNIT #98-6 DELHI HOLT BRYANT*	DELHI	119.0	TEXAS EASTERN-TRA
8243098	82-3724	1703100268		108-ER		J-R/002	RED RIVER - BULL BAYO	0.0	J-W OPERATING CO
8243136	81-2581	1701120452		103		LUTCHER-MOORE LBR CO #15	SHOATS CREEK	373.0	TRUNKLINE GAS CO
-TEDCO				RECEIVED:	07/13/82	JA: LA			
8243202	82-1291	1706720606		108		LEVEQUE HEIRS #1	MONROE	3.0	IMC PIPELINE CO I
8243164	82-1292	1706720959		108		PERRY HEIRS #1	MONROE	0.0	IMC PIPELINE CO I
8243157	82-1288	1706720972		108		PERRY HEIRS #13	MONROE	5.0	IMC PIPELINE CO I
8243123	82-1289	1706721103		108		PERRY HEIRS #14	MONROE	4.0	IMC PIPELINE CO I
8243105	82-1290	1706721105		108		PERRY HEIRS #15	MONROE	3.0	IMC PIPELINE CO I
8243197	82-1293	1706720963		108		PERRY HEIRS #2	MONROE	4.0	IMC PIPELINE CO I
8243115	82-1294	1706720960		108		PERRY HEIRS NO 4	MONROE	3.0	IMC PIPELINE CO I
-TENNECO OIL COMPANY				RECEIVED:	07/13/82	JA: LA			
8243227	82-3174	1716922402		107-DP		DENNIS CENAC #13	LAKE BARRE	876.0	TENNESSEE GAS PIP
-TEXAS OIL & GAS CORP				RECEIVED:	07/13/82	JA: LA			
8243204	82-0708	1703121394		102-4		HEWITT A #1 HOSS RA SUK	SPIDER	1058.0	DELHI GAS PIPELIN
8243129	82-2550	1703121201		102-3		LUNDAY #1 HOSS SU 17	BETHANY-LONGSTREET	985.0	ARKANSAS LOUISIAN
-THOMAS E TURMAN				RECEIVED:	07/13/82	JA: LA			
8243114	82-1503	1712720819		103		CURTIS WHITAKER #3	EAST SIKES	10.9	UNITED GAS PIPELI
-WAGNER & BROWN				RECEIVED:	07/13/82	JA: LA			
8243231	82-2278	1707720260		107-DP		PICARD BOUDREAUX #1	MOORE-SAMS	1500.0	COLUMBIA GAS TRAN
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	07/13/82	JA: LA			
8243208	82-1322	1707321872		103		MYHRE #1	MONROE	9.1	UNITED GAS PIPELI
8243209	82-1323	1707321873		103		MYHRE #2	MONROE	9.1	UNITED GAS PIPE L
8243211	82-1324	1707321874		103		MYHRE #3	MONROE	9.1	UNITED GAS PIPE L
-WILLIAM G HELIS				RECEIVED:	07/13/82	JA: LA			
8243235	82-2242	1702321551		107-DP		HELIS #1 MIAMI CORP	S PECAN LAKE	1800.0	UNITED GAS PIPELI
-WOMACK & NELSON				RECEIVED:	07/13/82	JA: LA			
8243171	82-1331	1711120506		108		BEN C DAWKINS JR #1	MONROE	5.0	IMC PIPELINE CO I
8243213	82-1334	1711120518		108		H TRUMAN SMITH #1	MONROE	2.0	IMC PIPELINE CO I
8243195	82-1335	1711120519		108		H TRUMAN SMITH #2	MONROE	1.0	IMC PIPELINE CO I
8243196	82-1336	1711120582		108		H TRUMAN SMITH #3	MONROE	1.0	IMC PIPELINE CO I
8243210	82-1332	1711120507		108		JENNY #1	MONROE	4.0	IMC PIPELINE CO I
8243212	82-1333	1711120591		108		L SMITH L #2	MONROE	2.0	IMC PIPELINE CO I
8243163	82-1326	1711120512		108		MELVIN ARMSTRONG #2	MONROE	3.0	IMC PIPELINE CO I
8243180	82-1327	1711120498		108		PEEK EST #1	MONROE	4.0	IMC PIPELINE CO I
8243181	82-1328	1711120486		108		PEEK EST #2	MONROE	4.0	IMC PIPELINE CO I
8243183	82-1329	1711120487		108		PEEK EST #3	MONROE	4.0	IMC PIPELINE CO I
8243182	82-1330	1711120497		108		PEEK EST #4	MONROE	4.0	IMC PIPELINE CO I
-WOODROW WILSON				RECEIVED:	07/13/82	JA: LA			
8243154	82-1442	1707321828		103	108	WILSON #1	MONROE GAS	0.0	IMC PIPELINE CO I
8243193	82-1443	1707321829		103	108	WILSON #2	MONROE GAS	0.0	IMC PIPELINE CO I
8243194	82-1444	1707321830		103	108	WILSON #3	MONROE GAS	0.0	IMC PIPELINE CO I
8243286	82-1445	1707321831		103	108	WILSON #4	MONROE GAS	0.0	IMC PIPELINE CO I

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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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-BEREA OIL AND GAS CORPORATION RECEIVED: 07/12/82 JA: NY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243077	2706	3101316052		107-TF		C & M PARK UNIT #1	RIPLEY/MINA	30.0	COLUMBIA GAS TRAN
8243074	2709	3101316053		107-TF		C F REYNOLDS UNIT #1	RIPLEY-MINA	30.0	COLUMBIA GAS TRAN
8243091	2661	3101316054		107-TF		C H EDSON UNIT #1	WILDCAT	30.0	COLUMBIA GAS TRAN
8243071	2711	3101316058		107-TF		ERIC REED UNIT #1	GERRY	25.0	COLUMBIA GAS TRAN
8243078	2705	3101316086		107-TF		G & C BOARDMAN UNIT #3	RIPLEY-MINA	30.0	COLUMBIA GAS TRAN
8243094	2702	3101316434		107-TF		H OAG UNIT #2	WILDCAT	30.0	COLUMBIA GAS TRAN
8243072	2712	3101316279		107-TF		H RISLEY #1	GERRY	25.0	COLUMBIA GAS TRAN
8243092	2660	3101316055		107-TF		HALLER UNIT #3	WILDCAT	18.0	COLUMBIA GAS TRAN
8243076	2707	3101316280		107-TF		N REED & SONS INC #1	STEBBINS CORNERS	30.0	COLUMBIA GAS TRAN
8243075	2708	3101316281		107-TF		N REED & SONS INC #2	RIPLEY-MINA	30.0	COLUMBIA GAS TRAN
8243090	2662	3101316258		107-TF		NEWTON BROTHERS #1	WILDCAT	30.0	COLUMBIA GAS TRAN
8243088	2665	3101316218		107-TF		NYS REF AREA #10 - WELL #7	GERRY	25.0	COLUMBIA GAS TRAN
8243096	2666	3101316296		107-TF		NYS REF AREA #10 - WELL #8	GERRY	25.0	COLUMBIA GAS TRAN
8243093	2659	3101315359		107-TF		ROBERT BARGAR #2	WILDCAT	25.0	COLUMBIA GAS TRAN
8243095	2703	3101316433		107-TF		S ANDERSON #3	GERRY	35.0	COLUMBIA GAS TRAN
8243073	2710	3101316453		107-TF		S MCCHESNEY #1	GERRY	35.0	COLUMBIA GAS TRAN
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	07/12/82	JA: NY			
8243080	2720	3101314604		107-TF		BROWN #1 #3150	LAKE SHORE	16.0	NATIONAL FUEL GAS
8243085	2718	3101314609		107-TF		BROWN #6 #3155	LAKE SHORE	10.0	NATIONAL FUEL GAS
8243084	2727	3101314608		107-TF		CALHOUN #1 #3139	LAKE SHORE	10.5	NATIONAL FUEL GAS
8243097	2722	3101314345		107-TF		FRANKS #1 #3111	LAKE SHORE	15.0	NATIONAL FUEL GAS
8243082	2818	3101315029		107-TF		SMITH #1 #3146	MINA RIPLEY	6.0	NATIONAL FUEL GAS
8243081	2819	3101315030		107-TF		SMITH #2 #3147	MINA-RIPLEY	10.0	NATIONAL FUEL GAS
8243086	2730	3101314614		107-TF		THOMPSON #12 #3103	LAKE SHORE	16.4	NATIONAL FUEL GAS
8243083	2729	3101314344		107-TF		WARNSHIUS #5 #3110	LAKE SHORE	5.3	NATIONAL FUEL GAS
8243087	2735	3101314348		107-TF		WARNSHIUS VI #3114	LAKE SHORE	10.0	NATIONAL FUEL GAS
-TEEPEE PETROLEUMS INC				RECEIVED:	07/12/82	JA: NY			
8243070	2649	3101314467		107-TF		BATTAGLIA-THOMAS #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
8243069	2656	3101314470		107-TF		CAMPBELL CHAS & MAXINE #2	MAYVILLE	18.0	COLUMBIA GAS TRAN
8243089	2648	3101314471		107-TF		HORLAK C L & J L #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
8243079	2647	3101314839		107-TF		WM PARKER #1	MAYVILLE	18.0	COLUMBIA GAS TRAN
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
**********									
-J M GRAVES				RECEIVED:	07/12/82	JA: OK 8			
8243053		3511325919		103		HOOT #1	S W LANDON	22.0	PHILLIPS PETROLEU
8243054		3511325910		103		HOOT #2	S W LANDON	22.0	PHILLIPS PETROLEU
8243051		3511325049		103		POND CREEK #1	S W LANDON	25.0	PHILLIPS PETROLEU
8243052		3511323334		103		POND CREEK #2	S W LANDON	25.0	PHILLIPS PETROLEU
8243049		3511300000		103		TIPP #18	N E LITTLE CHIEF	20.0	PHILLIPS PETROLEU
8243050		3511325334		103		TIPP #3	N E LITTLE CHIEF	16.0	PHILLIPS PETROLEU
-NADEL & GUSSMAN				RECEIVED:	07/12/82	JA: OK 8			
8243056		3511300000		103		BUELL #1	BUELL	3.0	PHILLIPS PETROLEU
8243057		3511300000		103		BUELL #10	BUELL	3.0	PHILLIPS PETROLEU
8243064		3511300000		103		BUELL #12	BUELL	3.0	PHILLIPS PETROLEU
8243055		3511300000		103		BUELL #13	BUELL	3.0	PHILLIPS PETROLEU
8243065		3511300000		103		BUELL #14	BUELL	3.0	PHILLIPS PETROLEU
8243060		3511300000		103		BUELL #15	BUELL	2.0	PHILLIPS PETROLEU
8243063		3511300000		103		BUELL #20	BUELL	7.0	PHILLIPS PETROLEU
8243067		3511300000		103		BUELL #22	BUELL	7.0	PHILLIPS PETROLEU
8243059		3511300000		103		BUELL #23	BUELL	9.0	PHILLIPS PETROLEU
8243066		3511300000		103		BUELL #5	BUELL	3.0	PHILLIPS PETROLEU
8243062		3511300000		103		BUELL #6	BUELL	2.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8243061		3511300000		103		BUELL #8	BUELL	2.0	PHILLIPS PETROLEU
8243058		3511300000		103		BUELL #9	BUELL	2.0	PHILLIPS PETROLEU
-QUALITY EXPLORATION INC				RECEIVED: 07/12/82		JA: OK 8			
8243044		3511300000		102-4		MULLENDORE #10	DOMES-POND CREEK	0.0	
8243045		3511300000		102-4		MULLENDORE #11	DOMES-POND CREEK	0.0	
8243047		3511300000		102-4		MULLENDORE #5	DOMES-POND CREEK	1.0	
8243048		3511300000		102-4		MULLENDORE #6	DOMES-POND CREEK	0.0	
8243046		3511300000		102-4		MULLENDORE #8	DOMES-POND CREEK	0.0	
8243043		3511300000		102-4		MULLENDORE #9	DOMES-POND CREEK	275.0	

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MHCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before August 19, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–20928 Filed 8–3–82; 8:45 am]

BILLING CODE 6717–01–M

Office of the Secretary

Liquid Metal Fast Breeder Reactor Program; Record of Decision

This Record of Decision has been prepared as required by the Council on Environmental Quality regulations (40 CFR 1500 et seq.) implementing the National Environmental Policy Act (NEPA).

Decision

On June 9, 1982, the United States Department of Energy (DOE) released a Final Supplemental Environmental Impact Statement (FEIS) for the LMFBR Program (DOE/EIS–0085–FS, May, 1982). This document supplements an earlier Environmental Impact Statement for the Liquid Metal Fast Breeder Reactor (LMFBR) Program (ERDA–1535, December, 1975). Having reviewed these documents and other current information pertinent to the LMFBR Program, DOE affirms that the currently planned LMFBR Program as described in the FEIS, including construction of the Clinch River Breeder Reactor Plant as soon as possible, should continue to be pursued.

The LMFBR Program

The goal of the breeder program is to ensure that a proven long-term electricity supply option is available on a prudent time scale. To accomplish this goal the U.S. LMFBR program was established with the overall objective of developing the technical, engineering, safety, environmental, economic, licensing, and industrial data base that will be required for the design, construction, and operation of future LMFBR powerplants on a utility grid. The program consists of three broad elements that are essential to meeting this goal: (1) Construction and operation of developmental plants (e.g., the Clinch River Breeder Reactor Plant), (2) a supporting base technology program including test facilities, and (3) supporting fuel cycle programs.

Description of Alternatives

Three classes of alternatives to the currently planned program were considered:

(1) *Alternatives within LMFBR Program.* Three alternatives within the LMFBR Program were considered:

(a) Termination of the Clinch River Breeder Reactor Plant (CRBRP) and proceeding directly to the Large Developmental Plant (LDP) project.

(b) Completion of the CRBRP as the last developmental plant of the overall program (i.e., no LDP).

(c) Termination of both developmental plant projects.

The gains from each of these three alternatives would be the financial savings from eliminating the construction cost of each respective plant, as well as avoiding the environmental impacts associated with construction and operation.

If the CRBRP Project is terminated, the base for scale-up of LMFBR technology from small plants to near-commercial size would be limited to results of the base technology program and the operational experience of the EBR–II and the Fast Flux Test Facility (FFTF). The potential for intermediate size plant data on licensing, startup, operation, individual component performance, overall plant performance, reliability, environmental impacts, and maintainability of an LMFBR in a commercial utility environment, would be lost. As a consequence, the risk that the LDP would have major technical problems would be significantly increased. Early utility participation in LMFBR construction and operation would also be lost, with attendant erosion of utility confidence in the LMFBR program. Termination of CRBRP would thereby jeopardize the goal of the LMFBR program for supplying the nation with an important long-term energy option.

If the LDP is not built, the capability for commercial deployment of LMFBRs may be indefinitely delayed. The implication of this action would be that the economic and technological base needed to establish the viability of the breeder for commercial application by the nuclear industry would be incomplete. The CRBRP alone cannot generate a sufficient base of safety, construction, environmental impact and operating data to permit a sound commercialization decision by utilities. Also, this alternative will probably result in significant erosion of the industry/utility/laboratory infrastructure that will form the basis for future LMFBR commercialization. Truncation of the LMFBR program after CRBRP would jeopardize the potential for meeting the LMFBR program goal.

The cancellation or deferral of both developmental plants, with continuation of only a generic base R&D program, would lead to an indefinite delay in any potential deployment date for LMFBRs because licensing and plant operating experience would never be obtained. Even the remaining base program would lose focus without specific plant projects on which to concentrate its efforts. Many of the opportunities for the involvement of utilities and reactor manufacturers would be lost also.

Although it is clear that selection of any one of these three alternatives would result in less short term environmental impacts, the structure of the currently planned program is such that information critical to environmental concerns would be obtained in a timely manner as the program progresses and would likely result in informed program decisions to lessen any environmental impacts.

(2) *No Action.* In this alternative, the entire LMFBR program would be terminated. Such a termination would mean turning away from 35 years of progress in developing a technology which has an excellent potential for supplying a substantial amount of energy in the next century. Technological feasibility is proven and no fundamental scientific breakthroughs

are required for further engineering development and eventual deployment. Termination of the LMFBR Program would result in the loss of the existing pool of experienced technical specialists and in the loss of specialized R&D facilities. Failure to develop the LMFBR as a long-term electricity supply option could have serious consequences for the nation should other long-term options fail to develop adequately. Thus the no-action alternative appears to be unacceptable.

(3) *Alternative Long-term Technologies.* These essentially inexhaustible technologies are various types of fusion power plants (magnetic and inertial) and solar electric systems (wind energy conversion, solar photovoltaic conversion, solar thermal conversion, and ocean thermal energy conversion). The goals and accomplishments of the DOE programs to develop these technologies were addressed in the Supplemental EIS. Until these alternative long-term technologies meet their development goals, it is not possible to determine their relative competitiveness with the LMFBR. In addition, impacts of these long term technologies aren't sufficiently well known to permit a meaningful selection of which one(s) to pursue for environmental reasons.

Basis for Decision

The United States needs to develop energy options which can provide substantial amounts of energy over the long term. Energy sources will be needed to replace the increasingly scarce supplies of oil and gas which currently supply 70 percent of the nation's energy needs. Electrical energy is expected to continue to supply an increasing share of the growing U.S. energy demand. Energy growth potential and the need for oil and gas substitutions provide the motivation for developing long-range, essentially inexhaustible electrical energy sources such as the LMFBR.

Research and development activities on promising long-term options, such as the LMFBR, fusion, and solar electricity technologies, are required to meet future U.S. energy needs. Because of the relatively advanced state of LMFBR technology, it is the surest of the large scale, inexhaustible supply options. If fusion, solar electricity, and the LMFBR development programs were all successful, the contributions of each would depend on their economics, among other important factors. Because today the LMFBR is presently in the most advanced stage of development, it provides the insurance against failure of the other long-term alternatives to develop in a timely way, and against the failure of coal to meet expectations.

The LMFBR is a complex undertaking that still requires years of intensive work before its technology is developed to a point of acceptable commercial risk. Technological feasibility has been demonstrated in a number of small and intermediate size LMFBRs built and operated in the U.S. and abroad. Future LMFBR progress will rely on the successful development of near commercial scale engineered systems, rather than on significant technological breakthroughs.

A draft environmental statement for the U.S. Liquid Metal Fast Breeder Reactor (LMFBR) program was first issued by the Atomic Energy Commission (AEC) in March 1974 for review and comment by interested parties. The AEC issued a Proposed Final Environmental Statement (or PFES, designated WASH–1535) in January 1975, providing the newly created Energy Research and Development Administration (ERDA) the opportunity to review the LMFBR Program before issuing a final statement. The ERDA Administrator found that the PFES amply demonstrated the need to continue research, development, and demonstration of the LMFBR and that significant problems, including, in particular, those realted to reactor safety, safeguards, health effects, and waste management were unresolved at that time. Subsequently, the final Environmental Statement (FES) was prepared and issued as ERDA–1535 in December 1975, incorporating the PFES by reference.

In the ERDA Administration's findings on the PFES, issued on June 30, 1975, it was noted:

> * * * as the program develops and significant new information pertinent to the commerical deployment issue is generated, ERDA will upate the existing Envrionmental Statement or prepare a Supplement to it * * * as may be appropriate and consistent with the National Environmental Policy Act.

The LMFBR program described in ERDA–1535 contemplated gradual scale-up of demonstration facilities with government participation both in early commercial breeders and ultimately in making a decision with respect to the acceptability of widespread commercial deployment of LMFBR technology. There have been changes to the emphasis of this program, the most important of which is that the decision on deployment and commercialization of the LMFBR will be made by the utility industry. The government role will be limited to early development of the technical, engineering and industrial base needed to lower risks and uncertainties to levels consistent with normal commercial ventures and to demonstrate the safety, environmental acceptability and economic potential of LMFBRs.

The reduced scope of the program and the environmental impacts associated therewith were examined in the Supplemental EIS. This included a re-examination of the purpose and need and timing of the program, the present program structure, including reasonable program alternatives, and alternative electricity production technologies anticipated to be available within the same timeframe as the LMFBR.

New information pertinent to the environmental issues associated with the program, such as LMFBR safety, safeguards, waste management, and health effects, was documented. Except as they are examined in the Supplemental EIS, the evaluations contained in ERDA–1535 of the environmental impacts associated with commercial deployment of the LMFBR technology are still considered valid by DOE. No significant new information relevant to environmental concerns and bearing on the proposed action or its impacts was identified during this most recent review.

In the period since WASH–1535 was issued, there have been no new safety issues identified which would prevent the design, construction, and operation of safe and licenseable LMFBRs. The safety research and development program continues to build upon the comprehensive base of safety-related information (as described in the PFES and FES) aimed at providing realistically conservative LMFBR powerplant designs and resolving safety issues so as to assure the breeder's acceptability to regulatory authorities, industry, and the public. Substantial progress toward the resolution of key safety questions has been made. All this strengthens the ERDA–1535 conclusion that the conservative approach provides a satisfactory basis for proceeding with LMFBR projects, even though safety R&D is not yet complete.

Existing safeguards capabilities are designed to deter, detect, respond to and interdict adversary actions. These capabilities have been improved over the last six years (since ERDA–1535 was issued) to assure increased effectiveness and to further reduce risks associated with adversary actions. Improvements have been developed to assure that all elements of the LMFBR fuel cycle will be adequately protected. The extensive

safeguards R&D program, the experience gained in the past, and being gained from implementation of safeguards in new facilities under construction, serve to confirm the effectiveness of the safeguards measures which are available for application to the commercial LMFBR industry. The DOE continues to support the previously stated conclusion that there is no safeguards-related reason to delay the further development of the LMFBR.

Over the past 35 years management techniques have been developed and refined to safely store and control radioactive wastes. Low-level waste is effectively disposed of in shallow land burial sites at government and commercial facilities. Spent fuel from commercial reactors is stored at reactor sites and at facilities in Morris, Illinois and West Valley, New York. High-level waste has been stored in steel tanks since the advent of nuclear energy. Work is continuing to develop and operate facilities for the isolation of high-level waste from man's environment in geologic repositories. The base technology is in hand now for the development of such geologic repositories, but careful examination of candidate sites must be completed before a choice is made for the first repository. The major waste management issue has been selection of a generally accepted method for removing and segregating high-level and transuranic radioactive wastes from man's environment for the long time periods required for these wastes to decay to safe levels. The problem of waste disposal is not unique to the LMFBR fuel cycle, but also must be resolved for the LWR or other nuclear fuel cycles and for the wastes resulting from defense programs. Furthermore, the quantities of LMFBR high-level and transuranic wastes will be considerably smaller than the quantities of such wastes from the LWR fuel cycle or from defense programs until well into the twenty-first century. There is general agreement among the technical community, government agencies, elected leaders, and the public that mined geologic disposal is the preferred disposal method for high-level and transuranic wastes. DOE carefully considered the environmental impacts and concluded that mined geologic disposal was preferred at this time above all other methods.[1]

[1] See DOE/EIS–0046F, *Final Environmental Impact Statement: Management of Commercially Generated Radioactive Waste*, U.S. Department of Energy, October 1980, and Record of Decision, 46 FR 26677, May 14, 1981.

With respect to health effects, a release of 0.36 mCi of alpha-emitting transuranic elements per 1000 MWe-year is estimated to occur as a result of normal operations of the LMFBR fuel cycle. Accidents are predicted to contribute insignificantly to total releases because of the low probabilities associated with accidents. The total release is assumed to be in the form of airborne particulates. Deposition of these particulates in man is assumed to occur as a result of direct inhalation of the airborne release, inhalation of material resuspended after initial deposition on the ground and ingestion of material incorporated in or on foods. Deposition in man is estimated according to conservative models, for periods of time extending for the lifetime of the radioactive materials. Absorption of the transuranics by man, and their distribution and retention within man, are assumed to follow models prescribed by the International Commission on Radiological Protection (ICRP) except for one major exception, where substantially higher estimates for absorption of ingested transuranics are employed. ICRP procedures are also employed in the calculation of radiation doses to various human organs and tissues. It is estimated that there would be about 0.0012 cancer deaths and 0.0006 serious genetic effects per year of model LMFBR operation. These effects are so small that they would be indistinguishable from other causes of cancer deaths or genetic effects in the U.S. population (there are about 107,000 genetic effects per million live births in the United States and about 167,000 cancer deaths normally expected during the lifetime of one million individuals in the United States).

Solar electric and fusion were the two technologies singled out in ERDA–1535 as major candidates, in addition to the breeder, to provide an essentially inexhaustible source of energy to help meet the Nation's electrical energy needs in the next century. These are still the primary candidates for meeting long-term U.S. energy needs. Government policy is that public spending is appropriate in long-term energy research, where the risks and potential payoffs are high. The LMFBR, solar electric, and fusion programs are all being pursued. All three technologies may be needed in the twenty-first century. There is no need to choose among these three long-term alternative energy technologies now. The marketplace wil make selections based on environmental, economic, regulatory and other grounds, when the technologies are developed. The Government strategy is, and has been, to pursue a broad program of research and development, to ensure that these technologies can be deployed when they are needed.

Discussion of Environmentally Preferable Alternative(s)

Based on the information available at this time, the Department concludes that it is not possible to determine whether any of the alternatives are environmentally preferable to the current LMFBR Program. Alternatives within the program would have smaller environmental impacts in the short-term, but would not provide important environmental information needed to avoid or mitigate environmental effects and would likely have greater associated economic and technical risks. The no-action alternative appears to be unacceptable from a long-term energy perspective. Alternative long-term technologies are not sufficiently developed yet to enable a choice to be made, on environmental, technological, or economic grounds, as to which one(s) to pursue. In addition, there is no environmental reason not to pursue the LMFBR at this time.

Mitigation

The Department will continue to evaluate the environmental impacts associated with LMFBR Program facilities and activities and will take additional measues to mitigate environmental impacts as needed.

Conclusions

The Department has considered the environmental costs and benefits associated with the LMFBR Program and reasonable alternatives and concluded not only that the present LMFBR Program should continue to be pursued expeditiously but also that efforts to reduce uncertainties associated with LMFBR safety, safeguards, waste management, and health effects should be continued as well. Although there have been changes in the LMFBR program since 1975, it is concluded that there is no significant new information relevant to environmental concerns, developed since ERDA–1535 was completed, and that the changes in the currently planned program from the program analyzed in ERDA–1535 do not represent substantial changes relevant to environmental concerns. Therefore, the LMFBR Program should proceed expeditiously. The CRBRP is a key element of the LMFBR program and is needed as soon as possible.

Dated: July 28, 1982.

Thomas A. Dillon,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 82-21073 Filed 8-3-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Falcon Project; Proposed Marketing Plan

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed marketing plan—Falcon Project, Texas.

SUMMARY: The Western Area Power Administration (Western) proposes to market the output of Falcon Dam for a period of approximately 5 months to the Central Power and Light Company (CPL). Under this proposal, the existing contract between the United States and CPL would be extended from its current expiration date of December 31, 1982, until such time as the initial commencement of electric service from Amistad Powerplant.

DATE: Written comments on the proposed marketing plan should be submitted to Western's Area Manager at the address given below no later than September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert M. Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: (801) 524-5493.

SUPPLEMENTARY INFORMATION: On August 5, 1977, the Bureau of Reclamation entered into a contract with CPL for the sale of the output of the hydroelectric facilities at Falcon Dam. Falcon Dam is an international storage project located on the Rio Grande River about 130 miles upstream from Brownsville, Texas. The powerplant owned by the United States at Falcon Dam has a generation capacity of 31.5 megawatts.

The contract between the Bureau of Reclamation and CPL is to remain in effect "until the date on which the Amistad Powerplant is ready to deliver power on December 31, 1982, whichever date occurs first." The Amistad Powerplant is currently under construction at Amistad Dam, a multipurpose reservoir located about 300 miles upstream from the Falcon Dam. This construction of the Amistad Powerplant, as with all construction of the Falcon and Amistad facilities, is the responsibility of the International Boundary and Water Commission.

Once the Amistad Powerplant is operational, a contract entered into between the Bureau of Reclamation and two electric cooperatives will come into effect. This contract, dated August 9, 1977, commits the output of both the Falcon and Amistad Powerplants to the South Texas Electric Coopertive, Inc. and Medina Electric Cooperative, Inc. The term of this contract is 50 years from the date that initial service is provided from Amistad Powerplant.

The Western Area Power Administration is currently responsible for the marketing of power from the Falcon and Amistad Powerplants. Due to delays in the construction of the Amistad Powerplant, the output of the Falcon Powerplant is not under contract for the time period running from December 31, 1982, until the date of initial service from the Amistad Powerplant. The Amistad Powerplant is expected to be operational in May of 1983.

Western proposes to extend the contracts between the United States and CPL until such time as the Amistad Powerplant is operational.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further requried to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the proposed marketing plan for Falcon Dam power relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the proposed marketing plan for Falcon Dam power is of limited applicability and is being accomplished in accordance with specific legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and the Department of Energy (DOE) regulations published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western will make an evaluation and determination of the possible environmental impacts of the proposed power marketing plan. A memorandum will be prepared explaining the basis for that determination and an administrative determination will be made of what level documentation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 CFR 13193 (Febraury 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued at Golden, Colorado, July 27, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82-21022 Filed 8-3-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Rate Order Confirming, Approving, and Placing in Effect on an Interim Basis the Split-Savings Rate Formula for Sales of Economy Energy

AGENCY: Western Area Power Administration, DOE.

ACTION: Proposed rate order.

SUMMARY: Notice is given of a proposed Rate Order No. WAPA- ——placing a split-savings rate formula into effect on an interim basis for sales of nonfirm economy energy by power systems of the Western Area Power Administration (Western).

Sales of nonfirm economy energy at the proposed split-savings rate by Western's systems are expected to produce less than a 1-percent change in the annal revenues of any Western power system with the exception of the Central Valley Project in this year of 1982, where such sales under the proposed rate are expected to exceed a 1-percent change.

The rate formula, which is defined in the rate order, calculates a split-savings rate based on an average of the "buy" and "sell" quotes.

This proposed rate order contains discussion of the principles, objectives, inherent advantages, and other considerations of split-savings programs and the participation of Western's systems therein.

DATES: The proposed rate formula will be effective on May 1, 1982. The consultation and comment period begins on the date of publication of this notice and ends 90 days thereafter. A combined public information/comment forum, at which Western will explain the proposed rate and afford the public an opportunity to comment orally or in writing on the proposed rate, will be

held at: 9:30 a.m., September 15, 1982, Holiday Inn—Marabella Room, I–25 at 120th Avenue, Northglenn, Colorado.

ADDRESSES: Written comments (three copies required) may be submitted to: Mr. Joe D. Hall, Assistant Administrator for Power Management and O&M, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

SUPPLEMENTARY INFORMATION:

I. Background
II. Environment and Significant Review
III. Conclusion

I. Background

By Delegation Order No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis. Effective March 19, 1981, Delegation Order No. 0204–33 was amended (46 FR 25426, May 7, 1981) to transfer such authority to the Assistant Secretary for Conservation and Renewable Energy.

This proposed rate is being established in accordance with procedural rules applicable to Western. Final procedures for public participation in power and transmission rate adjustments and extensions are found at 10 CFR Part 903.

II. Environment and Significant Review

A. *National Environmental Policy Act.* In conformance with the provisions of the National Environmental Policy Act, an environmental review will be made of the proposals embraced in this rate proceeding. A determination as to the environmental significance of the proposal will be made prior to the rate order being placed in effect.

B. *Determination Under Executive Order 12291.* The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981). The rule has received an exemption from sections 3, 4, and 7 of Executive Order 12291.

C. *Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. Western has determined that (1) this rulemaking is of particular applicability relating to services offered by Western and therefore is not a rule within the purview of the Regulatory Flexibility Act; (2) the service is designed as a measure to reduce or mitigate rising power costs; and (3) the impacts of this action will not cause significant economic impact to a substantial number of small entities.

Consequently, the Administrator of Western hereby certifies that the Western Area Power Administration rate order for sales of economy energy is not a rule under the Regulatory Flexibility Act and will not, if promulgated, have a significant economic impact on a substantial number of small entities. Upon publication of this notice, this certification will be provided to the Chief Counsel for Advocacy of the Small Business Administration.

III. Conclusion

Following the consultation and comment period and after consideration of comments received, the Assistant Secretary for Conservation and Renewable Energy will issue a rate order confirming and approving the split-savings rate formula to be placed in effect on an interim basis and promptly submit such rate formula to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued in Golden, Colorado, July 21, 1982.

Robert L. McPhail,
Administrator.

Proposed Rate Order: Department of Energy, Assistant Secretary for Conservation and Renewable Energy

In the matter of: Western Area Power Administration—Sales of Economy Energy, Rate Order No. WAPA——.

Order Confirming, Approving, and Placing in Effect the Split-Savings Rate Formula on an Interim Basis

(————, 1982)

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(a), the power marketing functions of the Secretary of the Interior under the reclamation Act of 1902, 43 U.S.C. 372 et seq., as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485(c), for the Bureau of Reclamation, were transferred to and vested in the Secretary of Energy. By Delegation Order. No. 0204–33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Effective March 19, 1981, Delegation Order No. 0204–33 was amended (46 FR 25426, May 7, 1981) to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

This rate order is issued pursuant to the delegation to the Assistant Secretary and the rate adjustment procedures at 10 CFR Part 903 (45 FR 86975, December 31, 1980, as corrected at 46 FR 6864, January 22, 1981). The major topics included in the rate order are listed below:

Background

Interconnected Operations
Conservation and Economy

Discussion

Principles
Rate Formula
Accounting
Public Information and Comment Procedures
Availability of Information
Submission to the FERC

Background

Interconnected Operations

The Western Area Power Adminstration (Western) and many other utilities own and operate generation and transmission facilities, either jointly or individually, in the western part of the United States; operate their electric systems interconnected; and provide services for each other under various agreements. Western is in a position to participate in split-savings programs being implemented throughout its service area.

Conservation and Economy

Western's participation in split-savings programs would further the national effort to conserve fossil fuel and assist in pooling economies of operation. Reports of such operations to date have indicated substantial savings to participants and more effective utilization of the region's resources and facilities.

Discussion

Principles

Split-savings programs are designed to provide for nonfirm economy energy transactions. They are not intended as an alternative to long-term power supply arrangements. Buyers and sellers save and profits equally.

Rate Formula

The formula for determining the transaction price is uniform to all split-savings transaction, except where minor deviations have been agreed to by both parties. A transaction price is calculated at one-half the sum of the buyer's and seller's quotes, where: (a) the buyer's quote is the incremental cost of capacity or energy or both that the buyer would, but for purchases from the seller, generate itself or purchase from another source, adjusted for applicable transmission and other related costs; and (b) the seller's quote is the cost of the capacity or energy or both to the seller or, for a hydroelectric system which finds it difficult to identify such cost for a particular transaction, the seller's rates (charges) for the sale of wholesale firm power, adjusted for applicable transmission and other related costs.

Accounting

Western's sales of nonfirm economy energy at the split-savings rate are normally expected to produce less than a 1-percent change in the annual revenues of any Western system except in the Central Valley Project in 1982 where sales are expected to exceed a 1-percent change. Sales will be made on a system-by-system basis and revenues derived therefrom will be attributed accordingly. Contracts that are already in effect provide for payments that are contingent on the establishment of this rate, and affected customers have agreed to the retroactive application of this rate.

Public Information and Comment Procedures

This rate is being established in accordance with the procedures set forth at 10 CFR Part 903 "Procedures for Public Participation in Power and Transmission Rate Adjustments." Western determined that insufficient controversy existed to justify advance announcement of this rate proceeding. The consultation and comment period began on the date that notice of this proposed rate was published in the **Federal Register** and ended 90 days thereafter.

A combined Public Information/Comment Forum was held on September 15, 1982 in Northglenn, Colorado, which afforded interested parties an opportunity to receive information and comment on the proposed rate.

Availability of Information

Information regarding this rate proceeding is available for public review in the Office of the Assistant Administrator for Power Management and O&M, Western Area Power Administration, Department of Energy, 1627 Cole Boulevard, Golden, Colorado.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Rates Schedule WA-1

Department of Energy, Western Area Power Administration

Schedule of Split-Savings Rates for Sales of Nonfirm Economy Energy

Effective: May 1, 1982.

Available: In the areas served by systems of the Western Area Power Administration.

Applicable: To any utility contracting with the Western Area Power Administration for such transactions.

Character and Conditions of Service: Electric energy supplied hereunder will be three-phase, alternating current, at a nominal frequency of sixty (60) hertz (cycles per second).

Sales will be made in accordance with the procedures and subject to the conditions set forth in the contract.

Rate: Individual transaction prices are calculated at one-half the sum of the buyer's and seller's quotes where: (a) the buyer's quote is the incremental cost of capacity or energy or both that the buyer would, but for purchases from the seller, generate itself or purchase from another source, adjusted for applicable transmission and other related costs; and (b) the seller's quote is the cost of the capacity or energy or both to the seller or, for a hydroelectric system which finds it difficult to identify such cost for a particular transaction, the seller's rates (charges) for the sale of wholesale firm power, adjusted for applicable transmission and other related costs.

[FR Doc. 82-71025 Filed 8-3-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66094; PH-FRL 2177-6]

Certain Pesticide Products Intent to Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: September 3, 1982.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
52-156	Ratmort with Prolin Warfarin Rat & Mouse Killer Pellets.	West Chemical Products, Inc., 8 West 40th St., New York, NY 10010	June 13, 1963.
168-286	New Liquid Swimclor	Great Western Cemical Co., 808 Southwest 15th Ave., Portland, OR 97205	Sept. 9, 1963.
168-379	Silver Dollar Value Bleach	do	Apr. 25, 1967.
239-2365	Ortho Fundal 4 Emulsive	Chevron Cemical Co., 940 Hensley St., Richmond, CA 94804	Apr. 7, 1971.
239-2366	Ortho Fundal 4 SP	do	Apr. 16, 1971.
734-38	Pitch Pack Tag M	E.R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540	Dec. 4, 1967.
779-17	F & B Chlordane 72% Spray Insecticide	Faesy and Besthoff, Inc., 143 River Rd., Edgewater, NJ 07020	Dec. 1, 1955.
1339-154	X-Term-50	Cotton States Chemical Co., Inc., P.O. Box 157, W. Monroe, LA 71291	Apr.3, 1961.

Registration No.	Product name	Registrant	Date registered
1421-97	Grain Fumigant	Dettelbach Chemical Corp., P.O. Box 10025, Atlanta, GA 30319	Sept. 27, 1961.
1421-164	Crest 15 Grain Fumigant	do	Nov. 20, 1968.
1990-462	Rocon Kills Rats and Mice with Prolin	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	June 25, 1981.
1990-483	Rocon Throw Bags Dry Meal Bait Kills Rats and Mice.	do	June 25, 1981.
1990-485	Woodbury's Rat & Mouse Killer Kills Rats & Mice.	do	June 25, 1981.
1990-503	Cellphos Pellets	do	Oct. 17. 1972.
2124-509	NACO Phybom-S Pre-Cover Fungicide Spray for Apples.	W.R. Grace and Company, 100 N. Main St., Memphis, TN	Dec. 7, 1966.
2269-128	CPA/GK 1% Cattle Dust Bag Contains Co-Ral.	Gold Kist Inc., P.O. Box 2210, Atlanta, GA 30301	Apr. 16, 1970.
2269-129	CPA/GK 5% Cattle Dust Bag Contains Co-Ral.	do	Jan. 29, 1970.
2935-123	Red-Top Tepp 40 Spray	Wilbur-Ellis Company, 191 W. Shaw Ave., Suite 107, Fresno, CA 93704	Mar. 20, 1061.
7393-27	Four Seasons Rose and Flower Spray	Wonder Chemical Co., Inc., P.O. Box 17985, San Antonio, TX 78217	Jan. 22, 1967.
10142-1	Comark Vinyl Shelving	United Merchants Manufacturing Division, P.O. Box 111, Fall River, MA 02722	Oct. 10, 1968.
11556-13	CO-RAL (Coumaphos) 0.5% Dog Duster	Bayvet, Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201	Dec. 29, 1971.

The Agency has agreed that such cancellation shall be effective September 3, 1982 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66094]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated July 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-20367 Filed 8-2-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/32B; PH-FRL 2179-1]

Trifluralin; Determination Concluding the Rebuttable Presumption Against Registration; Notice of Availability of Position Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination; Notice of Availability.

SUMMARY: Trifluralin was referred for review under the Rebuttable Presumption Against Registration (RPAR) process in February, 1977, because pesticide products containing trifluraline as an active ingredient were shown to be contaminated with carcinogenic nitrosamines. This Notice constitutes the final determination of the Agency concluding the RPAR proceedings for trifluralin. The final determination implements the preliminary determination with slight modifications. The Agency has determined that trifluralin registrations will be cancelled or applications for registration denied unless registrants and applicants amend their confidential statement of formula for technical trifluralin products to reflect no greater than 0.5 ppm total N-nitrosamine contamination; for formulated products the limit for total N-nitrosamine contamination will be based on the percentage of trifluralin contained in the and use product, with an allowance for possible generation of more nitrosamines during the formulation process. Registrants must also advise the Agency as to the quality control procedures they will institute to insure this level is not exceeded.

DATE: Requests for a hearing must be received on or before September 3, 1982, or within thirty (30) days from receipt of this Notice, whichever occurs later.

ADDRESS: Requests for a hearing must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Copies of the Position Document 1/2/3 and Position Document 4 are Available Upon Request from: Timothy A. Gardner, Special Pesticide Review Division (TS-791), Environmental Protection Agency, Rm. 711-C, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner (703-557-7400).

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 3, 1977, Congressman Andrew Maguire, Congressman Henry Waxman, the Migrant Legal Action Program, the Maricopa County Legal Aid Society, and several migrant farmworkers petitioned the Agency to suspend registrations of Treflan® under FIFRA section 6(c), because carcinogenic nitrosamines had been found to contaiminate trifluralin products.

A hearing was held pursuant to FIFRA section 21(b) on March 7, 1977, where information was presented on the subject. On the basis of this information, the Agency concluded that because an "imminent hazard" did not exist, trifluralin registrations would not be suspended. However, the trifluralin nitrosamine contaminant is a carcinogen, and the Agency determined that a Rebuttable Presumption Against Registration (RPAR) should be issued to assess properly the risk associated with exposure to trifluralin products.

On August 30, 1979, the Agency issued a preliminary notice of determination concerning the rebuttable presumption against registration of all pesticide

products containing trifluralin (44 FR 50911). The Agency had determined that the trifluralin contaminant, N-ntroso-di-n-propylamine (NDPA) did meet or exceed the oncogenic risk criterion, thus necessitating an in-depth review to examine the risks and benefits associated with the use of products containing trifluralin. It was subsequently found that the NDPA contaminant also met the risk criterion for mutagenicity as outlined in 40 CFR 162.11 and that data to assess potential reproductive and teratogenic effects were inadequate for trifluralin products.

As part of the RPAR process, the Agency evaluated the risks and benefits associated with trifluralin use in order to determine whether the risks of continued use were justified by the benefits. Because most of the trifluralin produced is formulated as Treflan® EC, the RPAR focused on the risks and benefits of Treflan® use. As a result of the review and evaluation, the Agency determined that the benefits of use of trifluralin products would outweight the risks if the NDPA contamination were kept below 1 part per million (ppm). The Agency proposed in the Position Document 1/2/3 (PD 1/2/3) to cancel all registrations for products containing trifluralin unless registrants modified the label and confidential statement of formula to reflect less than 1 ppm NDPA contamination. If this requirement were met, cancellation would be unwarranted.

When the PD 1/2/3 was issued, Elanco Products Company (Elanco), the principal registrant and sole manufacturer of technical trifluralin in the United States, had already instituted manufacturing methods to reduce the NDPA contamination level to less than 1 ppm. Meeting the Agency's proposed regulatory requirement, therefore, would not place an unnecessary financial burden on the registrant, nor would the proposed risk reduction associated with the limit on NDPA contamination have an adverse impact on the benefits of trifluralin use.

The Agency also indicated that the registrants would need to perform additional testing of trifluralin for reproductive effects, teratogenicity, and mutagenicity (including heritable spindle effects). The Agency specified that metabolism studies would need to be conducted on trifluralin containing NDPA to assess its ability to reach the mammalian gonad in a metabolically active form. Mutagenicity testing was also recommended for benzimidazoles, possible metabolites of trifluralin.

The preliminary determinations presented in the PD 1/2/3 were submitted to the FIFRA Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) for review pursuant to sections 6(b) and 25(d) of FIFRA. The Agency presented its proposed decision to the SAP at a public meeting held on September 20, 1979. A public meeting was also held with the SAP on October 9–10, 1979, to discuss scientific aspects of spindle poison effects relative to the mutagenicity RPAR criteria for trifluralin.

After reviewing the comments received from the SAP, USDA, and other interested parties, the Agency has decided to implement its proposed decision with slight modifications.

This Notice announces the Agency's decision to continue registration for all uses of trifluralin products, on the condition that the registrant modifies the terms and conditions of registration as set forth in Unit III of this Notice. This Notice also announces the availability of Position Document 4 (PD 4), which summarizes the PD 1/2/3, details the revisions and amendments to the PD 1/2/3, and analyzes comments from the SAP, USDA, and others.

This Notice is organized into four units. Unit I is this introduction. Unit II, entitled "Legal Background", is a general discussion of the regulatory framework within which these actions are taken. Unit III, entitled "Determinations and Initiation of Regulatory Action", sets forth the regulatory actions which the Agency is implementing concerning trifluralin, the bases for these determinations, the comments of the SAP and USDA in their entirety, and a summary of the Agency's analysis of these comments. Unit III also presents a summary of comments by other interested parties and a summary of the Agency's analysis of these comments. Unit IV, entitled "Procedural Matters", is a brief discussion of the procedures which will be followed in implementing the regulatory action which the Agency is announcing in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"), a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration ramains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever it is determined that the pesticide no longer satisfies the statutory standard for registration.

Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements to FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA section 2(d)). Among other things, this section provides that a pesticide is misbranded if "the labeling * * * does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with and * * * (restrictions) imposed under section 2(d) * * * are adequate to protect health and the environment."

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide the public with an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency announces that an RPAR has arisen by publishing a notice of determination in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to

rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment with regard to the adverse effects in question.

40 CFR 162.11(a)(4) provides the ways that applicants may rebut a presumption against registration as follows:

(1) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3)(i) or (iii) that when, considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget organisms is not likely to result in any significant acute adverse effects; or (2) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (3) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error.

A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide outweigh the risk of use.

The regulations require the Agency to conclude an RPAR by issuing a notice of determination. In that notice, the Agency is required to state and explain its position on the question of whether the risk presumption has been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and benefits of pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel, deny, or reclassify the registrations of the pesticide for the use in question, pursuant to FIFRA section 6(b)(1) and section 3(c)(6), or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations for the use should be cancelled, denied, or reclassified.

In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions and registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA section 3(d). FIFRA requires the Agency to submit notices pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the Agricultural economy (section 6(b)). The Agency is require to submit these documents to the Secretary at least 60 days before making the notice public. If the Secretary of Agriculture comments in writing within 30 days after reviewing the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit section 6 notices to the SAP for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture (section 25(d)). After completing these external review procedures and making any changes in the proposed action which are deemed appropriate as a result of the comments received, the Agency implements the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and the Agency's rules.

III. Determinations and Initiation of Regulatory Action

The Agency has considered information on the risks associated with trifluralin uses including information submitted by registrants and other interested persons. The Agency has also considered information on the social, economic, and environmental benefits of the trifluralin uses including benefits information submitted by registrants, the United States Department of Agriculture, and other interested persons. The Agency's assessment of the risk and benefits of trifluralin uses, its conclusions and determinations whether trifluralin uses pose unreasonable adverse effects on the environment, and its determination whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the PD 4 on trifluralin. That position document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to trifluralin are as follows:

A. Determinations of Risk

The Agency has determined that both technical and formulated trifluralin are contaminated with low levels of the N-nitroso compounds, N-nitroso-di-n-propylamine (NDPA) and C7/C8 nitrosamines. The Agnecy has determined that NDPA is associated with the production of tumors in rats, mice and hamsters, and is a mutagen in bacteria, yeast and in an *in vitro* mammalian cell culture. The Agency has also determined that purified trifluralin is associated with the production of tumors in rats. Therefore, trifluralin-containing pesticides meet or exceed the oncogenic and mutagenic risk criteria under 40 CFR 162.11(a)(3)(ii). NDPA-contaminated trifluralin pesticides would also be considered mutagenic under the Proposed Mutagenicity Guidelines published in the **Federal Register** on August 22, 1978 (43 FR 37336).

The Agency has further determined that human exposure results from trifluralin use. The key populations at risk have been determined to be: agricultural and nursery workers who mix, load, apply, and soil incorporate trifluralin; reentry fieldworkers, domestic users, and the U.S. population at large.

B. Determinations on Benefits

Trifluralin (Treflan®) is a pre-emergent herbicide for a broad spectrum of annual weeds and grasses and is used on a variety of field and vegetable crops. The economic impact on farm income resulting from a possible cancellation was estimated in August 1978, for cotton, soybeans, fruits and vegetables and other field crops. The qualitative magnitudes and directions of change in economic impact of a Treflan®

cancellation that have occurred since August 1978, do not justify any significant change in the Agency's benefit analysis. The figures presented below are derived from the 1978 analysis.

1. *Cotton use.* Treflan® is used on approximately 8.3 million acres of cotton per year (70 percent of the total U.S. planted cotton acreage). The Agency estimated that a Treflan® cancellation would result in a total income decrease for cotton growers of approximately $116 million per year.

2. *Soybean use.* Treflan® is used on approximately 19.7 million acres of soybeans per year (38 percent of the total U.S. planted soybean acreage). The Agency estimated that a Treflan® cancellation would result in a total income decrease for soybean growers of approximately $64 million.

3. *Fruit and vegetable uses.* Treflan® is used on approximately 1.1 million acres of fruits and vegetables including potatoes, tomatoes, peas, cole crops, carrots, peppers, celery, cucurbits, mint, collard, okra, and snap beans. The Agency estimate a trifluralin cancellation would result in a total income decrease for fruit and vegetable growers of approximately $36 million per year.

4. *Other field crop uses.* Treflan® is used on approximately 2.5 million acres of crops in this category including a dry beans, peanuts, sugar beets, and sunflowers. The Agency estimated that a Treflan® cancellation would result in a total income decrease for growers in this category of $97 million per year.

C. Determinations on Unreasonable Adverse Effects

For the reasons set forth in detail in the position document, the Agency has determined that the benefits of trifluralin's use exceed the risks when technical trifluralin contains no greater than 0.5 ppm of total N-nitrosamine contamination. The benefits exceed the risks when formulated trifluralin contains no greater than that level based on the amount of trifluralin contained in the end-use product with an allowance of a factor of 2 for possible generation of more nitrosamines during the formulation process. Some formulators heat the technical trifluralin starting material to 70° C to liquify it for formulation. It has been found that heating at 70° C causes an increase in N-nitroso-n-di-propylamine (NDPA).

A 50% formulated product, for example would be allowed to have an upper limit of 0.50 ppm total N-nitrosamine contamination. This is calculated as follows: 0.50 ppm allowed as an upper limit of total N-nitrosamine contamination in the technical product x 50% trifluralin in the formulated product x 2 to allow for possible nitrosamine generation during formulation. A 25% formulated product could contain up to 0.25 ppm total N-nitrosamine contamination. The limit allowed will be twice what would be expected in a straight-forward dilution. If trifluralin pesticides were produced with a total N-nitrosamine level of greater than these limits, risks of use would be increased but benefits would be unchanged. Therefore, the Agency has determined that the terms and conditions of trifluralin-containing pesticide registrations and registration applications must be amended, as described below, or use of trifluralin-containing pesticides will "cause unreasonable adverse effects on the environment."

D. Initiation of Regulatory Action

Based upon the determinations summarized above and developed in detail in the Position Documents 1/2/3/ and 4, the Agency has decided to continue regisration of currently registered uses of trifluralin products on the condition that certain changes are made in the terms and conditions of registration.

All trifluralin registrations will be cancelled and all trifluralin applications for registration will be denied unless registrants and applicants amend the terms and conditions of their registration or request a hearing pursuant to sections 3 and 6 of FIFRA within 30 days from the date of publication of this notice in the **Federal Register** or from receipt of this Notice, whichever occurs later.

This document shall constitute the Agency's notice of intention to conditionally cancel registrations for all trifluralin-containing pesticide products for use on cotton, soybeans, fruits, vegetables or other field crops unless registrants amend the terms and conditions of registration as follows:

1. *Amendment to the confidential statement of formula.* Registrants must amend the inert ingredients' statement in the confidential statement of formula for each technical registered product to read as follows:

Total N-nitrosamine contamination: no greater than 0.5 ppm

Registrants must amend the inert ingredients statement in the confidential statement of formula for each formulated registered product to read as follows:

Total N-nitrosamine contamination: no greater than (number to be calculated as follows: 0.5 ppm total N-nitrosamine Contamination allowed in technical trifluralin x X% technical trifluralin in the end-use product X 2 to allow for possible generation of nitrosamines during formulation.)

All registrants of trifluralin-containing pesticides and all those who have applications pending for trifluralin-containing pesticides will be given 30 days after notification to amend their confidential statement of formula as stated above.

Any person who distributes, sells, offers for sale, holds for sale, ships, delivers for shipment, or receives and (having so received) delivers or offers to deliver a trifluralin-containing pesticide product whose chemical composition differs from that stated in the confidential statement of formula, will be in violation of FIFRA section 12(a)(1)(c) and subject to sanctions under section 13 and 14 of FIFRA.

2. *Quality and records.* The registrants of trifluralin-containing pesticides must advise the Agency as to the quality control procedures they will institute to assure the Agency that the level of total N-nitrosamine contamination as stated in the confidential statement of formula is not exceeded. In addition, registrants must maintain accurate quality control records on these products and make such records available to the Agency on demand.

If registrants fail to amend their confidential statement of formula in the prescribed manner or fail to institute adequate quality control procedures and advise the Agency as to the manner in which they will insure that quality standards are met, the Agency will issue a Notice of Cancellation under section 6 of FIFRA. If those who have pending trifluralin registration application likewise fail to do the above, the Agency will deny their applications.

Some trifluralin registrants have State registrations. Under 40 CFR 162.17, they are required to submit applications in compliance with section 3 of FIFRA. While a final Agency decision on their registration applications is pending, State trifluralin registrants may continue to distribute and sell trifluralin pesticides solely within intrastate commerce. A letter will be sent to registrants notifying them that they must submit applications for registration and explaining how to comply with the requirements under section 162.17. At that time the confidential statement of formula must comply with the requirements of this Notice or the application will be denied.

E. Other Determinations

1. *Testing requirements.* Under section 3(c)(2)(B) of FIFRA, the Agency will notify registrants of trifluralin-containing pesticides that they must agree to conduct, jointly or separately, tests on trifluralin to maintain the registrations of trifluralin. The request for these data will be independent of the Agency's RPAR determination as set forth in this Notice to modify the terms of registration. The additional data which the Agency will subsequently request include a battery of mutagenicity tests, a multigeneration reproductive test, a teratology test, and a field monitoring study to assess possible adverse effects to aquatic organisms associated with trifluralin use. Mutagenicity testing of benzimiazoles, possible metabolites of trifluralin, will not be required.

The PD 4 elaborates more fully on the bases for requiring these tests and the section 3(c)(2)(B) notice will provide even greater specificity.

2. *Spindle effects testing.* The Agency is not satisfied that the current assay systems of which it is aware can detect chemicals producing spindle effects significantly relevant to man with a reasonable degree of assurance. Therefore, the Agency plans to consult with outside scientists to delineate a research program to define appropriate testing in this area. The Agency will not require spindle effects testing of trifluralin until a satisfactory assay(s) is(are) found or developed.

Failure to comply with the requirements of subsequent section 3(c)(2)(B) notices for further testing may result in the Agency issuing a Notice of Intent to Suspend under that section.

F. Agency Analyses of Comments

The Agency received comments on the August 30, 1978, notice of determination and the PD 1/2/3 from the Scientific Advisory Panel (SAP), the U.S. Department of Agriculture (USDA), and 17 other interested parties.

1. *Comments of the SAP.* The comments of the SAP on the Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticides Containing Trifluralin are presented below in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Trifluralin (Treflan®)

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on trifluralin pesticide products under the provisions of section 6(b) of FIFRA as amended. The review was completed after open meetings were held in Arlington, Virginia, during the periods September 20, 1979, and October 9–10, 1979.

Maximum public participation was encouraged during formal review of RPAR on trifluralin by the Scientific Advisory Panel. **Federal Register** notices announcing Panel meetings for review of trifluralin were published on September 4, 1979, September 21, 1979, and October 2, 1979.

In addition, telephone calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel.

A written statement relative to regulatory action on trifluralin was received from Dr. G. W. Probst, Director of Regulatory Services for Elanco Products.

In consideration of all matters brought out during the two meetings and careful review of all documents submitted by the Agency and other parties, the Panel submits the following report which is concurred in by all members in attendance on October 9, 1979.

The Scientific Advisory Panel recommends that the Agency adopt option 3 as detailed in the position document 1/2/3. This option calls for the following regulatory action:

"Cancellation and denial of all trifluralin-containing pesticide registrations unless registrants or applicants for registration amend the terms and conditions of registration as follows:

The label amendment proposed by this notice shall appear on the label under the inert ingredients' section of the ingredients' statement and shall read as follows:

N-nitroso-di-n-propylamine (NDPA)—<1 ppm.

The amendment to the confidential statement of formula proposed by this notice shall appear in that statement under the inert ingredients' section of the ingredients statement and shall read as follows:

N-nitroso-di-n-propylamine (NDPA)—1 ppm."

In regard to the three specific issues posed by the Agency to the Panel regarding trifluralin, the Scientific Advisory Panel offers the following responses:

Issue 1: The Panel agrees with the Agency's rationale for attributing the oncogenic risk associated with the product (Treflan® EC) to its n-nitroso-di-n-propylamine (NDPA) containment.

Issue 2: The Panel agrees that the Agency's assertion of a lower risk at 1 ppm NDPA contamination in Treflan® (EC) versus that at 5 ppm NDPA is reasonable. However, the Panel reserves judgment of the accuracy of the assertion pending completion of an oncogenic study of the currently produced product containing NDPA levels of less than 1 ppm.

Issue 3: The Panel agrees with the Agency's judgment that low risks from DNA and gene effects are associated with the NDPA contaminent in Treflan® EC. However, these low risks should also be verified through properly designed studies on the product as it is currently produced with levels of less than 1 ppm NDPA. The specific role of the spindle effects associated with this product needs clarification through properly designed studies. In the near future the Panel will formulate recommendations to the Agency on the specific types of mutagenicity tests to be required of the registrants.

For the Chairman: Certified as an accurate report of findings: H. Wade Fowler, Jr., Ph. D., Executive Secretary, FIFRA Scientific Advisory Panel, Date: October 15, 1979.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Recommended Tests for Potential DNA, Gene, and Spindle Effects From Use of Trifluralin

This report is a continuation of recommendations by the Panel following review of Agency plans to conclude the RPAR on Trifluralin (Treflan) in October 1979. In regard to the request by the Agency for recommendations for additional tests for DNA, gene, and spindle effects of trifluralin, the Scientific Advisory Panel offers the following recommendations.

In May 1978 the Scientific Advisory Panel made the following recommendations following review of the Mutagenesis Guidelines included in Subpart F, Hazard Evaluation: Human and Domestic Animals, of the Proposed Guidelines for Registering Pesticides in the United States. The Scientific Advisory Panel strongly endorses the need for mutagenic assays as a survey for potential environmental hazards and endorses the principles of the proposed guidelines. Moreover, we feel that mutagenesis and oncogenesis should be considered together as related rather than isolated phenomena. To these ends, therefore, and in the interest of simplicity and practicality, the following core battery of tests selected from the proposed guidelines is recommended for mutagenicity screening of all pesticides.

1. A sophisticated microbiological test such as an enhanced Ames assay with appropriate dose response.

2. A mamallian cell point mutation assay such as the hamster embroyo or mouse lymphoma.

3. An in vivo cytogenics assay.

In addition, the Panel recommends that a multiple generation, which is part of the reproductive study (162.83–4), be modified to provide a statistically significant assay for dominant lethal mutations. The Panel also recommends that an oncogenicity study (162.83–2) be used in the overall evaluation of mutagenicity. Finally, the Panel recommends that both the core battery of tests outlined in this report and the dominant lethal test be performed on each pesticide. The results of these tests will provide the Agency with the information necessary to estimate the mutagenic potential of pesticides.

Mutation Studies

In examining the available mutagenesis data on trifluralin, the Scientific Advisory Panel concludes a suitable microbiological test has been conducted but that adequate

information from a mammalian cell point mutation assay and from an in vivo cytogenetics assay are not available. Therefore, the Scientific Adivsory Panel recommends that a mammalian cell point mutation test be conducted using commercial trifluralin in a mouse lymphoma or Chinese hamster ovary cell line or another equally well validated test of point mutation in mammalian cells. In addition, an in vivo cytogentics test should be performed in mice or rats. We suggest examining bone marrow cells, spermatogonia, and lymphocytes.

If the mammalian cell point mutation test and in vivo cytogenetics test are negative, the Scientific Adivsory Panel is of the opinion that no significant mutagenic risk is posed by trifluralin and no further tests should be required.

Spindle Effects

As regards testing for the potential adverse health effects in man from spindle inhibition by trifluralin, the Scientific Advisory Panel makes the following recommendation: It is our opinion that the best methods for predicting adverse health effects in man from spindle poisons are the multigeneration reproductive test and the dominant lethal test. As noted in our previous recommendation on the proposed mutagenesis guidelines, we recommended that the multigeneration reproductive test be modified to provide a statistically significant assay for dominant lethal mutations. We believe that a multigeneration study modified to provide for an examination for dominant lethal mutations should be the primary means by which the Agency estimates the potential risk to man from spindle poisons. If the multigeneration and dominant lethal studies are negative we recommend that cytogenetics be conducted on the sperm and bone marrow cells of an adequate number of the animals used in these and other studies. Considerations should also be given to the extention of the technique of amniocentesis and chromosome banding to the rodent model. In addition to the *in vivo* tests described above the Panel believes that it is desirable to have a reproducible and practical *in vitro* assay for spindle effects of pesticides, their contaminants and breakdown products. A starting point may be an examination of metaphase arrest and growth inhibition in a mammalian cell line in culture (e.g., Chinese hamster embroyo cells). In this regard, we urge the Agency to fund research with the aim of developing the amniocentesis rodent model and the *in vitro* test in mamalian cells for spindle effects of pesticides and pesticide products. Research should also be encouraged to evaluate the predictability of *in vitro* tubulin binding of spindle poisons.

It is the opinion of the Scientific Adivsory Panel that a threshold does exist for spindle effects from compounds such as colchicine. This is based in fact on the kinetics of the affinity of benomyl and colchicine for tubulin binding site and the resulting inihibition of polymerization of tubulin to mictotubules. This opinion is strengthened by the results of studies by Cox and Puck (1) in Chinese hamster cells *in vitro* using colcemid in which no appreciable changes in chromosomes were seen at 0.01 μg/ml.

At 0.015 μg/ml nondisjunction appeared with tetraploidy occurring at 0.03 to 0.07 μg/ml. Similar results were obtained by Wilson et al. using vinca alklaloids in EHB cells in culture (2). In addition, studies by Seiler (3) with the spindle poison benomyl measuring micronucleated erythrocytes in mouse bone marrow following *in vivo* administration of benomyl also suggests there is a threshold for spindle effects.

It appears a modified reproductive study has been performed using trifluralin. However, the Panel believes this study is inadequate for the purposes of estimating potential risk to man from spendle inhibition by trifluralin and recommends that a ultigeneration reproductive study, modified to allow for determination of statistically significant dominant lethal effects, be carried out. If the results of the multigeneration reproductive test, the dominant lethal test and the *in vivo* cytogenetic study are negative, the Scientific Advisory Panel is of the opinion that no significant risk to man exists from spindle inhibition by trifluralin in normal agricultural use.

(1) D. M. Cox and T. T. Puck, Cytogenics 8: 158–169 (1969).

(2) L. Wilson, K. Anderson and D. Chen, in Cell Motility, Cold Spring Harbor Symposium, D. Coldman, T. Pollard and J. Rosenbaum, eds., Cold Spring Harbor Press, New York, Vol. 3, 1051–1064 (1976).

(3) J. D. Seiler, in Progress in Genetic Toxicology, D. Scott, B. A. Bridges and F. H. Sobels, eds., Elsevier, North Holland Biomedical Press, pp. 233–238 (1977).

For the Chairman: Certified as an accurate report of findings: H. Wade Fowler, Jr., Ph. D., Executive Secretary, FIFRA Scientific Advisory Panel, Date: November 29, 1979.

2. *Response to Comments of the SAP.* The SAP concurred with the Agency's proposed regulatory action discussed in Option 3 of the PD 1/2/3 which called for cancellation of trifluralin registration unless registrants amend the lable and confidential statement of formula to reflect less than 1 ppm n-nitroso-di-n-propylamine (NDPA).

The major registrant has found other N-nitrosamines in addition to NDPA in trifluralin products, but analyses reveal a total N-nitrosamine contamination of less than 1 ppm. Based on this information, the Agency recalculated the risk associated with exposure to trifluralin products and determined that the benefits, as calculated in the PD 1/2/3, would outweigh the risks from N-nitrosamine exposure if the total N-nitrosamine contamination were kept below 1 ppm. Thus, the Agency will require that the confidential statement of formula for technical trifluralin products be amended to reflect no greater than 0.5 ppm total N-nitrosamine contamination. The Agency will require that the Confidential Statement of formula for formulated products be amended to reflect a limit which is based on the amount of trifluralin contained in the end-use product with an allowance for possible nitrosamine generation during formulations. The limit will provide for a total N-nitrosamine contamination which is twice what would be expected in a straight-forward dilution.

The SAP also agreed with the Agency's rational set forth in the PD 1/2/3 attributing the oncogenic risk associated with Treflan® EC, to its NDPA contaminant. They agreed with the Agency that NDPA contamination in Treflan® EC would present a lower risk at 1 ppm than at 5 ppm, but studies should be conducted to test this.

A chronic feeding study submitted by Elanco in September, 1980, meets the SAP requirement for further testing, but shows that purified trifluralin itself, with NDPA contamination less than 0.01 ppm, associated with production of tumors of the kidney, bladder, and thyroid in Fischer 344 rats. The Agency assessed the risk to workers and the general public from exposure to the trifluralin in Treflan® EC, weighed this risk aganist the benefits of trifluralin use, and determined that the benefits would outweigh the risk only if the confidential formula were amended, as stated above.

The SAP agreed with the Agency's conclusion that low risks from DNA and gene effects are associated with the NDPA contaminant in Treflan® EC, but that studies are needed to test the accuracy of this assertion. The SAP recommended a cell point mutation test mammalian cells and an *in vivo* cytogenetics test in mice or rats.

The Agency concurs with this recommendation but requires that further microbial testing be performed, since results of tests with trifluralin formulations were considered inconclusive. These tests were performed without metabolic activation. The Agency also requires that a dominant lethal test and an assessment for the presence of active compounds (trifluralin and/or NDPA) should be performed since there has not been enough *in vivo* testing in mammals to adequately assess potential mutagenic risks to humans.

The SAP recommended that, in order to test spindle inhibition effects of trifluralin, a multigeneration reproduction study, and, if that is positive, a cytogenetics tests on sperm and bone marrow cells should be done.

The Agency has determined that, currently, no tests are adequate or sensitive enough to test spindle inhibition effects. The Agency proposes to consult outside scientists to develop a research program which would properly assess these risks. When appropriate

tests have been identified, the registrants will be required to perform them.

The SAP, in its preliminary public review of the trifluralin RPAR on September 20, 1979, indicated uncertainty as to why the Agency proposed to require mutagenicity testing of benzimidazoles, possible metabolites of trifluralin, since benzimidazoles had not been detected in excretion products of animals during *in vivo* testing.

The Agency has determined that, although benzimidazoles have been reported in *in vitro* testing, their presence in mammalian *in vivo* metabolism studies is uncertain, and if present, they probably exist in minute quantities. Therefore, the Agency will not require that the registrants perform mutagenicity studies on benzimidazoles.

3. *Comments of the USDA.* The comments of the United States Department of Agriculture (USDA) on the Notice of Determination Concluding the RPAR of Pesticides Containing Trifluralin are presented below in their entirety.

October 18, 1979.

Mr. Edwin L. Johnson (TS–766),
Deputy Assistant Administrator for Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460

Dear Mr. Johnson: The United States Department of Agriculture is taking this opportunity to respond to the Agency's Position Document 1/2/3 which summarizes the benefit/risk assessment of the herbicide, trifluralin (Treflan). In summary we understand that you have determined that the benefits of treflan use outweigh the risks at the current low level (1 ppm or less) of N-nitroso-di-n-propylamine (NDPA). Further, the registrations of treflan will be continued with amendment of the terms and conditions of registration to limit the NDPA content to a level not to exceed 1 ppm. We have studied the documents thoroughly and agree that there are no concerns of a scientific nature which would require any further regulatory action or delay.

We believe that trifluralin has been of high significant benefit of producers and consumers in reducing yield and quality losses to our food, feed and fiber supply, and the cost of products to consumers. Therefore, we concur with the agency that all currently registered uses of trifluralin should be continued without further restriction.

Sincerely,

Barry R. Flamm,
Director, Office of Environmental Quality.

4. *Response to Comments of the USDA.* The USDA thus concurred with the Agency's regulatory position presented in the PD 1/2/3 that the benefits of trifluralin use would outweigh the risks if the NDPA contamination were kept below 1 ppm. This is consistent with the Agency's current regulatory position that trifluralin registrants amend their confidential statements of formula for technical trifluralin products to reflect a total N-nitrosamine contamination of no greater than 0.5 ppm.

Registrants must amend their confidential Statement of Formula for formulated products to reflect an upper limit of total N-nitrosamine contamination based on the amount of trifluralin in the end-use product, assuming an upper limit 0.5 ppm in the technical trifluralin starting material, and allowing for possible generation of nitrosamines during formulation. The total N-nitrosamine limit for formulated products will be twice what would be found in a straight-forward dilution.

5. A Summary of Comments by Other Interested Parties and the Agency's Response to These Comments

Seventeen other interested parties commented on the notice of determination and the PD 1/2/3. These comments represented a broad cross-section of people with commercial and academic interest in trifuralin use. Eight concurred with the Agency's proposed regulatory position. Six requested further information which was subsequently supplied by the Agency.

Three commentors disagreed with portions of the Agency's proposed regulatory position or rationale used to arrive at that position. One had a question about worker exposure, which is answered in detail in the PD 4. The registrant, Elanco, submitted comments in detail on the Agency's dietary and worker exposure and risk analysis, on the Agency's proposed requirements for additional reproduction, teratology, and mutagenicity studies, on the establishment of a maximum NDPA level in trifluralin-containing products, and on the Agency's proposed label amendment.

Elanco also submitted results of their trifluralin chronic feeding study, which indicated that high doses of purified trifluralin are associated with a statistically significant increase in tumors in rats.

As a result of Elanco's comments and results from the chronic feeding study, the Agency recalculated and reevaluated the dietary and worker exposure to nitrosamines and trifluralin and the risks associated with this exposure. The Agency has determined that the overall risk associated with exposure to Treflan® has not changed appreciably since the PD 1/2/3 was issued; the added risk due to exposure to trifluralin is offset by the reduction of NDPA to a contamination level of less than 1 ppm in technical trifluralin and Treflan® EC.

The Agency has determined that additional mutagenicity, reproduction, and teratogenicity tests are still necessary in order to assess adequately risks in these areas. The resaons for this determination are fully discussed in the PD 4. The Agency will not require at this time an amendment to the trifluralin label regarding N-nitrosamine contamination, but will require that the confidential statement of formula be amended, as previously described.

A third commentor, American Cyanamid Company, criticized various aspects of the Agency's benefits analysis. American Cyanamid implied that the Agency overestimated the economic impact which would result from a cancellation of trifluralin products. American Cyanamid alleged that less than complete consideration was given to effective alternative products and that the benefit analysis was outdated.

Elanco also submitted comments on the Agency's benefit analysis, but stated that the Agency underestimated the economic impact which would result from a cancellation of trifluralin products. Elanco advocated using planted acreage and agricultural commodity price figures for the most current year, rather than the three to five year average used by the Agency.

The Agency has qualitatively reevaluated its benefits analyses and finds it to be appropriate and reasonable. The benefits have not changed appreciably since August 1978. The economic analysis completed in 1978 is still deemed useful as a benchmark for evaluating herbicide market changes or other deviations from a "typical" (three-to-five year average) agricultural production year. The Agency considered all effective Treflan® alternatives in developing the economic analysis.

A more complete discussion of the comments made by the SAP, USDA, and other interested parties and the Agency's response to these comments is contained in the PD 4, and is available upon request.

IV. Procedural Matters

FIFRA section 6(b)(1), provides that the Administrator may issue a notice of intent to cancel a registration or change its classification together with the reasons (including the factual basis) of this action.

FIFRA provides at section 6(b) that, "the proposed action [cancellation] shall become final and effective at the end of 30 days from receipt by the registrant, or

publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice."

FIFRA section 3(c)(6) provides that the Administrator may deny applications for registration "* * * unless the applicant corrects the conditions and notifies the Administrator thereof during the 30 day period beginning with the day after the date on which the applicant receives the notice* * *". FIFRA section 3(c)(6) also provides that "Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies [i.e., a hearing] provided for in section 6."

This Notice initiates actions to cancel registrations and deny applications for registration of trifluralin products for all uses unless the terms and conditions of registration and also how registrants, applicants for registration are modified or unless hearings are requested.

This unit of the Notice explains how registrants and applicants for registration may make the necessary corrections by modifying the terms and conditions of registration, and certain other interested or affected parties may request a hearing on the cancellation and denial actions that this Notice initiates.

A. Procedures for Amending the Terms and Conditions of Registration

Registrants affected by the cancellation actions described above may avoid cancellation by amending the terms and conditions of registration within the 30 day period. This must be done by filing an application for an amended confidential statement of formula and by submitting the quality control procedures they will institute to the Agency. A statement must appear under the inert ingredients statement of the confidential statement of formula for all technical trifluralin products as follows:

Total N-nitrosamine contamination—no greater than 0.5 ppm

A statement must appear under the inert ingredients Statement of the Confidential Statement of Formula for all formulated trifluralin products as follows:

Total N-nitrosamine contamination—no greater than (number to be calculated as follows: 0.5 ppm assumed as an upper limit of total N-nitrosamine contamination in the technical trifluralin starting material x X% trifluralin in the end-use product x 2 to allow for possible generation of nitrosamines during formulation.)

In addition, the quality control procedures which the registrant will institute must be submitted in order to assure the Agency that the level of total N-nitrosamine contamination as stated in the confidential statement of formula is not exceeded.

The application for an amended confidential statement of formula and the quality control procedures must be submitted to:

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

B. Procedure for Requesting a Hearing

Registrants affected by the cancellation actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice or within thirty (30) days from publication of this Notice in the **Federal Register** (September 3, 1982), whichever occurs later. Any other person adversely affected by the cancellation actions described above may request a hearing on or before September 3, 1982.

Applicants for registration affected by the denial actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice, or within thirty (30) days of publication of this Notice in the **Federal Register** (September 3, 1982), whichever occurs later. Other interested persons may, with the concurrence of the applicant, request a hearing during the time period available to the applicant.

All registrants, applicants, and other interested or affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that: (1) All requests must identify the specific registration(s) or application(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objections that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the hearing clerk within the applicable thirty (30) day period. Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Request for hearings must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

C. Consequence of Filing of Failing to File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for hearings under FIFRA section 6 (40 CFR Part 164). In the event of a hearing, each cancellation and denial action subject to the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of failure to file in a timely and effective manner.* If no hearing concerning the conditional cancellation or denial of registration of a specific use of a specific pesticide product containing trifluralin has been requested by the end of the applicable thirty day period, registration of that use of that trifluralin product will be subject to cancellation or denial unless the registrant or applicant amends within the 30 day period its application for registration to include the modifications in the terms and conditions of registration specified in this Notice.

Dated: July 15, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–20676 Filed 7–30–82; 8:45 am]

BILLING 6560–26–M

FEDERAL RESERVE SYSTEM

Bank Holding Co.; Proposed de Novo Nonbank Activities

The bank holding company listed in this notice 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)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (pr 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 the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased completition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that

requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Montana Bancsystem, Inc.*, Billings, Montana (bookkeeping and data processing activities; Montana): To engage directly in bookkeeping and data processing activities, including the operation of data processing departments to provide data processing services to its member banks and non-affiliated banks. These activities would be conducted at the First National Montana Bank of Missoula, Missoula, Montana and in Billings, Montana, serving the State of Montana. Comments on this application must be received not later than August 27, 1982.

Board of Governors of the Federal Reserve System, July 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21014 Filed 8-3-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

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 and/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 Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio:

1. *London Bancshares, Inc.*, London, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of London Bank & Trust Company, London, Kentucky. Comments on this application must be received not later than August 24, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Century Bank Shares*, Lyman, Wyoming; to become a bank holding company by acquiring 90.91 percent of the voting shares of First State Bank of Lyman, Lyman, Wyoming. Comments on this application must be received not later than August 27, 1982.

Board of Governors of the Federal Reserve System, July 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21015 Filed 8-3-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

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 for that application. Any comment on the application that request 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 Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Schreiner Bancshares, Inc.*, Kerrville, Texas; to acquire 100 percent of the voting shares or assets of Southwest National Bank, Austin, Texas. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21011 Filed 8-3-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Co.; Proposed De Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(c)(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 the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York (relocation of office and expansion of service area: South Carolina): To continue to hold the shares of Finance One of South Carolina, Inc. ("Finance One") after Finance One engages in the

activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as would be made or acquired by a finance company under South Carolina law; and offering credit related life insurance and credit accident, health, and property insurance at 7350 "A" Two Notch Road, Columbia, South Carolina. Finance One presently engages in these activities at 1700 Sumter Street, Columbia, South Carolina. The application is only to continue to hold the shares of Finance One after Finance One engages in these activities at a different location servicing an expanded service area; the application does not involve the commencement of any new activities at the new location. The office will serve customers in Richland, Lexington, Saluda, Newberry, Aiken, Fairfield, Kershaw, Sumter, Lee, Clarendon, Calhoun, and Orangeburg Counties. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21009 Filed 8-3-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

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 and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) or 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 request 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 Cleveland (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Manchester Bancorp, Inc.*, Manchester, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Manchester, Kentucky. Comments on this application must be received not later than August 30, 1982.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *WCG Bancshares, Inc.*, Thomaston, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of West Central Georgia Bank, Thomaston, Georgia. Comments on this application must be received not later than August 30, 1982.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *City Bankshares, Inc.*, Portage, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of City Bank & Trust Company, Portage, Wisconsin. Comments on this application must be received not later than August 30, 1982.

2. *Gainer Corporation*, Merrillville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gary National Bank, Gary, Indiana. Comments on this application must be received not later than August 30, 1982.

3. *La Porte Bancorp, Inc.*, to become a bank holding company (incorporated in Indiana) and merge with La Porte Bancorp, Inc. (incorporated in Delaware), both of Hammond, Indiana, to change the state of incorporation of La Porte Bancorp, Inc., from Delaware to Indiana. Comments on this application must be received not later than August 20, 1982.

4. *Southern Michigan Bancorp, Inc.*, Coldwater, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Southern Michigan National Bank, Coldwater, Michigan. Comments on this application must be received not later than August 30, 1982.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Financial Services of St. Croix Falls, Inc.*, St. Croix Falls, Wisconsin; to become a bank holding company by acquiring 92.818 percent of the voting shares of First National Bank of St. Croix Falls, St. Croix Falls, Wisconsin. Comments on this application must be received not later than August 30, 1982.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Columbus Bancorp.*, Columbus, Nebraska; to become a bank holding company by acquiring 97.7 percent of the voting shares of First National Bank and Trust Company, Columbus, Nebraska. Comments on this application must be received not later than August 30, 1982.

2. *Valley Bancorp, Inc.*, Hopkins, Missouri; to become a bank holding company by acquiring 100 percent of the shares of Thirty Three Venturers, Inc., Hopkins, Missouri and thereby indirectly acquire 90 percent of the voting shares of 102 Valley Bank, Hopkins, Missouri. Comments on this application must be received not later than August 30, 1982.

F. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Moody Bancshares, Inc.*, Galveston, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Moody National Bank of Galveston, Galveston, Texas. This application may be inspected at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than August 30, 1982.

Board of Governors of the Federal Reserve System, July 29, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-21010 Filed 8-3-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Continental Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The Continental Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of William Penn Life Insurance Co. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by PennCorp Financial Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade

Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–21029 Filed 8–3–82; 8:45 am]

BILLING CODE 6750–01–M

Early Termination of the Waiting Period of the Premerger Notification Rules; Eteroutremer S.A.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notificatin rules.

SUMMARY: Eteroutremer S.A. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all voting securities of The Susquehanna Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Eteroutremer S.A. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–21030 Filed 8–3–82; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New Routine Uses

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notification of new routine uses.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are proposing to add new routine uses applicable to the following notices of Systems of Records:

(1) 09–70–0501, Carrier Medicare Claims Records, HHS/HCFA/BPO.

(2) 09–70–0502, Health Insurance Master Records, HHS/HCFA/BPO.

(3) 09–70–0503, Intermediary Medicare Claims Records, HHS/HCFA/BPO.

We have provided background information about the routine uses in the "Supplementary Information" section below. We invite public comments on this proposal.

DATES: These routine uses will become effective, as proposed, without further notice on September 3, 1982, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESS: Interested parties who wish to comment on this proposal should address their comments to Shirley Mulhall, the HCFA Privacy Officer, Health Care Financing Administration, G–C–3 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207.

We will make comments received available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Mr. Castomal Alexander, Chief, Premium Systems Branch, Bureau of Program Operations, Health Care Financing Administration, Room G–E–7 Meadows East, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone, (301) 594–9882.

SUPPLEMENTARY INFORMATION: System notice 09–70–0501, Carrier Medicare Claims Records, contains records on claims for Supplementary Medical Insurance Benefits including itemized bills to support payment to beneficiaries and to physicians and other suppliers of medical services.

System Notice 09–70–0503, Intermediary Medicare Claims Records contains records on claims for Medicare benefits submitted by providers for reimbursement on a reasonable cost basis including hospital, skilled nursing facility and home health agency bills.

The senior citizen volunteer program is designed to permit senior citizens to assist other senior citizens with information about Government programs available to them, assist beneficiaries in the preparation of claims for Government benefits, and to learn the status of claims already filed by beneficiaries.

The volunteers will give assistance in filing claims, providing general information about the Medicare program, and information relative to the status of previously filed claims.

Only that information which is absolutely necessary for the senior citizen volunteers to perform their duties (such as, answering questions as to the status of filed claims, Government programs or benefits available to them, general information about the Medicare program, and information relative to the filing of claims) will be made available to the senior citizen volunteers. Disclosure from this system is only with the written consent of the subject individual or in accordance with the published routine use and other provisions of the Privacy Act. The senior citizen volunteers will be required to give written assurances that they will maintain the confidentiality of all records which become available to them in the course of their work in accordance with Privacy Act safeguards.

Intermediaries/Carriers will prescreen senior citizen volunteers for potential situations, which would indicate probable conflict of interest relationships and additionally, security for this system is maintained in accordance with National Bureau of Standards Guidelines and the Department of Health and Human Services ADP Systems Manual (Sections 2972 through 2975) and Medicare Intermediary Manual (Sections 5135 through 5138). Accordingly, we propose a new routine use as follows:

Senior citizen volunteers working in the intermediaries'/carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

System notice 09–70–0502, Health Insurance Master Record contains a record of each individual who is, or has been, entitled to health insurance

benefits under Title XVIII of the Social Security Act. The Carrier Alphabetic State File (CASF) and the Beneficiary State File (BEST) are extracts of the Health Insurance Master Record. The former (CASF) is an alphabetic listing, on film, of all Medicare beneficiaries in the State showing name, sex, date of birth, address, zip code, buy-in indicator and health insurance claim number. The latter (BEST) is the same information on magnetic tape. These extracts provide the most economical and efficient method of obtaining the claim number of a beneficiary when other identifying information is available. The CASF and/or BEST files have been provided to a limited number of States for the express purpose of identifying Medicaid beneficiaries to aid in adding them to the State buy-in rolls. In most States, this activity is conducted by the State agency responsible for Medicaid.

The CASF/BEST files will enable the State agency to identify individuals eligible for inclusion in a State buy-in account, and to identify those Medicare/Medicaid dually entitled individuals for whom Medicaid has deductible and coinsurance liability. Approximately, 12 percent of Medicare beneficiaries are also eligible for Medicaid benefits. States under a "buy-in" agreement may enroll individuals for Part B coverage who are eligible to Title XVI (Supplemental Security Income) benfits or person eligible under State grants for medical assistance. The State pays the Medicare (Part B) premiums for these eligible individuals.

To interrogate the CASF/BEST it is necessary for the State to have the individual's name, date of birth, sex and address. With this information, the health insurance claim number can be determined. The State is then able to add the individual to its buy-in account, request the carrier or intermediary to provide a report of any medical expenses paid by Medicare for Medicaid eligibles or to request payment by Medicare for expenses already paid by Medicaid.

Furnishing the CASF/BEST tapes to State agencies is essential in enabling the States to determine the correct health insurance claim number of individuals potentially eligible for buy-in. The Medicaid master file maintained by the State agency is sequenced according to the individual's own social security number or according to the State agency's own numbering system. Generally the State knows who its dually entitled individuals are or should be and needs to obtain the health insurance claim number.

Use of the CASF/BEST files has resulted in prevention of duplicate claims payments and fewer referrals by Medicare contractors to Social Security Offices and as a consequence, its use has been instrumental in the realization of improved service to the public.

Before the CASF/BEST files are released to a State, the State must sign an agreement to protect the confidentiality of the information received. As far as we know, the security of this data has not been compromised. We anticipate no untoward effect on the privacy or personal rights of individuals.

The individual records are retrieved from the CASF/BEST files when a Medicaid claim is submitted for payment without a health insurance claim number or the health insurance claim number is determined to be incorrect. Also, individual records are retrieved for the purposes of the screening of pre-payment and post-payment Medicaid claims.

Only that information which is relevant to identification of beneficiaries is contained in the CASF/BEST record system. Accordingly, we propose a new routine use as follows:

State welfare agencies that require access to the Carrier Alphabetical State File (CASF) and the Beneficiary State File (BEST) which are extracted from the Health Insurance Master Record. Most State agencies require access to the CASF and BEST files for improved administration of the Medicaid program. Routine uses of the CASF and BEST files for State agencies are:

a. *Obtaining a beneficiary's correct health insurance claim number;*

b. *Screening of pre-payment and post-payment Medicaid claims.*

The following routine use appears in notices for both systems 09–70–0501, Carrier Medicare Claims Records, and 09–70–0503, Intermediary Medicare Claims Records. Since records in both of these systems are sources used to update and maintain records in system 09–70–0502, Health Insurance Master Record, we propose to add the routine use to system 09–70–0502 also. This will permit us to contact third parties (without the individual's consent) to obtain information or to establish validity or verify accuracy of information in the Health Insurance Master Record System. The proposed routine use is as follows:

Third-party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

a. *The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual) or*

b. *The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.*

The proposed routine uses meet the criteria contained in the Privacy Act. They permit us to disclose information without the consent of the individual to whom it pertains for purposes which are compatible with those for which HCFA collected the information. Information in each of the above mentioned systems is collected for the purposes of administering the Medicare program for which HCFA is responsible. We anticipate that disclosures under the routine uses will not result in any clearly unwarranted adverse effects on personal privacy.

The notices below contain the new routine uses as indicated above.

Dated: July 27, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

09–70–0501

SYSTEM NAME:

Carrier Medicare Claims Records. HHS, HCFA, BPO.

SECURITY CLASSIFICATIONS:

None.

SYSTEM LOCATION:

Carriers under contract to the Health Care Financing Administration and the Social Security Administration (see Appendix C, Section 4.)

Federal Records Centers,

Bureau of Quality Control, HCFA, Office of Systems Analysis, 6325 Security Boulevard, Baltimore, Maryland 21207

HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries who have submitted claims for Supplementary Medical Insurance Benefits (Medicare Part B).

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for Payment; Provider Billing for Patient Services by Physician; Prepayment Plan for Group Medicare Practices Dealing through a Carrier. Health Insurance Claim Form, Request for Medical Payment, Patient's Request for Medicare Payment, Request for Medicare Payment—Ambulance, Explanation of Benefits, Summary Payment Voucher, Request for Claim Number Verification; Payment Record Transmittal; Statement of Person Regarding Medicare Payment for Medical Services Furnished Deceased Patient; Report of Prior Period of Entitlement; itemized bills and other similar documents from beneficiaries required to support payments to beneficiaries and to physicians and other suppliers of part B Medicare services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1842 and 1874 of title XVIII of the Social Security Act. (42 U.S.C. § 1395u and 1395kk)

PURPOSE:

To properly pay medical insurance benefits to or on behalf of entitled beneficiaries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) Claimants, their authorized representatives or representative payees to the extent necessary to pursue claims made under Title XVIII of the Social Security Act (Medicare).

(2) Third-party contacts (without the consent of the individuals to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

(3) Third-party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to the Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Standards Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. determines that the purpose for which the disclosure is to be made:

(1) cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) there is reasonable probability that the objective for the use would be accomplished;

(c) requires the information recipient to:

(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adeqaute justification of a research or health nature for retaining such information, and

(3) make no further use or disclosure of the record except:

(a) in emergency circumstances affecting the health or safety of any individual,

(b) for use in another research project, under these same conditions, and with written authorization of HCFA,

(c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) when required by law;

d. secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicare eligibility considerations. Disclosures of physicians' customary charge data are made to State audit agencies in order to

ascertain the correctness of Title XIX charges and payments.

(15) In the event of litigation where the defendant is (a) the Department, any component of Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(16) Peer review groups, consisting of members of State, County, or local medical societies or medical care foundations (physicians), appointed by the medical society or foundation at the request of the carrier to assist in the resolution of questions of medical necessity, utilization of particular procedures or practices, or overutilization of services with respect to Medicare claims submitted to the carrier.

(17) Physicians and other suppliers of services who are attempting to validate individual items on which the amounts included in the annual Physician/Supplier Payment List or similar publications are based.

(18) Senior citizen volunteers working in Intermediaries'/Carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records maintained on paper, tape, disc, and punchcards.

RETRIEVABILITY:

System is indexed by health insurance claim number. The record is prepared by the beneficiary and is used by carriers to determine amount of Part B benefits. The bills are retained by the carriers. Copies of selected parts of the records will be used by the Office of Systems Analysis and data will be retrieved in Rockville from Baltimore via dial-up telecommunications lines.

SAFEGUARDS:

Unauthorized personnel are denied access to the records area. Disclosure is limited. Physical safeguards related to the transmission and reception of data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6, Chapter 32, "Remore ADP Work Stations."

RETENTION AND DISPOSAL:

Records are closed at the end of the calendar year in which paid, held two additional years, transferred to Federal Records Center and destroyed after another 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director, Bureau of Program Operations, 6325 Security Boulevard, Baltimore, Md. 21207

NOTIFICATION PROCEDURES:

Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance claim number and the name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, Section 5b.6).)

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the records contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

RECORD SOURCE CATEGORIES:

The data contained in these records is furnished by the individual. In most cases, the identifying information is provided to the physician by the individual. The physician then adds the medical information and submits the bill to the carrier for payment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-70-0502

SYSTEM NAME:

Health Insurance Master Record, HHS/HCFA/BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration, Bureau of Support Services, 6325 Security Blvd., Baltimore, Md. 21207.

HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

Federal Records Centers

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals age 65 or over who have been, or currently are, entitled to health insurance (Medicare) benefits under title XVIII of the Social Security Act; individuals under age 65 who have been, or currently are, entitled to such benefits on the basis of having been entitled for not less than 24 months to disability benefits under title II of the Act or under the Railroad Retirement Act and individuals who have been, or currently are, entitled to such benefits because they have end-stage renal disease.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information on enrollment, entitlement, Parts A (Hospital) and B (Supplementary Medical) utilization, query and reply activity, health insurance bill and payment record processing, and Health Insurance Master Record maintenance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1814 and 1833 of title XVIII of the Social Security Act. (42 U.S.C. § 1395f and 1395l)

PURPOSE(S):

To maintain information on Medicare beneficiary eligibility and costs in order to reply to inquiries from contractors and intermediaries and to maintain utilization data for health insurance bill and payment record processing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Act relating to railroad employment.

(2) State Welfare Department pursuant to agreements with the Department of Health and Human Services for determining Medicaid and Medicare eligibility, for quality control

studies, for determining eligibility of recipients of assistance under titles IV, XVIII, and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(3) State audit agencies for auditing State Medicaid eligibility considerations.

(4) Providers and suppliers of services directly or dealing through fiscal intermediaries or carriers for administration of title XVIII.

(5) A congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(6) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. determines that the purpose for which the disclosure is to be made:

(1) cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. requires the information recipient to:

(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) make no further use or disclosure of the record except:

(a) in emergency circumstances affecting the health or safety of any individual,

(b) for use in another research project, under these same conditions and with written authorization of HCFA.

(c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) when required by law;

d. secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(7) In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(8) To a contractor when the Department contracts with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(9) State welfare agencies that require access to the two files which are extracted from the Health Insurance Master Record. These files are the Carrier Alphabetical State File (CASF) and Beneficiary State File (BEST). Most State agencies require access to the CASF and BEST files for improved administration of the Medicaid program. Routine uses of the CASF and BEST files for State agencies are: (a) Obtaining a beneficiary's correct health insurance claim number and (b) screening of pre-payment and post-payment Medicaid claims.

(10) Third-party contacts (without the consent of the individual to whom the information pertains) in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for an entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of system activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained on paper, listings, microfilm, magnetic tape disc and punchcards.

RETRIEVABILITY:

System is in sequence by health insurance claim number, and is used to carry out the tasks of enrollment, query/reply activity, and health insurance bill and payment record processing. Copies of selected parts of the records will be used by the Office of Systems Analysis; data will be retrieved in Rockville from Baltimore via dialup telecommunciations lines.

SAFEGUARDS:

Unauthorized personnel are denied access to the records areas. Disclosure is limited to routine use. For computerized records electronically transmitted between Central Office and field office locations (including Medicare contractors), systems securities are established in accordance with DHHS ADP Systems Manual, Part 6, "ADP Systems Security." Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

RETENTION AND DISPOSAL:

Records are generally added to the file several months prior to entitlement. After the death of a beneficiary, his or her records may be placed in an inactive file following a period of no billing or query activity. The current 5 years of Part B and current 5 spells of Part A utilization data are maintained. All noncurrent data is microfilmed prior to elimination from the system.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director, Bureau of Program Operations 6325, Security Boulevard, Baltimore, Md. 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the most convenient social security office, the appropriate carrier or intermediary, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance claim number and name as shown on Medicare records.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulations (45 CFR, Section 5b.5(a)(2)).)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7).)

RECORD SOURCE CATEGORIES:

The data contained in these records are furnished by the individual. There are cases, however, in which the identifying information is provided to the physician by the individual: the physician then adds the medical information and submits the bill to the carrier for payment. Updating information is also obtained from the Master Beneficiary Record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-70-0503

SYSTEM NAME:

Intermediary Medicare Claims Records, HHS, HCFA, BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (See Appendix C, Section 3)

Federal Records Centers

Bureau of Quality Control HCFA, Office of Systems Analysis, 6325 Security Boulevard, Baltimore, Maryland 21207, HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries on whose behalf providers have submitted claims for reimbursement on a reasonable cost basis under Medicare Parts A and B.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inpatient Hospital and Skilled Nursing Facility Admission and Billing; Provider Billing for Medical and Other Health Services: Inpatient Admission and Billings—Christian Science Sanatorium: Home Health Agency Report and Billing, and other documents used to support payments to beneficiaries and providers of services. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, medical record number, prior stay information, provider name and address, physician's name, date of admission and discharge, other health insurance, diagnoses, surgical procedures, and a statement of services rendered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1816 and 1874 of Title XVIII of the Social Security Act. (42 U.S.C. § 1395h and 1395kk.)

PURPOSE(S):

To process and pay Medicare benefits to or on behalf of eligible individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

(1) Claimants, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(2) Third-party contracts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual) or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program: the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.

(3) Third-party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Standards Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. determines that the purpose for which the disclosure is to be made:

(1) cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) there is reasonable probability that the objective for the use would be accomplished;

c. requires the information recipient to:

(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) make no further use or disclosure of the record except:

(a) in emergency circumstances affecting the health or safety of any individual,

(b) for use in another research project, under these same conditions, and with written authorization of HCFA,

(c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) when required by law;

d. secures a written statement attesting to the information recipient's understanding of and willingness to abide by the provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determination of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Secuity Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(15) In the event of litigation where the defendant is (a) the Department, any components of the Department, or any employeee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purposes for which the records were collected.

(16) Senior citizen volunteers working in the Intermediaries'/Carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records maintained on paper forms, magnetic tape and microfilm.

RETRIEVABILITY:

The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The bill data are forwarded to the Health Care Financing Administration, Bureau of Support Services, Baltimore, Md., where they are used to update the central office records. Copies of selected parts of the records will be used by the Office of Systems Analysis; data will be retrieved in Rockville from Baltimore via dial-up telecommunications lines.

SAFEGUARDS:

Disclosure of records is limited. The file area is closed to unauthorized personnel. Physical safeguards related to the transmission and reception of the data between Rockville and Baltimore are those requirements establish by the DHHS ADP Systems Manual. Part 6, Chapter 32, "Remote ADP Work Statios."

RETENTION AND DISPOSAL:

Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to the Federal Records Center and destroyed after another 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director, Bureau of Program Operations, 6325 Security Boulevard, Baltimore, Md. 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for systems records should be addressed to the social security office nearest the requester's residence, the appropriate intermediary, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance number and name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. (These notification and access procedures are in accordance with Department Regulations (45 CFR, section 5b.6).)

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the records contents being sought. (The access procedures are in accordance with department Regulations (45 CFR, section 5b.5(a)(2).)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, sectrion 5b.7).)

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix C. Health Insurance Claims

Medicare records are maintained at the HCFA Central Office (see section 1 below for the address). Health insurance records or the Medicare program can also be accessed through a representative of the HCFA Regional Office (see section 2 below for addresses). Medicare claims records are also maintained by private insurance organizations who share in administering provisions of the health insurance program. These private insurance organizations, referred to as carriers and intermediaries, are under contact to the Health Care Financing Administration and the Social Security Administration to perform specific tasks in the Medicare program. See section 3 below for addresses for intermediaries and Section 4 addresses for carriers.

1. Central Ofice Addresses:

Bureau of Program Operations, HCFA, 6325 Security Boulevard, Baltimore, Maryland 21207, Office Hours: 8:15–4:45

Bureau of Support Services, HCFGA, Office of Direct Reimbursement, Room 1705, Equitable Building 6325 Security

Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15–4:45

2. HCFA Regional Office Addresses:

BOSTON REGION—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building, Room 1211; Boston, Massachusetts 02203. Office Hours: 8:30–5:00

NEW YORK REGION—New Jersey, New York, Puerto Rico, Virgin Islands

26 Federal Plaza—Room 715, New York New York 10007. Office Hours: 8:30–5:00

PHILADELPHIA REGION—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

P.O. Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30–5:00

ATLANTA REGION—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee

101 Marietta Street, Suite 702, Alanta, Georgia 30223. Office Hours 8:00–4:30

CHICAGO REGION—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Suite A–824, Chicago, Illinois 60604, Office Hours 8:15–4:45

DALLAS REGION—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

1200 Main Tower Building, Dallas, Texas. Office Hours: 8:00–4:30

KANSAS CITY REGION—Iowa, Kansas, Misouri, Nebraska

New Federal Office Building, 601 East 125th Street—Room 436, Kansas City, Missouri 64106. Office Hours: 8:00–4:45

DENVER REGION—Colorado, Mintana, North Dakota, South Dakota, Utah, Wyoming

Federal Office Building, 1961 Stout St—Room 1185, Denver, Colorado 80294. Office Hours: 8:00–4:30

SAN FRANCISCO REGION—American Samoa, Arizona, California, Guam, Hawaii, Nevada

Federal Office Building, 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8:00–4:30

SEATTLE REGION—Alaska, Idaho, Oregon, Washington

1321 Second Avenue—Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours: 8:00–4:30

3. Intermediary Addressed [Hospital Insurance):

Medicare Coordinator, Blue Cross/Blue Shield of Alabama, 930 South 20th Street, Birmingham, Alabama 35298

Medicare Coordinator, Blue Cross of Arizona, Inc., P.O. Box 13466, 321 West Indian School Road, Phoenix, Arizona 85002

Medicare Coordinator, Arkansas Blue Cross/Blue Shield, P.O. Box 1418, 601 Gains Street, Little Rock, Arkansas 72203

Medicare Claim Administrator, Aetna Life & Casualty, 2600 Wilshire Boulevard, Los Angeles, California 90057

Medicare Coordinator, Blue Cross of Southern California, P.O. Box 70000, Van Nuys, California 91470

Medicare Coordinator, Blue Cross of Northern California, 1950 Franklin Street, Oakland, California 94659

Medicare Coordinator, Kaiser Foundation Health Plan, Inc., 1956 Webster Street, Room 310A, Oakland, California 94612

Aetna Life & Casualty, Medicare Claim Administration, 97 San Marin Drive, Novato, California 94947

Medicare Coordinator, Colorado Hospital Service, 700 Broadway, Denver, Colorado 80203

Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06156

Medicare Coordinator, Connecticut Coordinator, 370 Bassett Rd., North Haven, Connecticut 06473

Administrator, Medicare Claims Office, Aetna Life & Casualty, P.O. Box 329, 270 Farmington Avenue, Building 4, 2nd Floor, Farmington, Connecticut 06032

Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115

Connecticut General Life Ins. Co., Medicare Claim Office, 100 Barnes Road, North, Wallingford, Connecticut 06492

Triage, Inc., 719 Middle Street, Bristol, Connecticut 06019

Medicare Coordinator, Blue Cross/Blue Shield of Delaware, 201 West 14th Street, Wilmington, Delaware 19801

Medicare Coordinator, Group Hospitalization, Inc., 550 12th Street, S.W., Washington, D.C. 20024

Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 2711, Jacksonville, Florida 32203

Medicare Claim Administrator, Aetna Life & Casualty, The Taylor Building, 121 North Osceola Avenue, Clearwater, Florida 33515

Medicare Coordinator, Blue Cross of Georgia/Columbus, P.O. Box 7366, 2357 Warm Springs Rd., Columbus, Georgia 31908

Medicare Coordinator, Blue Cross of Georgia/Atlanta, 348 Peachtree St. N.E., P.O. Box 4445, Atlanta, Georgia 30326

Medicare Coordinator, Hawaii Medical Service Association, P.O. Box 860, 1504 Kapiolani Boulevard, Honolulu, Hawaii 96808

Medicare Coordinator, Blue Cross of Idaho, Inc., P.O. Box 7480, 1501 Federal Way, Boise, Idaho 83707

Medicare Coordinator, Health Care Service Corp., 233 North Michigan Avenue, Chicago, Illinois 60601

Medicare Claims Administration, Aetna Life & Casualty, P.O. Box 1702, Peoria, Illinois 61603

Medicare Coordinator, Mutual Hospital Insurance, Inc., 120 West Market Street, Indianapolis, Indiana 46204

Medicare Coordinator, Blue Cross of Iowa, Ruan Building, 636 Grant Avenue, Station 28, Des Moines, Iowa 50309

Medicare Coordinator, Blue Cross of Western Iowa and S. Dakota, Third and Pierce Street, Sioux City, Iowa 51102

Medicare Administrator, Kansas Hospital Service Association, Inc., 1133 Topeka Avenue, P.O. Box 239, Topeka, Kansas 66601

Medicare Coordinator, Blue Cross of Kentucky, Inc., 9901 Linn Station Road, Louisville, Kentucky 40223

Medicare Coordinator, Blue Cross of Louisiana, P.O. Box 15699, Baton Rouge, Louisiana 70815

Medicare Coordinator, Associated Hospital Service of Maine, 100 Free Street, Portland, Maine 04101

Medicare Coordinator, Maryand Blue Cross, Inc., 700 East Joppa Road, Baltimore, Maryland 21204

Medicare Claims Admin., Aetna Life & Casualty Co., 15 Midstate Drive, Auburn, Massachusetts 01501

Medicare Coordinator Part A. Blue Cross of Mass., Inc., 100 Summer Street, Boston, Massachusetts 02106

Medicare Coordinator, Blue Cross of Michigan, 600 Lafayette East, Detroit, Michigan 48226

Medicare Coordinator, Blue Cross of Minnesota, 3535 Blue Cross Road, St. Paul, Minnesota 55165

Medicare Coordinator, Blue Cross of Miss., P.O. Box 1043, Jackson, Mississippi 39205

Medicare Coordinator, Blue Cross of Kansas City, P.O. Box 169, Kansas City, Missouri 64141

Medicare Coordinator, Blue Cross Hospital Service of Missouri, 4444 Forest Park Boulevard, St. Louis, Missouri 63108

Medicare Coordinator, Blue Cross of Montana, P.O. Box 5004, Great Falls, Montana 59403

Medicare Coordinator, Mutual of Omaha Ins. Co. Box 456 Downtown Station, Omaha, Nebraska 68101

Medicare Coordinator, Blue Cross of Nebraska, P.O. Box 3248, Main Post Office Station, Omaha, Nebraska 68103

Medicare Claims Administrator, Aetna Life & Casualty, P.O. Box 7290, Reno, Nevada 89510

Medicare Coordinator, New Hampshire Vermont Hospital Service, 2 Pillsbury Street, Concord, New Hampshire 03301

Medicare Coordinator, Hospital Service Plan of New Jersey, 33 Washington Street, Newark, New Jersey 07102

Medicare Coordinator, Prudential Ins. Co. of America, P.O. Box 5000, Millville, New Jersey 08332

Medicare Coordinator, New Mexico, Blue Cross Inc., 12800 Indian School Rd., N.E., Albuquerque, New Mexico 87112

Medicare Coordinator, Rochester Hospital Service Corp., 41 Chestnut Street, Rochester, New York 14604

Medicare Coordinator, Hospital Plan, Inc., 5 Hopper St., Utica, New York 13501

Medicare Coordinator, Blue Cross of Western New York, Inc., 298 Main Street, Blue Cross Building, Buffalo, New York 14202

Medicare Coordinator, Blue Cross of Central New York, Inc., 344 South Warren Street, Syracuse, New York 13202

Hospital Service Corp. of Jefferson County, 158 Stone Street, Watertown, New York 13602

Medicare Coordinator, B/C–B/S of Greater New York, 622 Third Avenue, New York, New York 10017

Chautauqua Region Hospital Service Corp., 306 Spring Street, Jamestown, New York 14701

Medicare Coordinator, Blue Cross of N.E., New York, Inc., P.O. Box 8650, Albany, New York 12208

Medicare Coordinator, North Carolina B/C-B/S, P.O. Box 3824, Durham, North Carolina 27702
Medicare Coordinator, Blue Cross of North Dakota, 301 Eighth St. South, Fargo, North Dakota 58102
Associated Hospital Services, Inc., 2400 Market Street, Youngstown, Ohio 44507
Medicare Coordinator, B/C of N.E. Ohio, P.O. Box 943, Toledo, Ohio 43601
Medicare Coordinator, B/C of N.W. Ohio, 2066 East Ninth Street, Cleveland, Ohio 44115
Medicare Coordinator, Hospital Care Corporation, 1351 William Howard Taft Road, Cincinnati, Ohio 45206
Medical Coordinator, Nationwide Mutual Insurance Co., P.O. BOX 1625, Columbus, Ohio 43216
Medicare Coordinator, B/C of Central Ohio, P.O. Box 16526, Columbus, Ohio 43216
Medicare Coordinator, Blue Cross of Oklahoma, 1215 South Boulder, Tulsa, Oklahoma 74119
Medicare Coordinator, Northwest Hospital Service, P.O. Box 1271, Portland, Oregon 97207
Medicare Coordinator, Blue Cross of Greater Philadelphia, 1333 Chestnut Street, Philadelphia, Pennsylvania 19107
Medicare Coordinator, Blue Cross of Western Pennsylvania, One Smithfield Street, Pittsburgh, Pennsylvania 15222
Medicare Coordinator, B/C of N.E. Pennsylvania, 70 North Main Street, Wilkes-Barre, Pennsylvania 18711
Medicare Coordinator, Hospital Service Plan of Lehigh Valley, 1221 Hamilton Street, Allentown, Pennsylvania 18102
Medicare Coordinator, Capital Blue Cross, 100 Pine Street, Harrisburg, Pennsylvania 17101
Aetna Life & Casualty, Medicare Claim Administrator, 500 Office Center Building, P.O. Box 548, Fort Washington, Pennsylvania 19034
Cooperative de Seguros de Vida de Puerto Rico, G.P.O. Box 3428, San Juan, Puerto Rico 00936
Blue Cross of Rhode Island, 444 Westiminster Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross of S.C., Drawer F Forest Acres Branch, Columbia, South Carolina 29219
Medicare Coordinator, Memphis Hosp. Serv. and Surg. Assn., 85 Danny Thomas Blvd., Memphis, Tennessee 38101
Medicare Coordinator, Blue Cross of Tennessee, 801 Pine Street, Chattanooga, Tennessee 37402
Medicare Administrator, Aetna Life & Casualty, Union Square Building, 2670 Union Avenue, Suite 606, Memphis, Tennessee 38112
Medicare Coordinator, Group Hospital Service, Inc., P.O. Box 22146, Dallas, Texas 75222
Medicare Coordinator, B/C of Utah, P.O. Box 30269, Salt Lake City, Utah 84125
B/C-B/S of S.W. Virginia, P.O. Box 13047, 3959 Electric Rd., Roanoke, Virginia 24045
Medicare Coordinator, B/C Washington/Alaska, Inc., 15700 Dayton Avenue, North, P.O. Box 327, Seattle, Washington 98111
Medicare Administration, Aetna Life and Casualty Co., P.O. Box C25902, Seattle, Washington 98125
Medicare Coordinator, Parkersburg Hosp. Serv., Inc., P.O. Box 1948, Parkersburg, West Virginia 26101
Medicare Coordinator, Blue Cross Hospital Service, Inc., Commerce Square, P.O. Box 1353, Charleston, West Virginia 25325
Medicare Coordinator, West Virginia Hospital Service, Inc., 20th and Chapline Streets, Wheeling, West Virginia 26003
Medicare Coordinator, Assoc. Hosp. Serv., Inc., 401 W. Michigan Street, Milwaukee, Wisconsin 53201
Medicare Coordinator, Hospital Service of Wyoming, 4020 House Avenue, P.O. Box 2266, Cheyenne, Wyoming 82001
Health Care Financing Administration, Bureau of Program Operations, Group Health Plans, Operations Staff, 6325 Security Boulevard, Baltimore, Maryland 21207
Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611

4. Carrier Addresses (Supplementary Medical Insurance)

Medicare Coordinator, Blue Cross Blue Shield of Alabama, 930 South 20th Street, Birmingham, Alabama 35205
Medicare Claim Administrator, Aetna Life & Casualty, 3010 West Fairmount Avenue, Phoenix, Arizona 85017
Vice President for Medicare and Medical Services, Arkansas Blue Cross/Blue Shield, 601 Games Street, Little Rock, Arkansas 72203
Medicare Coordinator, California Blue Shield, P.O. Box 7968, Rincon Annex, San Francisco, California 94120
Medicare Coordinator, Occidental Life Insurance Company of California, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054
Assistant Vice President, Blue Shield of Colorado, 700 Broadway, Denver, Colorado 80203
Medicare Coordinator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115
Medicare Administrator, Aetna Life & Casualty, 151 Farmington Avenue, Hartford, Connecticut 06115
Medicare Coordinator, Connecticut General Life Insurance Company, 200 Pratt Street, Meriden, Connecticut 06450
Medicare Coordinator, Blue Cross/Blue Shield of Delaware, 201 West 14th Street, Wilmington, Delaware 19899
Medicare Coordinator, Medical Service of D.C., 550 12th Street, SW., Washington, D.C. 20024
Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32201
Group Health, Inc., 1320 South Dixie Highway, Coral Gables, Florida 33146
Medicare Administrator, Prudential Insurance Company of America, P.O. Box 95466, 57 Executive Park Station, Atlanta, Georgia 30347
Medicare Claim Administrator, Aetna Life & Casualty, 100 Bishop Street, P.O. Box 3947, Honolulu, Hawaii 96812
Medicare, The Equitable Life Assurance Society, P.O. Box 8048, Hillcrest Plaza Shop, Boise, Idaho 83707
Continental Casualty Company, Medicare Benefits Division, P.O. Box 910, Chicago, Illinois 60690
Health Care Service Corporation, 233 North Michigan Avenue, Chicago, Illinois 60601
Assistant Vice President Medicare Dept., Blue Shield of Indiana, 120 West Market Street, Indianapolis, Indiana 46204
Assistant Executive Director, Blue Shield of Iowa, Ruan Building, 636 Grand Avenue, Station 28, Des Moines, Iowa 50307
Medicare Administrator, Kansas Medical Association, Inc., 1133 Topeka Blvd., P.O. Box 239, Topeka, Kansas 66601
Manager, Metropolitan Life Insurance Co., 1218 Harrodsburg Road, Suite 300, Lexington, Kentucky 40504
Manager, Medicare Liaison, Pan American Life Insurance Co., P.O. BOX 60450, New Orleans, Louisiana 70160
Blue Shield of Massachusetts/Maine, Medicare Claims Office, 477 Congress Street, Portland, Maine 04112
Medicare Coordinator, Maryland Blue Shield, Inc., 700 E. Joppa Road, Baltimore, Maryland 21204
Medicare Coordinator Part B, Massachusetts Blue Shield, 100 Summer Street, Boston, Massachusetts 02106
Asst. Vice Pres. Govern. Aff. Dept., Michigan Medical Services, 600 Lafayette East, Detroit, Michigan 48236
Blue Cross/Blue Shield of Minn., 3535 Blue Cross Road, St. Paul, Minnesota 55165
Vice President Government Programs, Blue Shield of Kansas City, P.O. Box 169, Kansas City, Missouri 64141
Director, Medicare Administration, General American Life Ins. Corp., P.O. Box 505, St. Louis, Missouri 6366
Montana Physicians Service, 404 Fuller Avenue, P.O. BOX 2510, Helena, Montana 59601
Assistant Vice President, Health Insurance Benefits, Mutual of Omaha Insurance, Co., Box 456, Downtown Station, Omaha, Nebraska 68101
Medicare Claims Administrator, Aetna Life & Casualty, P.O. Box 7290, Reno, Nevada 89510
Medicare Coordinator, New Hampshire Vermont Phys. Serv., 2, Pillsbury St., Concord, New Hampshire 03301
Medicare Coordinator, Prudential Insurance Co., of America, P.O. Box 471, Millville, New Jersey 08332
Medicare, The Equitable Life Assurance Society, P.O Box 3070, Station D, Albuquerque, New Mexico 87110
Director of Medicare Part B, Blue Shield of Western New York, Inc., 298 Main Street, Buffalo, New York 14202
Medicare Coordinator, Group Health Insurance, Inc., 326 West 42nd Street, New York, New York 10036
Medicare Coordinator, Genesee Valley Medical Care, Inc., 42 Chestnut Street, Rochester, New York 14604
Medicare Coordinator, Blue Cross/Blue Shield of Greater N.Y., 622 Third Avenue, New York, New York 10017

Medicare Coordinator, The Equitable Life Assurance Society, 1285 Avenue of the Americas, New York, New York 10019
Manager, Metropolitan Life Insurance Co., P.O. Box 393, 276 Genesee Street, Utica, New York 13503
Senior Vice President, Metropolitan Life Insurance Co., One Madison Avenue, New York, New York 10010
Medicare Coordinator, B Division, Prudential Life Insurance Company, P.O. Box 2126, High Point, North Carolina 27261
Medicare Coordinator, Blue Shield of North Dakota, 301 South Eight Street, Fargo, North Dakota 58102
Medicare System & Proc. Div., Nationwide Insurance Company, P.O. Box 57, Columbus, Ohio 43216
Department of Institutions, Social & Rehabilitative Services, Box 25352 State Capital Station, Oklahoma City, Oklahoma 73125
Medicare Claims Admin., Aetna Life & Casualty, Glenbrook Center, 1140 N.W. 63rd St. Oklahoma City, Oklahoma 73116
Medicare Claim Admin., Aetna Life & Casualty, 1500 S.W. First Avenue, Crown Plaza, Portland, Oregon 97201
Medicare Coordinator, Pennsylvania Blue Shield, Blue Shield Building, Camp Hill, Pennsylvania 17011
Chief, Internal Operations, Seguros de Servicio de Salud de Puerto Rico, Inc., G.P.O. Box 3628, San Juan Puerto Rico 00936
Medicare Coordinator, R.I. Medical Society Physicians Serv., 444 Westminster Mall, Providence, Rhode Island 02901
Medicare Coordinator, Blue Cross/Blue Shield of S.C., Drawer F Forest Acres Branch, Columbia, South Carolina 29206
Assistant Executive Director, South Dakota Medical Service, Inc., 1601 West Madison, Sioux Falls, South Dakota 57104
The Equitable Life Assurance Society, P.O. Box 1465, Nashville, Tennessee 37202
Offices Services, Group Medical & Surgical Service, P.O. Box 22147, Dallas, Texas 75222
Manager, Part B, Blue Shield of Utah, P.O. Box 3270, 2455 Parleys Way, Salt Lake City, Utah 84125
Assistant Administrator, Washington Physicians Service, 4th and Battery Building—6th Floor, 2401 4th Avenue, Seattle, Washington 98121
Medicare Coordinator, Surgical Care, The Medical Society of Milwaukee County, 401 West Michigan Street, Milwaukee, Wisconsin 53203
Director: Medicare Claims Dept, Wisconsin Physicians Service, 330 E. Lakeside Street, P.O. Box 1109, Madison, Wisconsin 53701
Field Director, Equitable Life Assurance Society, P.O. Box 628, 102 Indian Hills Shopping Center, Cheyene, Wyoming 82001
Health Care Financing Administration, Bureau of Program Operations, Group Health Plans Operations Staff, 6325 Security Blvd., Baltimore, Maryland 21207
Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611

[FR Doc. 82-21012 Filed 8-3-82; 8:45 am]
BILLING CODE 4120-03-M

Social Security Administration

Bulgaria; Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health and Human Services, and redelegated to the Director of the Office of International Policy, the Director has approved a finding that Bulgaria has a social insurance or pension system of general application in effect which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death, but that under this social insurance system citizens of the United States, who are not citizens of Bulgaria and who leave Bulgaria, are not permitted to receive such benefits or their actuarial equivalent at the full rate without qualification or restriction while outside that country. This revises our finding of May 6, 1971, that Bulgaria's social insurance system did meet both of the section 202(t)(2) requirements.

Accordingly, it is hereby determined and found that Bulgaria has in effect a social insurance or pension system which is in general application in that country and which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)), but not the requirements of section 202(t)(2)(B) of the Act (42 U.S.C. 402(t)(2)(B)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4) (A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the provisions of subparagraph (A) and (B) of section 202(t)(4) do not apply to citizens of Bulgaria.

Dated: July 16, 1982.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 82-21060 Filed 8-3-82; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1141]

Submission of Proposed Information Collections to OMB

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Robert G. Masarsky, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410,

telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from Robert G. Masarsky, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Statement of Facts and Supplement to Statement of Facts.
Office: Housing.
Form Number: None.
Frequency of Submission: On Occasion.
Affected Public: Individuals or Households.
Estimated Burden Hours: 750.
Status: Extension.
Contact: Roger G. Henderson, HUD, (202) 755–5618; Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: July 28, 1982.

Donald J. Keuch, Jr.,
Deputy Assistant Secretary for Administration.

Submission of Proposed Information Collection to OMB

Proposal: HUD Supplemental EEO–4 Form.
Office: Fair Housing and Equal Opportunity.
Form Number: EEO–4.
Frequency of Submission: On Occasion.
Affected Public: State or Local Government.
Estimated Burden Hours: 1290.
Status: New.
Contact: I. Toni Thomas, HUD, (202) 755–8697; Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: July 28, 1982.

Donald J. Keuch, Jr.,
Deputy Assistant Secretary for Administration.

[FR Doc. 82–20987 Filed 8–3–82; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Amendment to Previous Notices for Resource Management Planning in the Hollister Resource Area, Bakersfield District, California

July 27, 1982.

This notice amends the Notice of Intent (NOI) dated January 20, 1982 (Initiation of Resource Management Planning for the Hollister Resource Area, **Federal Register** /Vol. 47, No. 34/ Friday, February 19, 1982, page 7505) and the Notice of Availability dated June 17, 1982 (Planning Criteria for Coast Resource Management Plan in the Hollister Resource Area, **Federal Register** /Vol. 47, No. 122/ Thursday, June 24, 1982, page 27410).

Amendments are as follows: (1) All reference to the Coast Resource Management (RMP) or Coast Planning Area will now be referred to as the Hollister RMP and Hollister Planning Area and (2) the plan will address the management of public plands in the entire Hollister Resource Area, including Madera County and all of Fresno County (327,781 total acres).

For further information contact: David E. Howell, Area Manager, Hollister Resource Area, P.O. Box 365, Hollister, California 95023, (408) 637–8183.

Timothy R. Salt,
Acting District Manager.

[FR Doc. 82–21066 Filed 8–3–82; 8:45 am]
BILLING CODE 4310–84–M

[CA–3509]

California; Termination of Proposed Withdrawal and Reservation of Land

July 27, 1982.

Notice of Bureau of Land Management, U.S. Department of the Interior, application CA 6426 was published in the **Federal Register** on March 12, 1976, pages 10691 and 10692, FR Doc. 76–7080 and republished July 20, 1977, pages 37255 and 37256, FR Doc. 77–20827, for withdrawal and reservations of the following described land from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws for use as the selected lands in a proposed exchange with the San Diego Gas and Electric Company for other lands in Riverside County. Said exchange having been consummated conveying said land, the applicant has, therefore, cancelled its application in its entirety.

San Bernardino Meridian

T. 8 S., R. 21 E.,
Sec. 20, all;
Sec. 21, S½;
Sec. 22, all;
Sec. 23, W½, W½SE¼;
Sec. 26, W½, W½E½;
Sec. 27, all;
Sec. 28, NE¼, W½;
Sec. 29, all;
Sec. 32, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, W½, NE¼, W½.

The area aggregates 6,560 acres in Riverside County, California.

Therefore, pursuant to the regulations contained in 43 CFR 2310.2–1, these lands shall immediately be relieved of the segregative effect of the above mentioned application.

Walter F. Holmes,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–21065 Filed 8–3–82; 8:45 am]
BILLING CODE 4310–84–M

Nevada; Filing of Plat of Survey and Order Providing for Opening of Lands

July 27, 1982.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on September 27, 1982.

Mount Diablo Meridian, Nevada

T. 23 N., R. 43 E.

2. The land within the above township is about 5,300 to 6,700 ft. above sea level and is rolling land. The soil is sandy

clay loam along the bottom land and rocky in the higher elevations. Vegetation consists of sagebrush and native grass except along the river bottom which is covered with scattered meadow grass and the higher elevations which is covered with scattered to dense juniper.

Access to the township is provided by State Highway No. 8–A which enters the township in section 35 and exits in section 2. There are numerous scattered trail roads throughut the township.

The Reese River enters the township in section 35 and leaves in section 2 with a general northerly course.

Principal users of the area are ranchers and farmers.

Some mining activities are scattered throughout the township.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on September 27, 1982 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Richard G. Morrision,

Acting Chief, Division of Operations

[FR Doc. 82 21064 Filed 8–3–82; 8:45 am]

BILLING CODE 4310–84–M

[U–5496]

Utah; Termination of Classification for Multiple Use Management and Termination of Mineral Segregation: Correction

1. Pursuant to the authority delegated by Bureau Order 701 dated July 23, 1964, the notice as published in the **Federal Register**, Vol. 47, No. 83, Doc. No. 82–11614, published April 29, 1982, paragraph No. 5 is amended to read as follows:

2. The lands described in paragraph 3 of Multiple Use Classification Order U–5496, dated October 29, 1968, except for lands described in paragraph 3 of this notice, will also be open to location under the United States Mining Laws at 10:00 a.m. on May 20, 1982.

Roland G. Robinson,

State Director.

[FR Doc. 82–20996 Filed 8–3–82; 8:45 am]

BILLING CODE 4310–84–M

[W–4471–B]

Wyoming; Proposed Continuation of Public Water Reserves

July 27, 1982.

The Bureau of Land Management, U.S. Department of the Interior, proposed that the existing Public Water Reserves, withdrawn by the Executive and Secretarial Orders as indicated below, be continued in part as to the following described lands for a period of 20-years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, U.S.C. 1714:

Sixth Principal Meridian, Wyoming

1. Public Water Reserve No. 2, withdrawn by Ececutive Order of April 19, 1912, as modified June 29, 1917, and January 18, 1918.

T. 19 N., R. 88 W.,
Sec. 20, NE¼NE¼;
Sec. 22, S½NW¼, and N½SW¼;
Sec. 24, SW¼.
T. 20 N., R. 88 W.,
Sec. 10, NW¼NE¼;
Sec. 22, NE¼NE¼, and SE¼SE¼;
Sec. 26, W½NW¼, and NW¼SW¼.
T. 15 N., R. 89 W.,
Sec. 2, SW¼SW¼;
Sec. 3, lot 5, and NE¼SE¼;
Sec. 11, NW¼SW¼, S½NE¼SW¼, and N½SE¼SW¼;
Sec. 27, lot 3;
Sec. 28, SW¼, and S½SE¼.
T. 16 N., R. 89 W.,
Sec. 27, W½SW¼;
Sec. 28, SE¼NE¼.
T. 17 N., R. 89 W.,
Sec. 4, lot 11;
Sec. 6, Lot 10;
Sec. 9, SE¼SW¼, and SW¼SE¼;
Sec. 18, lot 3;
Sec. 20, W½SE¼;
Sec. 21, NE¼NE¼;
Sec. 22, NW¼NW¼, and SE¼NW¼;
Sec. 31, lot 7;
Sec. 32, lot 4.
T. 18 N., R. 89 W.,
Sec. 4, lots 8, and 9;
Sec. 6, lots 15, and 16;
Sec. 8, N½NE¼, and NE¼NW¼;
Sec. 32, lots 3, and 7.
T. 19 N., R. 89 W.,
Sec. 22, lot 3;
Sec. 28, SW¼NE¼, and N½SE¼;
Sec. 32, SW¼SW¼.
T. 14 N., R. 90 W.,
Sec. 25, NW¼;
Sec. 26, S½NE¼, NE¼SW¼, and NE¼SE¼.
T. 15 N., R. 90 W.,
Sec. 8, NE¼SW¼;
Sec. 10, SE¼NW¼, and NE¼SW¼;
Sec. 11, SE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 20, S½S½;
Sec. 23, SW¼SE¼;
Sec. 24, NW¼NE¼, and NW¼SW¼;
Sec. 29, SW¼NE¼;
Sec. 31, NW¼NE¼, and NE¼NW¼.
T. 16 N., R. 90 W.,
Sec. 1, lots 14, and 15;
Sec. 2, lot 18;
Sec. 21, SE¼SE¼
Sec. 22, SW¼SW¼, and NW¼SE¼;
Sec. 28, N½NE¼, and SE¼NW¼;
Sec. 32, NE¼NE¼.
T. 17 N., R. 90 W.,
Sec. 4, lot 2, and SE¼NE¼;
Sec. 6, lot 8, and SE¼NE¼.
T. 18 N., R. 90 W.,
Sec. 2, NW¼SW¼;
Sec. 12, SE¼.
T. 19 N., R. 90 W.,
Sec. 10, NE¼SW¼, and NW¼SE¼;
Sec. 14, NE¼NE¼;
Sec. 34, SW¼NE¼.
T. 20 N., R. 90 W.,
Sec. 28, SE¼NW¼, and N½SW¼.
T. 14 N., R. 91 W.,
Sec. 25, NW¼SE¼.
T. 15 N., R. 91 W.,
Sec. 12, SW¼SE¼;
Sec. 13, lot 1, and NW¼NE¼;
Sec. 14, NW¼SW¼;
Sec. 15, SW¼NE¼, and SE¼NW¼, and NW¼SW¼.
T. 16 N., R. 91 W.,
Sec. 1, SE¼SE¼.
T. 15 N., R. 92 W.,
Sec. 3, SE¼NE¼.
T. 16 N., R. 92 W.,
Sec. 5, SW¼SW¼;
Sec. 8, NE¼NW¼.
T. 25 N., R. 96 W.,
Sec. 23, NE¼SW¼.

The area described contains 4,620.31 acres in Carbon and Sweetwater Counties, Wyoming.

2. Public Water Reserve No. 12, withdrawn by Executive Order of December 5, 1913.

T. 38 N., R. 90 W.,
Sec. 32, NE¼SE¼.

The area described contains 40 acres in Fremont County, Wyoming.

3. Public Water Reserve No. 18, withdrawn by Executive Order of March 21, 1914, as modified June 29, 1917.

T. 26 N., R. 75 W.,
Sec. 10, NW¼NE¼;
Sec. 13, SW¼NE¼.
T. 27 N., R. 84 W.,
Sec. 2, SW¼SE¼.
T. 27 N., R. 86 W.,
Sec. 30, lot 2.
T. 26 N., R. 87 W.,
Sec. 11, SE¼SE¼.
T. 27 N., R. 87 W.,
Sec. 20, NE¼NW¼, and NE¼SE¼;
Sec. 21, SW¼SW¼;
Sec. 24, SW¼SW¼;
Sec. 25, SW¼SE¼;
Sec. 26, W½NW¼;
Sec. 27, NW¼SW¼, SE¼SW¼, and S½SE¼;
Sec. 28, NW¼NW¼, and NE¼SE¼;
Sec. 35, SW¼NE¼, and N½NW¼.
T. 26 N., R. 88 W.,
Sec. 1, lot 2.
T. 27 N., R. 88 W.,
Sec. 23, SE¼NE¼.
T. 13 N., R. 89 W.,
Sec. 4, lot 3.
T. 14 N., R. 89 W.,

Sec. 10, SW¼NW¼;
Sec. 17, NE¼NE¼;
Sec. 28, SW¼NW¼;
Sec. 32, SW¼NE¼, SE¼NW¼, and NE¼SE¼;
Sec. 33, Lot 3.
T. 13 N., R. 90 W.,
Sec. 17, SE¼SE¼.
T. 27 N., R. 92 W.,
Sec. 12, NE¼NW¼, and SW¼NW¼.
T. 27 N., R. 93 W.,
Sec. 14, NE¼SE¼.

The area described contains 1,405.99 acres in Albany, Carbon, and Fremont Counties, Wyoming.

4. Public Water Reserve No. 23, withdrawn by Executive Order of October 23, 1914.

T. 29 N., R. 86 W.,
Sec. 13, NE¼SW¼;
Sec. 27, NE¼NE¼.

The area described contains 80 acres in Natrona County, Wyoming.

5. Public Water Reserve No. 32, withdrawn by Executive Order of February 29, 1916.

T. 15 N., R. 72 W.,
Sec. 20, NE¼NW¼.
T. 19 N., R. 72 W.,
Sec. 12, E½NW¼.
T. 25 N., R. 81 W.,
Sec. 34, NW¼SE¼.

The area described contains 160 acres in Albany and Carbon Counties, Wyoming.

6. Public Water Reserve No. 58, withdrawn by Executive Order of February 25, 1919.

T. 13 N., R. 90 W.,
Tract 37 (Sec. 6).
T. 14 N., R. 90 W.,
Sec. 21, NE¼NE¼.
T. 27 N., R. 92 W.,
Sec. 10, SE¼NE¼.

The area described contains 120 acres in Carbon and Fremont Counties, Wyoming.

7. Public Water Reserve No. 64, withdrawn by Executive Order of June 5, 1919.

T. 32 N., R. 99 W.,
Sec. 7, lots 1, 2, and E½NW¼.
T. 32 N., R. 100 W.,
Sec. 1, SE¼SW¼, and W½SE¼;
Sec. 12, NE¼.

The area described contains 460.22 acres in Fremont County, Wyoming.

8. Public Water Reserve No. 87, withdrawn by Executive Order of November 9, 1923.

T. 33 N., R. 92 W.,
Sec. 8, NE¼SE¼.

The area described contains 40 acres in Fremont County, Wyoming.

9. Public Water Reserve No. 107, withdrawn by Secretarial Order of January 18, 1930.

T. 20 N., R. 75 W.,
Sec. 24.

The area described contains 640 acres in Albany County, Wyoming.

10. Public Water Reserve No. 107, withdrawn by Secretarial Order of June 5, 1930.

T. 26 N., R. 87 W.,
Sec. 21, S½NE¼, NW¼SW¼, and SE¼NW¼.
T. 21 N., R. 88 W.,
Sec. 2, N½SE¼, and SE¼SE¼.
T. 28 N., R. 88 W.,
Sec. 3, lots 3, 4, and SW¼NW¼.
T. 29 N., R. 88 W.,
Sec. 35, SW¼.

The area described contains 558.20 acres in Carbon and Natrona Counties, Wyoming.

11. Public Water Reserve No. 136, withdrawn by Executive Order No. 5495, of November 22, 1930.

T. 17 N., R. 86 W.,
Sec. 28, SW¼SE¼.

The area described contains 40 acres in Carbon, Wyoming.

12. Public Water Reserve No. 138, withdrawn by Executive Order No. 5594, of April 6, 1931.

T. 29 N., R. 99 W.,
Sec. 30, SE¼NW¼, and NE¼SW¼.
T. 29 N., R. 100 W.,
Sec. 26, S½NE¼.

The area described contains 160 acres in Fremont County, Wyoming.

13. Public Water Reserve No. 107, withdrawn by Secretarial Order of April 8, 1932.

T. 28 N., R. 87 W.,
Sec. 31, SW¼NE¼, and SE¼;
Sec. 32, NW¼NE¼, and W½SW¼.
T. 29 N., R. 87 W.,
Sec. 31, lots 3, 4, and E½SW¼.
T. 27 N., R. 88 W.,
Sec. 11, SW¼SW¼, and N½SE¼.

The area described contains 599.29 acres in Natrona and Carbon Counties, Wyoming.

14. Public Water Reserve No. 107, withdrawn by Secretarial Order of February 15, 1933, as modified April 7, 1945.

T. 28 N., R. 86 W.,
Sec. 6, lot 3;
Sec. 18, NE¼NE¼, and SE¼NW¼.
T. 29 N., R. 86 W.,
Sec. 27, Lot 11;
Sec. 32, SW¼SW¼;
Sec. 33, SW¼NE¼.

The area described contains 249.13 acres in Carbon and Natrona Counties, Wyoming.

15. Public Water Reserve No. 107, withdrawn by Secretarial Order of August 23, 1933.

T. 30 N., R. 95 W.,
Sec. 3, lot 2.
T. 31 N., R. 95 W.,
Sec. 34, SE¼SW¼, and SW¼SE¼.

The area described contains 119.55 acres in Fremont County, Wyoming.

16, Public Water Reserve No. 107, withdrawn by Secretarial Order of September 25, 1933.

T. 25 N., R. 85 W.,
Sec. 26, SE¼SE¼.
T. 30 N., R. 91 W.,
Sec. 29, NW¼NW¼.
T. 34 N., R. 91 W.,
Sec. 23, NW¼NW¼.

The area described contains 120 in Carbon and Fremont Counties, Wyoming.

16. Public Water Reserve No. 107, withdrawn by Secretarial Order of September 29, 1933.

T. 27 N., R. 91 W.,
Sec. 9, lots 1, 2, E½NW¼, and NE¼SW¼;
Sec. 18 lots 3, and 4;
Sec. 21, N½SW¼, and SW¼SW¼;
Sec. 22, SW¼NW¼, and NW¼SW¼.

The area described contains 468.17 acres in Fremont County, Wyoming.

17. Public Water Reserve No. 107, withdrawn by Secretarial Order of November 24, 1933.

T. 27 N., R. 91 W.,
Sec. 13, W½SW¼.

The area described contains 80 acres in Fremont County, Wyoming.

18. Public Water Reserve No. 107, withdrawn by Secretarial Order of March 8, 1934.

T. 26 N., R. 86 W.,
Sec. 31, NE¼SW¼.

The area described contains 40 acres in Carbon County, Wyoming.

19. Public Water Reserve No. 107, withdrawn by Secretarial Order of August 22, 1934.

T. 30 N., R. 86 W.,
Sec. 28, lots 2, and 3.
T. 40 N., R. 93 W.,
Sec. 19, NE¼SE¼.

The area described contains 117.96 acres in Fremont and Natrona Counties, Wyoming.

20. Public Water Reserve No. 107, withdrawn by Secretarial Order of August 30, 1934.

T. 25 N., R. 88 W.,
Sec. 35, SE¼SE¼.

The area described contains 40 acres in Carbon County, Wyoming.

21. Public Water Reserve No. 107, withdrawn by Secretarial Order of November 19, 1934.

T. 23 N., R. 88 W.,
Sec. 6, NE¼SE¼,
Sec. 8, SW¼SW¼.

The area described contains 80 acres in Carbon County, Wyoming.

22. Public Water Reserve No. 107, withdrawn by Executive Order of March 28, 1935.

T. 32 N., R. 94 W.,
Sec. 6, lots 6, 7, E½SW¼, and W½SE¼;
Sec. 7, lots 1, 2, W½NE¼, and E½NW¼.

T. 32 N., R. 95 W.,
Sec. 12, NE¼NE¼.

The area described contains 512.84 acres in Fremont County, Wyoming.

23. Public Water Reserve No. 3, withdrawn by Secretarial Order of May 10, 1935.

T. 24 N., R. 97 W.,
Sec. 12, lots 4, 5, 7, 8, and 9;
Sec. 25, NE¼SW¼, and S½SW¼;
Sec. 26, SE¼SE¼;
Sec. 35, lots 1, 2, 3, 6, and SW¼NE¼.

The area described contains 513.99 acres in Sweetwater County, Wyoming.

24. Public Water Reserve No. 107, withdrawn by Secretarial Order of May 14, 1935.

T. 24 N., R. 88 W.,
Sec. 30, SE¼NW¼.
T. 25 N., R. 89 W.,
Sec. 11, SW¼NE¼.
T. 32 N., R. 99 W.,
Sec. 13, NW¼NE¼.

The area described contains 120 acres in Carbon and Fremont Counties, Wyoming.

25. Public Water Reserve No. 107, withdrawn by Secretarial Order of March 19, 1936.

T. 19 N., R. 88 W.,
Sec. 34, NE¼SE¼.

The area described contains 40 acres in Carbon County, Wyoming.

26. Public Water Reserve No. 107, withdrawn by Secretarial Order of September 14, 1936.

T. 26 N., R. 89 W.,
Sec. 25, SE¼NE¼.
T. 31 N., R. 93 W.,
Sec. 19, lot 1;
Sec. 20, SE¼NW¼.

The area described contains 122.68 acres in Carbon and Fremont Counties, Wyoming.

27. Public Water Reserve No. 107, withdrawn by Secretarial Order of March 18, 1939.

T. 30 N., R. 97 W.,
Sec. 20, NW¼NE¼.

The area described contains 40 acres in Fremont County, Wyoming.

28. Public Water Reserve No. 107, withdrawn by Secretarial Order of January 16, 1940.

T. 25 N., R. 86 W.,
Sec. 6, SW¼SE¼.
T. 16 N., R. 91 W.,
Sec. 27, SW¼SE¼.
T. 28, NW¼NE¼.

The area described contains 120 acres in Carbon County, Wyoming.

29. Public Water Reserve No. 107, withdrawn by Secretarial Order of October 2, 1940.

T. 26 N., R. 79 W.,
Sec. 13, NW¼NE¼.
T. 16 N., R. 91 W.,
Sec. 27, W½NE¼.
T. 30 N., R. 95 W.,
Sec. 1, SE¼SW¼.

The area described contains 160 acres in Carbon and Fremont Counties, Wyoming.

30. Public Water Reserve No. 107, withdrawn by Secretarial Order of November 23, 1940, as modified January 15, 1946.

T. 25 N., R. 87 W.,
Sec. 4, lot 4;
Sec. 5, lot 1.
T. 26 N., R. 87 W.,
Sec. 6, lots 3, and 4.
T. 27 N., R. 87 W.,
Sec. 31, lots 1 to 4, inclusive and E½NW¼.
T. 26 N., R. 88 W.,
Sec. 2, lot 1;
Sec. 13, SE¼NE¼.

The area described contains 485.66 acres in Carbon County, Wyoming.

31. Public Water Reserve No. 107, withdrawn by Secretarial Order of January 30, 1941, as modified January 15, 1946.

T. 25 N., R. 87 W.,
Sec. 2, NW¼SW¼,
Sec. 3, lot 9.

The area described contains 78.24 acres in Carbon County, Wyoming.

32. Public Water Reserve No. 107, withdrawn by General Land Office Order of September 27, 1941.

T. 29 N., R. 95 W.,
Sec. 34, NE¼SW¼,
Sec. 35, SE¼SE¼.
T. 28 N., R. 96 W.,
Sec. 27, SW¼NW¼.

The area described contains 120 acres in Fremont County, Wyoming.

33. Public Water Reserve No. 107, withdrawn by General Land Office Order of October 11, 1941.

T. 20 N., R. 72 W.,
Sec. 30, NE¼NW¼.

The area described contains 40 acres in Albany County, Wyoming.

34. Public Water Reserve No. 107, withdrawn by General Land Office Order of March 19, 1942.

T. 31 N., R 98 W.,
Sec. 9, NE¼NE¼.

The area described contains 40 acres in Fremont County, Wyoming.

35. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of November 21, 1949.

T. 12 N., R. 92 W.,
Sec. 14, SW¼SW¼.

The area described contains 40 acres in Carbon County, Wyoming.

36. Public Water Reserve No. 107, withdrawn by Secretarial Order of June 11, 1950.

T. 32 N., R. 88 W.,
Sec. 10, SW¼SW¼,
Sec. 15, NW¼NW¼.

The area described contains 80 acres in Natrona County, Wyoming.

37. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of June 20, 1955.

T. 17 N., R. 95 W.,
Sec. 24, SE¼SW¼; and SW¼SE¼.

The area described contains 80 acres in Sweetwater County, Wyoming.

38. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of September 18, 1959.

T. 33 N., R. 89 W.,
Sec. 18, NE¼SW¼.
T. 32 N., R. 98 W.,
Sec. 1, SW¼SW¼;
Sec. 21, NW¼SE¼;
Sec. 27, NW¼NE¼.
T. 33 N., R. 98 W.,
Sec. 1, lot 2.
T. 32 N., R. 99 W.,
Sec. 1, SW¼NE¼.

The area described contains 240.34 acres in Fremont County, Wyoming.

39. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of October 26, 1959.

T. 28 N., R. 97 W.,
Sec. 4, NW¼SE¼;
Sec. 9, NE¼SW¼;
Sec. 11, SE¼NE¼, and SW¼NW¼;
Sec. 15, NW¼NW¼;
Sec. 17, NE¼NW¼, and SW¼NW¼;
Sec. 19, SE¼SE¼;
Sec. 21, SE¼NW¼;
Sec. 23, S½SE¼;
Sec. 25, E½NE¼.
T. 29 N., R. 97 W.,
Sec. 29, NW¼NE¼;
Sec. 31, NE¼NW¼;
Sec. 33, NE¼NE¼.
T. 28 N., R. 98 W.,
Sec. 14, S½NW¼;
Sec. 22, SE¼NW¼.
T. 30 N., R. 98 W.,
Sec. 35, SE¼NW¼.
T. 31 N., R. 98 W.,
Sec. 7, lot 4;
Sec. 23, NE¼NW¼;
Sec. 30, lot 1.
T. 31 N., R. 99 W.,
Sec. 1, SW¼NW¼;
Sec. 2, SE¼NE¼;
Sec. 14, SE¼NE¼.

The area described contains 1,048.20 acres in Fremont County, Wyoming.

40. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of November 23, 1959.

T. 32 N., R. 89 W.,
Sec. 10, SW¼SE¼;
Sec. 15, NW¼NE¼.
T. 31 N., R. 90 W.,
Sec. 13, SW¼SE¼;
Sec. 24, NE¼NW¼.
T. 32 N., R. 90 W.,
Sec. 22, SW¼SE¼;
Sec. 25, SW¼NW¼;

Sec. 28, SW¼NW¼.
T. 31 N., R. 92 W.,
Sec. 29, NE¼SW¼.
T. 31 N., R. 93 W.,
Sec. 17, SW¼NW¼;
Sec. 27, SW¼SE¼.
T. 32 N., R. 93 W.,
Sec. 7, NE¼NE¼;
Sec. 14, SW¼NE¼, and SW¼NW¼;
Sec. 18, lot 2.
T. 33 N., R. 93 W.,
Sec. 32, SE¼NW¼.
T. 32 N., R. 95 W.,
Sec. 24, NW¼SE¼.

The area described contains 639.89 acres in Fremont and Natrona Counties, Wyoming.

41. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of March 27, 1963.

T. 32 N., R. 90 W.,
Sec. 7, NW¼NW¼SE¼.

The area described contains 10 acres in Fremont County, Wyoming.

42. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of February 20, 1967.

T. 27 N., R. 92 W.,
Sec. 13, NW¼SW¼;
Sec. 14, NE¼SE¼.

The area described contains 80 acres in Fremont County, Wyoming.

43. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of May 26, 1967.

T. 28 N., R. 93 W.,
Sec. 34, SW¼SE¼.

The area described contains 40 acres in Fremont County, Wyoming.

44. Public Water Reserve No. 107, withdrawn by Bureau of Land Management Order of February 11, 1975.

T. 36 N., R. 93 W.,
Sec. 5, NE¼SE¼.

The area described contains 40 acres in Fremont County, Wyoming.

45. Public Water Reserve No. 107, not previously noted on the official land office records.

T. 25 N., R. 78 W.,
Sec. 20, SW¼NE¼.
T. 28 N., R. 78 W.,
Sec. 14, SW¼NW¼, E½NW¼SW¼, and W½NE¼SW¼;
Sec. 22, SE¼NE¼.
T. 27 N., R. 79 W.,
Sec. 2, SW¼SW¼;
Sec. 35, SE¼SE¼.
T. 25 N., R. 80 W.,
Sec. 8, NW¼SW¼.
T. 28 N., R. 80 W.,
Sec. 33, SE¼SW¼.
T. 25 N., R. 81 W.,
Sec. 1, NW¼SW¼;
Sec. 34, NW¼SW¼.
T. 28 N., R. 81 W.,
Sec. 26, NE¼NW¼;
Sec. 35, SW¼NW¼.
T. 26 N., R. 82 W.,
Sec. 17, S½NE¼NE¼, and N½SE¼NE¼.
T. 27 N., R. 82 W.,
Sec. 11, S½NW¼SW¼, and N½SW¼SW¼.
T. 18 N., R. 83 W.,
Sec. 33, NE¼SW¼.
T. 25 N., R. 83 W.,
Sec. 1, SE¼SE¼;
Sec. 17, SW¼SW¼.
T. 26 N., R. 83 W.,
Sec. 20, W½SW¼NE¼, and E½SE¼NW¼;
Sec. 30, SE¼SE¼;
Sec. 35, E½SW¼NW¼, and W½SE¼NW¼.
T. 27 N., R. 83 W.,
Sec. 20, SE¼NW¼.
T. 28 N., R. 83 W.,
Sec. 5, SW¼NE¼SW¼, SE¼NW¼SW¼, NE¼SW¼SW¼, and NW¼SE¼SW¼.
T. 25 N., R. 84 W.,
Sec. 14, NW¼NW¼.
T. 27 N., R. 84 W.,
Sec. 2, SW¼SW¼;
Sec. 25, NE¼NE¼.
T. 25 N., R. 85 W.,
Sec. 8, NW¼NE¼, and NW¼NW¼.
T. 25 N., R. 86 W.,
Sec. 23, E½NE¼NW¼, and W½NW¼NE¼;
Sec. 26, NW¼NW¼;
Sec. 29, SE¼SW¼.
T. 26 N., R. 86 W.,
Sec. 6, S½NW¼SE¼, and N½SW¼SE¼;
Sec. 35, SW¼SE¼.
T. 27 N., R. 86 W.,
Sec. 31, SW¼SE¼.
T. 25 N., R. 87 W.,
Sec. 4, NW¼SW¼.
T. 26 N., R. 87 W.,
Sec. 9, NE¼SW¼.
T. 27 N., R. 87 W.,
Sec. 2, lot 4;
Sec. 28, SW¼NE¼.
T. 28 N., R. 87 W.,
Sec. 26, N½NW¼SW¼, and S½SW¼NW¼;
Sec. 34, SW¼NW¼, and N½SE¼.
T. 23 N., R. 88 W.,
Sec. 34, W½NE¼.
T. 27 N., R. 88 W.,
Sec. 8, NE¼SE¼;
Sec. 9, SE¼NW¼NE¼, NE¼SW¼NE¼, NW¼SE¼NE¼ and SW¼NE¼NE¼;
Sec. 11, SE¼SW¼, and S½SE¼.
T. 14 N., R. 89 W.,
Sec. 34, SW¼SE¼.
T. 14 No., R. 90 W.,
Sec. 33, NE¼SE¼.
T. 16 N., R. 89 W.,
Sec. 7, W½NE¼.
T. 17 N., R. 89 W.,
Sec. 27, NE¼SE¼.
T. 28 N., R. 89 W.,
Sec. 5, lot 10.
T. 16 N., R. 90 W.,
Sec. 1, NW¼SE¼;
Sec. 10, S½NW¼NE¼, and N½SW¼NE¼;
Sec. 30, E½SW¼SW¼, and W½SE¼SW¼;
Sec. 29, E½NW¼NW¼, and W½NE¼NW¼.
T. 17 N., R. 90 W.,
Sec. 8, SW¼NE¼;
Sec. 21, SE¼NW¼;
Sec. 29, SW¼NE¼.
T. 13 N., R. 91 W.,
Sec. 23, SE¼NW¼.
T. 15 N., R. 91 W.,
Sec. 25, lot 3, and SW¼NE¼.
T. 16 N., 91 W.,
Sec. 2, NW¼SW¼;
Sec. 16, SE¼SE¼;
Sec. 22, NW¼SW¼, and SW¼SW¼;
Sec. 27, NW¼NW¼;
Sec. 28, NE¼NE¼, SW¼NE¼, NE¼SW¼, and SW¼SW¼.
T. 17 N., R. 91 W.,
Sec. 14, SW¼SE¼.
T. 13 N., R. 92 W.,
Sec. 7, SE¼SW¼.
T. 13 N., R. 93 W.,
Sec. 13, SE¼SW¼,
Sec. 31, SE¼NW¼.
T. 14 N., R. 93 W.,
Sec. 6, lots 2, and 3;
Sec. 8, NW¼SW¼;
Sec. 11, SW¼NW¼;
Sec. 13, NE¼NW¼;
Sec. 25, NE¼SW¼;
Sec. 30, NW¼SE¼.
T. 13 N., R. 94 W.,
Sec. 1, NE¼SW¼;
Sec. 14, SE¼SE¼;
Sec. 16, SE¼NW¼;
Sec. 17, NE¼SE¼;
Sec. 20, S½NW¼;
Sec. 22, SE¼NE¼, NW¼SW¼, and NW¼SE¼;
Sec. 23, NE¼NE¼, and SE¼NW¼.
T. 14 N., R. 94 W.,
Sec. 12, SW¼SE¼;
Sec. 31, lot 3.
T. 13 N., R. 95 W.,
Sec. 14, NW¼SW¼;
Sec. 16, SW¼NE¼;
Sec. 17, NW¼NE¼, SE¼NW¼, and NW¼SW¼;
Sec. 18, SE¼SW¼;
Sec. 28, NW¼SE¼.
T. 14 N., R. 95 W.,
Sec. 36, NW¼SE¼.
T. 13 N., R. 96 W.,
Sec. 15, SW¼NE¼;
Sec. 23, NW¼SE¼;
Sec. 29, NE¼NW¼.
T. 23 N., R. 96 W.,
Sec. 25, N½NW¼.
T. 12 N., R. 97 W.,
Sec. 1, S½SE¼SW¼, and S½n½SE¼SW¼.
T. 26 N., R. 97 W.,
Sec. 31, lots 1, and 2;
Sec. 32, SW¼NW¼.
T. 13 N., R. 98 W.,
Sec. 18, lot 2.
T. 14, N., R. 98 W.,
Sec. 6, lot 7.
T. 13 N., R. 99 W.,
Sec. 12, NE¼NE¼.
T. 14 N., R. 99 W.,
Sec. 4, SE¼SW¼;
Sec. 9, SW¼NE¼, and SE¼NW¼;
Sec. 15, SE¼SE¼, and NW¼SE¼;
Sec. 25, SW¼SE¼.

The area described aggregates 4,888.68 acres in Carbon and Sweetwater Counties, Wyoming.

The purposes of the withdrawal is to protect existing permanent water sources. The lands are currently segregated from operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws but not he mineral leasing laws. Upon the Secretary's approval of the proposed withdrawal, all of the lands except those described in paragrapphs 46 and 47 below, will be

opened to nonmetalliferous mineral location.

46. The following described lands will remain segregated from nonmetalliferous mineral location, either by other existing withdrawals, classifications, or lands reconveyed to the United States, surface only, or without previously reserved locatable minerals.

T. 32 N., R. 88 W.,
Sec. 10, SW¼ SW¼;
Sec. 15 NW¼ NW¼.
T. 14 N., R. 89 W.,
Sec. 10, SW¼ NW¼;
Sec. 17, NE¼ NE¼;
Sec. 28, SW¼ NW¼;
Sec. 32, SW¼NE¼, SE¼ NW¼, and NE¼ SE¼;
Sec. 33, lot 3.
T. 13 N, R. 90 W.;
Sec. 17, SE¼ SE¼.,
T. 14 N., R. 90 W.,
Sec. 21, NE¼NE¼;
Sec. 25, NW¼
Sec. 26, S½ NE¼,NE¼SW¼, and NE¼ SE¼.
T. 15 N., R. 90.,
Sec. 8, NE¼SW¼;
Sec. 10, SE¼NW¼, and NE¼SW¼;
Sec. 11, SE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 20, S½ S½;
Sec. 23, SW¼SE¼;
Sec. 24, NW¼NE¼, and NW¼SW¼;
Sec. 29, SW¼NE¼;
Sec. 31, NW¼NE¼, and NE¼NW¼;
T. 16 N., R. 90 W.,
Sec. 10, S½ NW¼, NE¼, and N½SW¼NE¼;
Sec. 20, E½SW¼, SW¼, and W½SE¼AW¼;
Sec. 21, SE¼SE¼;
Sec. 22, SW¼SW¼, and NW¼SE¼;
Sec. 28, N½NE¼, and SE¼NW¼;
Sec. 29, E½NW¼, NW¼, and W½NE¼NW¼.
T. 17 N., R. 90 W.,
Sec. 4, lot 2, and SE¼NE¼;
Sec. 6, lot 8, and SE¼NE¼;
Sec. 8, SW¼NE¼;
Sec. 21, SE¼NW¼;
Sec. 29, SW¼NE¼.
T. 18 N., R. 90 W.,
Sec. 2, NW¼SW¼;
Sec. 12, SE¼.
T. 19 N., R. 90 W.,
Sec. 10, NE¼SW¼, and NW¼SE¼;
Sec. 14, NE¼NE¼;
Sec. 34, SW¼NE¼.
T. 20 N., R. 90 W.,
Sec. 28, SE¼NW¼, and N½SW¼.
Sec. 25, NW¼SE¼.
Sec. 11, SE¼SE¼;
T. 27 N., R. 91 W.,
Sec. 9, N½N½NW¼.
T. 13 N., R. 92 W.,
Sec. 7, SE¼SW¼.
T. 15 N., R 92 W.,
Sec. 3, SE¼NE¼.
T. 13 N. R. 93 W.,
Sec. 13, SE¼SW¼;
Sec. 31, SE¼NW¼.
T. 14 N., R. 93 W.,
Sec. 6, lots 2, and 3;
Sec. 8, NW¼SW¼;
Sec. 11, SW¼NW¼;
Sec. 13, NE¼NW¼;
Sec. 25, NE¼SW¼;
Sec. 30, NW¼SE¼.
T. 13 N., R. 94 W.,
Sec. 1, NE¼SW¼;
Sec. 14, SE¼SE¼;
Sec. 16, SE¼NW¼;
Sec. 17, NE¼SE¼;
Sec. 20, S½NW¼;
Sec. 22, SE¼NE¼, NW¼SW¼, and NW¼SE¼;
Sec. 23, NE¼NE¼, and SE¼NW¼.
T. 14 N., R. 94 W.,
Sec. 12, SW¼SE¼;
Sec. 31, lot 3.
T. 13 N., R. 95 W.,
Sec. 14, NW¼SW¼;
Sec. 16, SW¼NE¼;
Sec. 17, NW¼NE¼, SE¼NW¼, and NW¼SW¼;
Sec. 18, SE¼SW¼;
Sec. 28, NW¼SE¼.
T. 14 N., R. 95 W.,
Sec. 36, NW¼SE¼.
T. 17 N., R. 95 W.,
Sec. 24, SE¼SW¼, and SW¼SE¼.
T. 13 N., R. 96 W.,
Sec. 15, SW¼NE¼;
Sec. 23, NW¼SE¼;
Sec. 29, NE¼NW¼.
T. 23 N., R. 96 W.,
Sec. 25, N½NW¼.
T. 12 N., R. 97 W.,
Sec. 1, S½SE¼SW¼, and S½N½SE¼SW¼.
T. 13 N., R. 98 W.,
Sec. 18, lot 2.
T. 14 N., R. 98 W.,
Sec. 6, lot 7.
T. 13 N., R. 99 W.,
Sec. 12, NE¼NE¼.
T. 14 N., R. 99 W.,
Sec. 4, SE¼SW¼;
Sec. 9, SW¼NE¼, and SE¼NW¼;
Sec. 15, SE¼SE¼, and NW¼SE¼;
Sec. 25, SW¼SE¼.

The area described contains 4,469.73 acres in Carbon, Fremont, and Sweetwater Counties, Wyoming.

47. The following Public Water Reserves will remain segregated from nonmetalliferous mineral location. These lands contain nonmetalliferous minerals. The exploration for and development of would cause irreparable damage to an important water source.

T. 33 N., R. 93 W.,
Sec. 32, SE¼NW¼.
T. 32 N., R. 95 W.,
Sec. 12, NE¼NE¼;
Sec. 24, NW¼SE¼.
T. 31 N., R. 98 W.,
Sec. 7, lot 4;
Sec. 23, NE¼NW¼.
T. 32 N., R. 98 W.,
Sec. 21, NW¼SE¼;
Sec. 27, NW¼NE¼.
T. 31 N., R. 99 W.,
Sec. 14, SE¼NE¼.
T. 32 N., R. 99 W.,
Sec. 7, lots 1, 2, and E½NW¼.

The area described contains 504,00 acres in Fremont County, Wyoming.

Notice is hereby given, that a public meeting may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire a meeting to be held on the proposal must submit a written request for a meeting to the undersigned on or before November 2, 1982. Upon the determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting shall be published in the **Federal Register** and in at least one newspaper, having a general circulation in the vicinity of lands involved, at least 30-days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before November 2, 1982.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-21041 Filed 8-3-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-188N)]

Conrail Abandonment Between Ellendale and Milton, DE; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Ellendale and Milton in the County of Sussex, DE, a total distance of 6.8 miles effective on March 26, 1982.

The net liquidation value of this line is $73,150. 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. 82-20993 Filed 8-2-82; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

July 29, 1982.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43970-1, Union Pacific Railroad Company (CNE-NC 4171), new, reduced rates on barley and wheat, minimum 292 net tons in not more than 3 cars, from Clarke and Hinkle, OR, to Albina and Portland, OR, and Kalama, Longview, Rivergate, St. John and Vancouver, WA, in Supplement 84 to ICC NPCF 4010-A of North Pacific Coast Freight Bureau, Agent, effective July 12, 1982. Grounds for relief—market competition.

This application was received by the Commission's Suspension Board on July 12, 1982. This precluded the Board from publishing the requested relief in the Federal Register in time to give interested parties an opportunity to protest.

By action of July 26, 1982, the Commission, Suspension Board, Members Fitzgerald, Halvarson, and Hall, concluded to grant the requuested relief in Long-And-Short-Haul Order No. 20692, subject to the provisio that the authority would expire 45 days' from July 26, 1982. This notice is to advise that the Commission's Suspension Board will reopen this proceeding on its own motion (if not protested), to consider the expiration date of this authority. Interested parties wishing to object may file objections with the Suspension Board not later than the 10th day before the expiration date.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-20994 Filed 8-3-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be statisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after the publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office (202) 275-7326.

Volume No. OP1-130

Decided: July 27, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 113271 (Sub-91), filed July 19, 1982. Applicant: TRANSYSTEMS INC., 1627 3rd St., N.W., Great Falls, MT 59404. Representative: Kenneth G. Thomas (same address as applicant), (406) 727-7500. Transporting *food and related products,* between points in MT and UT.

MC 126091 (Sub-25), filed July 22, 1982. Applicant: FRALEY & SCHILLING, INC., c/o General Delivery, Rushville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *waste or scrap materials* not identified by industry producing, between points in IN, OH, MI, WV, TN, KY, NY, IL, WI, IA, MS, MO, PA, NJ, MD, AL, and VA.

MC 141870 (Sub-9), filed June 28, 1982. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205) 578-3212. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Carrier Service, of Anaheim, CA.

MC 141870 (Sub-10), filed June 28, 1982. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401, (205) 578-3212. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. A. Tucker Co., of Westville, NJ.

MC 144011 (Sub-11), filed July 12, 1982. Applicant: HALL SYSTEMS, INC., 214 South 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203, (205) 251-5223. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Shreveport, LA, and Lufkin, TX, from Shreveport, LA, over U.S. Hwy 79 to

junction TX Hwy 315, then over TX Hwy 315 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Lufkin, TX, and return over the same route, (2) between Logansport, LA and Lufkin, TX, (a) from Logansport, LA, over U.S. Hwy 84 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Lufkin, TX, and return over the same route, and (b) from Logansport, LA, over U.S. Hwy 84 to junction TX Hwy 7, then over TX Hwy 7 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Lufkin, TX, and return over the same route, (3) between Many, LA, and Lufkin, TX, from Many, LA, over LA Hwy 6 to junction TX Hwy 21, then over TX Hwy 21 to junction TX Hwy 103, then over TX Hwy 103 to Lufkin, TX, and return over the same route, (4) between Leesville, LA, and Lufkin, TX, from Leesville, LA, over LA Hwy 8 to junction TX Hwy 63, then over TX Hwy 63 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Lufkin, TX, and return over the same route, (5) between Merryville, LA, and Lufkin, TX, from Merryville, LA, over U.S. Hwy 190 to junction TX Hwy 63, then over TX Hwy 63 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Lufkin, TX, and return over the same route, and (6) between Lake Charles, LA, and Lufkin, TX, from Lake Charles, LA, over U.S. Hwy 90 and Interstate Hwy 10 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Lufkin, TX, and return over the same route, serving all intermediate points in routes (1) through (6) above.

MC 145870 (Sub-24), filed July 22, 1982. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, N.W., Washington, DC 20005, (202) 296–5183. Transporting *commodities which because of their size or weight require the use of special equipment or handling, metal products, machinery, lumber and wood products, and chemicals and related products,* between points in the U.S. (except AK and HI).

MC 152330 (Sub-4), filed July 22, 1982. Applicant: GLACIER CARRIERS, P.O. Box 490, Columbia Falls, MT 59912. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717 17th St., Denver, CO 80202–3357, (303) 892–6700. Transporting *metal products,* between points in PA, WV, NJ, IL, OH, MI, IN, WI, ND, SD, MT, WY, CO, ID, WA, OR, and CA.

MC 156861 (Sub-1), filed July 21, 1982. Applicant: METROPLEX SIGHTSEEING SERVICE, INC, 1111 West Lancaster, Fort Worth, TX 76102. Representative: Hugh T. Matthews, 555 Griffin Square, Suite 850, Dallas, TX 75202, (214) 742–9175. Transporting *passenger and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in the U.S. (except AK and HI).

MC 160321 (Sub-1), filed July 19, 1982. Applicant: SHAWNEE EXPRESS, INC., P.O. Box 486, Herrin, IL 62948. Representative: Robert T. Lawley, 300 Reish Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *bentonite clay,* between points in Richland County, IL, on the one hand, and, on the other, points in Marion County, IL.

MC 160951 (Sub-1), filed July 16, 1982. Applicant: A. M. EXPRESS, INC, 18603 Harrison, Lowell, IN 46356. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603, (312) 236–9375. Transporting *ores and minerals,* between points in IL and IN.

MC 161270, filed July 21, 1982. Applicant: SERVANDO RAMOS ISLAS, d.b.a. VEGAS ONE, 12600 South La Cadena Drive, Colton, CA 92324. Representative: Servando Ramos Islas (same address as applicant), (714) 783–1294. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ and NV.

MC 163010, filed July 16, 1982. Applicant: DIXIE EXPRESS, INC., 6641 Hughes Street, Jacksonville, FL 32219. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202, (904) 632–2300. 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 United Facilities, Inc., of Jacksonville, FL.

MC 163071, filed July 22, 1982. Applicant: HARVEY AND SONS MOVING AND STORAGE COMPANY, 2528 Gasser Boulevard, Rocky River, OH 44116. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *household goods and office furniture,* between points in CT, DE, FL, GA, IL, IN, IA, KY, MD, MA, MI, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI and DC

Volume No. OP2–168

Decided: July 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 52793 (Sub-102), filed July 1, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same as applicant), (312) 547–2184. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Abex Corporation, of New York, NY.

MC 70172 (Sub-8), filed June 30, 1982. Applicant: B. J. KIRK TRANSPORTATION CO., 672 Roosevelt Ave., Pawtucket, RI 02860. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852, (401) 884–0969. Transporting (1) *such commodities* as are dealt in or used by department stores, between points in Providence County, RI, on the one hand, and, on the other, points in Bristol and Middlesex Counties, MA, and (2) *malt beverages,* between points in Providence County, RI, on the one hand, and, on the other, points in Onondaga County, NY.

MC 111432 (Sub-26), filed July 15, 1982. Applicant: FRANK J. SIBR & SONS, INC., 2122 York Rd., Suite 100, Oak Brook, IL 60521. Representative: Gary L. Smith, 913 South 6th St., Springfield, IL 62703, 217–753–3925. Transporting *commodities in bulk,* between points in the U.S., under continuing contract(s) with Farmland Industries, Inc., of Kansas City, MO.

MC 117303 (Sub-20), filed July 1, 1982. Applicant: HUDSON VALLEY CEMENT LINES, INC., P.O. Box 203, Route 23 B, Claverack, NY 12513. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *building materials,* between points in NY, on the one hand, and on the other, points in NH, ME, VT, MA, RI, CT, NJ, PA, MD, DE, OH, MI and IL.

MC 147253 (Sub-3), filed July 12, 1982. Applicant: LANDMARK INDUSTRIES, INC., Box. 70, Landmark, Manitoba, Canada ROA OXO. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108, 701–235–3300. Transporting *general commodities* (except household goods), between points in the U.S., under continuing contract(s) with Sanagro, Ltd., of Sanford, Manitoba, Canada. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 151463 (Sub-4), filed June 30, 1982. Applicant: BIGBEE TRANSPORTATION, INC., P.O. Box 32, Columbus, MS 39701. Representative: Norman J. Philion, 1920 N St., NW, Suite 700, Washington, DC 20036 (202) 331–8800. 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 World-Wide Transportation Services, Inc., of Romulus, MI.

MC 153673 (Sub-2), filed July 16, 1982. Applicant: KENTUCKY SPECIALIZED HAULERS, INC., Rte. 3, Box 156–A, Hardinsburg, KY 40143. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, 216–652–2789. 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 Kentech Machinery, Inc., of Louisville, KY.

MC 156222 (Sub-1), filed June 25, 1982. Applicant: DALE BARNES TRUCKING, 301 Bartlett Ave., P.O. Box 35, Clifton, KS 66937. Representative: (same address as applicant) 913–455–3561. Transporting *general commodities* (except Classes A and B explosives and household goods), between points in CO, NM, TX, OK, LA, AR, MO, IA, MN, ND, SD, NE and KS.

MC 162313 (Correction), filed June 2, 1982, published in the **Federal Register**, issue of July 6, 1982, and republished, as corrected, this issue. Applicant: ROBERT L. AND DIANA R. LAWSON, d.b.a. FLATLAND TOURS, P.O. Box 4, Harbeson, DE 19951. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877 (301) 840–8565. As a *broker* at points in DE, those in MD in and east of Frederick County, those in NJ in and south of Burlington County, those in PA in and east of Chester, Montgomery and Bucks Counties, and those in Northamption and Accomack Counties, VA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the U.S. (including AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

MC 162953, filed July 13, 1982. Applicant: TODD'S CARTAGE CO., INC., 8841 Timberlink Rd. NW, Canal Fulton, OH 44614. Representative: Jeremy Kahn, 1511 K St. NW, Suite 733, Investment Bldg., Washington, DC 20005, 202–783–3525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Fairfield, Franklin, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Mahoning, Marion, Medina, Morrow, Muskingum, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne Counties, OH, on the one hand, and, on the other, points in Summit County, OH.

MC 163002, filed July 16, 1982. Applicant: HARVEY L. SUGG d.b.a. SUGG TOURS, 234 North Greene St., Snow Hill, NC 28580. Representative: Harvey L. Sugg (same address as applicant) 919–747–5612. As a *broker*, at Snow Hill, NC, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in Greene, Lenoir, Wayne, Wilson, Pitt, Beaufort, and Hyde Counties, NC, on the one hand, and, on the other, points in the U.S.

Volume No. OP2–170

Decided: July 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 16513 (Sub-41), filed July 21, 1982. Applicant: REISCH TRUCKING AND TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22313, 703–750–1112. 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 International Paper Company, of New York, NY.

MC 108973 (Sub-21), filed July 19, 1982. Applicant: INTERSTATE EXPRESS, INC., 2334 University Ave., St. Paul, MN 55114. Representative: Sperling R. Englehart (same address as applicant) 612–645–3447. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Pillsbury Company, including wholly-owned subsidiaries of Burger King Corporation, Green Giant Company, Poppin Fresh Pies, Inc., and Steak and Ale Restaurants of America, Inc., of Minneapolis, MN.

MC 113963 (Sub-2), filed July 19, 1982. Applicant: HEAVY & SPECIALIZED HAULERS, INC., 190 Polk Avenue, Nashville, TN 37211. Representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue, NW, Washington, DC 20005–2075 (202) 347–3987. Transporting *commodities*, the transportation of which, because of size or weight, require the use of special equipment, machinery, metal and metal products, between New Orleans, LA, and points in GA, and TN, on the one hand, and, on the other, those points in the U.S. in and east of WI, IA, MO, OK and TX.

MC 140273 (Sub-36), filed July 8, 1982. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels St., Long Lake, MN 55356. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *food and related products*, between points in Grand Forks County, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148522 (Sub-12), filed July 21, 1982. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave. Stroudsburg, PA 18360. Representative: Joseph A Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting (1) *metal products and related products*, between points in Monroe County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products*, between points in Oswego County, NY, Rockingham County, NC, and Dougherty County, GA, on the one hand, and, on the other, points in Lackawanna County, PA.

MC 150592 (Sub-9), filed July 14, 1982. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representive: David R. Parker, P.O. Box 81228, Lincoln, NE 68501, 402–475–4414. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 151783 (Sub-2), filed July 21, 1982. Applicant: S. GOSKI & SONS, INC., 318 Massachusetts St., P.O. Box 567, Westfield, NJ 07090. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *rubber and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Kelly-Springfield Tire Company, of Cumberland, MD.

MC 152392 (Sub-2), filed July 15, 1982. Applicant: TDS TRUCKING, INC., Fertile, MN 56540. Representative: Todd W. Foss, 15 Broadway, Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *anhydrous ammonia* (1) between points in McHenry and Grand Forks Counties, ND, on the one hand, and, on the other, points in Sheridan, Roosevelt, Richland, Wibaux, Fallon, Daniels, Valley, McCone, Garfield, Dawson, Prairie, Custer, and Rosebud Counties, MT, and (2) between points in Pembina and Grand Forks Counties, ND, on the one hand, and, on the other, ports of entry on the international boundary line between the U.S., and Canada in ND.

MC 156913 (Sub-3), filed July 19, 1982. Applicant: RIGHTWAY

TRANSPORTATION, LTD., 105 Connell St., Woodstock, New Brunswick, Canada EOJ 2BO. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, 207–773–5651. Transporting *lumber and wood products, building materials and supplies, paper and paper products, metal and metal products, and machinery and equipment,* between ports of entry on the international boundary line between the U.S., and Canada in ME, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161423, filed July 19, 1982. Applicant: HAROLD JOHNSON, d.b.a. JAMES TRANSPORT, P.O. Box 29504, New Orleans, LA 71089. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, 615–790–2510. Transporting *food and related products,* between points in TN, on the one hand, and, on the other, points in MS, LA, TX, AL, FL, KY, and GA.

MC 162872, filed July 9, 1982. Applicant: ACTION AIR FREIGHT SYSTEMS, INC., P.O. Box 608, Windsor Locks, CT 06096. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, MA, and RI, on the one hand, and, on the other, points in ME, NH, VT, CT; MA, RI, NY, NJ, PA, OH, WV, VA, MD, DE and DC.

MC 162983, filed July 15, 1982. Applicant: TUZZE TRUCKING, 56 Cottage St., Carbondale, PA 18407. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, 717–342–7595. Transporting (1) *coal and coal products and ores and minerals,* between points in Berks, Bucks, Bradford, Lackawanna, Lancaster, Luzerne, Pike, Schuylkill, Susquehanna, Wayne, and Wyoming Counties, PA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, and DC, and (2) *clay, concrete, glass or stone products, metal products, waste or scrap materials not identified by industry producing, chemicals and related products, and food and related products,* between points in Lackawanna County, PA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, MI, NH, NY, NJ, OH, PA, RI, VT, and DC.

MC 163003, filed July 16, 1982. Applicant: AUGIE J. AND DONNA M. REINCKE d.b.a. REINCKE TRUCKING, 3404 10th St., Lewiston, ID 83501. Representative: Augie J. Reincke (same address as applicant), 208–746–0200. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of lumber and wood products, metal products, and machinery, between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

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Decided: July 26, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 18684 (Sub-1), filed July 19, 1982. Applicant: WILSON MOVING & STORAGE CO., INC., 885 Bailey Avenue, Buffalo, NY 14206. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. Transporting *furnaces and kilns,* between points in the U.S. (except AK and HI), under continuing contract(s) with Harper Electric Furnaces, Inc., of Lancaster, NY.

MC 21455 (Sub-52), filed July 6, 1982. Applicant: GENE MITCHELL CO., West Liberty, IA 52776. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501 (515) 682–8154. Transporting (1) *food and related products,* between points in CA, on the one hand, and, on the other, points in AR, IA, IL, KS, MN, NE, SD, and MO; (2) *food and related products,* and *restaurant supplies and equipment,* between points in IA, on the one hand, and, on the other, points in WA, OR, CA, ID, WI, MO, MN, MI, OR, AR, TN, KY, IL, IN, OH, PA, and NY; and (3) *clay, concrete, glass or stone products,* (a) between points in MO, TN, TX, and WV, on the one hand, and, on the other, points in IL and IA; and (b) points in IL and IA.

MC 67234 (Sub–54), filed July 12, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777 Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Burroughs Corporation of Detroit, MI.

MC 77874 (Sub-9), filed July 19, 1982. Applicant: ALVIN D. FREY, INC., 966 York Street, Hanover, PA 17331. Representative: Norman T. Petow, 43 North Duke Street, York, PA 17401, (717) 843–8004. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in York County, PA and De Kalb County, GA, on the one hand, and, on the other, those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International boundary line between the United States and Canada.

MC 111274 (Sub-88), filed July 14, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant), (309) 266–9773. Transporting *lumber and lumber mill products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Mid America Lumber Co., Farmington Hills, MI.

MC 113855 (Sub-537), filed July 20, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd., S.E., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with Morrison-Knudsen Company, Inc., and its affiliates and subsidiaries, of Boise, ID.

MC 116325 (Sub-94), filed July 19, 1982. Applicant: JENNINGS BOND, d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, MO 63762. Representative: Jennings Bond (same address as applicant), (314) 238–2601. Transporting *malt beverages and related products,* between points in CO, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, KY, TN, MS, AL, GA, OH, MI, PA and WV.

MC 120514 (Sub-4), filed July 19, 1982. Applicant: WICKER SERVICES, INC., P.O. Box 1398, Burlington, NC 27215. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC and VA.

MC 134484 (Sub-35), filed July 15, 1982. Applicant: EDWARDS BROS., INC., P.O.B. 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. B. 1576, Boise, ID 83701, (208) 343–3071. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in CA, ID, OR, UT, and WA, on the one hand, and, on the other, points in ID and WY.

MC 135684 (Sub-171), filed July 20, 1982. Applicant: BASS TRANSPORTATION COMPANY, INC., P.O. Box 391, Flemington, NJ 08822. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20423, (202) 785–0024. 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 Intermodal Consolidating Services, Inc. of Bridgewater, NJ.

MC 147665 (Sub-7), filed July 14, 1982. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., d.b.a. BASSETT TRUCKING COMPANY, P.O. Box 47, Newton, NC 28658. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704) 372–6730. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Borden, Inc., of Columbus, OH. Condition: The applicant and its parent must submit an application for approval of the common control or management of applicant and Roy Stone Transfer Corporation, or, in the alternative, may submit an affidavit explaining why an application under 49 U.S.C. 11343 is unnecessary. The parties should include such information as to gross interstate revenues of the two carriers, the stock outstanding in Roy Stone and the number of shares thereof held by the persons involved with applicant and its parent, they consist of the Board of Directors of Roy Stone, and any other information the parties feel necessary to enable the Commission to make an informed decision on the matter.

MC 147965 (Sub-9), filed July 16, 1982. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES, 10650 S.W. Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *chemicals and related products,* between points in OR and WA, on the one hand, and, on the other, points in MD, NY, NH, and MA.

MC 151444 (Sub-3), filed July 15, 1982. Applicant: RAC TRANSPORT COMPANY, INC., 2794 Winters Ave., Grand Junction, CO 81501. Representative: Lee E. Lucero, 601 E. 18th Ave., #107, Denver, CO 80203, (303) 861–8046. Over *regular routes,* transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) Between Grand Junction, CO, and the CO/NM State line, (a) from Grand Junction over U.S. Hwy 50 to Montrose, CO, then over U.S. Hwy 550 to Durango, CO, then over U.S. Hwy 160 to Cortez, CO, and then over U.S. Hwy 160 to the CO/NM State line, and return over the same route, (b) from Grand Junction over U.S. Hwy 50 to Montrose, then over U.S. Hwy 550 to Durango, then over U.S. Hwy 160 to Cortez, and then over U.S. Hwy 666 to the CO/NM State line, and return over the same route, (c) from Grand Junction over U.S. Hwy 50 to junction CO Hwy 141, then over CO Hwy 141 to junction U.S. Hwy 666, then over U.S. Hwy 666 to Cortez, and then over U.S. Hwy 160 to the CO/NM State line, and return over the same route, (d) from Grand Junction over U.S. Hwy 50 to junction CO Hwy 141, then over CO Hwy 141 to junction U.S. Hwy 666, and then over U.S. Hwy 666 to the CO/NM State line, and return over the same route, (e) from Grand Junction over U.S. Hwy 50 to Montrose, then over U.S. Hwy 550 to junction CO Hwy 62, then over CO Hwy 62 to junction CO Hwy 145, then over CO Hwy 145 to junction U.S. Hwy 160, and then over U.S. Hwy 160 to the CO/NM State line, and return over the same route, (f) from Grand Junction over U.S. Hwy 50 to Montrose, then over U.S. Hwy 550 to junction CO Hwy 62, then over CO Hwy 62 to junction CO Hwy 145, then over CO Hwy 145 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Cortez, and then over U.S. 666 to the CO/NM State line, and return over the same route, (g) from Grand Junction over U.S. Hwy 50 to junction CO Hwy 141, then over CO Hwy 141 to junction CO Hwy 145, then over CO Hwy 145 to junction U.S. Hwy 160 to Cortez, and then over U.S. Hwy 160 to the CO/NM State line, and return over the same route, and (h) from Grand Junction over U.S. Hwy 50 to junction CO Hwy 141, then over CO Hwy 141 to junction CO Hwy 145, then over CO Hwy 145 to junction U.S. Hwy 160, then over U.S. Hwy 160 to Cortez, and then over U.S. Hwy 666 to the CO/NM State line, and return over the same route, (I) serving all intermediate points in (1)(a) through (h) above, and (II) serving points in Ouray, San Miguel, Dolores, Montezuma, La Plata, San Juan, and Gunnison Counties, CO, as off-route points.

Note.—This regular-route authority may be tacked with applicant's existing authority. Applicant also intends to interline this authority with other authorized carriers.

MC 152445 (Sub-2), filed July 16, 1982. Applicant: MATHEWS TRANSPORT, INC., 1075 Spring Prairie Rd., Burlington, WI 53105. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Boone, McHenry and Winnebago Counties, IL and points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160884 (Sub-1), filed July 19, 1982. Applicant: JACKET CARRIERS INC., 83 Longview Avenue, White Plains, NY 10605. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528, (914) 835–4411. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of audio and/or visual communications, education or entertainment devices between points in CA, CT, IL, IN, NJ, PA, and VA, on the one hand, and, on the other, points in the US (except AK and HI).

MC 162445, filed July 15, 1982. Applicant: DONALD WOOD TRUCKING, INC., 1019 S.E. 1st., Lawton, OK 73501. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *road and bridge contruction materials,* between points in OK and TX.

MC 162694, filed July 19, 1982. Applicant: TOM A. WIMMER, d.b.a. T–W TRANSPORT, 1010 N. Mill, P.O. Box 37, Fairmont, IN 46928. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *such commodities* as are dealt in or used by wholesale, retail, chain grocery, and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 162915, filed July 13, 1982. Applicant: EASY RIDER LINES, INC., 21 Queen Anne Drive, Deal, NJ 07723. Representative: Steven S. Ezon, 2 Penn Place, Suite 2640, New York, NY 10121, (201) 531–8233. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in Monmouth, Atlantic and Ocean Counties, NJ, on the one hand, and, on the other, New York, NY.

MC 163024, filed July 19, 1982. Applicant: ROULETTE TOURS, INC., 830 Strand, Suite C, Hermosa Beach, CA 90254. Representative: William C. Robison, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436, (213) 784–9993. As a *broker* at Hermosa Beach and Redondo Beach, CA, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in charter and special operations, between points in CA, on the one hand, and, on the other, points in the US. (except AK and HI).

MC 163035, filed July 19, 1982. Applicant: DICK LAVY, d.b.a. DICK LAVY TRUCKING 8848 State Route 121, Bradford, OH 45308. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *metal products,* between points in Darke County, OH, on the one hand, and, on

the other, points in the US. (except AK and HI).

MC 163044, filed July 20, 1982. Applicant: VARICK FREIGHT LINES, 145–60 157th St., Jamaica, NY 11434. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between New York, NY, on the one hand, and, on the other, points in AL, AR, CA, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, MO, MS, NC, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV, and DC.

MC 163045, filed July 19, 1982. Applicant: SPARTANBURG BUS LINES, INC., Route 3, Box 439–A, Inman, SC 29349. Representative: Marion L. Richburg (same address as applicant), (803) 472–8604. (A) Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Spartanburg, Cherokee, Union, Laurens, and Newberry Counties, SC, and extending to points in the United States; and (B) As a *broker*, at points in Spartanburg County, SC, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passenges, beginning and ending at the above-named counties, and extending to points in the U.S.

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Decided: July 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 30045 (Sub-11), filed July 16, 1982. Applicant: KITCHELL TRUCK LINES, INC., Ispwich, SD 57541. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in SD.

MC 118474 (Sub-13), filed July 21, 1982. Applicant: AIR VAN LINES, INC., 1280 116th Ave., NE., Bellevue, WA 98004. Representative: Robert R. Brinker, 1660 L St., NW., Suite 1100, Washington, DC 20036, (202) 452–7456. Transporting *used vehicles*, between points in the U.S. (except HI).

MC 123274 (Sub-8), filed July 19, 1982. Applicant: MARSHALL SERVICE, INC., Pearl St., Newfield, NJ 08344. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NJ, and Philadelphia, PA, on the one hand, and, on the other, points in ME, NH, VT, RI, MA, CT, NJ, NY, PA, DE, MD, VA, OH, GA, NC, SC, and DC.

MC 142364 (Sub-54), filed July 21, 1982. Applicant: KENNETH SAGELY TRUCKING COMPANY, P.O. Box 368, Van Buren, AR 72956. Representative: George Spencer, 7 No. Block, Fayetteville, AR 72701, (501) 442–0583. 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 146465 (Sub-14), filed July 23, 1982. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309, (404) 892–8020. Transporting *lumber and wood products*, and *building materials*, between points in AL, AR, LA, MS, OK, SC, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150255 (Sub-7), filed June 28, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717 17th St., Denver, CO 80202, (303) 892–6700. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Beatrice Foods Company and its division and subsidiaries of Chicago, IL.

MC 150275 (Sub-4), filed July 22, 1982. Applicant: UPPER CUMBERLAND FREIGHT, INC., Rt. 5, Box 122, Cookeville, TN 38501. Representative: Wayne E. Klinckhardt, 378 Scenic Drive, St. Louis, MO 63137, (314) 868–7027. 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 Hickory Specialties, Inc., of Crossville, TN, and Sutton Shirt Corp/Bud Berma, Inc., of Sparta, TN.

MC 150444 (Sub-7), filed July 21, 1982. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (same address as applicant), (703) 734–2810). Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S.

MC 151314 (Sub-1), filed July 22, 1982. Applicant: B & W EXPRESS, INC., P.O. Box 2122, San Antonio, TX 78205. Representative: Kenneth R. Hoffman, 1600 W. 38th St., Suite 410, Austin, TX 78731, (512) 451–7409. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Medina, Zavala, Maverick, Dimmit, Uvalde, Webb, and El Paso Counties, TX, on the one hand, and, on the other, points in Cameron, Willacy, Hidalgo, Starr, Zapata, Jim Hogg, Brooks, Kenedy, Kleberg, Jim Wells, Duval, Nueces, San Patricio, Aransas, Refugio, Goliad, Bee, Live Oak, McMullen, Atascosa, Karnes, De Witt, Victoria, Calhoun, Jackson, matagorda, Brazoria, Galveston, Chambers, Jefferson, Orange, Liberty, Montgomery, Harris, Fort Bend, Wharton, Colorado, Austin, Waller, Grimes, Brazos, Burleson, Lee, Washington, Fayette, Lavaca, Gonzales, Wilson, Bexar, Guadalupe, Medina, Uvalde, Bandera, Kendall, Comal, Hays, Caldwell, Travis, Bastrop, Williamson, Bell, Milam, Robertson, Falls, McLennan, Hill, Navarro, Ellis, Tarrant, Dallas, Zavala, Maverick, Dimmit, Webb, and El Paso Counties, TX.

MC 152674 (Sub-6), filed July 16, 1982. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *machinery and instruments*, between points in the U.S. (except AK and HI).

MC 152744 (Sub-9), filed July 22, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Suite 400, Chicago, IL 60601. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of petroleum and petroleum products, between points in the U.S. (except AK and HI), under continuing contract(s) with Amoco Oil Company, of Chicago, IL.

MC 153774 (Sub-2), filed July 23, 1982. Applicant: S & C TRANSPORTATION, INC., P.O. Box 291, Prescott, AR 71857. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *paper and paper products, printed matter*, and *computer supplies*, between points in AR, LA, and TX, on the one hand, and, on the other, points in KS, MO, TN, TX, AL, AR, MS, LA, IL, and OK.

MC 161584, filed July 23, 1982. Applicant: SOMERSET TOURS, INC., P.O. Box 1031, Somerset, KY 42501. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY

40602, (502) 223–8244. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at points in Pulaski and McCreary Counties, KY and extending to points in the U.S. (except AK and HI).

MC 163005, filed July 16, 1982. Applicant: MICHAL W. HOLT, d.b.a. M. H. TRUCKING, P.O. Box 711, Auburn, IN 46706. Representative: Michal W. Holt (same address as applicant), (219) 925–1601. 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 Rieke Corporation, of Auburn, IN.

MC 163015, filed July 19, 1982. Applicant: COLORADO CONTAINER SYSTEMS, DIVISION OF B.V.D., INC., 6515 Delaware St., P.O. Box 17888, Denver, CO 80221. Representative: Fred Cantonwine (same address as applicant), (303) 428–6800. Transporting *general commodities* (except classes A and B explosives), between points in CO, on the one hand, and, on the other, points in CO, NE, KS, NM, and WY.

MC 163065, filed July 21, 1982. Applicant: WILLIE W. SNOWDEN, JR., d.b.a. CALIFORNIA SUN, 19202 Moorshire Place, Cerritos, CA 90701. Representative: Willie W. Snowden, Jr. (same address as applicant), (213) 402–0858. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Los Angeles County, CA, and extending to points in AR, IA, KS, LA, MO, NE, OK, TX, AZ, WA, OR, CO, NM, NV, WY, UT, ID, and MT.

MC 163075, filed July 22, 1982. Applicant: HARMONY TRUCK LINES, INC., P.O. Box 132, Hamlet, NC 28345. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting (1) *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Stone Container Corporation of Florence, SC and (2) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Campbell Soup Company of Maxton, NC.

MC 163085, filed July 23, 1982. Applicant: MARITIME TRANSPORT, INC., P.O. Box 3482, Norfolk, VA 23514. Representative: Frank Ifko, Jr., 837 Shillelagh Rd., Chesapeake, VA 23323, (804) 547–7296. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Norfolk, VA, on the one hand, and, on the other, points in VA, MD, NC, SC, GA, TN, and KY.

MC 163094, filed July 23, 1982. Applicant: ROCHESTER TRANSPORTATION SYSTEMS, INC., 1431 Highways 52 North, Rochester, MN 55901. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *passengers and their baggage,* in same vehicle with passengers, in special and charter operations, beginning at points in Dodge, Fillmore, Goodhue, Mower, Olmsted, and Winona Counties, MN, and extending to points in the U.S. (except HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–20988 Filed 8–3–82; 8:45 am]

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[Vol. No. 283]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: July 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed on or before August 30, 1982, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

FF 392 (Sub-3)X, filed June 2, 1981, previously noticed in the **Federal Register** of June 11, 1981, republished as follows: Applicant: AIRBORNE FORWARDING CORPORATION, 190 Queen Anne Ave., North, P.O. Box 662, Seattle, WA 98111. Representative: Stephen A. Alterman, 1730 Rhode Island Avenue, N.W., Washington, DC 20036. Applicant seeks to remove restrictions in FF–392 by deleting the restriction limiting transportation of shipments having an immediately prior or subsequent movement by air, in its authority to transport general commodities (with exceptions). A decision of the Restriction Removal Board granting this application previously was vacated by Division I in accord with the Commission's decision in *Imperial Carriers, Inc.—Commodity and Territorial Broadening* (not printed), served November 30, 1981. Republication and consideration of this application under the provisions of 49 CFR Part 1137 is authorized pursuant to the Commission's decision in Ex Parte No. MC–142 (Sub-No. 2), *Freight Forwarder Restrictions,* 132 M.C.C. 832, served July 19, 1982.

MC 40978 (Sub-94)X, filed July 19, 1982. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Dr., Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. Subs 18, 34, 41F, 50F, 54F,76F, and 78F: Broaden: (a) Vinyl plastic tile, molding, sheeting, floor, wall, and railing covering and rubber molding and materials and supplies (except commodities in bulk) used in the manufacture and installation of those commodities to "such commodities as are dealt in or used by a manufacturer or distributor of rubber and plastic products, and floor and wall coverings" (Sub 18); (b) commodities used in the manufacture and distribution of furniture (except commodities in bulk) to "furniture and fixtures" (Sub 41); (c) part(1) powdered and granular plastic materials, in containers, and hexamethylenetetramine, in containers, and (part 2) materials and supplies used

in the manufacture and distribution of commodities in part (1), to "rubber and plastic products, and chemicals and related products" (Sub 50); (d) commodities dealt in by manufacturers of power equipment for lawn and turf care to "machinery" (Sub 54F); (e) part (1), electric generators and internal combusion engines, and part (2) materials, equipment and supplies used in the manufacture and distribution of plumbing products, electric generators, and internal combustion engines, to "machinery and clay, concrete, glass or stone products" (Sub 76F); and (f) part (1), urethane foam products and part (2) materials and supplies used in the manufacture and distribution of urethane foam products (except commodities in bulk), to "rubber and plastic products" (Sub 78F); to radial authority in all but Sub 34; Sheboygan/ facilities to Sheboygan County, WI (Subs 18, 50); Sheboygan Falls facilities to Sheboygan County, WI (Sub 34); Aurora and Montgomery to Kane and Kendall Counties, IL and West Hazleton facilities to Luzerne County, PA (Sub 41F); Manawa facilities to Waupaca County, WI (Sub 54F); Watertown facilities to Jefferson County, WI (Sub 78); remove restriction to transportation of shipments orignating at/destined to named facilities (Sub 34).

MC 78400 (Sub-104)X, filed July 7, 1982. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Lead and Subs 15, 21, 23, 26, 28, 29, 30, 31, 33, 34, 37, 42, 43, 45, 47, 51, 53, 57, 58F, 59F, 65F, 68F, 70F, 71F, 76F, 79F, 82F, 83F, 84F, 85F, 86F, 87F, 88F, 89F, 90F, 92F, 93F, 94F, 95, 96F, 98F, and 101F certificates: (1) Remove all exceptions from the general commodity authority except classes A and B explosives, commodities in bulk, and household goods, lead and Subs 26, 28, 29, 30, 31, 42, 43, 45, 47, 53, 86F, 87F, 88F, 93F, 94F, 95, and 101F; (2) broaden (a) livestock (lead and Sub 28) and prepared animal feeds (Sub 58F) to "farm products"; (b) mixed feed, fertilizer, and tankage (lead) to "farm products and chemicals and related products"; (c) clay, in bulk (Sub 37), ground clay, in tote bins (Sub 37), glasshouse pots and refractory products (Sub 57) to "clay, concrete, glass or stone products"; (d) charcoal, in containers/bulk (lead and Sub 15) and charcoal (Sub 90F) to "lumber and wood products"; (e) starch and borax, in bulk (Sub 15) to "chemicals and related products"; (f) steel tubing (Subs 21, 68F, and 70F), plate or sheet steel, coil or strip steel (Sub 21), iron and steel articles (Sub 33), steel articles (Sub 71F) and iron castings (Sub 89F) to "metal products"; (g) radio, television, and phonograph cabinets and stands and parts and accessories thereof (Sub 23) to "furniture and fixtures"; (h) plastic pipe and tubing (Sub 34) to "rubber and plastic products"; (i) silica sand, in tote bins (Sub 37) to "ores and minerals"; (j) livestock, building material, farm machinery, and feed (Sub 43) to "farm products, building materials, and machinery"; (k) charcoal, wood chips, charcoal lighter fluid, and manufactural fireplace logs, (Sub 51), charcoal, charcoal briquettes, wood chips, and fireplace logs, wax impregnated compressed sawdust (Sub 76F), and charcoal, charcoal briquettes, hickory chips, vermiculite, lighter fluid, and fireplace logs and accessories (Sub 92F) to "lumber and wood products, petroleum, natural gas and their products, and pulp, paper, and related products"; (l) books, periodicals, pamphlets and printed matter and materials, equipment, and supplies (Sub 59F) to "printed materials, pulp, paper, and related products and material equipment and supplies"; (m) paper (Sub 59F) to "pulp, paper and related products"; (n) cellulose fiber insulation (Sub 65F) to "insulating materials"; (o) scrap vinyl and scrap plastic materials, (Sub 82F) to "scrap and waste materials, vinyl and rubber and plastic products"; (p) briefcase, looseleaf binders and fillers, travel cases, suitcases, plastic articles, advertising and promotional materials and supplies, and display racks and stands for advertising materials and supplies (Sub 82F) to "office supplies, rubber and plastic products, pulp, paper and related products, luggage, advertising and promotional materials and supplies, and display racks and stands for advertising materials and supplies"; (q) milking machines, peening machines, tanks, and industrial cleaning equipment, except those requiring special equipment (Sub 83F) to "machinery"; (r) component parts used in the manufacture of shoes (Sub 84) to "leather and leather products, textile mill products, and rubber and plastic products"; (s) plastic containers (Sub 85F) to "rubber and plastic products"; and (t) vinyl (Sub 98) to "vinyl and rubber and plastic products"; (3) change one-way regular route authority to two-way authority and allow service at all intermediate points, (except on alternate routes) lead and applicable Subs; (4) change one-way irregular route authority to radial authority, lead and applicable Subs; (5) remove facilities limitation, Subs 15, 45, 51, 57, 59F, 70F, 71F, 79F, 86F, and 88F; (6) remove the following restrictions: (a) against any service in connection with pipelines or oil field construction, operation, maintenance, repair or dismantling, against transportation of commodities which require the use of special equipment, and the originating at or destined to Gerald, MO, Sub 21; (b) originating at or destined to Lamar, MO, Sub 31; (c) pickup and/or delivery only, Sub 43; (d) joinder only, Sub 45; and (d) against shipments moving in foreign commerce, Sub 57; (7) change cities (irregular routes) and off-route points (regular routes) to county-wide authority: (a) Bland, Owensville, Canaan, and Rosebud, MO (Gasconade County), Gerald, Leslie, Neier, and Beaufort, MO, and points within 10 miles of Beaufort (Franklin County), National Stock Yards and East St. Louis, IL (St. Clair, Monroe and Madison Counties, IL, and St. Louis, St. Charles and Jefferson Counties and St. Louis, MO), points within 12 miles of Owensville (Gasconade, Franklin, Crawford, Maries and Osage Counties, MO), and points within 25 miles of Gerald, MO (Franklin, Phelps, Crawford, Washington, Maries, Osage, Gasconade, Warren, and St. Charles Counties), lead; (b) Gerald, MO (Franklin County), Sub 21; (c) Lamar and Owensville, MO (Barton and Gasconade Counties), Sub 23; (d) Washington, Chamois, and Gasconade, MO, and points within 10 miles of each (Franklin, Osage, Gasconade, Callaway, Warren, St. Charles, and Montgomery Counties) and National Stock Yards, IL (St. Clair, Monroe, and Madison Counties, IL, and St. Louis, St. Charles, and Jefferson Counties, and St. Louis, MO), Sub 28; (e) Rolla and Lebanon, MO (Phelps and Laclede Counties), Sub 33; (f) Rolla, MO (Phelps County), Sub 34; (g) Mayfield, KY (Graves County), Owensville, MO (Gasconade County), and Ottawa, IL (LaSalle County), Sub 37; (h) North Kansas City, MO, and Kansas City, KS (Jackson, Platte, Clay and Cass Counties, MO, and Leavenworth, Wyandotte, and Johnson Counties, KS), points within 10 miles of Wellsville, KS (Franklin, Douglas, Miami, and Johnson Counties), points within 8 or 10 miles of Stanton, KS (Miami and Franklin Counties), points within 8 miles of Rantoul, KS (Franklin, Miami, and Anderson Counties), Rosedale, South Park, Merriam, Shawnee, Lenxa, Olathe, Gardner, and Edgerton, KS (Leavenworth, Wyandotte, Johnson, Miami, and Franklin Counties, KS, and Clay, Platte, Jackson, and Cass Counties, MO), Sub 43; (i) Reform, MO (Callaway County), Sub 45; (j) Meta, MO, and points within 15 miles thereof

(Osage, Maries, Miller and Cole Counties), and St. Louis, MO, and East St. Louis, IL (St. Louis, St. Charles, and Jefferson Counties and St. Louis, MO, and St. Clair, Monroe, and Madison Counties, IL), Sub 47; (k) Belle and Bland, MO (Maries and Gasconade Counties), Sub 51; (l) Lohman, Russellville, Schubert, and Taos, MO (Cole County), High Point, Latham, Clarksburg, and Jamestown, MO (Moniteau County), Otterville and Prairie Home, MO (Cooper County), Smithton, MO (Pettis County), Bend, MO (Maries County), Bay and Swiss, MO (Gasconade County), Cooper Hill, Hope, Frankenstein, Ryors, Freedom, Rich Fountain, and Luystown, MO (Osage County), Sub 53; (m) Owensville, MO (Gasconade County), Sub 57; (n) Rolla, MO (Phelps County), Sub 58F; (o) Owensville, MO (Gasconade County), Frederick MD (Frederick County), Pauline, KS (Shawnee County), Camp Hill, PA (Cumberland County), and Philadelphia, PA (Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties, PA, New Castle County, DE, and Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties, NJ), Sub 59F; (p) Fulton, MO (Callaway County), Sub 65F; (q) Gerald, MO (Franklin County), Sub 70F; (r) Ownesville, MO (Gasconade County), Sub 71F; (s) New Haven, Bland, Washington, Glasgow, and Hannibal, MO (Franklin, Gasconade, Howard, and Marion Counties), Sub 79F; (t) Washington, MO (Franklin County), Sub 82F; (u) Washington and Berger, MO (Franklin County), Sub 83F; (v) Sullivan, MO (Franklin, Crawford, and Washington Counties), Sub 84F; (w) Union, MO (Union County) and Waseca, MN (Waseca County), Sub 85F; (x) Owensville, MO (Gasconade Sub 86F; (y) Owensville, Gerald, and Japan, MO (Gasconade and Franklin Counties), Sub 87F; (z) Silver Dollar City and Branson, MO (Stone and Taney Counties), Sub 88F; (aa) Waupaca, WI (Waupaca County), Pryor, OK (Mayes County), Chicago and St. Charles, IL (Cook, Will, DuPage, Kane, Lake, and McHenry Counties, IL, and Lake and Porter Counties, IN), and Sullivan, MO (Franklin, Crawford, and Washington Counties), Sub 89F; (bb) Steelville, MO (Crawford County), Sub 90F; (cc) Eureka, MO (St. Louis and Jefferson Counties), Sub 93F; (dd) Union, MO (Franklin County), Sub 94F; (ee) Centralia and Washington, MO (Boone and Franklin Counties), Sub 95; (ff) Parsippany, NJ (Morris County), Garden City, NY (Nassau County) and Union, MO (Franklin County), Sub 96F; and (gg) Union, MO (Franklin County), Sub 98F; and (8) remove "except commodities in bulk" restriction (except for the general commodity authority), in named Subs.

MC 109490 (Sub-28)X, filed June 14, 1982. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53296. Representative: Ronald E. Laitsch, 108 South Second St., Watertown, WI 53094. Sub 1 certificate: (1) Remove all exceptions in the general commodites authority "except classes A and B explosives and household goods"; (2) remove "except commodities in bulk" from animal and poultry feed; (3) remove language prohibiting service in mixed loads of regulated and exempt commodities; (4) authorize service at all intermediate points on regular-route service between Madison, WI and Norwalk, WI; and (5) broaden off-route points to countywide authority: Monroe County, WI (Clifton, St. Marys, and Cashton), Sauk Conty, WI (Hillpoint, Limeridge, Loganville, The Sauk County farm located on WI Hwy 23 South of Reedsburg, and Ironton), Richland County, WI (Hub City, Loyd, Cazenovia, Rockbridge, and Yuba), Juneau County, WI (Hustler), and Vernon County, WI (Hillsboro, Valley, Rockton, Mt. Tabor, and Ontario).

MC 115814 (Sub-16)X, filed July 12, 1982. Applicant: MARK TRUCKING, INC., Trella St., P.O. Box 811, Belleville, PA 17004. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166. Lead and Subs 6, 9 and 14 permits: (1) Broaden commodity description from (a) meat scrap, tankage, bone meal, linseed oil meal, beans, seeds, cottonseed meal, linseed meal, feeds, oyster shells, bone charcoal, seed potatoes, flour, condensed milk, ice cream mix, cream, dairy cream, foodstuffs, and dairy products to "food and related products" in the lead and Subs 9 and 14; and (b) paper cartons to "pulp, paper and related products" in Sub 6; (2) remove the in containers; in vehicles equipped with mechanical refrigeration; in mixed loads; and except in bulk restrictions wherever they appear; and; (3) broaden territorial descriptions to between points in the U.S. under continuing contract(s) with a named shipper in each permit.

MC 135936 (Sub-37)X, filed July 20, 1982. Applicant: C & K TRANSPORT, INC., P.O. Box 205, Webster City, IA 50595. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Subs 1, 2, 7, 10, 14, 15, 17, 18, 21, 25F, 26F, 27F, 28F, and 31F certificates: (1) broaden commodity descriptions to (a) "food and related products" from meats, meat products, meat by-products, and articles distributed by meat packinghouses in Subs 1, 2, 10, 15, 17, 18, 25F, 26F, 27F, and 28F, animal and poultry feed additives in Sub 7, and potato products and frozen foodstuffs in Sub 21; and (b) "chemicals and related products" from chemicals in Sub 31F; (2) broaden territorial description; Crawford County, in Subs 1, 10 and 28 from Denison, IA; Webster County, in Subs 1, 18 and 28 from Fort Dodge, IA, Plymouth County, in Subs 1 and 28 from from Le Mars, IA, Dakota County, from Dakota City, NE in Subs 1 and 25; Cerro Gordo County, IA, Lyon County, KS, Rock County, MN, Cuming County, NE in Sub 1 from Mason City, IA, Emporia, KS, Luverne, MN, and West Point, NE; Tama County, in Sub 2 from Tama, IA; Cook, Du Page, Kane, Lake and Will Counties, IL and Lake and Porter Counties, IN in Subs 2, and 14 from Chicago, IL; Macomb, Oakland, Washtenaw and Wayne Counties, MI, Subs 2 and 31 from Detroit, MI; Milwaukee, Ozaukee, Washington and Waukesha Counties, WI in Sub 2 from Milwaukee, WI; Vigo County, in Sub 7 from Terre Haute, IN; Carroll and Hardin Counties, in Subs 10 and 28 from Carroll and Iowa Falls, IA; Saline County, in Subs 15 and 28 from Crete, NE; Cherokee County, in Subs 17, 27 and 28 from Cherokee, IA; Clay and O'Brien Counties, IA and Colfax County, NE in Sub 18 from Spencer and Hartley, IA and Schuyler, NE; Aroostook County, in Sub 2 from Caribou and Presque Isle, ME; Linn County, in Sub 26 from Cedar Rapids, IA; Douglas and Sarpy Counties, NE and Pottawattamie County, IA in Subs 26, 28 and 31 from Ohama, NE; Polk County, IA and Lancaster County, NE in Sub 28 from Des Moines, IA and Lincoln, NE; Plymouth and Woodbury Counties, in Subs 28 and 31 from Sioux City, IA; Jefferson County, KY, Ashland County, OH Crawford County, AR and Marion, Buchanan and Jackson Counties, MO in Sub 14 from Louisville, KY, Ashland, OH, Van Buren, AR; and Hannibal, St. Joseph and Lee's Summit, MO; Jackson, Clay, Platte and Cass Counties, MO and Johnson, Leavenworth and Wyandotte Counties, KS in Subs 14 and 31 from Kansas City, MO/KS; Cobb, Clayton, De Kalb, Douglas, Forsyth, Fulton and Guinnett Counties, GA in Sub 31 from Atlanta, GA; Fairfield and Summit Counties, in Sub 31 from Baltimore and Barberton, OH; Morgan County, in Sub 31 from Berkeley Springs, WV; Marshall and Wetzel Counties, WV and Monroe County, OH in Sub 31 from Natrium, WV; Charleston County, in Sub 31 from Charleston, SC; Polk County, in Sub 31 from Copperhill, TN; Shelby County, TN and Crittenden County, AR in Sub 31

from Memphis, TN; Midland County, Sub 31 from Midland, MI; Douglas County in Sub 31 from Lawrence, KS; and Hennepin, Ramsey, Dakota and Anoka Counties, MN in Sub 31 from Minneapolis and St. Paul, MN; (3) remove restrictions against hides, commodities in bulk, originating and destined to restrictions facility restrictions, and restrictions against containers all subs; and (4) replace one-way radial authority in all Subs.

MC 142663 (Sub-6)X, filed July 19, 1982. Applicant: SPRINGBROOK TRANSPORT, INC., 1100 Old Bristol Pike, Morrisville, PA 19067. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Subs 1F and 3F permits and Sub 5F certificate. Broaden: truck and trailer parts (except commodities which because of size and weight require the use of special equipment) to "metal products, machinery, and transportation equipment" (Sub 1F); part (1), chemicals, drugs, petroleum and petroleum products and plastics (except commodities in bulk) and part (2), materials, equipment and supplies used in the manufacture and distribution of commodities in (1) to "petroleum natural gas and their products, chemicals and related products, and rubber and plastic products" (Sub 3F); iron and steel articles to "metal products and materials, equipment, and supplies used in their manufacture and distribution" (Sub 5F); to between points in U.S. (except Alaska and Hawaii) under continuing contract(s) with named shippers (Subs 1F and 3F); Perth Amboy facilities to Middlesex, Monmouth and Union Counties, NJ (Sub 5F).

MC 142672 (Sub-191)X, filed July 22, 1982. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same as above). Subs 109F and 150F certificates: broaden to (1) "apparel or other finished textile products or Knit apparel" from clothing, Sub 150F; (2) countywide authority: (a) Dallas County, TX (facilities-Irving), Sub 109F; and (b) Lancaster County, PA (facilities-Lancaster), Sub 150F; and (3) radial authority, Sub 150F.

[FR Doc. 82-20991 Filed 8-3-82; 8:45 am]
BILLING 7035-01-M

Motor Carrier; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPI-129

Decided: July 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 162930, filed July 12, 1982. Applicant: H. E. SCHURIG & COMPANY, INC., 609 Fannin Building, P.O. Box 54, Houston, TX 77001. Representative: Charles M. Schurig (same address as applicant) (713) 224-8541. As a *broker of general commmodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162981, filed July 15, 1982. Applicant: PHYLLIS ROMITELLI, d.b.a. PHILLY G ENTERPRISES, INC., 18 Burke Road, Wayne, NJ 07470. Representative: Phyllis Romitelli (same address as applicant), (201) 696-5273. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163031, filed July 19, 1982. Applicant: HOUSTON CONTAINER AND MARRING COMPANY, 5614 Pine St., Houston, TX 77081. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827-1407. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 163051, filed July 20, 1982. Applicant: CHARLES D. OAKES, d.b.a. PRO EXPRESS, P.O. Box 393, Florence, KY 41042. Representative: Charles D. Oakes, 3944 Hunters Green, Florence, KY 41042, (606) 371-0543. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1-131

Decided: July 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating in part.)

MC 163060, filed July 21, 1982. Applicant: T. E. OLLAR, 2005 W. Lotus Ave., Fort Worth, TX 76111. Representative: T. E. Ollar (same

address as applicant), (817) 834–4329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–163

Decided: July 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 162772, filed July 1, 1982. Applicant: QUIN LINDSEY MILLER, d.b.a. MILLER TRANSPORT, P.O. Box 2470, Sanford, FL 32771. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle, between points in the U.S. (except AK and HI).

MC 162962, filed July 12, 1982. Applicant: AGENCY, INC., 4852 South 62nd St., Omaha, NE 68117. Representative: Barbara Score, 9022 David Circle, Omaha, NE 68138, 402–895–0351. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2–169

Decided: July 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 3252 (Sub-122), filed July 13, 1982. Applicant: MERRILL TRANSPORT CO., 1037 Forest Ave., P.O. Box 739, Portland, ME 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, 617–749–6500. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163013, filed July 19, 1982. Applicant: A. X. SOTO CUSTOMHOUSE BROKERS-FREIGHT FORWARDERS, 3600 East 14th St., Brownsville, TX 78520. Representative: James Costello, 1314 Texas St., Suite 1204, Houston, TX 77052, (713) 237–8203. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163032, filed July 19, 1982. Applicant: GONDRAND TRANSPORT CO., INC., Suite 1571, One World Trade Center, New York, NY 10048. Representative: Andrew Freeman, Suite 3325, 30 Rockefeller Plaza, New York, NY 10112, (212) 765–1700. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163063, filed July 21, 1982. Applicant: MANDT FARMS, INC., Rte. 2, Belleville, WI 53508. Representative: Donald G. Mandt (same address as applicant), 608–424–3470. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–119

Decided: July 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 155425, filed July 23, 1982. Applicant: SECURITY INTERNATIONAL INC., 4622 S. 88th St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–9900. Transporting (1), for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163004, filed July 15, 1982. Applicant: DFW INTERNATIONAL SERVICES, INC., 1205 West N. Carrier, Suite 200 A, Grand Prairie, TX 75050. Representative: Pete V. Fuentes (same address as applicant) (214) 641–2418. As a *broker* of *general commodities* (except houshold goods), between points in the U.S. (except AK and HI).

MC 163014, filed July 19, 1982. Applicant: WILLIAM J. DENGLER AND DUANE J. DUNCAN, d.b.a. D & D Services, 6111 Johnson Dr., Suite 205, Pleasanton, CA 94566. Representative: William J. Dengler (same address as applicant) (415) 484–1160. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 163064, filed July 21, 1982. Applicant: DEAN SMITH, RR 2, Box 80C, Spring Green, WI 53588. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901 (608) 742–3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–286

Decided: July 28, 1982.

By the Commission, Review Board No. 2 Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 159627 (Sub-2), filed July 14, 1982. Applicant: TRANSPORTERS, INC., 225 West 34th St., Suite 2001, New York, NY 10001. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave., N.W., Washington, DC 20036 (202) 785–0048. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163067, filed July 21, 1982. Applicant: TOTAL CARGO INTERNATIONAL, INC., 8020 N.W. 33rd St., Miami, FL 33122. Representative: Wilmer B. Hill, Suite 366, 1030 15th St., N.W., Washington, DC 20005, (202) 296–5188. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163077, filed July 22, 1982. Applicant: ROGER KERSTETTER, Box 82, Kennard, NE 68034. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488–4841. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–287

Decided: July 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 162986, filed July 6, 1982. Applicant: TRIPLE S LEASING, INC., P.O. Box 266 (U.S. Hwy 41 N.), Vincennes, IN 47591. Representative: Don R. Smith, 806 Emison Ave., Vincennes, IN 57591 (812) 882–3109. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic

beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions,* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 163096, filed July 23, 1982. Applicant: WILLIAM E. LEBOLD AND CAROL J. LEBOLD, 4756, 83rd St., SE, Salem, OR 97301. Representative: Irene Gebe, 635 SE 11th, Portland, OR 97214 (503), 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–20989 Filed 8–3–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–190

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 149433 (Sub-3–5TA), filed July 26, 1982. Applicant: CARL O. BOONE, d.b.a. BOONE EXPRESS, P.O. Box 114, Smyrna, TN 37167. Representative: Carl O. Boone, Sr. (same address as applicant). *Common Carrier; regular; general comodities, except classes A and B explosives, household goods as defined by the Commission, and Commodities in bulk, and commodities requiring special equipment,* between Nashville, TN and its commercial zone on the one hand; and, on the other over US 41 and 41A to Hopkinsville, KY; thence over US 41 to Jct US 41A South of Madisonville, KY; thence over US 41A to Jct US 41; thence over US 41A to Jct US 41; thence over US 41 to Evansville, IN and its commercial zone; return over same route. Applicant requests authority to serve all intermediate points. Intend to interline at Nashville, TN and Evansville, IN. Applicant proposes to tack to its existing authority. There are five supporting shippers' statements which may be reviewed at the Atlanta ICC Office.

MC 162420 (Sub-3–1TA), filed July 26, 1982. Applicant: FELPORT TRANSPORT, INC., 8955 Palm River Road, Tampa, FL 33619. Representative: Sandra Baney, 2014 S. Habana, Tampa, FL 33609. *General commodities (except class A & B explosives)* from Hillsborough County, FL to points in FL. Restricted to shipments moving in interstate or foreign commerce. Supporting shipper: Zayre Corp., Framingham, MA 01701.

Note.—Applicant intends to interline with other carriers at Hillsborough County, FL.

MC 162864 (Sub-3–2TA), filed July 26, 1982. Applicant: SOUTHWAY TRUCKING CO., INC., Route 2, Box 243, Vale, NC 28168. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Bananas,* from Charleston, SC, and Tampa, FL to Hickory, NC. Supporting shipper: Merchants Distributors, Inc., d.b.a. MDI, P.O. Box 2148, Hickory, NC 28601.

The following applications were filed in Region 4. Send protests to: ICC Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 114048 (Sub-4–1TA), filed July 26, 1982. Applicant: LOXTERCAMP TRANSPORT, INC., 307 South 3rd Ave. West, Melrose, MN 56352. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Food and related products,* between points in the Minneapolis/St. Paul Commercial Zone, on the one hand, and, on the other, points in MN, ND and SD. Supporting shipper: Trans-Consolidated, Inc., 240 Chester Street, St. Paul, MN 55107.

MC 118457 (Sub-4–1TA), filed July 27, 1982. Applicant: BADGER FREIGHT SERVICE, INC., 11139 West Becher Street, West Allis, WI 53227. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Motor oil and antifreeze* (except in bulk) from Oil City, PA; Chicago, IL; Minneapolis, MN; and St. Louis, MO, to Milwaukee, Madison and Green Bay, WI, for 270 days. Supporting shipper: Moore Oil Co., Inc., 4033 W. Custer, Milwaukee, WI 53209.

MC 141512 (Sub-4–4TA), filed July 26, 1982. Applicant: HOMER'S INC., 10554 West Donges Court, Milwaukee, WI 53224. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Paper and plastic products* from the facilities of Columbian Art Works, Inc. in Milwaukee, WI, to points in the U.S. (except AK and HI). Supporting shipper: Columbian Art Works, Inc., 5700 West Bender Court, Milwaukee, WI 53218.

MC 159008 (Sub-4–4TA), filed July 23, 1982. Applicant: NORTHERN CARRIERS, INC., 3814 11th Street, Rockford, IL 61109. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. *Plastic pipe, fittings and accessories* from the facilities of Northern Pipe Products and Northern Water Works, Divisions of Northern Industries, Inc. of North Dakota at Fargo, ND to points in MT, WY, SD, MN, WI and CO. Supporting shipper: Northern Industries of North Dakota, Inc., 1917 First Ave. North, Fargo, ND 58102.

MC 159051 (Sub-4–2), filed July 26, 1982. Applicant: RINKER TRANSPORT, INC., Roger Rinker, President, Route 1, Box 97, Hamlet, IN 46532. Representative: Clifford J. Rice, 3235 Willowcreek Road, Portage, IN 46368. *Contract* irregular: *Beer, in containers,* between points in Chicago, IL; Newport, KY; Detroit, MI; Frankenmuth, MI; St. Paul, MN; St. Louis, MO; Cincinnati, OH; Columbus, OH; Fostoria, OH; LaCross, WI; Milwaukee, WI, on the one hand, and on the other, points in IN. An underlying E.T.A. was filed. Supporting

Shipper: Tri-County Beverage, Inc., 720 West Jefferson Street, Plymouth, IN 46563.

MC 159428 (Sub-4–2TA), filed July 26, 1982. Applicant: LOREN J. VERBURG and DAVID E. FOWLER, d.b.a., EXCELLENT TRUCKING CO., P.O. Box 41, Zeeland, MI 49464. Representative: Suzette M. Hardin, 3120 Madison SE, Grand Rapids, MI 49508. *Contract,* irregular: *General Commodities,* (except household goods as defined by the Commission and class A & B explosives) from points in MI to points in IL, NY, MD, VA, GA, NC, SC, FL, MS, LA, TX, CA, WA, and OR under continuing contract with Greene Companies, et al. Supporting Shipper: C. S. Greene & Co., Inc.—IL, C. S. Greene & Co, Inc.—NY, Greene Air International, Inc., 2803 Butterfield Rd., Oakbrook, IL 60521.

MC 162400 (Sub-4–2TA), filed July 23, 1982. Applicant: TRI-FRIDGE CORP., 3300 West 93rd Street, Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. Transporting *food and related products* between Chicago, IL and its commercial zone, on the one hand, and, on the other, points in AL, FL, GA, IN, KY, LA, MI, MN, NC, OH, SC, and TN. Supporting shippers: Chicago Fish House Company, Inc., 1250 West Division, Chicago, IL 60622; La Preferida, Inc., 3400 West 35th Street, Chicago, IL 60632; Prime Packing Company, Inc., 4170 South Union Avenue, Chicago, IL 60609; and Servbest Foods, Inc., P.O. Box 374, 1256 Old Skokie Road, Highland Park, IL 60035.

MC 163091 (Sub-4–1TA), filed July 23, 1982. Applicant: GARY D. SCHLEETER, d.b.a. COUNTRY TRUCK LINES, 24624 West Frazier Rd., Plainfield, IL 60544. Representative: Gary D. Schleeter, R.R. #6, Box 128DD, Kankakee, IL 60901. *Food products* between Cook County, IL, and MA, NJ, PA, OH, TN, AL, MO, KS, NE, CO, MN, MI, IN, TX, FL. Supporting shipper: Fontana Foods, 1824 N. Besly Ct., Chicago, IL 60622.

MC 163110 (Sub-4–1TA), filed July 23, 1982. Applicant: SILVER LINE EXPRESS, INC., 1918 Devon Avenue, Elk Grove Village, IL 60007. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Contract,* irregular: *General commodities* (except Classes A and B explosives, household goods and commodities in bulk), between the facilities of Area Warehousing & Distribution, Inc. in Elk Grove Village, IL, on the one hand, and, on the other, points in IN, WI and IA, under a continuing contract(s) with Area Warehousing & Distribution, Inc. Supporting shipper: Area Warehousing & Distribution, Inc., 1918 Devon Avenue, Elk Grove Village, IL 60007.

MC 163111 (Sub-4–1TA), filed July 23, 1982. Applicant: PRIVATE TRANSPORT CORP., 1000 Jorie Boulevard, Suite 228, Oakbrook, IL 60521. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract,* irregular, transporting *paper and paper products* between the facilities of FSC Paper Corporation, located at or near Alsip, IL, on the one hand, and, on the other, points in MI, IN, IA, KY, MO, OH, and WI, under continuing contract(s) with FSC Paper Corporation. Supporting shipper: FSC Paper Corporation, 13100 South Pulaski, Alsip, IL 60658.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–20990 Filed 8–3–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisons; Decision—Notice

Correction

In FR Doc. 82–17616 appearing on page 28466 in the issue of Wednesday, June 30, 1982, make the following correction.

On page 28471, in "Volume No. OP2–135, MC 143433 (Sub-20), third column, second line, "MN" should read "NM".

BILLING CODE 1505–01–M

[Finance Docket No. 29953]

Rail Carriers; Turtle Creek Industrial Railroad, Inc.—Exemption From 49 U.S.C. 10746

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts Turtle Creek Industrial Railroad, Inc., from the provisions of 49 U.S.C. 10746 for the operation of 9.3 miles of track in Pennsylvania.

DATES: Exemption effective on September 3, 1982. Petitions for reconsideration of this action must be filed by September 3, 1982, and petitions for stay must be filed by August 16, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

Petitioner's representative, William P. Quinn, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

Pleadings should refer to Finance Docket No. 29953.

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 contact: TS Imfosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metroplitan area, (800) 424–5403—Toll-free for outside the DC area.

Decided: July 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha J. Mergenovich,

Secretary.

[FR Doc. 82–20995 Filed 8–3–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–88 (Final)]

Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: July 23, 1982.

SUMMARY: As a result of an affirmative preliminary determination by the United States Department of Commerce that carbon steel wire rod from Venezuela is being sold or is likely to be sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. (1673)) the United States International Trade Commission hereby gives notice of the institution of an investigation under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For the purposes of this investigation, carbon steel wire rod is defined as a coiled, semifinished, hot-rolled, carbon steel product of approximately round, solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound. As defined, carbon steel wire rod is provided for in item 607.17 of the Tariff Schedules of the United States.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen Miller (202–523–0305) Office of Investigations, U.S. International Trade Commission

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of less than fair value imports of carbon steel wire rod from Venezuela. The preliminary investigation was instituted in response to petitions filed on February 8, 1982, by seven U.S. producers of carbon steel wire rod. The Department of Commerce will make its final subsidy determination in this case on or before October 1, 1982. The Commission must make its final injury determination in this investigation within 120 days after the date of Commerce's preliminary subsidy determination or by November 20, 1982 (19 CFR 207.25).

However, the Commission will conduct this investigation concurrently with countervailing duty investigations Nos. 701–TA–148–150 (Final) carbon steel wire rod from Belgium, Brazil, and France, so that the Commission's final determination in these four investigations concerning carbon steel wire rod will be made by November 12, 1982. Accordingly, this antidumping investigation will follow the same schedule as countervailing duty investigations, Nos. 701–TA–148–150. A public version of the staff report containing preliminary findings of fact will be placed in the public record on September 1, 1982, pursuant to § 207.21 of the Commission's Rules of Practice and Procedure (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 10:00 a.m., e.d.t., on September 23, 1982, at the U.S. International Trade Commission Building, 710 E Street, NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 31, 1982. All persons desiring to appear at the hearing and make oral presentations may file prehearing briefs and should attend a prehearing conference to be held at 9:30 a.m., e.d.t., on September 8, 1982, in room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before September 16, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23, as amended, 47 FR 6191). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with rule 207.22 (19 CFR 207.22, as amended, 47 FR 6191). Posthearing briefs must conform with the provisions of rule 207.24 (47 FR 6191) and must be submitted not later than the close of business on October 6, 1982.

Written Submissions.

Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission on or before October 6, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Service of Documents

Any interested person may appear in these investigations as a party, either in person or by representative, by filing an entry of appearance with the Secretary in accordance with section 201.11 of the Commission's rules (19 CFR 201.11, as amended, 47 FR 6189). Each entry of appearance must be filed with the Secretary no later than August 25, 1982.

The Secretary will compile a service list from the entries of appearance filed in these final investigations and from the Commission's record in the preliminary investigations. Any party submitting a document in connection with these investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8 41 FR 17710, as amended 47 FR 6188 and 47 FR 13791), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b) as amended, 47 FR 6190).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, 44 FR 76457 as amended in 47 FR 6190 and 47 FR 12792 and part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20).

By order of the Commission.

Issued: July 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–21051 Filed 8–3–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–124]

Certain Textile Spinning Frames and Automatic Doffers and Therefor; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 2, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Platt Saco Lowell Corporation, P.O. Drawer 2327, Greenville, South Carolina 29602. The complaint alleges unfair methods of competition and unfair acts in the importation of certain textile spinning frames with automatic doffers into the United States, or in their sale, by reason of alleged infringement of claims 1 and 2 of U.S. Letters Patent 3,786,621. The complaint further alleges that the effect of tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States

The complainant requests that the Commission institute an invetigation, conduxt expedited temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the aritcles in question into the United States, except under bond. The

complainant also requests that the Commission, after a full investigation, issue a permanent exclusion order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on July 27, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain textile spinning frames and automatic doffers therefor into the United States, or in their sale, by reason of alleged infringement of claims 1 or 2 of U.S. Letters Patent 3,786,621, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Platt Saco Lowell Corporation, P.O. Drawer 2327, Greenville, South Carolina 29602

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Maschinenfabrik Rieter A.G. (or Rieter Machine Works, Ltd.), 8406 Winterthur, Switzerland
American Rieter Company, Inc., P.O. Box 4383, Spartanburg, South Carolina 29303
Kabushiki Kaisha Toyoda, Jidoshokki Seisakusho (or Toyoda Automatic Loom Works, Ltd.), 1, Toyoda-cho 2-chome, Kariya-schi, Aichi-ken, Japan
Toyoda Textile Machinery, Inc., P.O. Box 241047, Charlotte, North Carolina 28224
Schubert & Salzer Maschinenfabrik Aktiengesellschaft, Postfach 260, D-807, Ingolstadt, Federal Republic of Germany
Schubert & Salzer Machine Works, Inc., P.O. Box 589, Pendleton, South Carolina 29670

(c) Jeffrey Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 132, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation, and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. The Commission notes that complainant has requested that, in order for temporary relief to be effective, a "recommended determination" as to whether there is a reason to believe there is a violation of section 337 be issued within forty-five (45) days from the date of publication of this notice in the **Federal Register**. In light of this request and the allegations contained in the complaint, the Commission requests that the presiding officer give expeditious consideration to the request for temporary relief. Pursuant to Commission rule § 210.30(c), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted;

(4) The presiding officer shall also establish a schedule for oral presentations concerning the remedy, bonding, and public-interest aspects of the investigation for the purpose of creating an administrative record to be certified to the Commission five (5) days after issuance of the initial determination on whether there is reason to believe there is a violation of section 337. In addition, the presiding officer shall provide for a prehearing briefing schedule to be published in the **Federal Register** soliciting the written views of any persons interested in the temporary relief phase of the investigation. The transcript of the oral presentations, the prehearing briefs, and any other written materials shall constitute the administrative record concerning remedy, bonding, and the public interest to be certified to the Commission.

Responses conforming to the requirements of § 210.21(b) of the Commission's Rules of Practice and Procedure (19 CFR § 210.21(b)) must be submitted by each named respondent. Such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. The presiding officer is hereby authorized to shorten the time period for responses.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein or appended thereto, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0176.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Unfair Import Investigations Division, Room 132, U.S. International Trade Commission, telephone 202-523-0115.

By order of the Commission.

Issued: July 30, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-21054 Filed 8-3-82; 8:45 am]

BILLING CODE 7020-02-M

[TA-503(a)-10 and 332-146]

President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of sections 503(a) and 131(b) of the Trade Act of 1974 (hereinafter referred to as "the Act") (19 U.S.C. 2463(a) and 2151(b)) and section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission has instituted investigation No. TA-503(a)-10 and 332-146 for the purpose of obtaining, to the extent practicable, information of the kind described in section 131(d) of the Act. This information is for use in connection with the preparation of advice requested by the U.S. Trade Representative (USTR) with respect to certain listed articles as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the modification of the list of articles eligible for duty-free treatment under the United States Generalized System of Preferences (GSP), set forth in Title V of the Act.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT:

(1) Agricultural products, Mr. Edward Furlow (202-724-0068).
(2) Textile products, Mr. Reuben Schwartz (202-523-0114).
(3) Chemical products, Dr. Aimison Jonnard (202-523-0423).
(4) Minerals and metals, Mr. Larry Brookhard (202-523-0275).
(5) Machinery and equipment, Mr. Aaron Chesser (202-523-0353).
(6) Miscellaneous manufacturers, Mr. Walter Trezevant (202-724-1719).

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the Gneral Counsel at 202–523–0487.

SUPPLEMENTARY INFORMATION: On July 12, 1982, in accordance with sections 503(a) and 131(a) of the Act and pursuant to the authority of the President delegated to the USTR by Executive Order 11846, as amended by Executive Order 11947, the USTR requested advice in four areas related to the GSP: (1) The addition of certain articles to the list of GSP eligible articles (see Annex, Part A), (2) the removal of certain articles from the GSP list (see Annex, Part B), (3) the removal of duty-free status under the GSP for certain beneficiaries developing countries for certain articles ("graduation") (See Annex, Part C), and (4) a determination of wheter or not certain articles are like or directly competitive with any article produced in the United States on January 3, 1975, for purposes of section 504(d) of the Act (see Annex, Parts A and D).

For each article being considered for addition to the list of eligible articles, the Commission will advise the USTR as to the probable economic effect of the addition on U.S. industries producing like or directly competitive articles and on consumers. For each article beind considered for removal or graduation, the Commission will advise the USTR as to the impact on U.S. industries producing like of directly competitive articles and on consumers of continued GSP status for the articles and countries in question.

In providing its advice, the USTR requested the Commission to assume that benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the "competitive need" limitations specified in section 504(c) of the Act.

Section 504(d) of the Act exempts from one of the competitive-need limits in section 504(c) articles for which no like or directly competitive article was being produced in the United States on the date of enactment of the Act. Accordingly, pursuant to the authority of section 332(g) of the Tariff Act of 1930, and in conformity with the delegation of authority from the President to him of Executive Order 11846 as amended by Executive Order 11947, the USTR requested that the Commission also provide advice with respect to whether products like or directly competitive with any articles contained in the TSUS(A) items in the Annex, Parts A and D, were being produced in the United States on January 3, 1975.

A list giving detailed descriptions of the articles contained in the TSUS(A) items identified in the Annex is available upon request from the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (202–523–5178).

The USTR announced the items which have been sent to the Commission for probable effects advice in the July 16, 1982 **Federal Register** (47 FR 31099).

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on October 4, 1982, to be continued on October 6, 1982, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, September 28, 1982.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than October 12, 1982. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 26, 1982.

Annex

A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences:

TSUS or TSUSA item		
112.54	148.81	406.81
112.71	149.18	411.24
112.73	149.28	411.28(pt.) [12]
112.74	152.50	411.80
112.79	152.8140(pt.) [4]	411.84(pt.) [13]
112.80	153.06(pt.) [5]	411.94(pt.) [14]
131.75(pt.) [1]	153.20	412.48(pt.) [15]
137.9575	161.05	412.68(pt.) [16]
137.9575(pt.) [2]	192.25	428.38
137.9575(pt.) [3]	306.11	546.3540(pt.) [17]
145.26	307.08	546.6060(pt.) [17]
146.74	358.06	646.80
146.90	358.14	646.83
146.99	361.85	646.84
147.51	389.50(pt.) [6]	685.8013
147.53	389.6265(pt.) [7]	685.8016
147.54	403.28(pt.) [8]	685.8017
147.61	404.44(pt.) [9]	700.90
147.64	404.46(pt.) [10]	703.1510
148.44	405.32(pt.) [11]	705.86

B. Articles being considered for removal as eligible articles for the Generalized System of Preferences:

TSUS Item	
407.16(pt.)[18]	646.54
418.78(pt.)[19]	646.56
425.22(pt.)[20]	

C. Articles being considered for removal of duty-free status from a beneficiary country for a product on the list of eligible articles for the Generalized System of Preferences:

TSUS or TSUSA Item

167.05 (Mexico)
240.14 (Taiwan)
493.6820 (Republic of Korea, Mexico)
649.3716 (Taiwan)
654.0525 (Republic of Korea, Portugal, Taiwan)
682.0520 (Hong Kong)
730.9035 (Republic of Korea)
772.60 (Republic of Korea)

D. Articles being considered for

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[1] Bran.
[2] Pumpkins.
[3] Breadfruit.
[4] Quince and apple.
[5] Mulberry.
[6] Fasteners consisting of two mating knit or woven textile strips (pile or tufted construction).
[7] Fasteners consisting of two mating knit or woven textile strips.
[8] α-Naphthol.
[9] p-Hydroxybenzoic acid.
[10] p-Hydroxybenzoic acid, methyl ester (methylparaben); p-Hydroxybenzoic acid, propyl ester (propylparaben).
[11] N-Acetylsulfanilyl chloride.
[12] Sulfamerazine.
[13] Sulfamethazine (sulfadimidine), sodium; sulfamethoxazole; sulfisoxazole; sodium sulfacetamide; sulfanilamide; and sulfaquinoxaline.
[14] Mandelic acid.
[15] The classification for tolbutamide (either 412.48 (pt.) or 412.68(pt.)) is in question and is under review.
[16] Hydrochlorothiazide.
[17] Hand-blown votives.
[18] Mixtures of 2,4- and 2,6-Toluenediisocyanate.
[19] Copper hydroxide.
[20] 1,1'-Azobis(formamide).

designation as not like or directly competitive with any article produced in the United States on January 3, 1975, for purposes of section 504(d) of the Trade Act of 1974:

TSUS Item
169.46(pt.)[21]
727.12(pt.)[22]

[FR Doc. 82-21052 Filed 8-3-82; 8:45 am]
BILLING CODE 7020-02-M

[332-145]

Study of the Economic Effects of Terminating the Manufacturing Clause of the Copyright Law

AGENCY: International Trade Commission.

ACTION: At the request of the Committee on Ways and Means of the U.S. House of Representatives, the U.S. International Trade Commission instituted investigation No. 332-145 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), to study the economic effects of terminating the manufacturing clause of the copyright law, including an assessment of (1) the effect on employment; (2) the effect on imports and exports, and (3) the long-term effect of expiration of the manufacturing clause on conditions of competition between U.S. and foreign firms engaged in printing and related activities. The Commission will report its findings by July 1, 1983.

EFFECTIVE DATE: July 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. C. B. Stahmer, Office of Industries (telephone 202-724-0091); or Mr. Paul Golding, Office of Economics (telephone 202-523-1542), U.S. International Trade Commission, Washington, D.C. 20436.

PUBLIC HEARING: A public hearing in connection with the investigation will be held in the Hearing Room of the United States International Trade Commission, beginning at 10 a.m., e.s.t., on March 16 and 17, 1983. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, March 9, 1983.

WRITTEN SUBMISSIONS: In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than March 24, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: July 26, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-21053 Filed 8-3-82; 8:45 am]
BILLING CODE 7020-02-M

[21] Mescal, in containers each holding not over 1 gallon.

[22] Furniture of buri.

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Systems of Records; Minor Amendment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final amendment to systems of records.

SUMMARY: The Nuclear Regulatory Commission is proposing a minor amendment to the NRC System of Records, NRC-39. The amendment updates the information contained in NRC-39 in the paragraph covering "Systems exempted from certain provisions of the act." In the course of conducting background security investigations, the Division of Security frequently incorporates data from other Federal agencies and occasionally incorporates data from other NRC systems of records which are exempt under (k)(2) of the Privacy Act. This creates the need to add the (k)(2) exemption to the list available for NRC-39.

EFFECTIVE DATE: August 4, 1982.

FOR FURTHER INFORMATION CONTACT: Kostantina K. Pappas, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission; Phone (301) 492-8133.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendment to the NRC Systems of Records is contemplated.

1. In NRC-39, the paragraph which begins with the words "Systems exempted from certain provisions of the Act:" is revised to read as follows:

NRC-39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f). The exemption rule is contained in § 9.95 of the NRC regulation (10 CFR 9.95).

Dated at Bethesda, Maryland this 20th day of July 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-21044 Filed 8-3-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Co.; Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Provisional Operating License No. DPR-18, to Rochester Gas and Electric Corporation (the licensee), which revised the Technical Specifications for operation of the R. E. Ginna Nuclear Power Plant (facility) located in Wayne County, New York. This amendment is effective as of its date of issuance.

The amendment approves provisions which update and modify the fire protection system operability and surveillance requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required

since the amendment does not involve significant hazards considerations.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment notarized July 22, 1982, (2) Amendment No. 53 to License No. DPR-18, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of July, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-21019 Filed 8-3-82; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Requirements Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Tri/Valley Growers, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has exempted Tri/Valley Growers, Inc. from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act. Section 4204(a)(1) provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for the five plan years beginning after the sale. The PBGC is authorized to grant an exemption from this requirement. A notice of the request for exemption from the requirement, inviting comments from interested persons, was published on January 4, 1982 (47 FR 119). No comments were received. The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for exemption and the exemption letter are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, N.W., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Office of the Executive Director, Policy and Planning (140), 2020 K Street, N.W., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale. Another condition is that the sales agreement provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws within the first five plan years after the sale and fails to pay withdrawal liability.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow and sale-contract requirements of section 4204(a)(1) (B) and (C). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On January 4, 1982 (47 FR 119), the PBGC published a request from Tri/Valley Growers, Inc. ("Tri/Valley") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA in connection with the purchase by Tri/Valley of the operating assets of Glorietta Foods ("Glorietta"). According to Tri/Valley's request for an exemption, Glorietta contributed to two multi-employer plans: Western Conference of Teamsters Pension Fund ("Western Conference Fund") and Western States Food Processing Industry Employees Pension Trust ("Western States Trust"). Following the sale, Tri/Valley had an obligation to contribute to these plans with respect to the acquired operations for substantially the same number of contribution base units for which Glorietta had an obligation to contribute.

Glorietta's withdrawal liability, absent section 4204, would be approximately $2 million with respect to the Western Conference Fund. Glorietta's withdrawal liability, absent section 4204, would be approximately $1.6 million with respect to the Western States Trust, based on unfunded vested benefits under the Western States Trust of approximately $19.4 million as of January 1, 1980. Tri/Valley was a contributing employer—one of the three largest—to the Western States Trust prior to the acquisition. Tri/Valley made approximately 12 percent of the contributions made by all employers to the Western States Trust for plan years 1975 through 1979. Tri/Valleys allocable share of the Western States Trust's unfunded vested benefits as of January 1, 1980 was approximately $2.4 million. (PBGC has been advised that the information relating to the withdrawal liability of Glorietta and Tri/Valley with respect to the Western States Trust is based on the most current data available.) Thus, Tri/Valley's total potential withdrawal liability to the two plans is approximately $6 million.

According to its audited financial statements, Tri/Valley had net assets of $48.4 million as of January 31, 1981, $43.46 million as of January 31, 1980 and $38.86 million as of January 31, 1979.

Based on the facts of this case and the representations and statements made in connection with the request for

exemption, PBGC has determined that exemption from the bond/escrow requirement would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plans. Therefore, PBGC hereby grants Tri/Valley's request for an exemption from the bond/escrow requirement with respect to the Western Conference Fund and the Western States Trust in connection with the transaction described above. The granting of an exemption from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisifies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsors of the Western Conference Fund and the Western States Trust, respectively.

Issued at Washington, D.C. on this 29th day of July 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-21000 Filed 8-3-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18846A; File No. SR-PSE-82-8]

Corrected Notice of Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc.

July 28, 1982.

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 7, 1982, the Pacific Stock Exchange, Incorporated ("PSE") filed with the Securities and Exchange Commission the proposed rule change as decribed herein.[1] The Commission is publishing this notice to solict comments on the proposed rule change from interested persons.

The proposed rule change would amend Sections 49(d) and 57(h) of PSC Rule VI, and add Floor Procedure Advice G-5. The proposed rule change would amend the definition of the term "combination order" and under specified circumstances, allow a combination order to take priority over bids or offers in the public limit order book. The proposal also includes a new Floor Procedure Advice outlining the proper trading procedures for spread, straddle and combination orders and establishes the priority system to be followed in executing such orders. The proposed rule change is intended to facilitate conversions and reverse conversions. PSE has indicated that it believes the proposed rule change will have no burden on competition.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before August 25, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR-PSE-82-8.

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, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentional self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21005 Filed 8-3-82; 8:45 am]

BILLING CODE 8010-01-M

[1] SR-PSE-82-8 was originally noticed in Securities Exchange Act Release No. 18846 (June 28, 1982) 25 SEC Docket 972 (July 13, 1982).

[Release No. 22585; (31-787)]

James River-Dixie/Northern, Inc.; Application to be Declared Not To Be an Electric Utility Company

July 28, 1982.

James River-Dixie/Northern, Inc. ("JRDN"), Tredegar Street, Richmond, Virginia 23217, a Virginia corporation and a wholly-owned subsidiary of James River Corporation of Virginia ("James River"), also a Virginia corporation, has filed with this Commission an application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order declaring JRDN not to be an electric utility company under Section 2(a)(3). All interested persons are referred to the amended application, which is summarized below, for a description of applicant and a statement of the basis upon which the order is sought.

James River recently acquired through JRDN certain components of the Dixie-Northern Division ("DND") of American Can Company ("American Can"). The purchased assets are principally related to the manufacture and sale of paper products including towels, tissues, cups, food service products and folding cartons. JRDN will be engaged in the same type of paper business in which DND had been engaged. At March 31, 1982, the purchased assets were carried on DND's books at $460 million, and for the 12 months then ended DND reported revenues of $1,108 million and net income of $50.8 million from such assets.

Included in the purchased assets are two plants located in Menasha, Wisconsin. There is a third plant ("River Plant") at that location which has been retained by American Can. The relationship between the plants is covered by various agreements between the parties. One of these provides that JRDN will supply electricity through a substation at its plant for use by American Can at the River Plant. JRDN will buy such electricity from Wisconsin Electric Power Company ("WEPCO") and resell it on a specifically defined cost basis. This arrangement will relieve American Can of the necessity of building a separate substation for the River Plant. For the 12 months ended April 30, 1982, American Can bought from WEPCO 28,650,000 KWH at a cost of $1,067,110 for use in the three combined plants, of which 14,372,000 KWH, at a cost of $587,000, was used in the River Plant. It is anticipated that JRDN's sales of electricity to American Can will be approximately the same KWH and dollar amounts.

JRDN requests an order declaring it not to be an electric utility company pursuant to Section 2(a)(3) of the Act. That section provides that the Commission shall by order declare a company not to be an electric utility company if it finds "such company is primarily engaged in [a non-utility business], and by reason of the small amount of electric energy sold by such company it is not necessary in the public interest or for the protection of investors or consumers that such company be considered an electric utility company for purposes of (the Act)."

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21004 Filed 8-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12498A; (812-5154)]

The Mutual Life Insurance Company of New York and The MONY Variable Account-B; Correction

July 28, 1982.

This is to correct an error made in Investment Company Act Release No. 12498 issued June 21, 1982—In the matter of the Mutual Life Insurance Company of New York and The MONY Variable Account-B, 1740 Broadway, New York, NY 10019. In the above referenced notice, the application file number read "812-5023." This number should have read 812-5154.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-21003 Filed 8-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18920; File No. SR-OCC-82-16]

Self-Regulatory Organizations; Proposed Rule Change; The Options Clearing Corp.

Relating to the form and timing of submission by Clearing Members of annual audited financial reports to The Options Clearing Corporation.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 6, 1982, The Options Clearing Corporation 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 the Proposed Rule Change

The proposed rule change prescribes the form and timing of submission by Clearing Members of annual audited financial reports to The Options Clearing Corporation ("OCC"). This is intended to conform OCC's reporting requirements to those of SEC Rule 17a-5.

II. 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.* Rule 308 currently provides for an annual audit and for submission of an audit report by each Clearing Member, but fails to prescribe the timing, format and contents of such report. The proposed rule change is intended to ensure greater uniformity in the formats, contents and timing of receipt of the reports by conforming OCC's requirements to those of the SEC.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, in that it will protect investors and the public interest by enhancing OCC's oversight of its Clearing Members and thereby strengthening OCC's ability to safeguard securities and funds within its control or for which it is responsible.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* OCC does not believe that the proposed rule change would impose any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.* Comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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, N.W., 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 Commisison, 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, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before August 25, 1982.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: July 26, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-21056 Filed 8-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12568, 812-5234]

Kemper Investors Life Insurance Co., et al.; Filing of Application

July 28, 1982.

In the matter of Kemper Investors Life Insurance Company, Kilico Money Market Separate Account, Kilico Total Return Separate Account, Kilico Income Separate Account, Kemper Investors Life Insurance Company (Variable Annuity Account C) and Kemper Financial Services, Inc., 120 South LaSalle Street, Chicago, IL 60603; (812-5234).

Notice is hereby given, that Kilico Money Market Separate Account, Kilico Total Return Separate Account, Kilico Income Separate Account (Individually referred to as "Separate Account" and collectively referred to as "Separate Accounts"), each a management investment company registered under the Investment Company Act of 1940 ("Act"), acting through Kemper Investors Life Insurance Company ("Kilico"), Kemper Investors Life Insurance Company Variable Annuity Account C ("Account C"), a unit investment trust, and Kemper Financial Services, Inc. ("KFS"), distributor for Contracts offered by the Separate Accounts and Account C, (collectively referred to as "Applicants"), filed an application on July 16, 1982 and an amendment thereto on July 20, 1982, requesting an order pursuant to Section 11 of the Act approving the terms of certain offers of exchange and pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Sections 2(a)(32), 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit the transactions described below. 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.

The Separate Accounts are currently separate accounts of Kilico. Each is an open-end diversified management investment company registered under the Act. The Separate Accounts were established for the purpose of funding individual variable annuity contracts ("new contracts"). The new contracts allow purchasers to participate in each of the three (3) Separate Accounts or to choose fixed accumulation or payout through allocation to Kilico's General Account. A contract owner is credited with accumulation units in the appropriate Separate Account based upon the purchase payment applied. Kilico, the investment manager for each of the Separate Accounts, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended.

Account C, which is a unit investment trust offering allocation to divisions invested solely in shares of certain mutual funds managed by KFS, is a separate account of Kilico. Account C was established for the purpose of funding individual variable annuity contracts ("old contracts"). The old contracts allow purchasers to participate in the division of Account C, which is invested solely in the shares of Kilico Money Market Fund, Inc. Contract owners of old contracts purchased prior to September 25, 1981 were able to participate in seven (7) difference separate account divisions, each of which was funded by a publicly available mutual fund for which KFS served as investment manager. Kilico Money Market Fund, Inc. is an open-end diversified management investment company registered under the Act.

Kilico proposes to offer contract owners of old contracts an opportunity to purchase new contracts. No fee or charge will be assessed against persons electing to accept the offer.

There are two types of new contracts available. Under a flexible payment contract, the minimum initial purchase payment is $5,000, and additional purchase payments of at least $500 may be made. Under a periodic payment contract, the minimum purchase payment is $25 per payment. Under the old contracts, the initial purchase payments required for a non-tax qualified contract was $2,500, with additional purchase payments required to be at least $500. An old contract also could be purchased under a tax-qualified plan, with minimum purchase payments of $25.

The new contracts and old contracts both have a contingant deferred sales charge ("Withdrawal Charge") beginning at six percent (6%) in the contract year during which the purchase payment is made and scaling down one percent (1%) per year thereafter until there is no withdrawal charge with respect to purchase payments which had been made at least six (6) contract years prior to the time withdrawal was requested.

With respect to old contracts, a mortality and expense risk charge of one percent (1%) per annum was paid to Kilico. Additionally, there were investment management fees payable to KFS with respect to the underlying mutual funds held in the divisions of Account C. In addition, there was an annual records maintenance charge of $25 assessed on December 31st of each year for any contract which participated in any of the variable divisions of Account C. With respect to the new contracts, an annual charge of one percent (1%) is assessed annually and paid to Kilico with respect to flexible payment contracts. With respect to periodic payment contracts, an annual charge of one and three-tenths percent (1.3%) is assessed for mortality and expense risks and administrative costs. For all new contracts, an annual records maintenance charge of $25 is assessed on December 31st of each year with respect to new contracts participating in any of the Separate Accounts on that date.

Additionally, each of the Separate Accounts assesses a management fee, which is calculated as a percentage of average daily net assets, accrued daily, and paid monthly to Kilico. For Kilico Money Market Separate Account, the fee is one-half of one percent (.50%), for Kilico Total Return Separate Account, the fee is fifty-five hundredths of one percent (.55%); and for Kilico Income Separate Account, the fee is sixty hundredths of one percent (.60%).

Under new contracts and old contracts, a contract owner may withdraw up to ten percent (10%) of the contract value in any contract year without assessment of any sales charge. If the contract owner withdraws an amount in excess of that amount, the excess amount withdrawn is subject to the Withdrawal Charge. Additionally, the Withdrawal Charge applicable to the new contracts shall apply as if any purchase payment were made under an old contract, even if such time precedes the date of the initial offering of the new contracts. Additionally, in no event shall aggregate withdrawal charges assessed against a new contract exceed seven and one-quarter percent (7.25%) of the aggregate purchase payments made for the old and new contract.

Applicants state that the proposed transfer would occur upon written request of the contract owner or contract owners of an old contract, and that any issued contract or certificate would be tendered to Kilico for this purpose. The old contract would be terminated and exchanged for the new contract which Kilico would issue. The exchange would be on the basis of accumulation unit value of the securities to be exchanged or, with respect to fixed account portions, on the basis of interest accrued at the time of exchange.

Kilico also proposes to offer new contracts pursuant to the Texas Optional Retirement Program ("Program"). Title 110B of the Texas Revised Civil Statutes ("ORP statute") allows as the funding media for the

Program fixed or variable annuity contracts purchased from any insurance or annuity companys qualified to do business in Texas. Section 36.105 of the ORP statute provides that the benefits of an annuity purchased under the Program are available only if the participant terminates participation in the Program by death, retirement of termination of employment in all institutions of higher education. The applicable provisions of the ORP statute, insofar as they restrict termination of participation in an annuity program, would prohibit Applicants from offering new contracts to participants in the Program without exemptive relief.

Applicants seek to limit the withdrawal privileges otherwise available under the new contracts to the extent that such modifications are necessary in order to make the new contracts comply with the requirements of the ORP statute. The exemptive relief sought is solely for the purpose of, and solely limited to, purchasers who are participants in the Program. Applicants assert that absent the limited exemptions requested, they will not be able to offer the new contracts to Program contract owners. Applicants further assert that the Commission should grant the requested exemptions because: (1) the limited restrictions on redemption would be voluntarily assumed by contractowners, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated or suggested by Applicants; and (3) contract owners' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the contributions of the State of Texas.

Applicants state that they will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption under the new contracts and that this disclosure will take the form of an approrpriate reference in each prospectus to the restrictions on redemption of the new contracts, as well as requiring each contract owner, as a part of the determination that the sale of the new contract is suitable for that contract owner, to sign a statement indicating that he or she is aware of these restrictions. In addition, Applicants state that they will ensure that all sales literature that is to be used in conjunction with the sale of the new contracts will be reviewed for the existence of material representations that are inconsistent with the restrictions to be placed on the new contracts, and the salespeople involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of the contract owners.

Section 11

Section 11(a) of the Act makes it unlawful for any registered, open-end investment company to make an offer to the holder of securities (or of the securities of any other open-end investment company) to exchange those shares for the shares of the same or other such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer first have been submitted to and approved by the Commission. Section 11(c) applies the provisions of Section 11(a) irrespective of the basis of the exchange to any offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company. Applicants request an order of the Commission pursuant to Section 11 approving the terms of the proposed exchanged described above.

Sections 27(c)(1), 2(a)(32), 22(e), and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such cerificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer or to a person designated by the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Section 6(c)

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants seek an order pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Sections 2(a)(32), 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with the provisions of the ORP statute as they pertain to redemption of new contracts issued to contract owners in the Program.

Notice is further given that any interested person may submit, not later than August 20, 1982 at 5:30 p.m., to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following August 20, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-21055 Filed 8-3-82; 8:45 am]

BILLING CODE 8010-01-M

VETERANS ADMINISTRATION

[317/21]

Station Committee on Educational Allowances; Meeting

July 27, 1982.

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on September 17, 1982, at 1:00 p.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 654, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in an On-the-Job Training Program at Brown's Air Conditioning, Inc., 1207 South Ridgewood Avenue, Edgewater, Florida, 32032, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: July 27, 1982.

Carlos L. Rainwater,

Director.

[FR Doc. 82-21063 Filed 8-3-82; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC on September 24, 1982, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Center Office (phone 202-389-2864) prior to September 17, 1982.

Dated: July 28, 1982.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-20999 Filed 8-3-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 150
Wednesday, August 4, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-359; July 29, 1982]

TIME AND DATE: 10 a.m., August 5, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket, Essential air service for El Dorado/Camden, Arkansas. (Memo 1262-A, BDA, OCCCA)
3. Docket EAS-580, Essential Air Service Determination Appeal for Jackson, Tennessee. (Memo 520-A, OGC, BDA, OCCCA)
4. Docket 39864, Western Air Lines' notice of intent to suspend service at Pierre, South Dakota. (Memo 751-D, BDA, OCCCA)
5. Docket EAS-793, Essential Air Service Eligibility for Blacksburg/Radford/ Pulaski, Virginia. (Memo 656-A, BDA, OGC, OCCCA)
6. Docket 39374, Selection of Custom Aviation to provide essential air service at Blythe, California. (BDA, OCCCA).
7. Docket EAS-713, Selection of carrier for essential air service at Seward, Alaska. (Memo 947-A, BDA, OCCCA, OC)
8. Docket 38143, Cascade Airways, Inc. application for compensation for losses at Moses Lake, Washington. (Memo 1420, BDA, OCCCA, OC)
9. Docket 40662, Application of Aero West Airlines, Inc. under Subpart Q of the Board's Regulations for a determination of fitness and a certificate of public convenience and necessity to provide domestic scheduled air transportation. (Memo 1462, BDA)
10. Dockets 27131, *et al. USAir, Inc., Enforcement Proceeding,* USAir motion to relieve it of affirmative Part 252 "smoking" duties imposed by Order 76-4-160. (Memo 1411, OGC)
11. Docket 40412, *Midwestern Airlines, Inc., Fitness Investigation.* (Memo 1140-A, OGC)
12. Docket 40828, *Central Zone-Caracas/ Maracaibo, Venezuela Service Case,* Petition for Clarification of Order 82-7-31. (OGC)
13. Docket 40658, *The Hawaii Express, Inc. Fitness Investigation,* Order on Discretionary Review. (OGC)
14. Protection of passengers money collected by applicants for section 401 authority prior to certification by the Board. (OGC)
15. Terminations and suspensions of service on international air routes. (OGC, BIA)
16. Docket 39932, Denied Boarding Compensation: Supplementary request for instructions and outline of major issues in the rulemaking. (Memo 953-C, OGC, BIA, BDA, OEA, OC, OCCCA)
17. Bumping of subsidized airlines under section 419 of the Act. (Memo 1408, OGC, BDA, OCCCA)
18. Docket 35634, Agreement CAB 28789 R-1 through R-8, Agreement CAB 28790 R-1 through R-8, IATA agreements establishing, *inter alia,* new cargo rate structures to apply from the United Kingdom to the United States and between the United States and the Middle East through September, 1983. (Memo 1418, BIA)
19. Docket 35634, Agreement CAB 28791 R-1 through R-3, Agreement CAB 28792 R-1 through R-19, IATA agreements proposing new transpacific and Asian cargo rate structures. (Memo 1421, BIA)
20. Docket 35634, Agreement CAB 28772 R-1 through R-8, Agreement CAB 28778, IATA agreements proposing a new cargo rate structure from Europe to the South West Pacific. (Memo 1415, BIA)
21. Docket 35634, Agreement CAB 28781 R-1 through R-4, Agreement CAB 28785 R-1 through R-5, IATA agreements proposing new South Pacific and Western Hemisphere cargo rate structures. (Memo 1417, BIA)
22. Docket 38623, Agreement CAB 28786 R-1 through R-3, IATA agreement proposing new U.S.-Asia Transatlantic fares. (Memo 1419, BIA)
23. Docket 40590, Application of Trans North Turbo Air Limited d.b.a. Trans North Air for a foreign air carrier permit to conduct scheduled passenger and property services between Whitehorse, Yukon Territory, Canada and Juneau, Alaska. (Memo 1409, BIA)
24. Docket 40649, Application of Global International Airways Corp. for a certificate of public convenience and necessity under section 401 of the Federal Aviation Act of 1958, as amended, to operate United States-Middle East/Greece scheduled service. (Memo 1410, BIA OGC)
25. Docket 40688, Application of The Flying Tiger Line, Inc. for certificate authority: U.S.-Iceland. (Memo 1429, BIA, OGC)
26. Docket 40451, Application of Frontier Airlines, Inc. for renewal of certificate authority. (BIA, OGC)
27. Docket 40099, Application of Challenge Air Transport, Inc. for a certificate of public convenience and necessity to engage in foreign air transportation. (Memo 1424, BIA, OGC, BALJ)
28. Upcoming Negotiations with China. (BIA).

STATUS: 1-27 open, 28 closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1125-82 Filed 8-2-82; 3:54 pm]

BILLING CODE 6320-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, August 5, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

1. *Compliance Status Report*
   The staff will report to the Commission on the status of various compliance activities.
2. *Enforcement Matter OS #2081*
   The staff will brief the Commission on issues related to enforcement matter OS #2081.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492-6800.

S-1116-82 Filed 8-2-82; 9:17 am]

BILLING CODE 6355-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 29th Open Meeting

The following item has been deleted at the request of the Chairman's office from the list of agenda items scheduled for consideration at the July 29, 1982, Opening Meeting and previously listed in the Commission's Notice on July 22, 1982.

Agenda, Item No., and Subject

Common Carrier—5—Title: In re application of GTE Satellite Corporation (GSAT) for Section 214 authority. *Summary:* The Commission will consider whether to grant the application of GSAT to lease ten transponders from Telesat Canada to provide service to its customer, United Satellite Television.

Issued: July 29, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1119-82 Filed 8-2-82; 11:04 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, August 5, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, August 5, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* Proposed modifications of the Commission's Authorized User Policy concerning Access to the International Satellite Services of the Communications Satellite Corporation. *Summary:* Report and Order reviewing comments filed by interested persons on proposals to modify the Commission's authorized-user policy governing who may take international satellite services directly from the Communications Satellite Corporation.

Common Carrier—2—*Title:* Corporate Structure and Operations of the Communications Satellite Corporation (Docket No. 80-634). *Summary:* Memorandum Opinion and Order considering changes in the structure and operations of the Communications Satellite Corporation in view of its diversification into non-INTELSAT/INMARSAT lines of business.

Common Carrier—3—*Title:* In the Matter of Modification of policy on ownership and operation of U.S. earth stations that operate with the INTELSAT global communications satellite system. *Summary:* Notice of Inquiry providing interested parties an opportunity to comment on alternatives and offer proposals for modification of the Commission's current policy on ownership and operation of U.S. earth stations that operate with the INTELSAT global communications satellite system. The Commission's current policy allows for joint ownership of these stations by Comsat and those carriers which provide overseas communications services to the public through these stations. *Ownership and Operation of Earth Stations,* 5 FCC 2d 812 (1966).

Common Carrier—4—*Title:* In the Matter of Regulatory Policies Concerning Direct Access to INTELSAT Space Segment for the U.S. International Service Carriers. *Summary:* Notice of Inquiry providing interested parties an opportunity to comment on alternatives and offer proposals for modification of the Commission's current policy on access by the U.S. International Service Carriers (USISC's) to INTELSAT space segment facilities. The Commission's current policy gives the U.S. Signatory to INTELSAT—the Communications Satellite Corporation (Comsat)—exclusive U.S. ownership of these facilities and requires that the USISC's obtain access pursuant to tariffs filed by Comsat.

Common Carrier—5—*Title:* Memorandum Opinion and Order in the Matter of Implementation of Requirements of the International Maritime Satellite Telecommunications Act. *Summary:* In this Order, we address issues concerning earth station ownership and cross-subsidization.

Common Carrier—6—*Title:* Applications of Communications Satellite Corporation *et al.* for authority to construct a multiple-beam TORUS antenna and associated earth terminal facilities at Andover, Maine, Etam, West Virginia and Jamesburg, California. *Summary:* The Commission considers whether or not to grant the applications in light of petitioners' claims that the proposed earth station facilities are domestic in nature and that Comsat is therefore not eligible to be the licensee.

Common Carrier—7—*Title:* Application for Review filed by Western Union International, Inc. *Summary:* The Commission will consider the applicability of the *Computer II* decision to international communications.

Common Carrier—8—*Title:* In the Matter of The Western Union Telegraph Co. Application for authority pursuant to Section 214 of the Communications Act of 1934, as amended, to establish, acquire and operate facilities for the purpose of extending communications services to overseas points. *Summary:* The Commission will consider the application of The Western Union Telegraph Co. to re-enter the international record services marketplace pursuant to the Record Carrier Competition Act of 1981.

Common Carrier—9—*Title:* First Report and Order in Docket No. 80-632. *Summary:* The Commission will consider a First Report and Order in Docket No. 80-632 regarding the voice/record dichotomy in the provision of international services.

Common Carrier—10—*Title:* Applications of FTC Communications, Inc. Western Union International, Inc. ITT World Communications Inc., and RCA Global Communications, Inc. *Summary:* The Commission will consider whether the applications of the above-named international record carriers to provide voice only lease channel service between the United States and the United Kingdom are in the public interest.

Common Carrier—11—*Title:* In re application of GTE Satellite Corporation (GSAT) for Section 214 authority. *Summary:* The Commission will consider whether to grant the application of GSAT to lease ten transponders from Telesat Canada to provide service to its customer, United Satellite Television.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 29, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1120-82 Filed 8-2-82; 11:04 am]

BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 9, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge and establish branches:

Dauphin Deposit Bank and Trust Company, Harrisburg, Pennsylvania, for consent to merge, under its charter and title, with Southern Pennsylvania Bank, York, Pennsylvania, and The Peoples National Bank of Shippensburg, Shippensburg, Pennsylvania, and to establish the eleven offices of Southern Pennsylvania Bank and the two offices of The Peoples National Bank of Shippensburg as branches of the resultant bank.

Request for exemptions pursuant to section 348.4(b)(1) of the Corporation's rules and regulations entitled "Management Official Interlocks":

The Harbor Bank of Maryland (Proposed), Baltimore (Independent City), Maryland.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,009-L (Amended)—State Bank of Clearing, Chicago, Illinois

Case No. 45,316-L—Metroplitan Bank and Trust Company, Tampa, Florida

Recommendation with respect to payment of legal services rendered and expenses incurred in connection with receivership and liquidation activites:

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Florida, in connection

with the liquidation of Metropolitan Bank and Trust Company, Tampa, Florida.

Reports of committee and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approve by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 2, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1122–82 Filed 8–2–82; 3:21 pm]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 9, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii), of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Application for consent to merge and establish branches:

The Liberty Bank for Savings, Middletown, Connecticut, for consent to merge, under its charter and title, with Willimantic Savings and Loan Association, Willimantic, Connecticut, and to establish the two offices of Willimantic Savings and Loan Association as branches of the resultant bank.

Memorandum re: Amendments to the Corporation's General Travel Regulations (GTR).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 2, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1123–82 Filed 8–2–82; 3:21 pm]

BILLING CODE 6714–01–M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:58 p.m. on Thursday, July 29, 1982, the Board of Directors met in closed session, by telephone conference call, to (1) receive sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Bowie County State Bank, Hooks, Texas, which was closed by the Texas Banking Commissioner on Tuesday, July 27, 1982; (2) accept the bid for the transaction submitted by the newly-chartered First Bank and Trust, Hooks, Hooks, Texas; (3) approve the application of First Bank and Trust, Hooks, Hooks, Texas, for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in The Bowie County State Bank, Hooks, Texas; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

At that same meeting, the Board of Directors (1) received sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Guaranty Bond State Bank, Redwater, Texas, which was closed by the Texas Banking Commissioner on Tuesday, July 27, 1982; (2) accepted the bid for the transaction submitted by the newly-chartered First Bank and Trust, Redwater, Redwater, Texas; (3) approved the application of First Bank and Trust, Redwater, Redwater, Texas, for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in Guaranty Bond State Bank, Redwater, Texas; and (4) provided such financial assistance pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Paul M. Homan, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: July 30, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1121–82 Filed 8–2–82; 2:47 pm]

BILLING CODE 6714–01–M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 4, 1982. The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of Federal Reserve Bank proposal regarding check processing services.

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 30, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1117–82 Filed 8–2–82; 10:18 am]

BILLING CODE 6210–01–M

9

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, August 9, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: July 30, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1118–82 Filed 8–2–82; 10:23 am]

BILLING CODE 6210–01–M

10

PAROLE COMMISSION

[2P0401]

TIME AND DATE: 2 p.m., Tuesday, August 10, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1124–82 Filed 8–2–82; 3:22 pm]

BILLING CODE 4410–01–M

Federal Register

Wednesday
August 4, 1982

Part II

Department of Education

Assistance to States for Education of Handicapped Children

DEPARTMENT OF EDUCATION

34 CFR Part 300

Assistance to States for Education of Handicapped Children

AGENCY: Education Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the Assistance to States for Education of Handicapped Children program. The Secretary believes that changes proposed in this document will result in regulatory requirements which adhere more closely to the language of the statute and its legislative history. The proposed regulations are designed: (1) To reduce fiscal and administrative burdens on recipients while implementing statutory protections that ensure the availability of a free appropriate public education to all handicapped children, and (2) to address various problems that have arisen in the implementation of the program since the current regulations became effective in October 1977. The proposed amendments will also make the regulations clearer and easier to understand.

DATES: Comments must be submitted on or before November 2, 1982.

Briefings and public hearings will be held on: September 8–9, 13–14, 15–16, 20–21, 22–23, 1982 at the addresses shown below.

The times for these meetings are:

First Day

9:00 a.m.–11:30 a.m.—Briefing
11:30 a.m.–12:30 p.m.—Break
12:30 p.m.–12:45 p.m.—Registration for first day of public hearing
12:45 p.m.–4:00 p.m.—Public hearing

Second Day

8:45 a.m.–9:00 a.m.—Registration for second day of public hearing
9:00 a.m.–11:30 a.m.—Public hearing
11:30 a.m.–12:30 p.m.—Break
12:30 p.m.–4:00 p.m.—Public hearing (preregistered commenters)

ADDRESSES: Written comments should be addressed to Dr. Ed Sontag or Ms. Shirley A. Jones, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohue Building (Room 4000), Washington, D.C. 20202–4714. Telephone (202) 426–6114.

Briefings and public hearings on the proposed regulations will be held in Washington, D.C. and eight regional sites. The locations and dates for the briefings and public hearings are:

Washington, D.C., September 8–9, 1982—GSA Regional Office Building, Room 1041, 7th & D Streets SW., Washington, D.C. 20407

Region I—Portland, September 13–14, 1982—Portland Vocational Center, 196 Allen Avenue, Room 250 (School Committee Room), Portland, Maine 04103

Region II—New York, September 15–16, 1982—World Trade Center, Tower 2, 44th Floor Conference Room, New York, New York 10047

Region IV—Atlanta, September 15–16, 1982—Richard B. Russell Building, L. B. Strom Auditorium, 75 Spring Street SW., Atlanta, Georgia 30303

Region V—Chicago, September 13–14, 1982—Spalding School, Auditorium, 1628 West Washington Boulevard, Chicago, Illinois 60612

Region VI—Dallas, September 22–23, 1982—El Centro College, Performing Arts Theater, Main and Market Streets, Dallas, Texas 75202

Region VIII—Denver, September 20–21, 1982—Saint Cajetan's Center, 9th and Lawrence on the Auraria Campus, Denver, Colorado 80202

Region IX—Los Angeles, September 20–21, 1982—Grand Theater, Trade Technical College of the Los Angeles Community College District, 400 West Washington Boulevard, Los Angeles, California 90015

Region X—Seattle, September 22–23, 1982—Federal Office Building, North Auditorium, 915 Second Avenue, Seattle, Washington, 98108

FOR FURTHER INFORMATION CONTACT:
Dr. Ed Sontag or Ms. Shirley A. Jones, Telephone (202) 426–6114.

For information on regional hearings contact: The appropriate Regional Representatives for Educational Programs listed below:

Region I, Boston, Mr. Wayne Roberts, (617) 223–7500
Region II, New York, Dr. Lorraine Colville, (202) 264–7005
Region IV, Atlanta, Mr. Ted B. Freeman, (404) 221–2502
Region V, Chicago, Mr. Harold Wright, (312) 353–5215
Region VI, Dallas, Dr. Scott Tuxhorn, (214) 767–3636
Region VIII, Denver, Mr. Tom Tancredo, (303) 837–3544
Region IX, San Francisco, Dr. Eugene Gonzales, (415) 556–4920
Region X, Seattle, Mr. Hyrum Smith, (206) 399–0460

SUPPLEMENTARY INFORMATION: Pub. L. 94–142, enacted on November 29, 1975, substantially revised Part B of the Education of the Handicapped Act (20 U.S.C. 1401, 1411 *et seq.*). Part B authorizes formula grants to States and, through States, to local educational agencies and intermediate educational units to assist them in the education of handicapped children. The purposes of the Act, as amended by Pub. L. 94–142, are: to ensure that a free appropriate public education is made available to all handicapped children, to ensure that the rights of handicapped children and their parents are protected, to assist States and localities to provide for the education of handicapped children, and to assess and ensure the effectiveness of efforts to educate those children.

Since the current regulations implementing Part B of the Act became effective on October 1, 1977, questions have arisen about certain aspects of those regulations. Information obtained in the course of reviews of State plans, compliance activities, and technical assistance efforts by the Office of Special Education and Rehabilitative Services has been used to propose changes to make the regulations easier to understand and to implement. In addition, the proposed amendments incorporate modifications recommended by the public in comments submitted in response to briefings provided by the program office and in response to requests of the Presidential Task Force on Regulatory Relief to identify and eliminate those regulations that are unnecessary or unduly burdensome.

In preparing these proposed regulations, special attention has been focused on eliminating or reducing excessive paperwork requirements and regulatory detail that result in expenditure of time and resources on administrative activities and inappropriately limit the discretion of educational agencies in carrying out the program. The Secretary believes the increased flexibility resulting from the proposed changes will benefit both children and educational agencies by improving the ability of the agencies to address the needs of handicapped children more effectively. In simplying and streamlining these regulations, care has been taken not to weaken the key procedural protections and rights of handicapped children and their parents, as established by the statute. The overriding purpose of the proposed revisions is to improve the process for ensuring a free appropriate public education for handicapped children envisioned by the statute by removing the excessive regulatory overlay that detracts from that process.

These proposed regulations delete some current regulatory provisions that address matters of preferred educational practice. In such a case, the deletion should not necessarily be understood to express the Secretary's rejection of the practice described in deleted material.

Rather, the deletion reflects the judgment that it is better to rely on the flexible and cooperative processes set up by the statute, rather than to specify preferred practice in binding Federal regulations.

The proposed guidelines set out after various regulatory provisions in this document are, in most cases, recommendations and suggestions for meeting legal requirements. The guidelines are not to be construed as requirements. They are not binding on recipients. However, where a guideline sets forth a permissible course of action, a State or local recipient either may rely upon the guideline or take any other course of action that meets the applicable requirement.

A discussion of the proposed regulations follows:

A. Summary of Proposed Regulations

This notice of proposed rulemaking (NPRM) organizes the proposed regulations into eight subparts:

1. *Subpart A—General.*

Subpart A describes the basic purposes of the program authorized by Part B of the Act. This subpart indicates those entities to which the proposed regulations apply, lists applicable provisions of the Education Department General Administrative Regulations (EDGAR), and contains the definitions of terms used in the proposed regulations.

2. *Subpart B—How Does a State Apply for a Grant?*

Subpart B sets forth the requirements that a State must meet in order to receive a grant, including requirements concerning the information to be included in the State plan, public participation in the development of the plan, and the annual reporting of a State's child count. This subpart also sets forth the requirements that the Secretary of the Interior must meet in order to receive a grant under Part B of the Act to provide services to Indian children.

3. *Subpart C—How Does the Secretary Make a Grant to a State?*

Subpart C describes the formula used to determine the amount of funds each State will receive under Part B of the Act. This subpart includes information concerning the number of handicapped children within a State who may be counted for funding purposes. Subpart C also governs the computation of grants to the Secretary of the Interior and to the insular areas.

4. *Subpart D—How Does an Applicant Apply to a State for a Subgrant?*

Subpart D specifies the information which a local educational agency (LEA) or intermediate educational unit (IEU) must include in its application to the State educational agency (SEA) for funds under Part B of the Act. This subpart also describes the limitations on an LEA's use of funds under Part B of the Act. An LEA may use these funds only to meet the excess costs directly attributable to the education of handicapped children. An LEA is also prohibited from supplanting State and local funds spent for the education of handicapped children with funds provided under Part B of the Act.

5. *Subpart E—How Does a State Make a Subgrant?*

Subpart E contains information about the methods an SEA uses to distribute funds to LEAs in the State. This includes a formula to be used for computing each LEA's allocation and a provision for the withholding of funds from an LEA in certain situtations.

6. *Subpart F—What Conditions Must Be Met by a State and Its Local Educational Agencies?*

Subpart F contains substantive provisions that recipients must comply with as a condition of receiving funds under Part B of the Act. Included in this subpart are provisions concerning the use of State set-aside funds, the use of an LEA's allocation for direct services by the State, the provision of a free appropriate public education, individualized education programs, services to handicapped children placed in or referred to private schools by public agencies, participation of handicapped children in private schools not placed or referred by public agencies, procedural safeguards, evaluation and placement procedures, education in the least restrictive environment, and confidentiality of information.

7. *Subpart G—What Are the Administrative Responsibilities of a State?*

Subpart G lists the general responsibilities of the SEA, and also sets out requirements concerning the establishment, membership, and functions of a State advisory panel on the education of handicapped children.

8. *Subpart H—What Procedures Are Used by the Secretary for Withholding of Payments and for Waiving the Supplanting Prohibition?*

Subpart H specifies the procedures that are followed in withholding payments from a State and in considering a State's request for a waiver of the supplanting prohibition.

B. Significant differences between the proposed regulations and the current regulations

1. *Definitions (§ 300.4).*

• *Handicapped child* (§ 300.4(b)(4)). The proposed definition of a "handicapped child" includes the general qualification that the child's impairment "adversely affects the child's ability to benefit from a regular education program". The phrase "adversely affects a child's educational performance" has therefore been deleted from the definition of each specific handicap in the existing regulations. See current § 300.5. Moreover, the reference to socially maladjusted children in the definition of a "seriously emotionally disturbed" child in existing § 300.5(b)(8)(ii) has been deleted as unnecessary to ensure that only children who have the characteristics described in proposed § 300.4(b)(4)(viii) are included in this category.

• *Related services* (§ 300.4(b)(10)). The statute defines "related services" as follows:

> The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children. (20 U.S.C. 1401(17))

The existing regulations define the related services listed in the statutory definition. See current § 300.13. In addition, "school health services", "social work services in schools", and "parent counseling and training" are included as related services and defined in the current regulatory provisions.

In recent years, school officials and parents have pointed out problems in the implementation of the current statutory and regulatory requirements concerning related services. The most persistent problems involve determining whether certain health-related services are to be provided.

Schools face increasing costs in providing related services as health agencies and insurers which formerly paid them shift this responsibility to the schools. Also, school authorities have criticized the existing definition of related services as too broadly worded to provide sufficient guidance for determining when a service is "related" and, thus, required to be provided. Many school officials have expressed their belief that some limitations must be placed on their responsibility for

providing related services in light of their agencies' limited funds.

The Secretary believes that guidance in implementing the statutory provisions governing related services should be consistent with the Administration's efforts to increase State and local flexibility to the extent permitted by the statute. The proposed regulations retain the statutory definition of "related services", but delete as unnecessary the existing definitions of particular related services. Additionally, "school health services", "social work services in schools", and "parent counseling and training", which do not appear in the statute, are removed from the definition of "related services". These services are addressed in the proposed §300.113, *"Access to programs and services".*

The statute defines related services to exclude medical services except where they are for diagnostic or evaluation purposes. The existing regulations define medical services as services provided by a licensed physician. See current § 300.13(b)(4). Under the proposed regulations, "medical services" are defined simply as "services relating to the practice of medicine". See § 300.4(b)(10)(i). A guideline has been added at the end of proposed § 300.4 to make clear that a public agency may look to State medical licensing authorities in determining whether a service is a medical service, and that particular mental health services may be "medical services" as the statute and regulations use that term.

The proposed regulations contain illustrations of services that are medical in nature, and need not be provided. These include certain life-sustaining procedures, surgery, medication, and individually prescribed devices. The Secretary does not intend that these regulations categorically preclude the provision of clean intermittent cateterization (CIC) or particular mental health services on the grounds that they are medical services. Rather, the Secretary intends that public agencies determine whether these services are required on an individualized basis. The Secretary invites comments on the illustrations of medical services in particular, and on the Department's regulatory guidance on the provision of health-related services in general.

The proposed definition of "related services" also contains a new provision (§ 300.4(b)(10)(ii)) which allows public agencies to establish reasonable limitations on the provision of related services in developing a child's individualized education program. These limitations may relate to (1) the level, frequency, location, and duration of the services, (2) the qualifications of service providers, and (3) services required in light of the least restrictive environment provisions.

• *Special education* (§ 300.4(b)(11)). The proposed regulations continue to provide that "special education", as that term is defined in the statute, includes vocational education, as well as the types of instruction set out in the statutory definition. While instruction in physical education may constitute "special education", the proposed regulations do not define "physical education".

Instead, a guideline to the proposed regulations sets out a number of permissible activities a State may include under that term. Additionally, the proposed regulations convert to a guideline the provisions of current § 300.14(a)(2), which defines special education to include a related service if a particular service consists of specially designed instruction and is considered as special education rather than a related service under State standards.

2. *State Plans (§§ 300.10–300.55).*

• *Data and documentation requests* (§§ 300.11, 300.15–300.39, and 300.50–300.53). The proposed regulations remove numerous requirements for detailed documentation of State policy and, instead, allow States to determine how best to provide the required information, policies, and procedures. States may incorporate, by reference satisfactory to the Secretary, material already on file with the Department. A guideline that explains how a State may demonstrate that it is meeting certain requirements is added. See § 300.11. Other data collection and reporting requirements are reduced, especially in the areas of the full educational opportunity goal; child identification, location, and evaluation; and the least restrictive environment.

• *Timelines for evaluations and individualized education plans* (§§ 300.18, 300.20). The proposed regulations require that each State plan include reasonable timelines adopted by the State for (1) the interval between a child's identification and the child's evaluation, and (2) the interval between a child's evaluation and the establishment of an IEP. Current regulations specify 30 days for the latter interval at § 300.343(c). The interval between identification and evaluation is not addressed in current regulations. The inclusion of timelines for evaluation thus expands the protections afforded handicapped children. The Secretary believes that reasonable timelines for evaluation and the established of an IEP are necessary to ensure that each child have available a free appropriate public education, but that it is not necessary to establish at the Federal level specific nationwide timelines. The proposed regulations enable States to set timelines in accordance with their individual circumstances, subject to Department review.

• *Priorities.* The statutory requirement that States establish priorities for providing a free appropriate public education to certain classes of handicapped children (see 20 U.S.C. 1412(3)) has been superseded by the requirement that, as of September 1, 1980, all handicapped children in a State have available to them a free appropriate public education. See 20 U.S.C. 1412(2)(B) and §§ 300.15 and 300.110 of the proposed regulations. The proposed regulations therefore contain no provision on the priorities.

• *Comprehensive system of personnel development (CSPD)* (§ 300.29). The requirements of the existing regulations (§§ 300.380–300.387) are substantially shortened and simplified with regard to the participation of other agencies and institutions in the development of the CSPD, inservice training, methods of information dissemination, and the provision of technical assistance to LEAs for implementing the CSPD. The removal of specific data submission requirements will reduce administrative burdens associated with preparing the State plan. More flexibility is provided for SEAs to develop inservice training programs that meet unique needs in each State.

• *Related services* (§ 300.39). A new section is added that requires the State to include in its plan a description of policies and procedures that will ensure the provision of related services to eligible handicapped children.

3. *LEA Applications (§§ 300.70–300.75).*

• *Assurances.* Under the existing regulations, an LEA must submit substantive information about its policies and procedures in such areas as confidentiality of information, personnel development, and meeting the full educational opportunity goal. Under the proposed regulations, an LEA need only include in its application an assurance satisfactory to the SEA that it has met the substantive requirements in these areas.

4. *Use of Funds Received Under Part B (§§ 300.35, 300.80–300.86).*

• *Supplanting* (§§ 300.35 and 300.85). LEAs are prohibited from using Part B funds to supplant local and State funding, unless the State receives a waiver of this provision from the Secretary. See 20 U.S.C. 1413(a)(9)(B) and 1414(a)(2)(B)(ii). Several changes are proposed in the regulations

concerning this prohibition in current § 300.230. First, expenditures for capital outlay and debt service are excluded from the computation. Second, an allowance may be made for any extraordinary, nonrecurring expenditures, in addition to funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities. These provisions will help to ensure that the supplanting prohibition will not inhibit LEAs from making capital improvements and certain other special expenditures on behalf of handicapped children.

Finally, the proposed regulations drop the existing prohibition against using Part B funds to supplant State or local funds for any particular cost. See current § 300.230(b)(2). While the supplanting prohibition on the level of funds expended still applies, the particular services paid for with these funds need not remain fixed. This will make LEAs better able to adjust the provision of services to the changing needs of handicapped children, without undermining the basic principle that Part B funds are to be used to enhance local programs, not to replace local with Federal funds.

5. *State Administration (§§ 300.170–300.173).*

• *General responsibility* (§ 300.170). The existing regulations require a State to meet its responsibilities for supervising all education programs for handicapped children through State statute, State regulation, signed agreements between respective agency officials, or other documents. See § 300.600. The proposed regulations provide that the State may meet these responsibilities through such written agreements as it determines are necessary. See § 300.170(b).

• *State advisory panel* (§§ 300.171–300.173). The statute requires each State to have an advisory panel (appointed by the Governor or other authorized official) composed of individuals involved in or concerned with the education of handicapped children. Among other duties, the advisory panel advises the SEA of unmet needs within the State in the education of handicapped children. The advisory panel also comments publicly on State-issued rules, regulations, and Part B fund distribution procedures, and assists the SEA in developing and reporting data and evaluations required by the Secretary. The proposed regulations do not include the specific State administrative obligations specified in current § 300.653. The Secretary believes that State advisory panels are well established, and that regulatory provisions on those matters are no longer necessary.

6. *Provision of Free Appropriate Public Education (§§ 300.110–300.114).*

• *State practice exception* (§ 300.110(b)). Under the Act, a State must make a free appropriate public education available to all of its handicapped children aged three through twenty-one. This requirement does not apply, however, to children in age groups 3–5 and 18–21, inclusive, where its application would be inconsistent with State law or practice, or with the order of any court, respecting the provision of public education to children within those age groups. The proposed regulations delete the present regulatory criteria for determining State practice.

• *Financial responsibility* (§ 300.111). The proposed regulations provide that a public agency remains financially responsible for a child's education when the public agency refers or places the child in a school or facility inside or outside the State or local jurisdiction because it does not have an appropriate educational program for the child. See § 300.111(a).

The proposed regulations, however, relieve an LEA of financial responsibility when the child is unilaterally placed in a school or facility by another agency. The placing agency bears the financial responsibility unless State law or policy provides otherwise. See § 300.111(b).

The proposed regulations add provisions that (1) emphasize the permissibility of using various sources of support to pay for services that must be provided to a handicapped child under the Act, and (2) prohibit a public agency from requiring the parents of a handicapped child to use insurance proceeds for those services if filing an insurance claim would pose a realistic threat of financial loss to the parents. See § 300.111(d). This provision would codify an interpretation concerning insurance proceeds which became effective on March 30, 1981. See 45 FR 86390, December 30, 1980.

• *Residential placement* (§ 300.112). Under existing § 300.302, the parents of a handicapped child who is referred to or placed in a private or public residential program may not be charged for the program, including non-medical care or room and board. The proposed regulations prohibit charges only for room and board and for special education and related services provided in accordance with the child's individualized education program. The Secretary anticipates that this provision will facilitate a clearer identification of the costs essential to a handicapped child's education, and thereby help to control the costs which educational agencies bear for residential placements. A guideline has been added to make it clear that the regulations do not preclude a public agency from seeking reimbursement for residential costs that it is not required to bear by the statute or regulations.

• *Access to programs and services* (§ 300.113). Current §§ 300.305 and 300.306, concerning program options and nonacademic services for handicapped children, are modified. The proposed provision states that nothing in the Act or the regulations may be read to affect any legal obligation of a public agency to make available to handicapped children educational programs and services made available to nonhandicapped children by the agency, including curricular options, extracurricular and nonacademic services, physical education, school health services, social work services in schools, and parent counseling and training. Readers are advised that Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, imposes an obligation of nondiscrimination in programs and activities receiving Federal financial assistance. Services that are not required to be provided to a handicapped child under Part B of the Education of the Handicapped Act, such as medical services provided to children by a school nurse, may be required under Section 504. See 34 CFR Part 104 for the Department's regulations under that statute.

• *Disciplinary rules and procedures* (§ 300.114). A section is added to state that handicapped children are subject to a public agency's normal disciplinary standards and, with limited modifications, to the agency's normal disciplinary procedures. In particular, a public agency may not impose on a handicapped child a disciplinary sanction that requires a hearing by law or agency policy before determining that the child's behavior was not caused by the child's handicapping condition. An agency is permitted the flexibility to address the sensitive question of the relationship between the handicapping condition and the behavior in either its normal hearing or a separate proceeding. It may also address this question before, at, or after the normal hearing, as the circumstances of the case dictate. Persons familiar with the child and the behaviors associated with the child's handicapping condition must be involved in the determination.

The proposed regulations also make it clear that disciplinary standards and

procedures must be applied in a way that does not discriminate against handicapped children and that nothing in the proposed regulations is intended to affect any additional due process requirements imposed by Federal or State law regarding disciplinary procedures. The purpose of these changes is to resolve the recurring question of the relationship between the requirement of a free appropriate public education and a school's ordinary disciplinary procedures. The regulations seek to ensure that (1) handicapped children are not subjected to the more serious school disciplinary sanctions for behavior caused by their handicapping condition, (2) handicapped children are otherwise subject to the same disciplinary rules and procedures as are nonhandicapped children, and (3) for relatively minor disciplinary sanctions, flexible and informal procedures may be used for handicapped and nonhandicapped children alike.

• *Hearing aids.* The proposed regulations delete as not prescribed by the statute the requirement that public agencies shall ensure proper functioning of hearing aids. See current § 300.303.

• *Extended school year services.* The Secretary has not included language relating to the provision of services to handicapped children beyond the regular school year, but requests comments as to whether the Department should provide regulatory guidance on this issue.

7. *Individualized education program (IEP) (§§ 300.120–300.128).*

The Act defines an "individualized education program" as

> • • • a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved. (20 U.S.C. 1401(19))

The existing §§ 300.340–300.349 specify the various responsibilities of SEAs and LEAs in the implementation of the IEP process. They require the SEA to ensure that each public agency develops and implements an IEP for each of its handicapped children.

Public comments and program monitoring reports have brought to light some difficulties in implementing the current IEP provisions. An interpretation of the IEP requirements, published in the Federal Register on January 19, 1981 (46 FR 5460), addressed a number of these difficulties. That interpretation remains in effect until revised to conform to any changes made in final regulations. However, the Secretary proposes to address additional concerns by revising some of the regulatory provisions on IEPs. The proposed changes, described below, are intended to maintain requirements essential to ensure protections for children and parental involvement, and to emphasize the flexible and cooperative process of developing a child's educational program, while reducing unnecesaary paperwork and administrative burdens.

• *Timelines.* The proposed regulations modify the current regulatory requirements that public agencies must (1) hold the IEP meeting within 30 calendar days of a determination that a child needs special education and related services (see current § 300.343(c)); and (2) implement the IEP as soon as possible following the IEP meeting (see current § 300.342(b)(2)). Timelines for the first interval, as well as the interval between the identification and the evaluation of a child, must be adopted by States and included in State plans. See proposed §§ 300.18 and 300.20. The IEP must be implemented as soon as the services described in it are required to meet the needs of the child. See proposed § 300.122(c). In addition, proposed § 300.122(a) requires that a public agency establish or revise, whichever is appropriate, an IEP at or before the beginning of each school year.

• *Preparation of IEPs* (§ 300.123). The proposed regulations add a guideline to make it clear that, although each element of the IEP must be developed at the IEP meeting, the actual drafting, writing, or typing of the IEP may take place outside the meeting.

• *Participants in the IEP meeting* (§ 300.124). The proposed regulations delete current § 300.344(b), not found in the statute, which provides that a public agency must include in the IEP meeting a person familiar with a child's evaluation where the child has been evaluated for the first time. The proposed regulations provide that persons in addition to those specified by the statute may attend at the discretion of a parent or the agency. A guidelines suggests that the participation of evaluation personnel may be advisable in the case of a child evaluated for the first time, or where the child has been reevaluated.

• *Parent participation* (§ 300.125). The specific content of the notice used to inform parents of an IEP meeting, set out in current § 300.345(b), is no longer prescribed in the regulations. However, the right to fair and timely notice is fully preserved. Other current provisions proposed for deletion include those which illustrate agency procedures for ensuring parent participation if neither parent can attend the meeting, and the requirement for documenting agency efforts to secure parental attendance at the meeting. See current § 30.345 (c) and (d). The requirement that agencies seek to afford parents who cannot attend an IEP meeting the opportunity to participate is retained. See proposed § 300.125(a).

• *IEPs for children in private schools* (§ 300.127). Detailed procedures for developing, reviewing, and revising the IEPs for handicappped children in private schools are no longer specified in the regulations.

8. *Participation of Handicapped Childen in Private Schools Not Placed or Referred by Public Agencies (§§ 300.131–300.133).*

• *EHA–B requirements.* The proposed regulations add language providing that (1) the SEA determines which LEA is responsible for providing services to a private school child who resides in one LEA's jurisdiction but is enrolled in a private school in another LEA's jurisdiction within the State; and (2) the responsible agency, as determined by the SEA, receives the Part B funds attributable to the child. See § 300.133(b). In the case of a child enrolled in a private school in a State other than the one in which the child resides, the LEA of residence is responsible for making provisions for that child. See § 300.133(c).

• *EDGAR requirements.* The Education Department General Administrative Regulations (EDGAR) contain additional requirements for providing services to handicapped children who are enrolled in private schools by their parents. See 34 CFR 76.651–76.662. The EDGAR provisions, which superseded certain provisions in the Part B regulations published in 1977, are incorporated by reference in the proposed regulations. See §§ 300.132(b) and 300.133(a). The Secretary is aware of the difficulties that recipients of funds under Part B of the Act have experienced in applying the EDGAR requirements to the Part B program. In

light of these difficulties, the Secretary intends to clarify the standards for the participation of private school children in the program. One alternative is to exempt the Part B program from the EDGAR requirements in 34 CFR 76.651–76.662 and to include additional provisions in the Part B regulations. The Secretary invites suggestions for what provisions would be appropriate for implementing the requirements of Section 613(a)(4)(A) of the Act (20 U.S.C. 1413(a)(4)(A)).

The proposed regulations make it clear that the "program funds" subject to the EDGAR requirements on expenditures for students in private schools (see 34 CFR 76.655(a)) are only Part B funds, and do not include State, local, or other Federal funds used to provide a free appropriate public education. See § 300.133(a)(2).

9. *Procedural Safeguards—Evaluation and Placement Procedures (§§ 300.140–300.144, 300.157–300.159)*

• *Reevaluation* (§ 300.141). The proposed regulations modify current § 300.534(b), not specified in the statute, requiring a reevaluation at least every three years. The proposed provision allows the SEA to determine the intervals for the routine reevaluation of a handicapped child, but requires more frequent reevaluation if the responsible public agency is given reason to believe that a reevaluation is necessary to meet the child's educational needs. Experience has shown that periodic reevaluation is useful in ensuring that the unique and changing needs of handicapped children are known and understood. However, the Secretary believes that a nationwide, Federally-set interval is inappropriate.

• *Independent educational evaluation* (§ 300.144). The proposed regulations permit parents to delay a proposed change in their child's education for a reasonable period in order to obtain an independent evaluation at their own expense. See § 300.144(b). Current § 300.503, which requires that an independent evaluation be at public expense in various circumstances, is revised to require that the independent evaluation be at public expense only where a hearing or reviewing officer determines that such an evaluation is necessary to resolve the issues in dispute in a hearing or review. See § 300.144(d).

• *Placements* (see § 300.158). Current § 300.533, which specifies the procedures to be used in making placement decisions, is shortened and combined with a modified section on nondiscrimination in evaluation materials and procedures. Under the proposed regulations, evaluation procedures must include an assessment that is sufficiently comprehensive to diagnose and appraise a child's suspected impairment. The requirement for a multidisciplinary approach to evaluation is limited to children suspected of having severe, multiple, or complex disorders, including children suspected of having a specific learning disability. See § 300.158(g). The Secretary believes that this provisions will ensure that evaluation procedures are tailored to the needs of the individual child.

• *Criteria and procedures for determining the existence of a specific learning disability* (§ 300.159). The existing regulations set out basic procedures which public agencies are required to use in evaluating all children. See current §§ 300.530–300.534. In addition, the existing regulations include supplemental procedures which apply only to the evaluation of children suspected of having a specific learning disability. See §§ 300.540–300.543.

The proposed regulations continue to require a multidisciplinary approach for children suspected of having a specific learning disability, but the composition of the evaluation team is no longer specified. See § 300.159(c). The specific criteria and procedures for determining the existence of a specific learning disability are modified. Although agencies must verify a severe discrepancy between a child's achievement and ability in order to show the existence of a specific learning disability, they need not use an observation of the child or a written report to do so. A proposed provision excludes from the category of specific learning disabled children those chidren whose learning problems are primarily the result of inappropriate instructional programs, lack of readiness or motivation, delayed maturation, or factors external to the child.

The Secretary believes that the proposed regulations will assist States in accurately determining the number of children who have a learning disability. Modifying the requirements which specify the composition of the multidisciplinary team will give SEAs and LEAs flexibility to determine the number and types of personnel necessary to perform these evaluations. The deletion of the observation and written report requirements will allow school officials to determine at the local level the method to be used to verify the existence of a learning disability.

10. *Procedural Safeguards—Due Process Procedures (§§ 300.139, 300.145–300.154)*

As a condition of a State's eligibility to receive funds, it must establish the procedural safeguards described in Section 615 of the Act (20 U.S.C. 1415). The proposed regulations retain most of the current regulatory requirements now set out in §§ 300.504–33.514. However, some provisions, described below, have been significantly streamlined and modified to eliminate regulatory provisions that are not required by the statute, and thereby afford SEAs and LEAs more options for effective implementation of the statutory due process mandates.

• *Prior notice and content of notice* (§§ 300.145 and 300.146). Public agencies are required by the statute to provide parents with notice of proposed action affecting their child's education. See 20 U.S.C. 1415(b)(1)(C). The proposed regulations simplify the current requirements for the content of the notice sent to parents. In place of the current detailed requirements concerning the basis for the agency's proposal or refusal set out at § 300.505(a), the proposed regulations require the agency to include in the notice to parents (1) a full explanation of the procedural safeguards available to them, (2) an explanation of the agency's action and the basis for its decision, and (3) any information the agency deems relevant to assist the parent in understanding the agency's proposed or refused actions. Procedures are still required to ensure that parents understand the contents of the notice, but public agencies will have greater flexibility to determine what procedures are used to comply with the requirement.

The proposed regulations also delete the requirement, in current § 300.504(b), for parental consent before a preplacement evaluation is conducted or an initial placement is made. The statute does not contain a requirement for express consent on these matters. However, as a practical matter, parental consent for a preplacement evaluation is required in many cases by Section 439(b) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232h(b)) and the regulations under that provision (34 CFR 76.741(b)). These provisions govern certain intrusive forms of testing, and there is no need to duplicate their protections in these regulations. State law may also require parental consent. Any initial placement is preceded by the development of an IEP in which parents are full participants. See, for example, proposed §§ 300.122(b) and 300.125.

In any event, agencies must provide parents prior notice of both a preplacement evaluation and an initial placement, and a parent may initiate a

due process hearing in the case of a dispute concerning either of these matters. For these reasons, parents continue to have a voice in these important decisions. A new provision at § 300.145(c) makes clear that the provisions of the Act and the proposed regulations do not affect the applicability of the GEPA requirement or State law to these matters.

• *Administrative hearings and reviews* (§§ 300.147–300.152). The proposed regulations include a guideline after § 300.147 that encourages the use of mediation and pre-hearing conferences. In addition to clarifying the qualifications of impartial hearing and review officers (§ 300.148), the proposed regulations contain other changes, which include: (1) Removing certain procedural provisions not specified in the statute (§ 300.149); (2) modifying the administrative appeal section to clarify the duties of the reviewing officer (§ 300.151); and (3) expanding the timeliness for final decisions on hearings and reviews (§ 300.152). A guideline after § 300.149 points out that a State agency may add to the procedural provisions required by the statute.

• *Surrogate parents* (§ 300.154). The proposed regulations clarify and revise provisions concerning parent availability and the selection of surrogates. While the proposed regulations do not impose requirements concerning the professional qualifications of surrogates, agencies are required under the statute to ensure that surrogates are capable of exercising their statutory function of protecting the rights of the children they represent.

11. *Least Restrictive Environment (§§ 300.160–300.161).*

Section 612(5)(B) of the Act requires a State, as a condition of receiving funds, to establish:

> procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (20 U.S.C. 1412(5)(B))

Local educational agencies must establish policies and procedures consistent with this provision. See 20 U.S.C. 1414(a)(6).

Since the first year of the Act's implementation, the Secretary, in carrying out the responsibilities under Section 618 of the Act to evaluate and report on the effectiveness of the Part B program, has reported steady increases in the number of handicapped children receiving an education in the regular educational environment. In 1980, about 68 per cent of the 4,036,219 handicapped children counted for Federal funding were served in regular classes. Despite this evidence of integration of the majority of handicapped children with nonhandicapped students, problems in implementing the statutory requirement are apparent. Some educators and parents want more guidance in the regulations as to the circumstances where placement of a handicapped child in a setting other than the regular classroom is consistent with the principle of placing handicapped children in the least restrictive educational environment. Other involved in the education and care of handicapped children perceive the existing regulations as overly prescriptive.

Sections 300.550, 300.552 (a)(1) and (a)(2), 300.552(d), 300.554 and 300.556(a) of the existing regulations contain fundamental requirements that are consistent with the statutory language and with the processes established by the Act for determining a handicapped child's educational placement. The Secretary proposes regulations which retain those requirements, but which do not include the remaining provisions in existing §§ 300.550–300.556. Proposed § 300.161(c)(1) retains the requirement that a public agency consider, among other factors, a placement's potential harmful effect on the handicapped child. Proposed § 300.161(c)(2) also states that a public agency may consider the substantial and clearly ascertainable disruption of educational services to other children in making placement decisions. A guideline has been added to emphasize that this provision may be applied only in very limited circumstances.

12. *Confidentiality of Information (§§ 300.163–300.165).*

• The proposed regulations would substantially modify current provisions which govern the confidentiality of information. Except as indicated in the proposed regulations, the provisions of the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations apply to any SEA or LEA which collects or maintains personally identifiable data, information, or records pursuant to the provisions of Part B of the Act.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are being treated as a major rule.

Executive Order 12291 requires that a Regulatory Impact Analysis be prepared for all "major" rules issued by an executive agency. A preliminary Regulatory Impact Analysis must be completed upon the issuance of proposed regulations. A final Regulatory Impact Analysis must be completed before the publication of the final regulations.

The Secretary's proposed amendments to Part 300 Title 34 are being treated as a major rule because the Secretary anticipates a high level of public interest and concern with them. The purpose of the Regulatory Impact Analysis is to describe to the public the regulatory options considered by the Secretary and the reasons for the Secretary's choices in cases where the decisions have substantial cost or benefit implications.

In assessing the costs and benefits resulting from the proposed regulations, a number of factors were taken into account, including:

• Administrative burdens and costs to public agencies;

• Discretion and flexibility of public agencies;

• The quality and quantity of services provided to handicapped children;

• The likelihood of litigation and increased use of due process hearing procedures to resolve disputes on matters no longer covered by the regulations.

The preliminary Regulatory Impact Analysis discusses how the proposed regulations would reduce administrative burdens and increase the discretion of public agencies in implementing the statute without impairing the rights and benefits afforded to handicapped children and their parents. The Secretary believes that the proposed regulations increase the flexibility of public agencies in providing a free appropriate public education to handicapped children.

To obtain a copy of the preliminary Regulatory Impact Analysis, please contact Anne Graham, Assistant Secretary for Legislation and Public Affairs, Department of Education, 400 Maryland Ave., S.W., Room 3153, Washington, D.C. 20220. Telephone (202) 245–8233.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, enacted September 19, 1980, requires an agency to prepare an initial regulatory flexibility analysis for any proposed rule for which the agency is required to publish a general notice of

proposed rulemaking, and which may have a "significant economic impact on a substantial number of small entities". The initial regulatory flexibility analysis describes the impact of the proposed rule on small entities.

To the extent that these regulations affect States and State agencies, the Act does not require a regulatory flexibility analysis since States and State agencies are not considered small entities under the Act. However, these regulations affect all small LEAs that receive funds under Part B of the Education of the Handicapped Act, and may have a significant economic impact on those LEAs, primarily through the reduction of administrative burdens imposed by current regulations. Preparation of a regulatory flexibility analysis is therefore necessary.

To avoid duplication, the initial regulatory flexibility analysis has been combined with the preliminary Regulatory Impact Analysis required by Executive Order 12291. In conjunction with the information furnished in this notice of proposed rulemaking, the preliminary Regulatory Impact Analysis meets the requirements for preparation of the initial regulatory flexibility analysis.

For further information concerning the impact of the proposed regulations on small entities, the reader is referred to the preliminary Regulatory Impact Analysis summarized under the heading for Executive Order 12291.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before November 2, 1982 will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4563, 400 6th Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and their overall requirement of reducing regulatory burden, public comment is especially invited on whether there may be further opportunities to reduce any regulatory burdens imposed by the existing Part B regulations.

In accordance with the Paperwork Reduction Act of 1980, the recordkeeping provisions in these regulations are subject to approval by the Office of Management and Budget (OMB) before they take effect.

Public Hearings

The Department will hold public hearings to receive comments on these proposed regulations. The Department will consider the comments in preparing final regulations.

In order to insure that all interested parties will have an opportunity to make comments at the hearings, the Department of Education recommends the following procedures:

(1) Each person planning to make an oral presentation should: (a) Prepare a written statement in advance of the hearings; (b) make the presentation as concise as possible; and (c) submit a copy of the prepared statement to the Department's representative at the hearing or mail it to Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Donohoe Building (Room 4000), Washington, D.C. 20202-4714.

Note.—If a person has extensive comments to make, it is recommended that the person's oral presentation include only a summary of the comments and that the full written statement be sent to the above address.

(2) In presenting both oral and written statements, each commenter should (a) indicate name, title, and address, (b) identify each specific subpart and section of the regulations on which comments are being made, (c) describe the concern with respect to that subpart and section, and (d) specify the recommended action to be taken.

(3) Persons making presentations will be called upon in the order of registration. Persons interested in making oral comments on the second day are encouraged to call the appropriate Regional Representative, who will schedule a time.

List of Subjects in 34 CFR Part 300

Administrative practice and procedures, Education, Education of handicapped, Grant programs—education, Privacy, Private schools.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.027, Assistance to States for Education of Handicapped Children)

Dated: July 23, 1982.

T. H. Bell,

Secretary of Education.

The Secretary proposes to revise Part 300 of Title 34 of the Code of Federal Regulations to read as follows:

PART 300—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Subpart A—General

Sec.

300.1 The Assistance to States for Education of Handicapped Children program.
300.2 Applicability to State, local, and private agencies.
300.3 Applicable regulations.
300.4 Definitions.
300.5-300.9 [Reserved]

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300.10 Submission of a State plan.
300.11 Contents of the State plan.
300.12 Approval or disapproval of the State plan by the Secretary.
300.13 Effective period of the State plan.
300.14 [Reserved]

Provisions Required in the State Plan

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300.16 Full educational opportunity goal.
300.17 Ages for free appropriate public education.
300.18 Identification, location, and evaluation of handicapped children.
300.19 Confidentiality of personally identifiable information.
300.20 Individualized education programs.
300.21 Procedural safeguards.
300.22 Least restrictive environment.
300.23 Evaluation and placement procedures.
300.24 Responsibility of the State educational agency for all educational programs.
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300.26 Description of the use of funds under this part.
300.27 Policies and procedures for the use of funds under this part.
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300.29 Comprehensive system of personnel development.
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300.33 Hearing on a local educational agency application.
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300.35 Prohibition against supplanting.
300.36 Annual evaluation.
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300.38 Additional information if the State educational agency provides direct services.
300.39 Related services.
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Conditions a State Must Meet Before Submitting the State Plan

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300.45 Public participation before adopting or amending a State plan.
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300.50 Annual report of children served—report requirement.
300.51 Annual report of children served—information required in the report.
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Application From the Secretary of the Interior

300.55 Submission of an application from the Secretary of the Interior.
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Subpart C—How Does the Secretary Make a Grant to a State?

300.60 Determining the amount of a State's allocation.
300.61 Determining the number of handicapped children in a State.
300.62 Proportionate adjustments to State allocations.
300.63 Minimum grant to a State.
300.64 Determining the amount of a grant to the Secretary of the Interior.
300.65 Grants to insular areas.
300.66–300.69 [Reserved]

Subpart D—How Does an Applicant Apply to a State for a Subgrant?

Submission of an Application for a Subgrant

300.70 Submission of an application to the State educational agency.
300.71 Local educational agency—general application.
300.72 Local educational agency application—specific assurances.
300.73 Local educational agency application—use of funds under this part.
300.74 Local educational agency application—additional information required by the State educational agency.
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300.76–300.79 [Reserved]

Limitations on the Use of Funds Under this Part

300.80 The excess cost requirement.
300.81 Meeting the excess cost requirement.
300.82 Computing the minimum amount for meeting the excess cost requirement.
300.83 Computation of excess costs for consolidated applications.
300.84 Limitations on the use of funds under this part.
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Subpart E—How Does a State Make a Subgrant?

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Use of Local Educational Agency Allocation for Direct Services by the State

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Free Appropriate Public Education

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Handicapped Children Placed in or Referred to Private Schools by Public Agencies

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Evaluation and Placement Procedures

300.157 General.
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300.160 General.
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300.163 Protections under this subpart.
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Subpart H—What Procedures Are Used by the Secretary for Withholding of Payments and for Waiving the Supplanting Prohibition?

Withholding Payments

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Subpart A—General

§ 300.1 The Assistance to States for Education of Handicapped Children program.

The purposes of the program governed by this part are to—

(a) Ensure that all handicapped children have available to them a free appropriate public education which includes special education and related services to meet their unique educational needs;

(b) Ensure that the rights of handicapped children and their parents are protected;

(c) Assist States and localities to provide for the education of all handicapped children; and

(d) Assess and ensure the effectiveness of efforts to educate those children.

(20 U.S.C. 1401, Note)

§ 300.2 Applicability to State, local, and private agencies.

(a) *States.* This part applies to each State which receives payments under Part B of the Education of the Handicapped Act.

(b) *Public agencies within the State.* The State plan as described in §§ 300.10–300.39 is submitted by the State educational agency on behalf of the State as a whole. Therefore, this part contains provisions that apply to all State agencies and political subdivisions of the State that administer programs for the education of handicapped children. These include—

(1) The State educational agency;

(2) Local educational agencies and intermediate educational units; and

(3) Other public agencies that have direct or delegated authority to provide special education and related services, such as other State agencies, State-operated schools, and State correctional facilities.

(c) *Private schools and facilities.* (1) The requirements of this part do not apply to private schools and facilities.

(2) The State educational agency is responsible for ensuring that those requirements are carried out with respect to a child referred to or placed in a private school or facility by a public agency. See §§ 300.30 and 300.130.

(20 U.S.C. 1412(1), (6); 1413(a); 1413(a)(4)(B))

§ 300.3 Applicable regulations.

The following regulations apply to assistance under Part B of the Act:

(a) The regulations in this Part 300.

(b) The Education Department General Administrative Regulations (EDGAR) set out in the following parts of Title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants).

(2) Part 76 (State-administered programs), except for 34 CFR 76.761(c), regarding the Secretary's review of State decisions on complaints.

(3) Part 77 (Definitions).

(4) Part 78 (Education Appeal Board).

(20 U.S.C. 1221e–3(a)(1), 1401–1418, 1420)

§ 300.4 Definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 74.3 or 34 CFR 77.1:

Application
Department
EDGAR
Elementary school
Fiscal year
Grant
Nonpublic
Private
Public
Secondary school
Secretary
State
State educational agency
Subgrant

(20 U.S.C. 1221e–3(a)(1))

(b) *Other definitions that apply to this part.* In addition to the definitions referred to in paragraph (a), the following definitions apply to this part:

(1) "At no cost", as used in paragraph (11) of this section, means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to a nonhandicapped child or the child's parents as a part of the regular educational program.

(20 U.S.C. 1401(16))

(2) "Equipment" means machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(20 U.S.C. 1401(5))

(3) "Free appropriate public education" means special education and related services which—

(i) Are provided at public expense, under public supervision and direction, and without charge;

(ii) Meet the standards of the State educational agency;

(iii) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(iv) Are provided in conformity with an individualized education program which meets the requirements of §§ 300.120–300.128.

(20 U.S.C. 1401(18))

(4) "Handicapped child" means a mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, or multihandicapped child, or a child with a specific learning disability whose impairment adversely affects the child's ability to benefit from a regular education program, and who by reason thereof requires special education and related services after an evaluation in accordance with § 300.142. The terms used in this definition are defined as follows:

(i) "Deaf" means having a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification.

(ii) "Deaf-blind" means having concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs solely for deaf or blind children.

(iii) "Hard of hearing" means having a hearing impairment, whether permanent or fluctuating, which is not included under the definition of "deaf" in this section.

(iv) "Mentally retarded" means having significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(v) "Multihandicapped" means having concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that the child cannot be accommodated in special education programs solely for one of the impairments. The term does not include a deaf-blind child.

(iv) "Orthopedically impaired" means having a severe orthopedic impairment. The term includes an impairment caused by a congenital anomaly (e.g., clubfoot, absence of some member, etc.), an impairment caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and an impairment from any other cause (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(vii) "Other health impaired" means having—

(A) An autistic condition which is manifested by severe communication and other developmental and educational problems; or

(B) Limited strength, vitality, or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes.

(viii) "Seriously emotionally disturbed" means—

(A) Having a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree—

(*1*) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(*2*) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(*3*) Inappropriate types of behavior or feelings under normal circumstances;

(*4*) A general pervasive mood of unhappiness or depression; or

(*5*) A tendency to develop physical symptoms or fears associated with personal or school problems.

(B) Being schizophrenic.

(ix)(A) "Specific learning disability" means a disorder on one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as a perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include a learning problem which is primarily the result of a visual, hearing, or motor handicap, of mental retardation, or of environmental, cultural, or economic disadvantage.

(B) The criteria and procedures for determining the existence of a specific learning disability are set out at § 300.159.

(x) "Speech impaired" means having a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment.

(xi) "Visually handicapped" means having a visual impairment, with or without correction. The term includes both partially seeing and blind children.

(20 U.S.C. 1401 (1), (15))

(5) "Intermediate educational unit" means any public authority, other than a local educational agency, which—

(i) Is under the general supervision of a State educational agency;

(ii) Is established by State law for the purpose of providing free public education on a regional basis; and

(iii) Provides special education and related services to handicapped children within that State.

(20 U.S.C. 1401(22))

(6)(i) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(ii) As used in this part, the term "local educational agency" also includes an intermediate educational unit.

(20 U.S.C. 1401 (8), (22))

(7) "Native language", when used with reference to an individual of limited English proficiency, means the language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child.

(20 U.S.C. 1401(21), 3223(a)(2))

(8)(i) "Parent" means—

(A) A natural parent;

(B) An adoptive parent;

(C) A legal guardian;

(D) A person acting in place of a person described in paragraphs (A), (B), or (C); or

(E) A surrogate parent appointed in accordance with § 300.154.

(ii) The term "parent" does not include the State if the child is a ward of the State.

(20 U.S.C. 1401, 1411 *et seq.*)

(9) "Public agency" includes the State educational agency, a local educational agency, or an intermediate educational unit, and any other public institution or agency in the State which is responsible for providing education to handicapped children.

(20 U.S.C. 1401, 1411 *et seq.*)

(10) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, early identification and assessment of handicapping conditions in children, recreation, and counseling services.

(i) The term does not include medical services (services relating to the practice of medicine) except for those that are for diagnostic or evaluation purposes. A public agency is not required to provide such services as—

(A) Life-sustaining procedures that—

(*1*) Can be provided outside the normal school day;

(*2*) Must be performed under sterile conditions;

(*3*) Must be administered by specially-trained, licensed health care professionals; or

(*4*) Entail a significant risk of illness or more than minimal injury to the child;

(B) Surgical procedures;

(C) Medication or the administration of medication by licensed health care professionals;

(D) Individually prescribed devices (such as eyeglasses, orthopedic equipment, and hearing aids), except that the public agency may, at its dicretion, use funds under this part to provide these devices for use by a handicapped child while the child is in school.

(ii) In determining whether a service is required to assist a handicapped child to benefit from special education, in developing the child's individualized educational program, a public agency is not precluded from establishing reasonable limitations relating to—

(A) The level, frequency, location, and duration of the services required;

(B) The qualifications of the providers of those services, where services are available from more than one qualified provider; and

(C) Services required in light of the educational placement appropriate for the child under §§ 300.160 and 300.161.

(20 U.S.C. 1401(17))

(11) "Special education" means—

(i) Specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions; and

(ii) Vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child.

(20 U.S.C. 1401(16))

(12) "The Act" means the Education of the Handicapped Act, 20 U.S.C. 1401 *et seq.*

(20 U.S.C. 1401, Note)

Guideline. 1. A public agency may look to the standards, opinions, and other determinations of State medical licensing authorities in determining if certain services

(including particular mental health services) are medical services within the meaning of § 300.4(b)(10)(i).

2. A State may define a related service, as defined in § 300.4(b)(10), to be special education if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, and is considered "special education" rather than a "related service" under State standards.

3. A State may define the term "physical education", as used in the definition of "special education" (§ 300.4(b)(11)(i)), to include, among other things, regular and special physical education, adapted physical education, movement education, and motor development.

§§ 300.5–300.9 [Reserved]

Subpart B—How Does a State Apply for a Grant?

§ 300.10 Submission of a State plan.

In order to receive funds under this part, a State must submit a State plan to the Secretary through its State educational agency.

(20 U.S.C. 1412, 1413)

§ 300.11 Contents of the State plan.

(a) Each State plan must contain the information described in §§ 300.15–300.39.

(b) A State plan must also meet the requirements of 34 CFR Part 76, Subpart B (How a State Applies for a Grant).

(c) In providing the information required to be included in its State plan, the State may incorporate, by reference satisfactory to the Secretary material on file with the Department, including previous State plans.

(20 U.S.C. 1412, 1413)

Guideline. Some of the provisions of these regulations relating to State plans require that the State plan "demonstrate" that the State has established certain policies or procedures or that the State educational agency has certain responsibilities. See §§ 300.20–300.24. A State "demonstrates" that these requirements are met by methods including, but not limited to—

1. Submitting documents that show the source of the required policies or procedures; or

2. Describing the policies or procedures adopted to meet the requirements.

§ 300.12 Approval or disapproval of the State plan by the Secretary.

The Secretary approves or disapproves the State plan according to the provisions of 34 CFR §§ 76.201–76.202 and § 76.235.

(20 U.S.C. 1413(a))

§ 300.13 Effective period of the State plan.

A State may submit a plan for a period not to exceed three fiscal years.

(20 U.S.C. 1412, 1413)

§ 300.14 [Reserved]

Provisions Required in the State Plan

§ 300.15 Right to a free appropriate public education.

Each State plan must include information which shows that the State has in effect a policy which ensures that all handicapped children have the right to a free appropriate public education.

(20 U.S.C. 1412(1))

§ 300.16 Full educational opportunity goal.

(a) Each State plan must include in detail the policies and procedures which the State will undertake, or has undertaken, in order to ensure that the State has a goal of providing full educational opportunity to all handicapped children.

(b)(1) Each State plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity to all handicapped children.

(2) The timetable must state the estimated numbers, by age range and disability categories, of handicapped children that the State expects to be receiving a full educational opportunity during each succeeding year in the period covered by the timetable.

(c) Each State plan must include a description of the kind and number of facilities, personnel (by disability category), and services necessary throughout the State to meet the goal of providing full educational opportunity to all handicapped children.

(20 U.S.C. 1412(2)(A), 1413(a)(1), 1418(b)(1)(F))

§ 300.17 Ages for free appropriate public education.

(a) *General.* Each State plan must include in detail the policies and procedures which the State will undertake, or has undertaken, ensure that it will comply with § 300.110, relating to the availability of a free appropriate public education to all handicapped children within the State.

(b) *Exception.* Each State plan must describe in detail the extent to which the State is subject to the exception provided in § 300.110(b), relating to handicapped children aged three through five and eighteen through twenty-one.

(20 U.S.C. 1412(2)(B), 1413(a)(1))

§ 300.18 Identification, location, and evaluation of handicapped children.

(a) Each State plan must include in detail the policies and procedures which the State will undertake, or has undertaken, to ensure that—

(1) All children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services, are identified, located, and evaluated; and

(2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(b) Each State plan must include reasonable timelines, adopted by the State to ensure a prompt evaluation, for the interval between the identification of a child and the child's evaluation.

(20 U.S.C. 1412(2)(C), 1413(a)(1))

§ 300.19 Confidentiality of personally identifiable information.

Each State plan must include in detail the policies and procedures which the State has undertaken, or will undertake, to comply with §§ 300.163–300.165, relating to the confidentiality of information.

(20 U.S.C. 1412(2)(D), 1413(a)(1), 1417(c))

§ 300.20 Individualized education programs.

(a) Each State plan must demonstrate that each public agency in the State maintains records of the individualized education program (IEP) for each handicapped child, and that each public agency complies with §§ 300.120–300.128, relating to the establishment, revision, and review of IEPs.

(b) Each State plan must include reasonable timelines, adopted by the State to ensure the prompt establishment of an IEP, for the interval between an evaluation of a handicapped child and the establishment of the child's IEP.

(20 U.S.C. 1412(4))

§ 300.21 Procedural safeguards.

Each State plan must demonstrate that the State has established the procedural safeguards described in §§ 300.139–300.154.

(20 U.S.C. 1412(5)(A))

§ 300.22 Least restrictive environment.

Each State plan must demonstrate that the State has established procedures that comply with §§ 300.160 and 300.161, relating to the education of handicapped children in the least restrictive environment.

(20 U.S.C. 1412(5)(B))

§ 300.23 Evaluation and placement procedures.

Each State plan must demonstrate that the State has established procedures that comply with § 300.158,

relating to the evaluation and placement of handicapped children.

(20 U.S.C. 1412(5)(C))

§ 300.24 Responsibility of the State educational agency for all educational progrms.

Each State plan must demonstrate that the State educational agency has the responsibility and supervisory authority described in Section 612(6) of the Act.

(20 U.S.C. 1412(6))

§ 300.25 Procedures for consultation.

Each State plan must include an assurance that in carrying out the requirements of this part, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children.

(20 U.S.C. 1412(7)(A))

§ 300.26 Description of the use of funds under this part.

Each State plan must include a description of the intended use of funds received under this part during the period covered by the plan with respect to—

(a) The direct use of program funds by the State; and

(b) The allocation of program funds to local educational agencies.

(20 U.S.C. 1413(a))

§ 300.27 Policies and procedures for the use of funds under this part.

Each State plan must set forth policies and procedures designed to ensure that funds paid to the State under this part are spent in accordance with the provisions of the Act and this part.

(20 U.S.C. 1413(a)(1))

§ 300.28 Other Federal programs.

(a) Each State plan must provide an assurance that programs and procedures are established to ensure that funds received by the State or any public agency in the State under any other Federal program, including Sections 146 and 147 of Title I of the Elementary and Secondary Education Act of 1965 and Section 110(a) of the Vocational Education Act of 1963, under which there is specific authority for assistance for the education of handicapped children, are used by the State, or any public agency in the State, only in a manner consistent with the goal of providing free appropriate public education for all handicapped children.

(b) Nothing in this section may be read to limit the specific requirements of law governing those Federal programs.

(20 U.S.C. 1413(a)(2); Sections 146 and 147 of Title I are codified at 20 U.S.C. 2771–2772; Section 110(a) of the Vocational Education Act is codified at 20 U.S.C. 2310(a))

§ 300.29 Comprehensive system of personnel development.

(a) Each State plan must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development. In particular, the plan must include a description of—

(1) The inservice training of general and special educational instructional, related services, and support personnel;

(2) Detailed procedures to ensure that all personnel necessary to carry out the purposes of the Act are appropriately and adequately prepared and trained, and that activities sufficient to carry out this personnel development plan are scheduled; and

(3) Effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices and materials developed through those projects.

(b) The State must assure that the system will be implemented as described.

(c) Funds made available under this part may not be used for pre-service training.

(20 U.S.C. 1413(a)(3); Senate Report No. 94–168, p. 34 (1975))

Guideline. Under 34 CFR § 76.101(e)(7), a State educational agency is required to provide reasonable opportunities for interested institutions, organizations, and individuals to participate in the development and operation of a State plan. This provision authorizes State educational agencies to provide for the meaningful involvement of public and private institution of higher education and other interested parties in the development and operation of the comprehensive system of personnel development described in the plan.

§ 300.30 Children placed in or referred to private schools by public agencies.

Each State plan must include policies and procedures which show that the requirements of § 300.130, relating to handicapped children placed in or referred to private schools by public agencies, will be met.

(20 U.S.C. 1413(a)(4)(B))

§ 300.31 Children in private schools not placed or referred by public agencies.

Each State plan must include policies and procedures which show that the requirements of §§ 300.131–300.133, relating to children enrolled in private schools by their parents, will be met.

(20 U.S.C. 1413(a)(4)(A))

§ 300.32 Recovery of funds for misclassified children.

Each State plan must include policies and procedures which ensure that the State will seek to recover any funds provided under this part for services to a child who is determined to be erroneously classified as eligible to be counted under Section 611 (a) or (d) of the Act.

(20 U.S.C. 1413(a)(5))

§ 300.33 Hearing on a local educational agency application.

Each State plan must include procedures to ensure that the State educational agency will not take any final action with respect to an application submitted by a local educational agency before giving the local educational agency reasonable notice and an opportunity for a hearing.

(20 U.S.C. 1413(a)(8))

§ 300.34 Prohibition against commingling.

Each State plan must provide an assurance satisfactory to the Secretary that funds made available under this part will not be commingled with State funds.

(20 U.S.C. 1413(a)(9)(A))

Guideline. A State may use a variety of accounting methods to ensure that funds received under this part are not commingled. The method used should include an "audit trail" of the expenditure of these funds. See 34 CFR Part 74, Subpart B (Cash Depositories) and Subpart H (Standards for Grantee and Subgrantee Financial Management Systems).

§ 300.35 Prohibition against supplanting.

(a) Each State plan must include an assurance satisfactory to the Secretary that funds made available under this part will be used so as to supplement and increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(b) The prohibition in paragraph (a) of this section does not apply to certain funds under this part that are expended by the State for administrative costs, direct services, or support services. See § 300.102.

(c)(1) A State may apply to the Secretary for a waiver of the prohibition in paragraph (a) of this section.

(2) The standards and procedures for applying for a waiver are set out in § 300.182.

(20 U.S.C. 1411(c)(3), 1413(a)(9)(B))

§ 300.36 Annual evaluation.

Each State plan must include an assurance that the State educational agency has procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of IEPs.

(20 U.S.C. 1413(a)(11))

§ 300.37 State advisory panel.

Each State plan must include an assurance that the requirements of §§ 300.171–300.173 are met.

(20 U.S.C. 1413(a)(12))

§ 300.38 Additional information if the State educational agency provides direct services

If a State educational agency provides free appropriate public education for handicapped children or provides them with direct services, its State plan must include an assurance that it will comply with—

(a) Section 300.72(d)(2), relating to parent involvement;

(b) Section 300.72(h), relating to comparable services;

(c) Section 300.72(i), relating to IEPs; and

(d) Section 76.101(e)(2) of Title 34 of the Code of Federal Regulations, relating to the public control of funds.

(20 U.S.C. 1413(b))

§ 300.39 Related services.

Each State plan must include a description of policies and procedures that will ensure that related services, as defined in § 300.4(b)(10), will be provided.

(20 U.S.C. 1401(17), 1413(a)(1))

§§ 300.40–300.44 [Reserved]

Conditions a State Must Meet Before Submitting the State Plan

§ 300.45 Public participation before adopting or amending a State plan.

(a) Prior to adoption of a State plan, the State educational agency shall hold public hearings on the plan after providing adequate notice about the hearings.

(b) The State educational agency shall also comply with 34 CFR 76.101(e)(7) and 76.106, relating to public participation in developing or amending the State plan.

(20 U.S.C. 1412(2)(E), 1412(7))

§§ 300.46–300.49 [Reserved]

Additional Documents a State Must Submit to Get a Grant

§ 300.50 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Secretary no later than February 1 of each year the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services.

(b) The State educational agency shall submit the report on forms provided by the Secretary.

(20 U.S.C. 1411(a)(3))

§ 300.51 Annual report of children served—information required in the report.

(a) In its report, the State educational agency shall include—

(1) The number of handicapped children receiving special education and related services on December 1 of that school year;

(2) The number of those handicapped children within each disability category, as defined in the definition of a "handicapped child" in § 300.4(b)(4); and

(3) The number of those handicapped children within each of the following age groups:

(i) Three through five;

(ii) Six through seventeen; and

(iii) Eighteen through twenty-one.

(b) The State educational agency may not report a child under more than one disability category.

(20 U.S.C. 1411(a)(3), 1418(b), 1419(a)(3))

§ 300.52 Annual report of children served—certification.

The State educational agency shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on December 1.

(20 U.S.C. 1411(a)(3), 1417(a)(1)(D))

§ 300.53 Annual report of children served—criteria for counting children.

(a) The State educational agency may include handicapped children in its report who are enrolled in a school or program which is operated or supported by a public agency and which provides them with special education and any required related services.

(b) The State educational agency may not include handicapped children in its report who are counted by a State agency under Sections 146 and 147 of Title I of the Elementary and Secondary Education Act of 1965.

(20 U.S.C. 1411(a)(3), (a)(5)(A)(iii); Sections 146 and 147 of Title I are codified at 20 U.S.C. 2771–2772)

§ 300.54 [Reserved]

Application From the Secretary of the Interior

§ 300.55 Submission of an application from the Secretary of the Interior.

(a) In order to receive payments under this part, the Secretary of the Interior shall submit an application for a period not to exceed three fiscal years.

(b) The application shall meet the requirements governing an application from a local educational agency under—

(1) Section 300.72 *(Local educational agency application—specific assurances)*, except for § 300.72(d)(4); and

(2) Section 300.73 *(Local educational agency application—use of funds under this part)*.

(c) The application shall also meet the requirements applicable to a State plan under—

(1) Section 300.15 (*Right to a free appropriate public education*);

(2) Section 300.17 (*Ages for free appropriate public education*);

(3) Section 300.23 (*Evaluation and placement procedures*);

(4) Section 300.25 (*Procedures for consultation*);

(5) Section 300.29 (*Comprehensive system of personnel development*);

(6) Section 300.30 (*Children placed in or referred to private schools by public agencies*);

(7) Section 300.31 (*Children in private schools not placed or referred by public agencies*);

(8) Section 300.36 (*Annual evaluation*);

(9) Section 300.37 (*State advisory panel*); and

(10) Section 300.39 (*Related services*).

(d) The application shall include an assurance that the Secretary of the Interior will undertake the activities required of State educational agencies under § 300.170 (c) and (d) with respect to monitoring, evaluation, and complaint procedures.

(e) The application shall include such other material as may be agreed to by the Secretary of Education and the Secretary of the Interior.

(f) The Secretary of the Interior shall comply with the requirements applicable to a State educational agency under § 300.45 (*Public participation before adopting or amending a State plan*).

(20 U.S.C. 1411(f)(2))

§§ 300.56–300.59 [Reserved]

Subpart C—How Does the Secretary Make a Grant to a State?

§ 300.60 Determining the amount of a State's allocation.

(a) The maximum amount of a State's grant for any fiscal year is equal to the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services, multiplied by 40 percent of the average per pupil expenditure in public elementary and secondary schools in the United States.

(b) For the purpose of this section, the average per pupil expenditure in public elementary and secondary schools in the United States means the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for the purpose of this section, means the fifty States and the District of Columbia), plus any direct expenditures by the State for operation of those agencies (without regard to the source of funds from which either of those expenditures are made), divided by the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(20 U.S.C. 1411(a)(1), (4))

§ 300.61 Determining the number of handicapped children in a State.

(a) In determining the amount of a grant under this part the Secretary may not count—

(1) Handicapped children in a State to the extent that the number of those children is greater than 12 percent of the number of all children aged five through 17 in the State.

(2) Handicapped children who are counted under Sections 146 and 147 of Title I of the Elementary and Secondary Education Act of 1965.

(b) For the purpose of paragraph (a) of this section, the number of children aged five through 17 in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

(20 U.S.C. 1411(a)(5); Sections 146 and 147 of Title I are codified at 20 U.S.C. 2771–2772)

§ 300.62 Proportionate adjustments to State allocations.

(a) *General.* If the sums appropriated for any fiscal year for making payments to States under this part are not sufficient to pay in full the total amounts of the allocations for all States for that fiscal year, the maximum amount of each State's grant for that fiscal year shall be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence is applicable, those reduced amounts shall be increased on the same basis on which they were reduced.

(b) *Reporting dates for local educational agencies and reallocations.* (1) In any fiscal year in which the State allocations have been ratably reduced, and in which additional funds have not been made available under paragraph (a) of this section to pay in full the total of the amounts under § 300.60, the State educational agency shall fix dates before which each local educational agency shall report to the State educational agency the amount of funds available to it under this part which it estimates it will expend.

(2) The amounts available under paragraph (b)(1) of this section, or any amount which would be available to any other local educational agency if it were to submit an application meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in § 300.93, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(20 U.S.C. 1411(g))

§ 300.63 Minimum grant to a State.

No State shall receive less than the amount it received under Part B of the Act for Fiscal Year 1977.

(20 U.S.C. 1411(a)(1))

§ 300.64 Determining the amount of a grant to the Secretary of the Interior.

(a) The Secretary is authorized to make payments to the Secretary of the Interior according to the need for that assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior.

(b) The amount of those payments for any fiscal year shall not exceed one percent of the aggregate amounts available to all States for that fiscal year under this part.

(20 U.S.C. 1411(f)(1))

§ 300.65 Grants to insular areas.

(a) For each fiscal year, the Secretary shall set aside an amount, not greater than 1 percent of the total amount of funds available to all States under this part, for the purpose of making grants to the insular areas.

(b) The "insular areas" are Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(c)(1) The Secretary proportionately allocates the funds set aside under paragraph (a) of this section to each insular area on the basis of the number of handicapped children aged three through twenty-one residing in the insular area.

(2) The Secretary reallocates those funds on a proportionate basis if necessary to ensure that the grant to each insular area is not less than $150,000.

(d) An insular area may spend 5 percent or $35,000, whichever is greater, of its grant under this section for administration.

(20 U.S.C. 1411(e); 48 U.S.C. 1681, Note)

§§ 300.66–300.69 [Reserved]

Subpart D—How Does an Applicant Apply to a State for a Subgrant?

Submission of an Application for a Subgrant

§ 300.70 Submission of an application to the State educational agency.

(a) In order to receive funds under this part for any fiscal year, a local educational agency shall submit an application for a subgrant to the appropriate State educational agency.

(b) The application must meet the requirements of §§ 300.71–300.75.

(20 U.S.C. 1414(a))

§ 300.71 Local educational agency—general application.

A local educational agency applying for a subgrant shall comply with 34 CFR 76.301, relating to assurances to be included in its general application covering various Federal education programs.

(20 U.S.C. 1414(a))

§ 300.72 Local educational agency application—specific assurances.

A local educational agency shall include in its application an assurance, satisfactory to the State educational agency, that—

(a) All children residing within the jurisdiction of the local educational agency who are handicapped, regardless of the severity of their handicap, and who are in need of special education

and related services, will be identified, located, and evaluated;

(b) It has developed a practical method of determining which children are currently receiving special education and related services and which children are not currently receiving special education and related services;

(c) It has established the policies and procedures required under §§ 300.163–300.165, relating to the confidentiality of information.

(d)(1) It has established a goal, consistent with the provisions of Section 614(a)(1)(C) of the Act, of providing a full educational opportunity to all handicapped children;

(2) It provides for the participation of an consultation with parents of handicapped children in meeting the goal described in paragraph (d)(1) of this section;

(3) It has established a detailed timetable for accomplishing the goal described in paragraph (d)(1) of this section; and

(4) It will make available to the State educational agency a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in paragraph (d)(1) of this section;

(e) It has established procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under § 300.29;

(f) It will, to the maximum extent practicable, and consistent with Section 612(5)(B) of the Act, provide special services to handicapped children to enable them to participate in regular educational programs;

(g) It will comply with—

(1) Sections 300.80–300.84, relating to excess costs;

(2) Section 300.85, relating to nonsupplanting; and

(3) Section 300.86, relating to the use of funds for programs established by State law;

(h) It will use State and local funds to provide services in program areas which, taken as a whole, are at least comparable to services provided in areas of its jurisdiction which do not receive funds under this part;

(i) It will comply with §§ 300.120–300.128, relating to IEPS; and

(j) It will comply with the provisions of §§ 300.139–300.154, relating to procedural safeguards.

(20 U.S.C. 1414(a))

§ 300.73 Local educational agency application—use of funds under this part.

A local educational agency shall include in its application a description of how it will use funds received under this part.

(20 U.S.C. 1414(a))

§ 300.74 Local educational agency application—additional information required by the State educational agency.

A local educational agency shall include in its application any other information required by the State educational agency in order to meet the State plan requirements.

(20 U.S.C. 1414(a))

§ 300.75 Consolidated applications.

(a) *Required applications.* A State educational agency may require local educational agencies to submit a consolidated application for payments under this part if the State educational agency determines that an individual application submitted by a local educational agency will be disapproved because—

(1) The agency's entitlement is less than the $7,500 minimum set by section 611(c)(4)(A)(i) of the Act; or

(2) The agency is unable to establish and maintain programs of sufficient size and scope to meet effectively the educational needs of handicapped children.

(b) A consolidated application must meet the requirements of 34 CFR 76.303 *(Joint applications and projects).*

(c) *Size and scope of program.* The State educational agency shall establish rules and regulations for making determinations under paragraph (a)(2) of this section.

(20 U.S.C. 1414(c)(1))

§§ 300.76–300.79 [Reserved]

Limitations on the Use of Funds Under This Part

§ 300.80 The excess cost requirement.

A local educational agency may use funds received under this part only for the excess costs directly attributable to the education of handicapped children.

(20 U.S.C. 1414 (a)(1), (a)(2)(B)(i))

§ 300.81 Meeting the excess cost requirement.

A local educational agency meets the excess cost requirement if it has on the average spent at least the amount, determined under § 300.82, for the education of each of its handicapped children.

(20 U.S.C. 1401(20), 1414(a)(1))

Guideline. The excess cost requirement means that the local educational agency must spend a certain minimum amount for the education of its handicapped children before funds under this part are used. This ensures that children served with funds under this part have at least the same average amount spent on them, from sources other than this part, as do the children in the school district taken as a whole. The minimum amount that must be spent for the education of handicapped children is computed under a statutory formula. Section 300.82 implements this formula. Excess costs are those costs of special education and related services which exceed the minimum amount. Therefore, if a local educational agency can show that it has (on the average) spent the minimum amount for the education of each of its handicapped children, it has met the excess cost requirement, and all additional costs are excess costs. Funds under this part can then be used to pay for these additional costs, subject to the other requirements of the Act.

§ 300.82 Computing the minimum amount for meeting the excess cost requirement.

Excess costs are those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student after deducting—

(a) Amounts received under this part or under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended (or its successor, Chapter 1 of the Education Consolidation and Improvement Act of 1981), or under Title VII of the ESEA; and

(b) Any State or local funds expended for programs which would qualify for assistance under this part or under such titles.

(20 U.S.C. 1401(20))

§ 300.83 Computation of excess costs for consolidated applications.

The minimum average amount under § 300.81, where two or more local educational agencies submit a consolidated application, is the average of the combined minimum average amounts determined under § 300.82 in those agencies for elementary or secondary students, as the case may be.

(20 U.S.C. 1414(a)(1))

§ 300.84 Limitations on the use of funds under this part.

(a) The excess cost requirement prevents a local educational agency from using funds provided under this part to pay for all of the costs directly attributable to the education of a handicapped child, subject to paragraph (b) of this section.

(b) The excess cost requirement does not prevent a local educational agency from using funds under this part to pay for all of the costs directly attributable to the education of a handicapped child aged three, four, five, eighteen, nineteen, twenty, or twenty-one, if no local or State funds are available for

nonhandicapped children of those ages. However, the local educational agency must comply with the nonsupplanting and other requirements of this part in providing the education and services.

(20 U.S.C. 1401(20), 1414(a)(1))

§ 300.85 Prohibition against supplanting.

(a) A local educational agency must use funds received under this part to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(b)(1) A local educational agency meets the requirement of paragraph (a) of this section if the amount of State and local funds it spends for the education of handicapped children for the fiscal year for which funds are received under this part is at least equal to that amount for the immediately preceding fiscal year.

(2) The local educational agency may compute the amount of State and local funds it spends for the education of handicapped children on either an aggregate or per capita basis. It shall not include in the computation any expenditures for capital outlays or debt service.

(c) In determining whether a local educational agency meets the requirements of paragraph (a) of this section, an allowance may be made for—

(1) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities; and

(2) Other extraordinary, nonrecurring expenditures.

(20 U.S.C. 1414(a)(2)(B)(ii))

§ 300.86 Use of funds for programs established by State law.

(a)(1) A local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law may use funds received under this part to carry out that program, notwithstanding the provisions of § 300.85, relating to supplanting.

(2) The local educational agency may not use funds received under this part for any fiscal year to reduce the level of expenditures made from State and local funds for that program for the immediately preceding fiscal year.

(b) The local educational agency may compute its level of expenditures on either an aggregate or per capita basis. It shall not include in the computation any expenditures for capital outlay or debt service.

(20 U.S.C. 1414(f))

§§ 300.87–300.89 [Reserved]

Subpart E—How Does a State Make a Subgrant?

§ 300.90 State educational agency approval or disapproval of applications.

(a) A State educational agency, in determining whether to approve or disapprove the application of a local educational agency, shall comply with the appropriate provisions of 34 CFR Part 76, Subpart E (How a Subgrant is Made to an Applicant).

(b) As part of its determination, a State educational agency shall consider any decision, resulting from a due process hearing conducted under §§ 300.145–300.152, which is adverse to the local educational agency involved in the decision.

(20 U.S.C. 1414(b) (1), (3))

§ 300.91 Requirements for consolidated applications.

(a) The State educational agency shall issue rules and regulations with respect to consolidated applications submitted under this part.

(b) The State educational agency's regulations must—

(1) Be consistent with sections 612(1)–(7) and 613(a) of the Act; and

(2) Provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(c) If an intermediate educational unit is required under State law to carry out this part, the joint responsibilities given to local educational agencies under paragraph (b)(2) of this section do not apply to the administration and disbursement of any payments received by the intermediate educational unit. Those administrative responsibilities must be carried out exclusively by the intermediate educational unit.

(20 U.S.C. 1414(c)(2) (B), (C))

§ 300.92 Within-State distribution of funds.

Of the funds received under §§ 300.60–300.63 by the State for any fiscal year—

(a) Twenty-five percent may be used by the State in accordance with §§ 300.100 and 300.101; and

(b) Seventy-five percent must be distributed to the local educational agencies in the State in accordance with § 300.93.

(20 U.S.C. 1411(c)(1))

§ 300.93 Formula for computing a local educational agency's allocation.

From the total amount of funds available to all local educational agencies in a State, each local educational agency's allocation is equal to an amount which bears the same ratio to the total amount as the number of handicapped children aged three through 21 in that agency who are receiving special education and related services bears to the aggregate number of handicapped children aged three through 21 receiving special education and related services in all local educational agencies which apply to the State educational agency for funds under this part.

(20 U.S.C. 1411(d))

§ 300.94 Payments under consolidated applications.

In any case in which a consolidated application is approved by the State educational agency, the payments to the participating local educational agencies must be equal to the sum of the allocations of the separate local educational agencies.

(20 U.S.C. 1414(c)(2)(A))

§ 300.95 Reallocation of a local educational agency's funds.

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by the local educational agency with State and local funds otherwise available to the local agency, the State educational agency may reallocate funds (or portions of those funds which are not required to provide special education and related services) made available to the local educational agency, to local educational agencies within the State which are not adequately providing special education and related services to all handicapped children residing in the areas served by those agencies.

(20 U.S.C. 1414(e))

§ 300.96 Withholding a local educational agency's funds.

(a) If a State educational agency, after giving reasonable notice and an opportunity for a hearing to a local educational agency, finds that the local educational agency, in the administration of an application approved by the State educational agency, has failed to comply with any requirement in the application, the State educational agency, after giving notice to the local educational agency, shall—

(1) Make no further payments to the local educational agency until the State educational agency is satisfied that there is no longer any failure to comply with the requirement; or

(2) Consider its finding in its review of any application made by the local educational agency under § 300.70; or

(3) Comply with both paragraphs (a)(1) and (a)(2) of this section.

(b) Any local educational agency receiving a notice from a State educational agency under paragraph (a) of this section is subject to the public notice provision under the last sentence of section 616(a) of the Act.

(20 U.S.C. 1414(b)(2), 1416(a))

§§ 300.97–300.99 [Reserved]

Subpart F—What Conditions Must Be Met by a State and Its Local Educational Agencies?

Use of State Set-Aside

§ 300.100 Use of funds received under this part by the State—administrative costs.

(a) *Grant greater than $1.2 million.* If a State's grant for any fiscal year under §§ 300.60–300.63 is greater than $1.2 million, the State may use up to 5 percent or $300,000 of that allotment, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act.

(b) *Grant less than or equal to $1.2 million.* If a State's grant for any fiscal year under §§ 300.60–300.63 is less than or equal to $1.2 million, the State may use up to the full 25 percent of that grant, available under § 300.92(a), for administrative costs related to carrying out sections 612 and 613 of the Act.

(20 U.S.C. 1411(c)(1)(A), (c)(2)(A)(i))

§ 300.101 Use of funds received under this part by the State—direct and support services.

(a) The State shall use the remainder of the funds available to it under § 300.92(a) for direct services and support services for handicapped children.

(b) *Matching requirement.* (1) The State shall spend, on a program basis, at least as much from non-Federal funds as it spends, from funds available to it under § 300.92(a), for direct services and support services.

(2) The matching requirement of paragraph (b)(1) of this section does not apply to funds withheld by a State from a local educational agency's allocation under § 300.105.

(c) As used in this section—

(1) "Direct services" means services provided to a handicapped child directly by the State, including services provided under contract or through other administrative arrangements.

(2) "Support services" means activities that assist in the education of handicapped children, including the comprehensive system of personnel development, recruiting and training hearing officers and surrogate parents, training parents, and providing public information.

(20 U.S.C. 1411(c)(1)(A), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B); Senate (Conference) Report No. 94–455, p. 34 (1975); 121 CONG REC. 37414 (1975) (remarks of Sen. Williams))

Guideline. 1. For purposes of meeting the matching requirement of paragraph (b) of this section, non-Federal funds spent by any agency or political subdivision of the State are considered to have been spent by the State.

2. The phrase "on a program basis" in paragraph (b)(1) of this section is intended to refer to overall areas of State activity with respect to the education of handicapped children, such as personnel development, evaluation activities, or assuring the implementation of procedural safeguards. The matching requirement, therefore, is not intended to apply to specific projects, such as a project for training teachers of deaf children, an evaluation of IEPS, or conducting due process hearings.

§ 300.102 Inapplicability of the supplanting prohibition to the State set-aside.

The prohibition against supplanting set out in § 300.35(a) does not apply to funds available under § 300.92(a) that the State uses for administrative costs, direct services, or support services.

(20 U.S.C. 1411(c)(3))

§ 300.103 Inapplicability of the excess cost provisions.

The provisions of §§ 300.80–300.84, relating to excess costs, do not apply to the State educational agency's use of funds under this part for direct services and support services under § 300.101.

(20 U.S.C. 1413(b))

§ 300.104 [Reserved]

Use of Local Educational Agency Allocation for Direct Services by the State

§ 300.105 Use of local educational agency allocation for direct services by the State.

(a) A State educational agency may not distribute funds under this part to a local educational agency, and shall use those funds which the local educational agency would otherwise have been allocated, to provide a free appropriate public education to handicapped children residing in the area served by the local educational agency, if the local educational agency—

(1) Does not submit an application that meets the requirements for approval by the State educational agency;

(2) Is unable or unwilling to establish and maintain programs of free appropriate public education that meet the requirements of Section 614(a) of the Act; or

(3) Is unable or unwilling to be consolidated with other local educational agencies under §§ 300.75 and 300.91 in order to establish and maintain those programs.

(b) If a State educational agency determines that a local educational agency has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children, the State educational agency shall—

(1) Withhold a *pro rata* portion of the local educational agency's allocation under this part; and

(2) Use the withheld funds to provide special education and related services to those children.

(c)(1) The State educational agency may provide special education and related services under this section in the manner and at the location it considers appropriate.

(2) The manner in which the education and services are provided must be consistent with the requirements of this part, including the provisions of §§ 300.160 and 300.161, relating to the least restrictive environment.

(d) The excess cost requirements set out at §§ 300.80–300.84 do not apply to the State educational agency's use of Part B funds under this section.

(e) The matching requirement set out in § 300.101(b)(1) does not apply to funds withheld by the State under this section.

(20 US.C. 1411(c)(4), 1413(b), 1414(d))

§§ 300.106–300.109 [Reserved]

Free Appropriate Public Education

§ 300.110 Ages for providing a free appropriate public education.

(a) *General.* Each State shall ensure that a free appropriate public education is available to all handicapped children aged three through twenty-one within the State, except as provided in paragraph (b) of this section.

(b) *Age groups 3–5 and 18–21.* A free appropriate public education must be provided to handicapped children aged three, four, five, eighteen, nineteen, twenty, and twenty-one unless the application of the requirement in paragraph (a) of this section would be inconsistent with State law or practice, or the order of any court, respecting public education within age groups three through five and eighteen through twenty-one.

(20 U.S.C. 1412(2)(b))

Guideline. A State may, at its discretion, use funds under this part to provide services to a handicapped child below age three. See Senate Report No. 94–168, p. 18 (1975).

§ 300.111 Financial responsibility for providing a free appropriate public education.

(a) If a public agency places a handicapped child in, or refers such a child to, a public or private school or facility inside or outside the State or local jurisdiction because the public agency does not have an appropriate educational program for the child, the public agency remains financially responsible for the child's education.

(b) A local educational agency is relieved of the financial responsibility for the education of a handicapped child in a school or facility if another agency unilaterally places the child in a school or facility. In such a case, unless State law or an agreement between the agencies provides to the contrary, the placing agency is responsible for the costs of the child's education.

(c) A public agency is relieved of the financial responsibility for the education of a handicapped child if the child's parents place the child in a private school or facility despite the availability of a free appropriate public education from the public agency. Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child or the question of financial responsibility are subject to the due process procedures under §§ 300.145–300.152.

(d)(1) Nothing in the Act or the regulations in this part prohibits the use of State, local, Federal, and private sources of support, including insurance proceeds, to pay for services that must be provided to a child under Section 612(2)(B) of the Act.

(2) However, a public agency may not require parents of such a child to use insurance proceeds to pay for those services where filing the insurance claim would pose a realistic threat that the parents would suffer a financial loss.

(20 U.S.C. 1412(2)(B), 1413(a)(4)(B), 1415)

§ 300.112 Residential placement.

If a public agency must place a handicapped child in a public or private residential program in order to provide a free appropriate public education to the child, the parents of the child may not be charged for—

(a) Costs for special education and related services provided in accordance with an IEP; and

(b) Room and board.

(20 U.S.C. 1412(2)(B), 1413(a)(4)(B))

Guideline. Nothing in these regulations prevents a public agency from establishing procedures to obtain reimbursement from the parents of the child, insurers, other governmental units, or others, as appropriate, for residential costs other than those required to be borne by the agency under the statute and these regulations The nature of any costs to be borne by the parents and the manner of obtaining reimbursement from them are appropriate subjects for discussion at an IEP or a subsequent meeting.

§ 300.113 Access to programs and services.

Nothing in the Act or the regulations in this part may be read to affect any legal obligation of a public agency to make available to handicapped children educational programs and services made available to nonhandicapped children by the agency, including curricular options, extra-curricular and nonacademic services, physical education, school health services, social work services in schools, and parent counseling and training.

(20 U.S.C. 1401, 1411 *et seq.*)

§ 300.114 Disciplinary rules and procedures.

(a) A policy which ensures that all handicapped children have the right to a free appropriate public education, as required by § 300.110, is not violated by disciplinary procedures described in this section. However, nothing in this section may be read to affect any additional due process requirements imposed by Federal or State law regarding disciplinary procedures.

(b) A public agency may use procedures applicable to nonhandicapped children for the imposition of a disciplinary sanction on a handicapped child where a hearing is not required by law or agency policy.

(c)(1) Before imposing a disciplinary sanction on a handicapped child where a hearing is required by law or agency policy, the agency shall determine, in accordance with procedures the agency considers appropriate, whether the child's behavior was caused by the child's handicapping condition. The agency may make this determination before, at, or after the hearing required by law or agency policy. In making this determination, the agency shall involve persons who are familiar with the child and with the behaviors associated with the handicapping condition.

(2) If the agency determines that the child's behavior was caused by the child's handicapping condition, the procedural safeguards in §§ 300.145–300.154 apply to any agency action described in § 300.145(a) regarding the child.

(3) If the agency determines that the child's behavior was not caused by the child's handicapping condition, the agency may impose a disciplinary sanction on the child using procedures applicable to nonhandicapped children.

(d) The agency shall ensure that its disciplinary standards and procedures are applied in a way that does not discriminate against handicapped children.

(20 U.S.C. 1412(2)(B))

§§ 300.115–300.119 [Reserved]

Individualized Education Program

§ 300.120 Definition of "individualized education program".

As used in this part, the term "individualized education program" (IEP) means a written statement for a handicapped child as defined in Section 602(19) of the Act.

(20 U.S.C. 1401(19))

§ 300.121 State educational agency's responsibilities.

(a) *Public agencies.* The State educational agency shall ensure that each public agency develops and implements an IEP for each of its handicapped children.

(b) *Private schools and facilities.* The State educational agency shall ensure that an IEP is developed and implemented for each handicapped child who—

(1) Is placed in or referred to a private school or facility by a public agency; or

(2) Is enrolled in a parochial or other private school and receives special education or related services from a public agency.

(20 U.S.C. 1412 (4), (6); 1413(a)(4))

§ 300.122 Effective dates for individualized education programs.

(a) Each public agency shall establish or revise, whichever is appropriate, an IEP for each handicapped child at or before the beginning of each school year.

(b) When a child is identified and evaluated as handicapped, an IEP must be developed before special education and related services are provided to the child.

(c) Services described in an IEP must be initiated as soon as they are required to meet the needs of the child.

(20 U.S.C. 1412(2)(B), (4), (6); 1414(a)(5))

§ 300.123 Meetings.

(a) *General.* Each public agency is responsible for initiating and conducting meetings for the purpose of establishing, reviewing, and revising a handicapped child's IEP.

(b) *Review.* (1) Each public agency shall initiate and conduct meetings to review periodically each child's IEP and, if appropriate, shall revise its provisions.

(2) A meeting must be held for this purpose at least once a year.

Guideline. Although the IEP and each element of it must be developed at the IEP meeting, the actual drafting, writing, or typing of the IEP may take place outside the meeting.

(20 U.S.C. 1412(2)(B), (4), (6); 1414(a)(5))

§ 300.124 Participants in meetings.

The public agency shall ensure that each meeting includes the following participants—

(a) A respresentative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education;

(b) The child's teacher;

(c) One or both of the child's parents, subject to § 300.125;

(d) The child, whenever appropriate; and

(e) Other individuals at the discretion of a parent or the agency.

(20 U.S.C. 1401(19); 1412(2)(B), (4), (6); 1414(a)(5))

Guideline. 1. In the case of a child who has been evaluated for the first time, or who has been reevaluated under § 300.141, the agency may find it advisable to provide for the participation of evaluation personnel in the meeting.

2. The agency has the discretion to designate the teacher who will participate in the meeting. Examples: (a) For a handicapped child who is receiving special education on a part-time basis, the "teacher" could be the child's special education teacher. If the child's handicap is a speech impairment, the "teacher" could be the speech-language pathologist. (b) For a handicapped child who is being considered for placement in special education, the "teacher" could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.

§ 300.125 Parent participation.

(a) Each public agency shall take steps to ensure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including—

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed upon time and place.

(b) A meeting may be conducted without a parent in attendance if the public agency—

(1) Has contacted the parent and the parent has declined to participate; or

(2) Has not contacted the parent but has made reasonable attempts to do so.

(c) The public agency shall give the parent, on request, a copy of the IEP.

(d) The public agency, in conducting the meeting, shall make such accommodations as are reasonably necessary to ensure that a parent who is deaf or whose native language is other than English understands the proceedings at the meeting.

(20 U.S.C. 1401(19); 1412(2)(B), (4), (6); 1414(a)(5); 1415(b)(1)(A))

§ 300.126 Contents of the individualized education program.

The IEP for each child must include—

(a) A statement of the child's present levels of educational performance;

(b) A statement of annual goals, including short-term instructional objectives;

(c) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;

(d) The projected dates for initiation of services and the anticipated duration of the services; and

(e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

(20 U.S.C. 1401(19); 1412(2)(B), (4), (6); 1414(a)(5); Senate Report No. 94–168, p. 11 (1975))

§ 300.127 Private school placements.

(a) Before a public agency places a handicapped child in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child in accordance with §§ 300.120–300.126 and § 300.128.

(b) Responsibility for compliance with this part remains with the public agency and the State educational agency even if a private school or facility reviews, revises, or implements a child's IEP.

(20 U.S.C. 1413(a)(4)(B))

§ 300.128 Accountability.

A public agency must provide special education and related services to a handicapped child in accordance with an IEP. However, the Act does not require that any agency, teacher, or other person be held accountable if a child does not attain the annual goals or the short-term objectives in the IEP.

(20 U.S.C. 1412(2)(B); 1414(a) (5), (6); 121 Cong. Rec. 23707 (1975) (remarks of Rep. Quie))

§ 300.129 [Reserved]

Handicapped Children Placed in or Referred to Private Schools by Public Agencies

§ 300.130 Responsibility of the State educational agency.

Each State educational agency shall ensure that a handicapped child who is placed in or referred to a private school or facility by a public agency as a means of carrying out the requirements of Part B of the Act or any other law requiring the provision of special education and related services to all handicapped children within the State—

(a) Is provided special education and related services—

(1) In conformance with an IEP which meets the requirements of §§ 300.120–300.128;

(2) At no cost to the parents; and

(3) At a school or facility which meets the standards that apply to State and local educational agencies (including the requirements of this part); and

(b) Has all of the rights of a handicapped child who is served by a public agency.

(20 U.S.C. 1413(a)(4)(B))

Handicapped Children in Private Schools Not Placed or Referred by Public Agencies

§ 300.131 Definition of "private school handicapped child".

As used in §§ 300.132 and 300.133, a "private school handicapped child" means a handicapped child enrolled in a private school or facility other than a handicapped child covered under § 300.130 (children placed in or referred to private schools by public agencies).

(20 U.S.C. 1413(a)(4)(A))

§ 300.132 State educational agency responsibility.

The State educational agency shall ensure that—

(a) To the extent consistent with their number and location in the State, provision is made for the participation of private school handicapped children residing in the State in the program assisted or carried out under this part by providing them with special education and related services; and

(b) The requirements of 34 CFR 76.651–76.662, relating to the participation of students enrolled in private schools, are met.

(20 U.S.C. 1413(a)(4)(A))

§ 300.133 Local educational agency responsibility.

(a)(1) The responsible local educational agency, as determined under paragraphs (b) and (c) of this section, shall provide for special education and related services designed to meet the needs of the handicapped child in accordance with 34 CFR 76.651–76.662.

(2) As used in 34 CFR 76.655 (*Level of expenditures for students enrolled in private schools*), the term "program

funds" refers only to funds received under this part.

(b)(1) If a private school handicapped child, residing in the jurisdiction of a local educational agency, is enrolled at a private school in another local educational agency in the same State, the State educational agency shall determine which local educational agency is responsible for meeting the requirements of paragraph (a) of this section.

(2) In computing a local educational agency's allocation under § 300.93, the State educational agency shall include private school handicapped children for whom the local educational agency is responsible under paragraph (a) of this section.

(c) If a private school handicapped child is enrolled in a private school located in a State other than the State in which the child resides, the local educational agency in which the child resides is responsible for meeting the requirements of paragraph (a) of this section with respect to that child.

(d) A local educational agency, in meeting its responsibilities under paragraph (a) of this section, is authorized, but not required, to transfer to the local educational agency in which the private school is located, that portion of its allocation of funds under this part attributable to the child.

(20 U.S.C. 1413(a)(4)(A))

§§ 300.134–300.138 [Reserved]

Procedural Safeguards

§ 300.139 General responsibility of public agencies.

Each State educational agency shall ensure that each public agency establishes and implements procedural safeguards which meet the requirements of §§ 300.140–300.154.

(20 U.S.C. 1412(6), 1415(a))

§ 300.140 Preplacement evaluation.

Before a public agency may initially place a handicapped child in a special education program, an individual evaluation of the child's educational needs must be conducted in accordance with the requirements of §§ 300.158 and 300.159.

(20 U.S.C. 1411, Note; 1412 (2)(B), (5)(B))

§ 300.141 Reevaluation.

A public agency shall ensure that a reevaluation of the educational needs of each handicapped child is conducted in accordance with the requirements of §§ 300.158 and 300.159 at intervals determined by the State educational agency, or more frequently if the agency is given reason to believe that such a reevaluation is necessary in order to meet the child's educational needs.

(20 U.S.C. 1412 (2)(B), (5)(C); Senate Report No. 93–763, p. 113 (1973))

§ 300.142 Definition of "evaluation."

(a) As used in this part, "evaluation" means procedures used in accordance with §§ 300.158 and 300.159 to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs.

(b) Tests administered to or procedures used with all children in a school, grade, or class do not, by themselves, constitute an evaluation.

(20 U.S.C. 1411, Note; 1412(5)(C))

§ 300.143 Opportunity to examine records.

Each public agency shall afford the parents of a handicapped child, in accordance with the procedures in §§ 300.163–300.165, an opportunity to examine all relevant records with respect to—

(a) The identification, evaluation, and educational placement of the child; and

(b) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(A))

§ 300.144 Independent educational evaluation.

(a) *Definition.* For purposes of this section, the term "independent educational evaluation" means an evaluation that is conducted by an examiner who is not employed by the public agency responsible for the education of the child in question.

(b) If a public agency proposes to initiate or change the provision of a free appropriate public education to a handicapped child under § 300.145, a parent may delay the proposed action for a reasonable period of time in order to obtain an independent educational evaluation of the child.

(c) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation—

(1) Must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child; and

(2) May be presented as evidence at a hearing under §§ 300.147–300.151.

(d) An independent evaluation must be at public expense if a hearing or reviewing officer determines that an independent educational evaluation is necessary to resolve the issues in dispute in a hearing or review under §§ 300.147–300.151.

(e) Nothing in this section may be read to prevent the public agency responsible for the child's education from voluntarily providing an independent educational evaluation at public expense.

(20 U.S.C. 1415(b)(1)(A))

§ 300.145 Prior notice.

(a) Written notice when meets the requirements under § 300.146 must be given to the parents of a handicapped child a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

(b) After the public agency gives prior notice, it shall provide the parents a reasonable opportunity to initiate a due process hearing, as described in §§ 300.147–300.151, before taking the action proposed in the notice.

(c) Nothing in this section may be read to affect the applicability of section 439(b) of the General Education Provisions Act (GEPA), or State law, governing parental consent relating to the matters referred to in paragraph (a) of this section.

(20 U.S.C. 1415(b)(1)(C); Section 439(b) of the GEPA is codified at 20 U.S.C. 1232h(b))

§ 300.146 Content of notice.

(a) The notice under § 300.145 must comply with agency procedures that ensure that it includes—

(1) A full explanation of all of the procedural safeguards available to the parents under section 615 of the Act;

(2) An explanation of the action proposed or refused by the agency, and the basis for the agency decision;

(3) Any other information deemed relevant by the public agency to assist the parent in understanding the agency's proposal or refusal.

(b) The notice must be—

(1) Written in a plain and understandable manner; and

(2) Provided in the native language of the parent unless it is clearly not feasible to do so.

(c) The State or local educational agency shall have procedures to ensure that the parent understands the content of the notice if the native language of the parent is not a written language.

(20 U.S.C. 1415(b)(1)(D))

§ 300.147 Impartial due process hearings.

(a) A parent or a public agency responsible for the education or care of the child may initiate a hearing on any matter relating to the identification, evaluation, or educational placement of a handicapped child or the provision of

a free appropriate public education to the child.

(b) The hearing must be provided by the State educational agency or by the local educational agency or intermediate educational unit responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the State educational agency.

(20 U.S.C. 1415(b)(2))

Guideline. An agency may wish to offer mediation if there is disagreement about matters concerning the child's education that cannot be resolved informally. A mediation process is intended to facilitate the negotiation of a settlment by the parents and the agency. By contrast, in a due process hearing, described in §§ 300.147–300.151, a third party is assigned to weigh evidence presented by each side and to make a decision. If mediation is unavailable, rejected, or unsuccessful, the parties may wish to schedule a pre-hearing conference for the purpose of defining issues to be considered at the hearing. In all cases, however, hearings and reviews are subject to the timelines in § 300.152.

§ 300.148 Impartial hearing and review officers.

(a) A hearing or the review of a hearing may not be conducted—

(1) By an employee of the State educational agency, or an employee of a local educational agency or intermediate educational unit which is involved in the education or care of the child; or

(2) By any person having a personal or professional interest which would conflict with the person's objectivity in the hearing or the review of a hearing.

(b) A person who otherwise qualifies to conduct a hearing or review under paragraph (a)(1) of this section is not an employee of the agency solely because that person is paid by the agency to serve as a hearing or review officer.

(20 U.S.C. 1415(b)(2))

§ 300.149 Hearing rights.

(a) Any party to a hearing has the right to—

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicaped children;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Obtain a written or electronic verbatim record of the hearing; and

(4) Obtain written findings of fact and decisions.

(b) The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the State advisory panel.

(c) The child who is the subject of the hearing may attend at the option of the child's parent.

(20 U.S.C. 1415(d), 1417(c))

Guideline. States may specify evidentiary and other technical procedural requirements that relate to impartial hearings and reviews. States may follow these requirements if they are not inconsistent with the provisions of Section 615 of the Act. The Act specifically requires the hearing rights described in this section, with the exception of paragraph (c) of this section. It also provides that the procedural provisions required by the Act include, but are not limited to, these rights. See section 615(b)(1).

§ 300.150 Hearing decision—appeal.

A decision made in a hearing conducted under this subpart is final, unless a party to the hearing appeals the decision under section 615(c) of the Act.

(20 U.S.C. 1415(e))

§ 300.151 Administrative appeal—impartial review.

(a) If the hearing is conducted by a public agency other than the State educational agency, any party aggrieved by the findings and decision in the hearing may appeal to the State educational agency.

(b) If there is an appeal, the State educational agency shall conduct an impartial review of the hearing. The officer conducting the review shall, as a part of any review—

(1) Examine the entire hearing record;

(2) Determine if additional evidence or argument is necessary or if the matter should be remanded;

(3) Make an independent decision on completion of the review; and

(4) Give a copy of the written findings and the decision to the parties.

(c)(1) If, at the reviewing officer's discretion, a hearing is held on some or all of the matters raised in the complaint, the rights set out in § 300.149 apply to those matters.

(2) If no hearing is held on a matter, the reviewing officer shall find whether the procedures at the hearing below on that matter met the requirements of due process.

(d) The decision made by the reviewing officer is final, unless a party brings a civil action.

(20 U.S.C. 1415 (c), (d); House (Conference) Report No. 94–664, pp. 49–50 (1975))

§ 300.152 Timeliness and convenience of hearings and reviews.

(a) The State shall establish policies and procedures to ensure that public agencies resolve complaints within a reasonable time, but that in any case—

(1) A final decision is reached and a copy of the decision is sent to the parties not later than 60 calendar days after receipt of a request for a hearing; and

(2) A final decision is reached and a copy of the decisions sent to the parties not later than 45 calendar days after receipt of a request for a State educational agency review.

(b) A hearing or review officer may grant specific extensions of time beyond the periods set out in paragraph (a) of this section.

(c) Each hearing and each review must be conducted at a time and place which is reasonably convenient to all of the parties involved.

(20 U.S.C. 1415)

§ 300.153 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a compliant, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in the child's current educational placement.

(b) During the pendency of a proceeding regarding a complaint, the public agency and the parents may agree to a temporary educational placement for the child. In such a case, the "current educational placement" of the child, as that terms is used in paragraph (a) of this section, is the child's placement when the proceeding began, and not the temporary placement.

(c) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(20 U.S.C. 1415(e)(3))

Guideline. It is recommended that any temporary educational placement agreed to during the pendency of a proceeding be put in writing.

§ 300.154 Surrogate parents.

(a) Each public agency shall establish and maintain procedures, including the assignment of a surrogate parent, to ensure that the rights of a child under this part are protected when—

(1) The public agency cannot, after reasonable effort, identify a parent of the child;

(2) The parents are unavailable; or

(3) The child is a ward of the State under the laws of that State.

(b) A parent is deemed available, for purposes of paragraph (a)(2) of this section, if—

(1) The agency can, with reasonable effort, provide notice to the parent of the parent's rights under this part; and

(2) After receiving notice, the parent can, with reasonable effort, exercise the rights under this part either by participating personally or by designating someone to act in the parent's place.

(c)(1) Before assigning an individual as a surrogate parent for a handicapped child, the public agency shall undertake reasonable efforts to determine whether the individual has a personal or professional interest that conflicts with the interests of the child. The agency shall not appoint the individual if it finds that such a conflict exists.

(2) Nothing in paragraph (c)(1) may be read to affect the standard of care that State law may impose on a public agency in assigning a surrogate parent.

(d)(1) A public agency may not assign as a surrogate parent an employee of the State educational agency, or an employee of a local educational agency or intermediate educational unit which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent is not an employee of the agency, within the meaning of paragraph (d)(1), solely because that person is paid by the agency to serve as a surrogate parent.

(e) *Responsibilities.* The surrogate parent may represent the child in all matters relating to—

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b)(1)(B))

Guideline. 1. One example of a professional conflict described in paragraph (c)(1) is a potential surrogate's employment by an agency that would have to pay for some or all of the services a child might need.

2. If a welfare agency places a child in a foster home, the foster parent is not an employee of the agency solely because the foster parent receives stipends for the child's care.

§ 300.155 Civil action.

Any party aggrieved by the findings and decision of a State educational agency hearing officer or reviewing officer has the right to bring a civil action under section 615(e)(2) of the Act.

(20 U.S.C. 1415)

§ 300.156 [Reserved]

Evaluation and Placement Procedures

§ 300.157 General.

The State educational agency shall ensure that each public agency evaluates and places handicapped children in accordance with the requirements §§ 300.140–300.142, 300.158, and 300.159.

(20 U.S.C. 1412(2)(B), (5)(C))

§ 300.158 Nondiscrimination in materials and procedures.

(a) Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not be racially or culturally discriminatory.

(b) Testing and evaluation materials and procedures must be provided and administered in the language or other mode of communication in which the child is most proficient, unless it is clearly not feasible to do so.

(c) Tests must be administered to a child with a motor, speech, hearing, visual, or other communication disability, or to a bilingual child, so as to reflect accurately the child's ability in the area tested rather than the child's impaired communication skill or limited English language skill unless those are the factors the test purports to measure.

(d) Tests and other materials used for placement must be properly and professionally evaluated for the specific purpose for which they are used, and administered by qualified personnel in conformance with instructions provided by the producers of the tests and materials.

(e) Tests and other evaluation procedures must include assessment of specific areas of educational need.

(f) No single test, type of test, or procedure may be used as the sole criterion for determining an appropriate educational program for a child.

(g) Evaluation procedures must include—

(1) An assessment that is sufficiently comprehensive to diagnose and appraise the child's suspected impairment; and

(2) A multidisciplinary approach for children suspected of having severe, multiple, or complex disorders, including a specific learning disability.

(h) All relevant information with regard to the functional abilities of the child must be used in making a placement determination.

(20 U.S.C. 1412(5)(C); Senate Report No. 94–168, pp. 29–30 (1975))

§ 300.159 Criteria and procedures for determining the existence of a specific learning disability.

(a) A child may be identified as a child with a "specific learning disability" only if—

(1) The child does not achieve commensurate with the child's age and ability level in one or more of the areas set out in paragraph (b) of this section when provided with learning experiences suitable for the child's age and ability level;

(2) The discrepancy between the child's achievement and ability in one or more of those areas is verified and severe;

(3) The discrepancy between achievement and ability is the result of one or more serious and identifiable conditions, including the conditions set out in the definition of the term "specific learning disability" at § 300.4(b)(4)(ix); and

(4) The discrepancy between achievement and ability is not primarily the result of—

(i) A visual, hearing, or motor handicap;

(ii) Mental retardation;

(iii) Emotional disturbance;

(iv) Environmental, cultural, or economic disadvantage; or

(v) Inappropriate instructional programs, lack of readiness, lack of motivation, delayed maturation, or factors external to the child.

(b) A specific learning disability must manifest itself in such academic areas as—

(1) Oral expression;

(2) Listening comprehension;

(3) Written expression;

(4) Basic reading skill;

(5) Reading comprehension;

(6) Mathematical calculation; or

(7) Mathematical reasoning.

(c) In determining whether a child has a specific learning disability, the public agency shall use procedures that meet the requirements of § 300.158, including the multidisciplinary approach referred to in paragraph (g) of that section.

(20 U.S.C. 1401(1); 1411, Note; House Report No. 94–332, p. 8 (1975))

Least Restrictive Environment

§ 300.160 General.

(a) Each State educational agency shall ensure that each public agency establishes and implements procedures which meet the requirements in Section 612(5)(B) of the Act.

(b) Each public agency shall ensure that—

(1) To the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped; and

(2) Special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(20 U.S.C. 1412(5)(B))

§ 300.161 Placements.

(a) Each public agency shall ensure that each handicapped child's educational placement is—

(1) Reviewed at least annually;

(2) Determined on an individual basis; and

(3) Based on the child's IEP.

(b) Each State educational agency shall ensure that, where necessary, arrangements are made with public and private institutions to ensure that the requirements of § 300.160 and paragraph (a) of this section are effectively implemented.

(c) Among other factors used in determining whether a handicapped child's education in a regular class with the use of supplementary aids and services is not appropriate and cannot be achieved satisfactorily, the public agency—

(1) Shall consider any potential harmful effect on the handicapped child or on the quality of services which the child needs; and

(2) May consider a substantial and clearly ascertainable disruption of the educational services provided to other children in the same classes.

(20 U.S.C. 1412(5)(B))

Guideline. Paragraph (c)(2) is a narrow provision to be applied only in very limited circumstances. Placement of a handicapped child outside a regular class is not warranted, for example, where any adverse effect on other children is speculative in nature, or relates only to isolated incidents of disruption. Rather, an adverse effect on other children is grounds for such a placement only where the handicapped child exhibits specific behaviors that would clearly and substantially disrupt their educational services.

§ 300.162 [Reserved]

Confidentiality of Information

§ 300.163 Protections under this subpart.

Unless otherwise noted in this subpart, the provisions of Section 438 of the General Education Provisions Act (GEPA) and its implementing regulations (34 CFR Part 99) apply to any State or local educational agency which collects or maintains personally identifiable data, information, or records pursuant to the provisions of Part B of the Act with respect to any child, even if that child has not been in attendance at that agency.

(20 [U.S.C. 1412(2)(D), 1417(c); Section 438 of the GEPA is codified at 20 U.S.C. 1232g)

§ 300.164 Notice to parents and children.

(a) The agency that collects or maintains personally identifiable data, information, or records pursuant to the provisions of Part B of the Act shall provide parents and, where appropriate, children, notice of their rights under this subpart.

(b) The manner of providing that notice must be consistent with the provisions of Section 438 of the GEPA and its implementing regulations.

(20 U.S.C. 1412(2)(D), 1417(c))

§ 300.165 Access and privacy rights.

(a) Each agency to which § 300.163 applies shall, consistent with the provisions of section 438 of the GEPA and its implementing regulations, permit parents and, where appropriate, children to inspect and review any data, information, or records described in § 300.163 which relate to their children and which are in the possession of the agency.

(b) The agency is authorized not to accord the parents' rights to access and privacy to a student who has attained eighteen years of age, or who is attending an institution of postsecondary education, if the agency determines that the handicap of the student is of such a nature as to render the accord of those rights inappropriate.

(20 U.S.C. 1412(2)(D), 1417(c))

§§ 300.166–300.169 [Reserved]

Subpart G—What Are the Administrative Responsibilities of a State?

§ 300.170 General responsibilities of the State educational agency.

(a) The State educational agency is respoonsible for ensuring—

(1) That the requirements of the Act and this part are carried out; and

(2) That each educational program for handicapped children administered within the State, including each program administered by any other public agency—

(i) Is under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency; and

(ii) Meets educational standards of the State educational agency (including the requirements of the Act and of this part).

(b) In carrying out the requirements of this section, the State and the State educational agency shall use such written agreements as they determine are necessary.

(c) The State educational agency shall undertake the activities described in Part 76 of the EDGAR with respect to monitoring (34 CFR § 76.101(e)(3)(i)) and evaluation (34 CFR 76.101(e)(4)) to ensure that all public agencies within the State comply with the applicable requirements of this part.

(d)(1) The State educational agency shall adopt and implement the complaint procedures described in Part 76 of the EDGAR, 34 CFR 76.780–76.783.

(2) Section 76.781(c) of 34 CFR, regarding the Secretary's review of State decisions on complaints, does not apply.

(20 U.S.C. 1412(6), 1413(a)(11))

State Advisory Panel

§ 300.171 State advisory panel.

(a) Each State shall have a State advisory panel on the education of handicapped children.

(b) The advisory panel must be appointed by the Governor or any other official authorized under State law to make those appointments.

(20 U.S.C. 1413(a)(12))

Guideline. Panel expenses, including services by interpreters and reimbursement of travel and other reasonable expenses, may be paid for with program funds.

§ 300.172 Membership of the State advisory panel.

The State advisory panel must be composed of persons involved in or concerned with the education of handicapped children, including—

(a) Handicapped individuals;

(b) Teachers;

(c) Parents of handicapped children;

(d) State and local educational officials; and

(e) Administrators of programs for handicapped children.

(20 U.S.C. 1413(a)(12))

§ 300.173 Functions of the State advisory panel.

The State advisory panel shall—

(a) Advise the State educational agency of unmet needs within the State in the education of handicapped children;

(b) Comment publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part; and

(c) Assist the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities under section 618 of the Act.

(20 U.S.C. 1413(a)(12))

§§ 300.174–300.179 [Reserved]

Subpart H—What Procedures Are Used by the Secretary for Withholding of Payments and for Waiving the Supplanting Prohibition?

Withholding Payments

§ 300.180 Procedures followed in withholding payments.

(a) The Secretary withholds payments from a State according to the provisions of Section 616 of the Act.

(b) The Secretary also complies with the procedures of the Education Appeal Board, described in 34 CFR Part 78, except where those procedures are inconsistent with Section 616 of the Act.

(20 U.S.C. 1234, 1416(a))

§ 300.181 Public notice by the State educational agency.

A State educational agency which has received notice of the Secretary's intent to withhold payments from that agency shall give public notice of the pendency of that action.

(20 U.S.C. 1416(a))

Waiver of Supplanting Prohibition

§ 300.182 Waiver of the supplanting prohibition.

(a) The Secretary may waive the supplanting prohibition in §§ 300.35 and 300.85 if—

(1) The State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education; and

(2) The Secretary concurs with the evidence provided by the State.

(b) If a State wishes to request a waiver, it must inform the Secretary in writing. The Secretary then provides the State with a form on which it provides the information described in paragraphs (c) and (d) of this section.

(c) In its request for a waiver, the State shall include the results of a special study conducted by the State to obtain evidence of the availability of a free appropriate public education to all handicapped children.

(d) In its request for a waiver, the State shall include financial data relating to the availability of a free appropriate public education for all handicapped children, including—

(1) The total current expenditures for regular education programs and special education programs by function and by source of funds (State, local, and Federal) for the previous school year; and

(2) The full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year.

(e) The Secretary considers the information which the State provides under paragraphs (c) and (d) of this section, along with any additional information the Secretary may request, or obtain through on-site reviews of the State's education programs and records, to determine if all children have available to them a free appropriate public education, and if so, the extent of the waiver.

(f) Before denying a State's request for a waiver under this section, the Secretary may grant the State a hearing, following procedures that the Secretary determines are appropriate.

(20 U.S.C. 1413(a)(9)(B))

Guideline. Evidence obtained in the study described in paragraph (c) could include statements by a representative sample of organizations which deal with handicapped children, and parents and teachers of handicapped children, relating to the following areas—

(1) The adequacy and comprehensiveness of the State's system for locating, identifying, and evaluating handicapped children;

(2) The cost to parents, if any, for the education of handicapped children enrolled in public and private day schools, and in public and private residential schools and institutions; and

(3) The adequacy of the State's due process procedures.

§§ 300.183–300.189 [Reserved]

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Part III

Architectural and Transportation Barriers Compliance Board

Minimum Guidelines and Requirements for Accessible Design

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Minimum Guidelines and Requirements for Accessible Design

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board hereby revises its "Minimum Guidelines and Requirements for Accessible Design" (guidelines and requirements). These revisions respond to concerns registered by certain Board members and to issues raised in comments submitted during the rulemaking process. The purpose of the revisions is to make the guidelines and requirements more cost effective and consistent with Federal and nationally recognized standards while still providing ready access and use. The guidelines and requirements, as revised, will provide a basis for consistent and improved accessibility standards to be issued under the Architectural Barriers Act by the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service. For clarity, the guidelines and requirements are published in their entirety with the revisions incorporated.

EFFECTIVE DATE: September 3, 1982.

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: For information on the applicability, scoping and technical provisions of these amendments, contact Ms. Sally Free, Office of Technical Services (202) 472–2700 (voice) or (202) 245–1801 (TDD); or Mr. Charles Goldman, General Counsel (202) 245–1801 (voice or TDD).

For additional copies of the revised Minimum Guidelines and Requirements for Accessible Design, contact Ms. Diane Pernick, Office of Public Information, Room 1010, 330 C Street, S.W., Washington, D.C. 20202; (202) 245–1591 (voice or TDD). Copies of the final rule, as revised, are also available on tape for those with visual impairments. Tapes may be obtained at the above address or by contacting Ms. Pernick.

SUPPLEMENTARY INFORMATION:

A. Background

Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, established the Architectural and Transportation Barriers Compliance Board (ATBCB) to ensure compliance with standards issued under the Architectural Barriers Act of 1968 (Pub. L. 90–480) (42 U.S.C. 4151 *et seq.*) as amended.[1] The Board consists of eleven Federal agency members plus eleven members appointed by the President from the general public.[2]

Congress expanded the responsibilities of the ATBCB in the 1978 amendments to the Rehabilitation Act of 1973, Pub. L. 95–602, Section 118, by adding a new sub-paragraph, Section 502(b)(7), requiring the Architectural and Transportation Barriers Compliance Board (ATBCB) "to establish minimum guidelines and requirements for standards issued pursuant to * * * the Architectural Barriers Act of 1968." Four Federal agencies—Department of Defense (DOD), General Services Administration (GSA), Department of Housing and Urban Development (HUD), and the United States Postal Service (USPS)—are to prescribe standards based on the minimum guidelines and requirements issued by the ATBCB for the design, construction, and alteration of certain Federal and federally-assisted buildings "to insure, whenever possible, that physically handicapped persons will have ready access to, and use of, such buildings." 42 U.S.C. 4152–4154a. Existing access standards issued by those agencies will be revised to be consistent with the guidelines and requirements. Until such time as these revisions occur, their existing standards [3] will remain in effect. In support of efforts to revise these existing standards, the Director of the Office of Management and Budget has established a task force composed of representatives from the staffs of the ATBCB and its federal agency members to consider the development of a uniform standard that would be issued by all four standard-prescribing agencies.

B. Rulemaking History

On January 6, 1981, the ATBCB adopted as a final rule its "Minimum Guidelines and Requirements for Standards for Accessibility and Usability of Federal and Federally-funded Buildings and Facilities by Physically Handicapped Persons" (Minimum Guidelines and Requirements for Accessible Design or guidelines and requirements). The guidelines and requirements were issued pursuant to Section 118(b)(3) of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, codified at 29 U.S.C. 792, and were published in the **Federal Register** on January 16, 1981 (46 FR 4270). The Board based this final regulation, in part, on the American National Standard Institute's "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People" (ANSI A117.1–1980 or ANSI), Board discussions, and other available information including comments received in response to its Notice of Intent published in the **Federal Register** at 45 FR 12167 on February 22, 1980, and its Notice of Proposed Rulemaking (NPRM), published in the **Federal Register** at 45 FR 55010 on August 10, 1980.

On July 10, 1981, the ATBCB determined to publish in the **Federal Register** a notice proposing rescission of its January 6, 1981, Minimum Guidelines and Requirements for Accessible Design (46 FR 39764, ATBCB Docket 81–G–1, August 4, 1981) and the development of alternative minimum guidelines and requirements, as well as to publish a notice of proposed rulemaking regarding the regulation's scoping and technical provisions for accessible telephones (46 FR 39764, ATBCB Docket 81–G–2, August 4, 1981). Because several Senators, Congressmen, individuals, and organizations requested additional time for the submission of comments to ATBCB Docket 81–G–1, the Board extended the initial 45 day comment period by an additional 45 days (46 FR 47444, September 29, 1981). In the notice extending the comment period, the Board identified portions of its January

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[1] To implement this responsibility as it is set forth in 29 U.S.C. 792(b)(1) and in the 1978 amendments to the Rehabilitation Act of 1973, the ATBCB has published rules which provide a process to address instances of alleged non-compliance at 36 CFR Part 1150.

[2] The agency members are the heads of their designees (Executive Level IV or above) of the Departments of Education, Transportation, Health and Human Services, Housing and Urban Development, Labor, Interior, Justice, and Defense; General Services Administration; Veterans Administration; and United States Postal Service. The Act requires at least five of the eleven members from the general public to be physically handicapped. There is currently one public member vacancy.

[3] GSA: 41 CFR 101–196, effective September 2, 1969, revised October 14, 1980 (45 FR 67664); HUD: 24 CFR Part 40, effective September 2, 1969; DOD: DOD 4279–1–M "Construction Criteria," June 1, 1978, paragraph 5–6; USPS: Postal Service Contracting Manual, Publication 41 § 14–518.4, 39 CFR 601.100, as amended by hand-book RE–4, November 1979.

1981 regulation on which specific comments were requested. Such items including parking and passenger loading zones, entrances, elevators, toilet and bathing facilities, alarms, listening systems, additions, alterations, leases, special use facilities, and residential structures. The Board emphasized that it sought public comments on all parts of the guidelines and requirements and specifically asked for comments on which sections of this regulation should be retained, which sections should be modified, and which sections should be reserved. The Board also requested comments on the clarity and format of the regulations.

On December 1, 1981, the Board voted to adopt the amendments proposed at 46 FR 39764 on Auguest 4, 1981 (ATBCB Docket 81–G–2), addressing scoping and technical requirements for public telephones and related equipment. Believing that these amendments to the rule resolved specific questions raised concerning these requirements, the Board decided to publish these amendments separately from the rulemaking concerning other portions of the guidelines and requirements. These amendments became effective on February 26, 1981, and were published at 47 FR 3934 on January 27, 1982. For clarity, they have also been published here within the revised rule.

In addition to resolving the telephone-related portions of the guidelines and requirements, the Board voted unanimously on December 1, 1981, to publish a notice of proposed rulemaking to amend other sections of its accessibility regulation (47 FR 3939, ATBCB Docket 81–G–3, January 27, 1982). Amendments were proposed to Subpart A—General, Subpart C—Scoping, and Subpart D—Technical. Amendments to the guidelines and requirements' technical provisions (Subpart D) were proposed in order to reduce the number of differences between the Board's guidelines and requirements and the American National Standard Institute's "Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped Persons" (ANSI A117.1–1980 or ANSI). The proposed amendments responded to concerns registered by several Board members and to issues raised in comments submitted to ATBCB Docket 81–G–1 (notice of proposed rescission of the minimum guidelines and requirements), and the subsequent notice extending the comment period.

At its May 4, 1982, meeting, the Board voted unanimously to revise the minimum guidelines and requirements based on the comments received to ATBCB Dockets 81–G–1 and 81–G–3, Board discussions and other available information.

C. Overview of Regulations

The ATBCB Minimum Guidelines and Requirements for Accessible Design consist of five major components. Subpart A, General, sets out the purpose, applicability, definitions, relationship of the guidelines and requirements to the Architectural Barriers Act standards and other uses. Subpart B has been reserved. Subpart C enumerates the scoping (*i.e.*, mimimum number of elements and spaces required) and the specific technical provisions applicable to new construction, additions, and alterations of buildings and facilitities. Subpart D contains the technical requirements. Subpart E, Special Buildings and Facility Types and Elements, continues to be reserved for the development of minimum guidelines and requirements for such special building and facility types and elements as residential structures, recreational facilities, historic structures, hospitals, food service facilities, and library stacks. Subpart E will include housing subject to standards under the Architectural Barriers Act to be issued by the Department of Housing and Urban Development. Pending the development of Subpart E, no HUD standards issued under the Architectural Barriers Act shall provide for less accessibility than is provided in HUD's current minimum property standards and 24 CFR Part 40 (1981).

It is recognized that any requirement embodied in a standard based on the minimum guidelines and requirements is subject to the waiver and modification provisions of section 6 of the Architectural Barriers Act, 42 U.S.C. 4156 and 29 U.S.C. 792(b)(1).

Paragraph 1190.7, Effect of State or local law, has been deleted and the paragraph number reserved. This is because the minimum guidelines and requirements will not be used directly in Federal design projects, but rather the standards issued by the standard-setting agencies will be. Accordingly, the minimum guidelines and requirements do not directly relate to State or local law.

Throughout the rulemaking process, the ATBCB considered the specifications contained in ANSI A117.1–1980 along with the document's preliminary drafts. The Board has used, wherever appropriate, provisions that are consistent with those contained in the final ANSI document. ANSI is a private institution in New York City, not connected with the Federal Government, that provides a mechanism for creating voluntary consensus standards. Many of the original accessibility standards adopted by the Federal Government and by the states were derived from a document known as ANSI A117.1–1961, or "Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," which was published in 1961. Departures from the ANSI A117.1–1961 recommendations as reaffirmed in 1971, have gradually developed as the state-of-the-art improved in designing and constructing accessible facilities. While the 1980 ANSI specifications are used by a number of states, other states continue to use ANSI 1961 and 1971, have adopted the minimum guidelines and requirements as issued in 1981, or, use standards unique to a particular state or locality.

The 1980 ANSI specifications recommend that scoping provisions be developed by administering agencies. In accordance with this recommendation, ANSI's "reasonable number" references have been given definite numerical values in order to produce explicit guidance for the Federal agencies issuing standards. These requirements have been developed by the Board for new construction, additions, and alternations and are based on the Federal Government's, states', and general public's experiences in applying accessibility requirements and in using buildings and facilities. As a result of this rulemaking process several changes have been made in Subpart C in order to clarify further the Board's requirements and to provide needed flexibility to Federal agencies implementing these requirements. Examples of revisions clarifying paragraphs contained in the new construction requirements (§ 1190.31) include entrances, toilet and bathing facilities, drinking fountains and water coolers, assembly areas, and listening systems, and storage. A paragraph has been added under § 1190.32, Additions, in order to clarify that mechanical rooms, storage areas, and other such minor additions which normally are not used by the public or employees of a facility do not trigger the requirements to provide an accessible entrance, accessible route, and accessible toilet facilities. Section 1190.33(a)(2), concerning alterations of vertical access equipment (*e.g.*, escalators), has been amended to exempt transit facilities from this requirement if it is structurally impracticable to make such alterations. The so-called 50 percent rule previously codified at 36 CFR Part 1190.33(c) has

been divided into two paragraphs § 1190.33 (b) and (c), in order to provide agencies with additional clarification and flexibility in implementing these provisions. Section 1190.34, Leased Buildings, has been reserved in recognition of the fact that there is a legal dispute concerning what the Act requires of leased buildings which the courts are expected to resolve. The guidelines under § 1190.2 apply to the full extent that the Act does, but the Board expresses no position on the questions of interpretation of the Act which are now in dispute. Leased buildings and facilities constructed or altered in accordance with plans and specifications of the United States are required to comply with the applicable provisions of § 1190.31, New Construction, § 1190.32, Additions, and § 1190.33, Alterations.

In reviewing the ANSI technical requirements, ATBCB found that in some cases sufficient research and/or field experience did not support a Federal requirement in this area at this time. As a result, the ATBCB continues to reserve specific provisions of its technical requirements until such time as sufficient information is obtained. Provisions of the ATBCB guidelines and requirements that continue to be reserved include external door opening force limits, accessible windows, and the use of tactile warnings at locations other than doors leading to hazardous areas.

In addition to those areas previously reserved, the ATBCB has also determined that all sections and paragraphs regarding "signage" and opening time requirements for elevators should be reserved until these provisions can be further reviewed. It is anticipated that this review can be accomplished in the near future.

Principal departures from the ANSI A117.1–1980 technical requirements include maneuvering space at the latch side clearance of doors, clear space for toilet stalls in new construction, and placement of listening systems. The ATBCB, in addition, has provided clarification on several provisions including requirements for reach ranges, vertical clearances on accessible routes, egress, surface conditions, drainage, carpeting, van parking space and clearance requirements, curb ramps, elevator control mounting heights, platform lifts, clear openings for doorways, unisex toilets, alarm systems, and telephones. For informational purposes, references to specific ANSI provisions and figures have been included in the revised text of the minimum guidelines and requirements. If ANSI contains no similar provision, a note is included. If there are substantial differences in the ATBCB and ANSI provisions, the reference is marked by an asterisk (*).

For additional information, including an overview and section-by-section analysis of the Minimum Guidelines and Requirements, see the Preamble at 46 FR 4270 (January 16, 1981). The minutes of all Board meetings, comments, summaries, and other documents pertaining to this rulemaking are available for inspection at the Board offices.

D. Executive Order 12291, Regulatory Flexibility Act, and National Environmental Policy Act

This revision to the final rule has been submitted to the Office of Management and Budget and reviewed under procedures established in Executive Order 12291.

The Architectural and Transportation Barriers Compliance Board has concluded that the proposed rule will not have a significant economic impact on a substantial number of small entities and that the requirement of the Regulatory Flexibility Act, Pub. L. 96–354, for a regulatory flexibility analysis is not applicable. The Architectural and Transportation Barriers Compliance Board's final rule directly impacts four agencies—the General Services Administration, Department of Housing and Urban Development, Department of Defense, and the United States Postal Service—who are to issue standards in accordance with the Architectural Barriers Act of 1968, as amended. Final determination of possible effect, if any, on recipients of Federal construction funds and on small businesses will be made as these standards based on the guidelines and requirements are issued by the standard-prescribing agencies.

The Architectural and Transportation Barriers Compliance Board has also determined that the issuance of the revisions to the minimum guidelines and requirements will not have any significant impact on the environment. National Environmental Policy Act of 1969, as Amended, 42 U.S.C. 4332.

E. List of Subjects in 36 CFR Part 1190

Buildings, Handicapped, Aged, Transportation.

F. Conclusion

In consideration of the foregoing, Part 1190 of Title 36 of the Code of Federal Regulations is revised, as set forth below. For clarity, the regulation, as revised is published in its entirety.

Dated: May 4, 1982.

As amended July 13, 1982.

By vote of the Board.

Wm. Bradford Reynolds,

Chairperson, Architectural and Transportation Barriers Compliance Board and Assistant Attorney General for Civil Rights, Department of Justice.

PART 1190—MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Subpart A—General

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Subpart E—Special Building or Facility Types or Elements. [Reserved]

Authority: Section 502(b)(7) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7)), as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602), 92 Stat. 2979.

Subpart A—General

§ 1190.1 Purpose.

The purpose of this part is to implement Section 502(b)(7) of the Rehabilitation Act of 1973 (29 U.S.C. 792(b)(7)), as amended, which requires the Architectural and Transportation Barriers Compliance Board to establish minimum guidelines and requirements for standards issued under the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*), as amended. This part and the standards to be based on it are intended to ensure that certain buildings and facilities financed with Federal funds are designed, constructed, or altered so as to be readily accessible to, and usable by, physically handicapped persons.

§ 1190.2 Applicability: Building and facilities subject to guidelines and standards

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

(1) "Constructed or altered on behalf of the United States" means constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

(2) "Primarily for use by able-bodied military personnel" means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

(3) "Privately owned residential structures" means a single or multifamily dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) *Buildings and facilities covered.* Except as provided in paragraph (c) of this section, the standards to be issued by the standard-setting agencies in conformance with these minimum guidelines and requirements apply as provided in paragraph (d) of this section to any building or facility—

(1) The intended use for which either—

(i) Will require that such building or facility be accessible to the public, or

(ii) May result in employment or residence therein of physically handicapped persons; and

(2) Which is—

(i) To be constructed or altered by or on behalf of the United States;

(ii) To be leased in whole or in part by the United States after August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States;

(iii) To be leased in whole or in part by the United States on or after January 1, 1977;

(iv) To be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(v) To be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) *Buildings and facilities not covered.* The guidelines and requirements and the standards do not apply to—

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel.

(d) *Application and effective date of standards.* Any covered building or facility, as provided in this section, which is designed, constructed, or altered after the effective date of a standard issued in conformance with this guideline which is applicable to the building or facility, shall be designed, constructed, or altered in accordance with the standard. Any other building or facility covered by the Architectural Barriers Act, if and when required by law, shall comply with such standards issued in conformance with this part as are appropriate.

(e) *Special building and facility types and elements.* Subpart E is reserved for the development of minimum guidelines and requirements for special building and facility types and elements. This includes housing, subject to standards issued by the Department of Housing and Urban Development (HUD), to which the minimum guidelines and requirements in Subpart C and D do not apply. Pending the development of Subpart E, no HUD standards under the Architectural Barriers Act shall provide for less accessibility than is provided in HUD's current minimum property standards and 24 CFR Part 40 (1981).

§ 1190.3 Definitions.

As used in this part, the term:

"ATBCB" means the Architectural and Transportation Barriers Compliance Board.

"Access aisle" means a pedestrian space between elements such as parking spaces, seating, and desks.

"Accessible" means in compliance with the specifications and requirements of any applicable standard issued by a standard-setting agency in conformance with this part. "Accessible" describes a site, building, facility, or portion thereof that complies with these requirements, and that can be approached, entered, and used by physically handicapped persons. Accessible elements and spaces of a building or facility including doors provided adjacent to a turnstile or a revolving door, shall be subject to the same use patterns as other elements and spaces of the building or facility.

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or facility and complying with the space and reach requirements of any standard issued by a standard-setting agency in conformance with this part. (Interior accessible routes may include but are not limited to corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include but are not limited to parking access aisles, curb ramps, walks, ramps, and lifts.)

"Accessible space" means a space that complies with any standard issued by a standard-setting agency in conformance with this part.

"Adaptability" means the ability of certain building spaces and elements such as toilet facilities and grab bars, to be added to, raised, lowered, or otherwise altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

"Addition" means an expansion, extension, or increase in the gross floor area of a building or facility.

"Agency" means a Federal department, agency or instrumentality, as defined in sections 551(1) and 701(b)(1) of Title 5, United States Code, or an official authorized to represent an agency.

"Alteration" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems.

"Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 *et seq.*

"Assembly area" means a room or space accommodating fifty or more individuals for religious, recreational, educational, political, social, or amusement purposes, or for the

consumption of food and drink, and including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference and meeting rooms accommodating fewer than fifty individuals are not considered assembly areas.

"Automatic door" means a door—

(1) Used for human passage and

(2) Equipped with a power-operated mechanism and controls that open and close the door upon receipt of a momentary actuating signal.

"Building" or "facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

"Circulation path" means an exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

"Clear" means unobstructed.

"Common use areas" means those interior and exterior spaces available for use by all occupants and users of a building or facility, exclusive of any spaces that are made available for the use of a restricted group of people or the use of which is restricted to particular functions.

"Construction" means any erection of a new building or of an addition to an existing building or facility.

"Cross slope" means the slope that is perpendicular to the direction of travel (see "running slope").

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Egress" or "means of egress" means a continuous and unobstructed way of exit travel from any point in a building or facility to an exterior walk or out of a fire zone. It includes all intervening rooms, spaces, or elements.

"Element" means an architectural or mechanical component of a building, facility, space, or site, *e.g.*, telephone, curb ramp, door, drinking fountain, seating, water closet.

"Entrance" means any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s). The principal entrance of a building or facility is the main door through which most people enter.

"Essential features" means those elements and spaces that make a building or facility usable by, or serve the needs of, its occupants or users. Essential features include but are not limited to entrances, toilet rooms, and accessible routes. Essential features do not include those spaces that house the major activities for which the building or facility is intended, such as classrooms and offices.

"Exception" means a special provision in this part or in a standard which indicates an acceptable alternative, under specified circumstances, to a requirement stated directly above the exception.

"Extraordinary repair" means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

"Full and fair cash value" is calculated for the estimated date on which work will commence on a project and means—

(1) The assessed valuation of a building or facility as recorded in the assessor's office of the municipality and as equalized at one hundred percent (100%) valuation (Note: The one hundred percent (100%) equalized assessed value shall be based upon the state's most recent determination of the particular city's or town's assessment ratio. Example: Town X has an assessment ratio of forty percent (40%), and the particular building in question is assessed at $200,000.00. To determine the equalized assessed value of this building, divide $200,000.00 by .40, and the equalized assessed value equals $500,000.00.);

(2) The replacement cost; or

(3) The fair market value.

"Guidelines and requirements" means this part.

"Operable part" means a part of equipment or an appliance used to insert or withdraw objects, to activate or deactivate equipment, or to adjust the equipment (*e.g.*, coin slot, push button, handle).

"Physically handicapped person" means any person who has a disability which substantially limits one or more major life activity, including but not limited to such functions as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Physically handicapped persons include those having the inability to walk, difficulty walking, reliance on walking aids, sight and hearing disabilities, incoordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes in physical size.

"Power-assisted door" means a door—

(1) Used for human passage; and

(2) With a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself.

"Public use" means any interior and exterior rooms or spaces made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

"Ramp" means a walking surface that has a running slope greater than 1:20.

"Reconstruction" means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

"Restoration" means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later works or by replacement of missing earlier work.

"Running slope" means the slope that is parallel to the direction of travel (see "cross slope").

"Section 502 of the Rehabilitation Act" or "Section 502" means Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, as amended.

"Shall" denotes a mandatory requirement.

"Signage" means the display of written, symbolic, tactile, or pictorial information.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

"Site improvements" means landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and similar site additions.

"Space" means a definable area, *e.g.*, toilet room, hall, assembly area, parking area, entrance, storage room, alcove, courtyard, or lobby.

"Standard" means any standard for accessibility issued under the Architectural Barriers Act.

"Standard-setting agency" means one of the four agencies required to issue standards under the Architectural Barriers Act, *i.e.*, the General Services Administration, the Department of Housing and Urban Development, the Department of Defense, and the United States Postal Service.

"Structural impracticability" means having little likelihood of being accomplished without removing or altering a load-bearing structural member and/or incurring an increased cost of 50 percent or more of the value of the element of the building or facility involved.

"Tactile" means perceptible through the sense of touch.

"Tactile warning" means a surface texture applied to or built into walking surfaces or other elements to warn visually impaired persons of hazards in the path of travel.

"Temporary" means elements are not permanent (*i.e.*, installed for less than six months) and are not required for safety reasons.

"Walk" means an exterior pathway or space with a prepared surface intended for pedestrian use and having a slope of 1:20 or less. It includes general pedestrian areas such as plazas and courts.

§ 1190.4 Issuance of Architectural Barriers Act standards by standard-setting agencies.

(a) These guidelines and requirements are the minimum guidelines and requirements for standards issued under the Architectural Barriers Act by the Administrator of General Services, Secretary of Housing and Urban Development, Secretary of Defense, and Postmaster General.

(b) Standards which conform to or exceed the provisions of the guidelines shall be deemed in compliance with the guidelines and requirements.

(c) Each standard-setting agency is encouraged to issue standards which follow the format of these guidelines and requirements. However, standards which differ in format from these guidelines and requirements but are otherwise consistent with the guidelines and requirements shall be deemed in compliance with these guidelines and requirements.

§ 1190.5 Guidelines: Other uses.

These minimum guidelines and requirements and those standards published by the four standard-setting agencies under the Architectural Barriers Act of 1968, as amended, may be used by other governmental and non-governmental entities, along with other sources, to develop their own standards.

§ 1190.6 Interpretation of guidelines.

(a) These guidelines and requirements shall be liberally construed to carry out the purposes and provisions of the Architectural Barriers Act and Section 502 of the Rehabilitation Act.

(b) Words importing the singular number may extend and be applied to the plural and vice versa. However, unless otherwise specified in the guidelines and requirements, each element or space of a particular building or facility shall comply with the guidelines and requirements.

(c) Use of the imperative mood, *e.g.*, "provide," means the provision is mandatory. This form is being used to avoid wordiness and monotony but means the same as if the word "shall" had been included.

(d) The provisions in the minimum guidelines and requirements are based upon adult dimensions and anthropometrics.

(e) Dimensions that are not marked "minimum" or "maximum" are absolute, unless otherwise indicated in the text or captions. All dimensions are subject to conventional building tolerances for field conditions.

§ 1190.7 [Reserved]

§ 1190.8 Site conditions. [Reserved]

§ 1190.9 Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of these guidelines and requirements is declared invalid for any reason, the remaining portions of these guidelines and requirements that are severable from the invalid part shall remain in full force and effect. If a part of these guidelines and requirements is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

Subpart B—[Reserved]

Subpart C—Scope

§ 1190.30 Scope. [Reserved]

§ 1190.31 Accessible buildings and facilities: New construction.

Except as otherwise provided in this part, all new construction of buildings and facilities shall comply with the following minimum requirements:

(a) *Accessible route.* At least one accessible route shall comply with § 1190.50, Walks, floors, and accessible routes, and shall connect an accessible building entrance with:

(1) Transportation facilities located within the property line of a given site, including passenger loading zones, public transportation facilities, taxi stands, and parking;

(2) Public streets and sidewalks;

(3) Other accessible buildings, facilities, elements, and spaces that are on the same site; and

(4) All accessible spaces, rooms, and elements within the building or facility.

(b) *Parking and passenger loading zones.*

(1) If any parking is provided, for employees or visitors, or both, each such parking area shall comply with § 1190.60, Parking and passenger loading zones, and the following table:

Total parking in lot	Required minimum number of accessible spaces
1 to 25	1.
26 to 50	2.
51 to 75	3.
76 to 100	4.
101 to 150	5.
151 to 200	6.
201 to 300	7.
301 to 400	8.
401 to 500	9.
501 to 1,000	2 pct of total.
Over 1,000	20 plus 1 for each 100 over 1,000.

(i) *Exception:* The total number of accessible parking spaces may be distributed among parking lots, if greater accessibility is achieved.

(ii) *Exception:* This paragraph does not apply to parking provided for official government vehicles owned or leased by the government and used exclusively for government purposes.

Parking spaces for side lift vans, § 1190.60(c)(2)(a), are accessible parking spaces and may be used to meet the requirements of this paragraph.

(2) If passenger loading zones are provided, at least one passenger loading zone shall comply with § 1190.60, Parking and passenger loading zones.

(c) *Ramps and curb ramps.* If there is an abrupt level or grade change, if the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a ramp or curb ramp shall be provided. If a ramp or curb ramp is provided, it shall comply with § 1190.70, Ramps and curb ramps.

(d) *Stairs.* Except as provided in § 1190.31(f)(1), stairs connecting levels that are not connected by an elevator shall comply with § 1190.80, Stairs.

(e) *Handrails.* Handrails shall be provided at each ramp and staircase as required in § 1190.70, Ramps and curb ramps, and § 1190.80, Stairs, respectively, and shall comply with § 1190.90, Handrails.

(f) *Elevators.* One passenger elevator complying with § 1190.100, Elevators shall serve each level in all multi-story buildings and facilities. If more than one elevator is provided, each elevator shall comply with § 1190.100, Elevators.

(1) *Exception.* Elevator pits, elevator penthouses, mechanical rooms, piping, or equipment catwalks are excepted from this requirement.

(2) *Exception.* Ramps or platform lifts complying with § 1190.70, Ramps and curb ramps, and § 1190.110, Platform lifts, respectively, may be used in lieu of an elevator.

(g) *Platform lifts.* If the slope is greater than 1:20, and if no other means of accessible vertical access is provided, a platform lift may be provided if there is an abrupt level or grade change. If a

platform lift is provided, it shall comply with § 1190.110, Platform lifts.

(h) *Entrances.* At least one principal entrance at each grade floor level to a building or facility shall comply with § 1190.120, Entrances. When a building or facility has entrances which normally serve any of the following functions: transportation facilities, passenger loading zones, accessible parking facilities, taxi stands, public streets and sidewalks, accessible interior vertical access, then at least one of the entrances serving each such function shall comply with § 1190.120, Entrances. Because entrances also serve as exits, particularly in cases of emergency, the proximity of such accessible entrances and exits to all parts of the building is essential. It is preferable that all or most entrances and exits be accessible. One entrance may serve more than one function.

(i) *Doors.*

(1) At each accessible entrance to a building or facility, at least one door shall comply with § 1190.130, Doors.

(2) Within a building or facility, at least one door at each accessible entrance to the accessible space shall comply with § 1190.130, Doors.

(3) Each door required by § 1190.50(h), Egress, shall comply with § 1190.130, Doors.

(4) Each door that is an element of an accessible route shall comply with § 1190.130, Doors.

(j) *Windows.* [Reserved]

(k) *Toilet and bathing facilities.* If toilet facilities are provided, then each public and common use toilet room shall comply with § 1190.150, Toilet and bathing facilities. Other toilet rooms shall be adaptable. If bathing facilities are provided, then each public and common use bathroom shall comply with § 1190.150. In each such facility where any of the fixtures and accessories specified in § 1190.150 (e) and (f) are provided, at least one accessible fixture and accessory of each type provided shall comply with § 1190.150 (e) and (f). For special use situations, refer to Subpart E, Special Building or Facility Types or Elements.

(l) *Drinking fountains and water coolers.* If drinking fountains or water coolers are provided, approximately 50% of those provided on each floor shall comply with § 1190.160, Drinking fountains and water coolers, and shall be dispersed throughout the floor. If only one drinking fountain or water cooler is provided on any floor, it shall comply with § 1190.160. It is preferred that if only one drinking fountain or water cooler is provided on any floor, then it should have two levels with the lower level complying with § 1190.160.

(m) *Controls and operating mechanisms.* If controls and operating mechanisms are provided in accessible spaces, along accessible routes or as parts of accessible elements, each shall comply with § 1190.170, Controls and operating mechanisms.

(n) *Alarms.* If alarm systems are provided, each shall comply with § 1190.180, Alarms.

(o) *Tactile warnings.* Tactile warnings complying with § 1190.130(g), Doors to hazardous areas, shall be provided on the hardware of all doors that lead to hazardous areas. Tactile warnings shall not be used at emergency exit doors.

(p) *Signage.* [Reserved]

Note.—In response to comments received on ATBCB rulemaking, the Board intends to address concerns raised regarding the regulation's scoping and technical provisions on signage. A separate rulemaking proposal will be published in the near future.

(q) *Telephones.*

(1) If public telephones are provided, then accessible public telephones shall comply with § 1190.210, Telephones, and the following table:

Number of public telephones provided on each floor	Number of telephones required to be accessible [1]
One or more single unit installations.	One per floor.
One bank [2]	One per floor.
Two or more banks [2]	One per bank. Accessible unit may be installed as a single unit in proximity (either visible or with signage) to bank. At least one public telephone per floor shall meet the requirements for a forward reach telephone.[3]

[1] Additional public telephones may be installed at any height; however, the installation of accessible telephones is strongly recommended. Unless otherwise specified, accessible telephones may be either forward reach or side reach telephones.

[2] A bank consists of two or more adjacent public telephones usually installed as a unit.

[3] Exception for exterior installations only: If dial-tone-first service is *not* available, then a side reach telephone may be installed instead of the required forward reach telephone (*i.e.*, one telephone in proximity to each bank shall meet the requirements of § 1190.210, Telephones).

(2) At least one of the public telephones complying with § 1190.210, Telephones, shall be equipped with a volume control. The installation of additional volume controls is encouraged and these may be installed on any public telephone provided.

(3) Signage. [Reserved]

(r) *Seating, tables, and work surfaces.* If fixed seating, tables, and work surfaces are provided, at least 5 percent but always at least one of each element shall comply with § 1190.220, Seating, tables, and work surfaces.

(s) *Assembly areas, conference, or meeting rooms.*

(1) If assembly areas are provided, accessible viewing positions shall comply with § 1190.230, Assembly areas, and the following table:

Capacity of assembly area	Number of viewing positions
50 to 75	3.
76 to 100	4.
101 to 150	5.
151 to 200	6.
201 to 300	7.
301 to 400	8.
401 to 500	9.
501 to 1,000	2 pct of total.
Over 1,000	20 plus 1 for each 100 over 1,000.

(2) Assembly areas with audio-amplification systems shall have a listening system complying with § 1190.230 to assist a reasonable number of people but no fewer than two, with severe hearing loss. For assembly areas without amplification systems and for spaces used primarily as meeting and conference rooms, a permanently installed or portable listening system shall be provided. This requirement may be satisfied by use of a portable system that requires little or no installation. If portable systems are used for conference and meeting rooms, the system may serve more than one room.

(3) If performing areas are provided, accessible routes shall comply with § 1190.50, Walks, floors, and accessible routes, to performing areas, including but not limited to stages, arena floors, dressing rooms, locker rooms, and other rooms and spaces required for use of the assembly area. (ANSI 4.33.5)

(i) *Exception.* In alteration work where it is structurally impracticable to alter all performing areas to be on an accessible route, at least one of each type shall be made accessible. (ANSI 4.33.6* and 4.33.7*)

(ii) [Reserved]

(t) *Storage.* If storage facilities such as cabinets, shelves, closets and drawers are provided in accessible spaces for occupant use, at least one storage facility of each type provided shall comply with § 1190.240, Storage. Additional storage may be provided outside of the dimensions provided in § 1190.240.

§ 1190.32 Accessible buildings and facilities: Additions.

Each addition to an existing building or facility shall comply with § 1190.31, New construction, except as follows:

(a) *Entrances.* If a new addition to a building or facility does not have an entrance, then at least one entrance in the existing building or facility shall comply with § 1190.120, Entrances.

(b) *Accessible route.* If the only accessible entrance to the addition is

located in the existing building or facility, then at least one accessible route shall comply with § 1190.50, Walks, floors, and accessible routes, and shall provide access through the existing building or facility to all rooms, elements, and spaces in the new addition.

(c) *Toilet and bathing facilities.* If there are no toilet rooms and bathing facilities in the addition and these facilities are provided in the existing building, then at least one toilet and bathing facility in the existing building shall comply with § 1190.150, Toilet and bathing facilities.

(d) *Elements, spaces, and common areas.* If elements, spaces, or common areas are located in the existing building and they are not provided in the addition, consideration should be given to making those elements, spaces, and common areas accessible in the existing building.

(e) *Exception:* Mechanical rooms, storage areas, and other such minor additions which normally are not frequented by the public or employees of the facility are excepted from § 1190.32, (a), (b), (c) and (d).

(f) *Signage.* [Reserved]

§ 1190.33 Accessible buildings and facilities: Alterations.

(a) *General.* Alterations to existing buildings or facilities shall comply with the following:

(1) If existing elements, spaces, essential features, or common areas are altered, then each such altered element, space, feature, or area shall comply with the applicable provisions of § 1190.31, Accessible buildings and facilities: New construction.

(2) If power-driven vertical access equipment (*e.g.*, escalator) is planned or installed where none existed previously, or if new stairs (other than stairs installed to meet emergency exit requirements) requiring major structural changes are planned or installed where none existed previously, then a means of accessible vertical access shall be provided that complies with § 1190.70, Ramps and curb ramps; § 1190.100, Elevators; or § 1190.110, Platform lifts, except to the extent where it is structurally impracticable in transit facilities.

(3) If alterations of single elements, when considered together, amount to an alteration of a space of a building or facility, the entire space shall be made accessible.

(4) Signage. [Reserved]

(b) Where a building or facility is vacated and it is totally altered, then it shall comply with § 1190.31 Accessible buildings and facilities: New construction, except to the extent where it is structurally impracticable.

(c) Where substantial alteration occurs to a building or facility, then each element or space that is altered or added shall comply with the applicable provisions of § 1190.31, Accessible buildings and facilities: New construction, except to the extent where it is structurally impracticable and the altered building or facility shall contain:

(1) At least one accessible route complying with § 1190.50, Walks, floors, and accessible routes, and § 1190.33(a);

(2) At least one accessible entrance complying with § 1190.120, Entrances. If additional accessible entrances are altered, then they shall comply with § 1190.33(a)(1); and

(3) The following toilet facilities, whichever number is greater:

(i) At least one toilet facility for each sex in the altered building complying with § 1190.150, Toilet and bathing facilities;

(ii) At least one toilet facility for each sex on each substantially altered floor, where such facilities are provided, complying with § 1190.150, Toilet and bathing facilities.

In making the determination as to what constitutes "substantial alteration," the agency issuing standards for the facility shall consider the total cost of all alterations (including but not limited to electrical, mechanical, plumbing, and structural changes) for a building or facility within any twelve (12) month period. For guidance in implementing this provision, an alteration to any building or facility is to be considered substantial if the total cost for this twelve month period amounts to 50% or more of the full and fair cash value of the building as defined at § 1190.3.

(4) *Exception.* If the cost of the elements and spaces required by § 1190.33(c) (1), (2), and (3) exceeds 15% of the total cost of all other alterations, then a schedule may be established by the standard-setting and/or funding agency to provide the required improvements within a 5 year period.

(5) *Exception.* If the alteration is limited solely to the electrical, mechanical, or plumbing system and does not involve the alteration of any elements and spaces required to be accessible under Part 1190, then § 1190.33(c) does not apply.

(6) *Exception.* Consideration shall be given to providing accessible elements and spaces in each altered building or facility complying with:

(i) Section 1190.60, Parking and Passenger Loading Zones:

(ii) Section 1190.160, Drinking Fountains and Water Coolers;

(iii) Section 1190.180, Alarms;

(iv) Section 1190.210, Telephones;

(v) Section 1190.220, Seating Tables and Work Surfaces;

(vi) Section 1190.230, Assembly Areas;

(vii) Section 1190.240, Storage.

(7) *Exception:* Mechanical rooms and other spaces which normally are not frequented by the public or employees of the facility or which by nature of their use are not required by the Architectural Barriers Act to be accessible are excepted from § 1190.33(c) (1), (2), and (3).

§ 1190.34 [Reserved]

Note.—The Minimum Guidelines and Requirements for Accessible Design require that all buildings and facilities covered by the Architectural Barriers Act are subject to this Part. As published on January 16, 1981, the guidelines and requirements specifically provided that all buildings and facilities leased by the Federal Government must be accessible at the time the building or facility is leased. In view of the continuing controversy over the point at which the Architectural Barriers Act applies to leased buildings and facilities, this Part no longer specifies at which point the accessibility standard must apply to leased buildings and facilities. This change has been made solely in recognition of the fact that the issue concerning the applicability of the Architectural Barriers Act to certain leased buildings is a legal one on which the Board expresses no position.

Subpart D—Technical Provisions

Note.—References to the American National Standard Institute A117.1–1980 (ANSI) are for informational purposes only. Provisions in most cases are similar but not necessarily identical. ANSI sections and figures having major differences from ATBCB requirements are marked by an asterisk (*). If a provision is contained in the Minimum Guidelines and Requirements, but is not found in ANSI, it is also noted.

§ 1190.40 Human data.

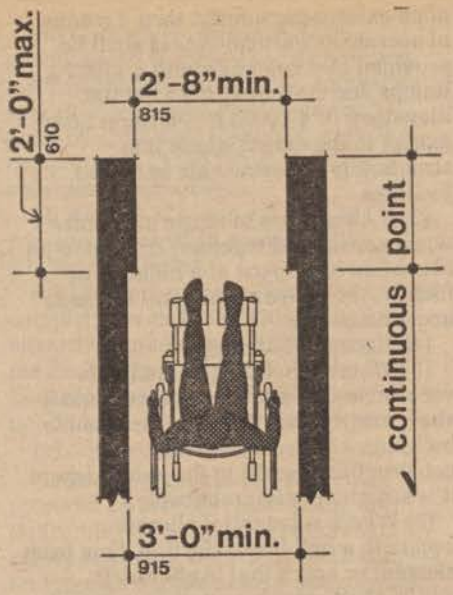
(a) *General.* This section is the basis for clearances and equipment location required by other sections. (ANSI 4.2)

(b) *Moving wheelchair clearances.* Provide the clearances for moving wheelchairs as follows:

(1) Minimum clear width for passage of a single wheelchair is 3'–0" (915 mm) (fig. 4.1). (ANSI 4.2.1) (ANSI figures 1 and 24(e))

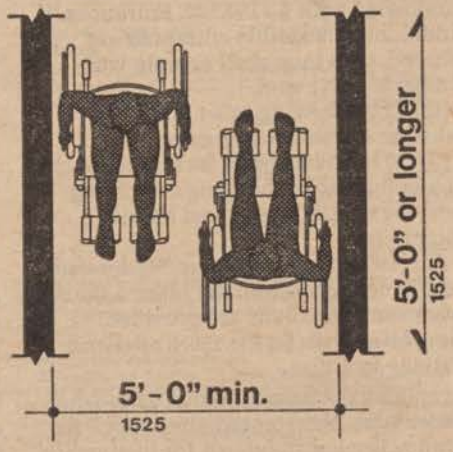
(i) *Exception.* The clear width may be reduced to 2'–0" (610 mm) in length at points such as doorways (fig. 4.1). (ANSI 4.2.1) (ANSI figures 1 and 24(e))

(ii) [Reserved].



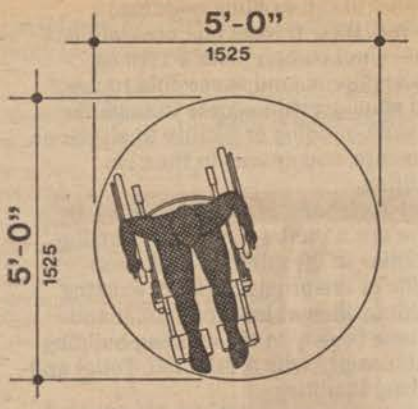
passage 4.1

(2) Minimum clear width for two wheelchairs to pass is 5'–0" (1,525 mm) (fig. 4.2). (ANSI 4.2.2) (ANSI figure 2)

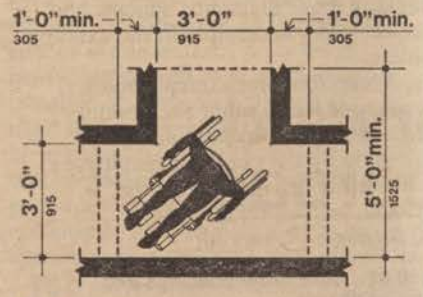


two-way 4.2

(3) Minimum clear space to make a 180 degree turn is 5'–0" (1,525 mm) diameter (fig. 4.3) or a T-shaped space that complies with Figure 4.4. (ANSI 4.2.3) (ANSI figures 3(a) and 3(b)*)



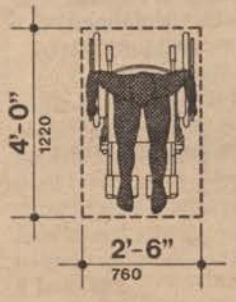
180°/360° 4.3



t-turn 4.4

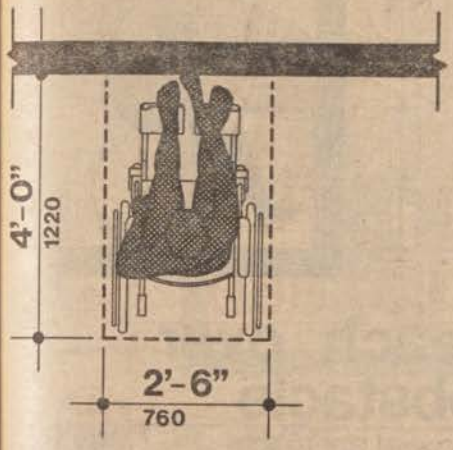
(c) *Clear floor or ground space.* Provide the following clear floor or ground space to accommodate a single, stationary occupied wheelchair:

(1) Clear floor or ground space shall be a minimum of 2'–6" by 4'–0" (760 mm by 1,220 mm) (fig. 4.5). (ANSI 4.2.4.1) (ANSI figures 4(a) and 6(a))

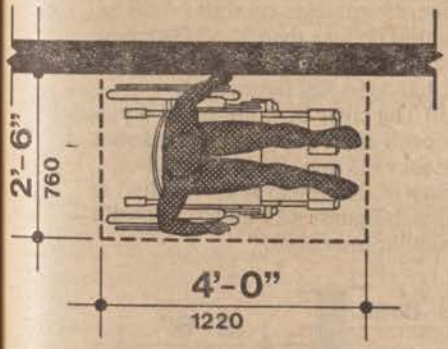


clear floor or ground space 4.5

(2) Position clear floor or ground space for either forward or parallel approach to an object or element as required (figs. 4.6 and 4.7). (ANSI 4.2.4.1) (ANSI figures 4 (b) and (c))



forward approach 4.6

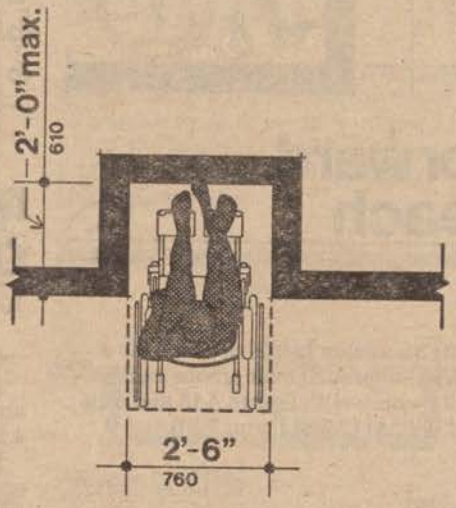


parallel approach 4.7

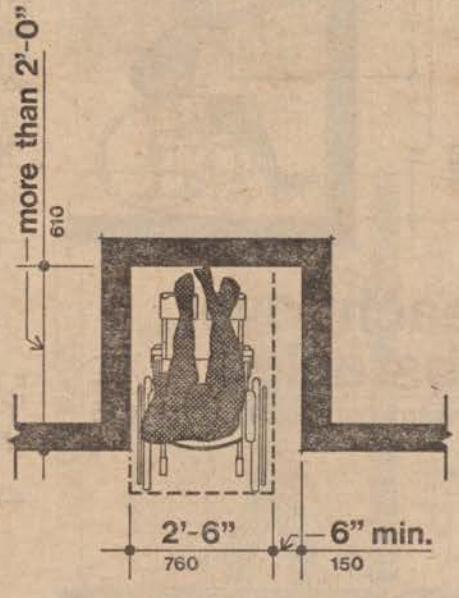
(3) Clear floor or ground space may overlap the clear space required under some objects. (ANSI 4.2.4.1)

(4) Clear floor or ground space shall adjoin or overlap an accessible route or another clear floor or ground space for at least one full, unobstructed side. (ANSI 4.2.4.2)

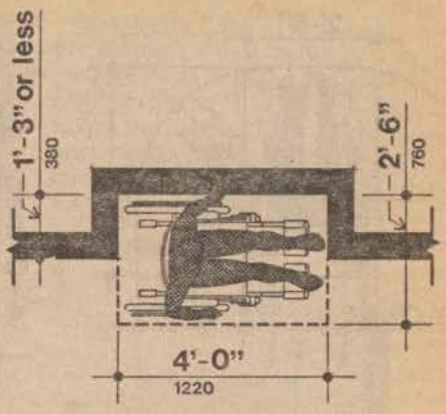
(5) If clear floor or ground space is confined or restricted on all or part of three sides, provide additional maneuvering space adjoining clear floor or ground space as shown in figures 4.8, 4.9, 4.10 and 4.11. For example, a 2'–6" depth is satisfactory for a telephone enclosure that is 2'–6" square since the telephone protrudes from the wall 6" and thus reduces the actual depth of the "alcove" to 2'–0". (ANSI 4.2.4.2) (ANSI figures 4 (d) and (e))



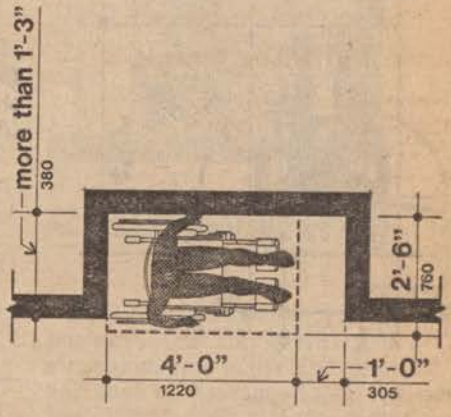
alcove 4.8



alcove 4.9

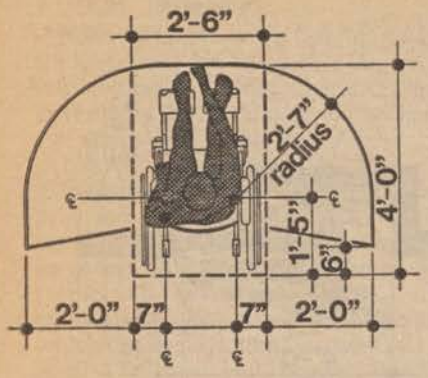


alcove 4.10



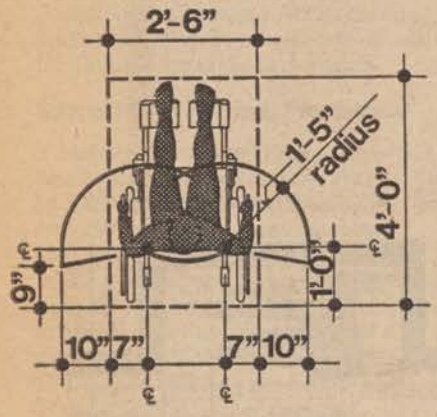
alcove 4.11

(6) Surfaces of clear floor or ground spaces shall comply with § 1190.50(i), Walks, floors, and accessible routes. (ANSI 4.2.4.3) (d) *Reach limitations for wheelchair users.* Reach limitations for wheelchair users are a function of the mounting height of the object being reached and the distance the object is from the user (figures 4.12 and 4.13) (ANSI—no similar provision).



reach range 4.12

objects 4'-0" high max.



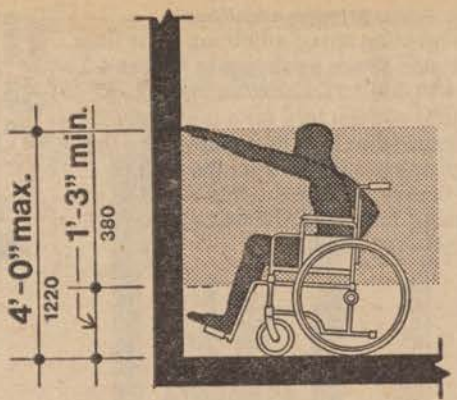
reach range 4.13

objects 4'-6" high max.

(1) Forward reach to surface mounted object:

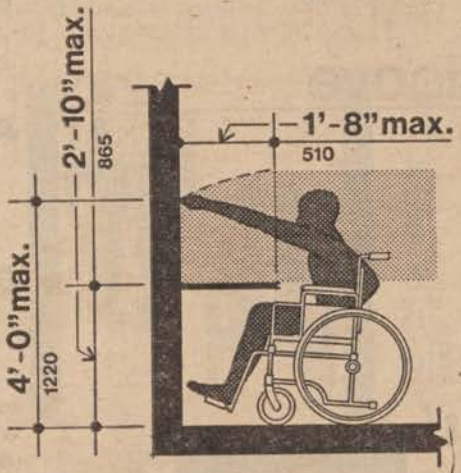
(i) Maximum height of reach for a forward approach shall be 4'–0" (1,220 mm) (fig. 4.14). (ANSI 4.2.5) (ANSI figure 5(a))

(ii) Minimum height of reach for a forward approach shall be 1'–3" (380 mm) (fig. 4.14). (ANSI 4.27.3) (ANSI—no similar figure)



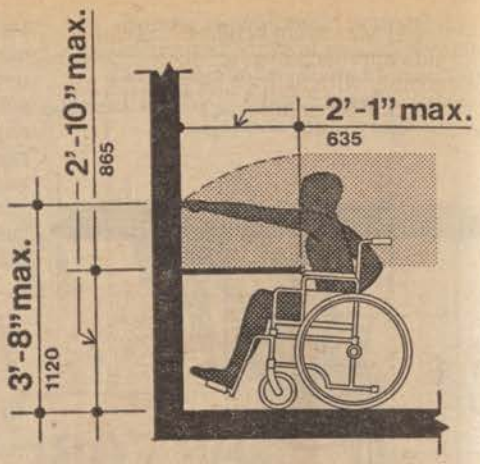
forward reach 4.14

(iii) Maximum height of reach for a forward approach over an obstruction shall comply with figures 4.15 and 4.16. (ANSI 4.2.5) (ANSI figure 5(b))



reach over obstacle 4.15

forward approach



reach over obstacle 4.16

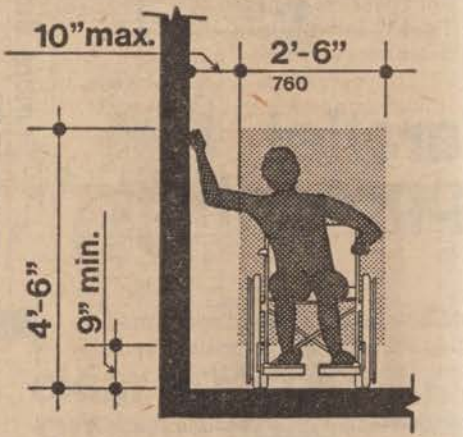
forward approach

(2) Side reach (parallel approach):

(i) Maximum height of reach for a side approach shall be 4'–6" (1,370 mm) (fig. 4.17). (ANSI 4.2.6) (ANSI figure 6(b))

(ii) Minimum height of reach for a side approach shall be 9 inches (230 mm) (fig. 4.17). Electrical and communications system receptacles on walls shall be mounted no less than 1'–3" (380 mm) above finished floor (a.f.f.) (ANSI 4.2.6 and 4.27.3) (ANSI figure 6(b))

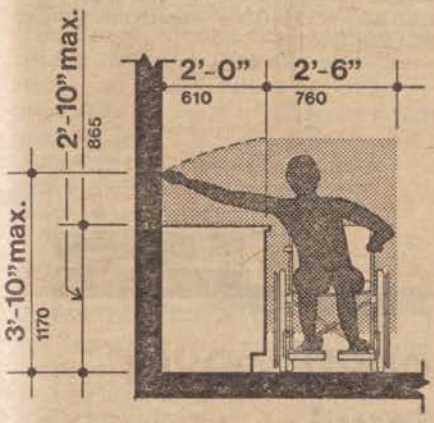
(iii) The clear floor space for a parallel approach can be located a maximum of 10 inches (55 mm) from the wall or surface of the object to be reached as shown in figures 4.17 and 21.1. (ANSI—no similar provision)



side reach 4.17

parallel approach

(iv) Maximum height of reach for a side approach over an obstruction shall comply with figure 4.18. (ANSI 4.2.6) (ANSI figure 6(c))



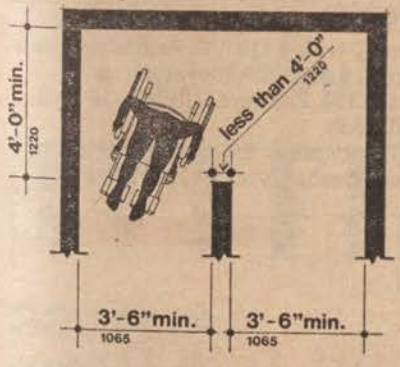
reach over obstruction 4. 18
parallel approach

(3) Special equipment, in order to be accessible, may require measurements different from those provided above and these measurements should be dictated by equipment design. (ANSI 4.27.3)

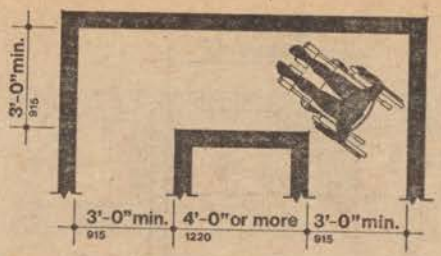
§ 1190.50 Walks, floors, and accessible routes.

(a) *General.* Accessible routes required by Subpart C—Scope shall comply with this section. (ANSI 4.3.1)

(b) *Width.* Provide the minimum clear width for continuous passage and for point passage required by § 1190.40(b)(1) (fig. 4.1). Provide maneuvering clearances as shown in figures 5.1 and 5.2 if the accessible route requires a turn around an obstruction. (ANSI 4.3.3) (ANSI figures 7 (a) and (b))

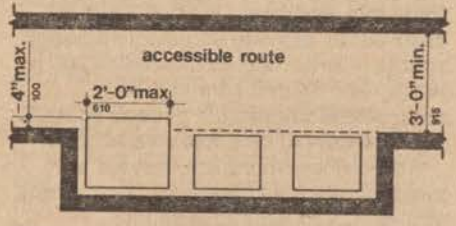


turn 5. 1
maneuvering clearances



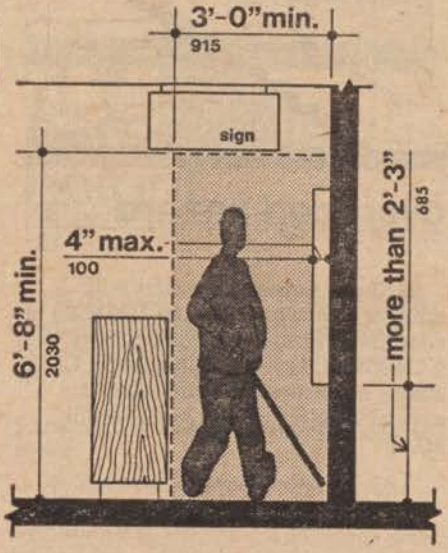
turn 5. 2
maneuvering clearances

(c) *Protruding objects.* No protruding object shall reduce the clear width of an accessible route or maneuvering space below the minimum required by § 1190.40(b)(1) (fig. 5.3). (ANSI 4.4) (ANSI figure 8(e))



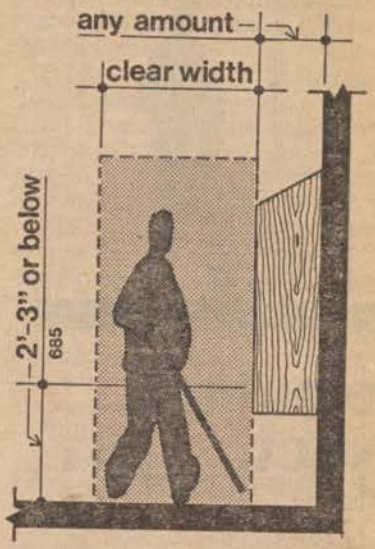
clear width 5. 3

(1) Objects 2'–0" (610 mm) long or less that are fixed to wall surfaces shall not project into accessible routes more than 4 inches (100 mm) if mounted with their leading edges between 2'–3" and 6'–8" (685 mm and 2030 mm) (nominal dimension) above finished floor (fig. 5.4). (ANSI 4.4.1) (ANSI figure 8(a))



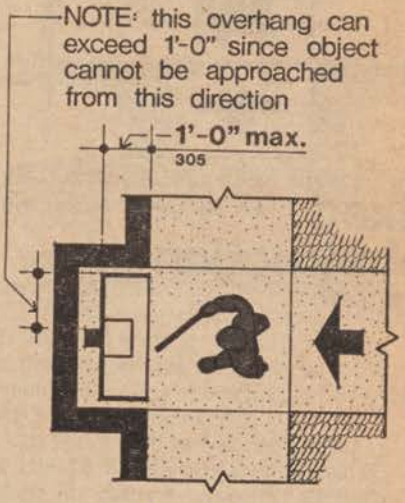
clear width 5. 4
around object 24" long max.

(2) Objects fixed to wall surfaces may project more than 4 inches (100 mm) if mounted with the lower extreme of their leading edge at or below 2'–3" (685 mm) above the finished floor. These objects shall not project into the required minimum clear width (figure 5.5). (ANSI 4.4.1) (ANSI figure 8(a))

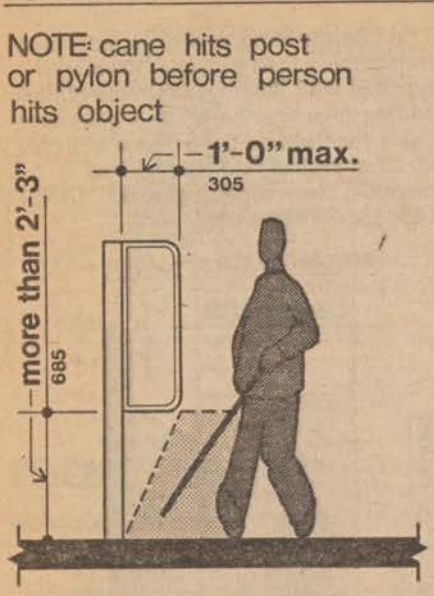


clear width 5. 5

(3) Free standing objects mounted on posts or pylons may overhang the circulation path in the direction(s) of approach a maximum of 1'–0" (305 mm) from 2'–3" to 6'–8" (685 mm to 2030 mm) above ground or finished floor surface (figures 5.6 and 5.7). An overhang may be greater than 1'–0" (305 mm) only if it is not located within a circulation path. (ANSI 4.4.1) (ANSI figure 8(d))

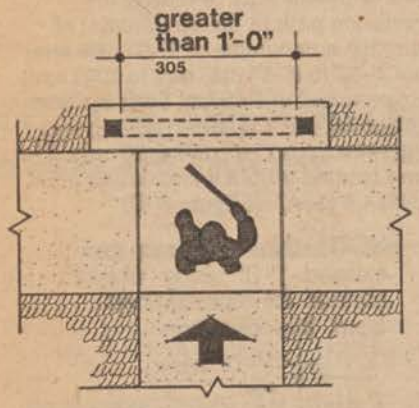


projecting object 5. 6
plan view

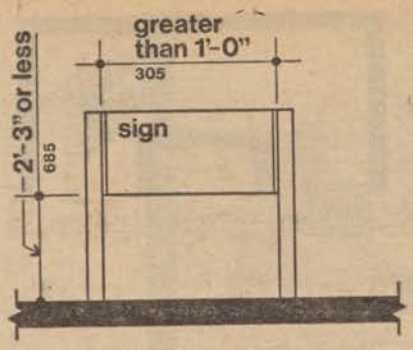


projecting object 5./7
elevation

(4) Objects mounted with their leading edge at or below 2'–3" (685 mm) above the finished floor may protrude any amount (figures 5.8 and 5.9). (ANSI 4.4.1) (ANSI figure 8(c))



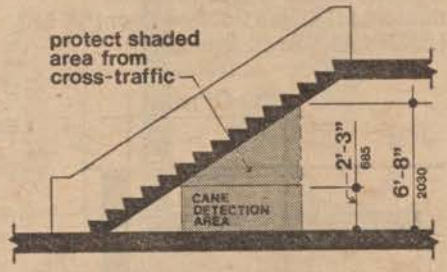
fixed obstruction 5./8
plan view



fixed obstruction 5./9
elevation

(d) *Passing space.* If an accessible route has less than a 5'–0" (1,525 mm) clear width, provide accessible passing spaces at intervals not exceeding 200 ft. (61 m). See figures 4.2 and 4.4 for examples of acceptable passing spaces. (ANSI 4.3.4) (ANSI figures 2 and 3(b))

(e) *Vertical clearance.* Provide a minimum vertical clearance (headroom) of 6'–8" (2,030 mm) throughout accessible routes. If vertical clearance of area adjoining accessible route is reduced to less than 6'–8" (nominal dimension), provide a barrier to warn blind or visually-impaired persons (fig. 5.10). (ANSI 4.4.2*) (ANSI figures 8(a) and 8(c); ANSI does not have a figure similar to ATBCB 5.10)

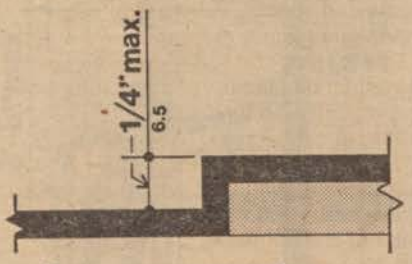


overhead hazard 5./10

(f) *Slope.* Accessible routes with running slopes greater than 1:20 shall be considered ramps and shall comply with § 1190.70, Ramps and curb ramps. Cross-slopes on accessible routes shall not exceed 1:48 (¼ inch per foot). (ANSI 4.3.7)

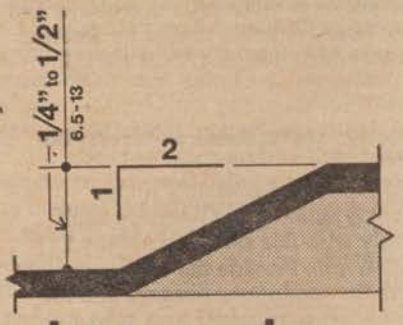
(g) *Changes in level.* All changes in level or grade in accessible routes shall comply with the following (ANSI 4.3.8):

(1) Up to ¼ inch (6 mm): vertical without edge treatment (fig. 5.11). (ANSI 4.3.8 and 4.5.2) (ANSI—no figure similar to ATBCB 5.11)



changes in level 5./11

(2) ¼ inch to ½ inch (6 mm to 13 mm): beveled with slope not exceeding 1:2 (Fig. 5.12). (ANSI 4.3.8 and 4.5.2) (ANSI—no figure similar to ATBCB 5.12)



changes in level 5./12

(3) Greater than ½ inch (13 mm): comply with § 1190.70, Ramps and curb ramps; § 1190.100, Elevators; or § 1190.110, Platform Lifts. (ANSI 4.3.8 and 4.5.2)

(i) *Exception.* Exterior sliding patio door thresholds may be ¾" (19 mm)

maximum if beveled with slope not exceeding 1:2. (ANSI 4.13.8)

(ii) [Reserved]

(4) Stairs shall not be the sole means of vertical acess along an accessible route. (ANSI 4.3.8)

(h) *Egress.* Arrange egress so as to be readily accessible from all accessible rooms and spaces. Where fire code provisions require more than one means of egress from any space or room, then more than one means of accessible egress shall also be provided to handicapped persons. (ANSI 4.3.10)

(1) *Exception.* In multiple story buildings and facilities where at-grade egress from each floor is impossible, either of the following is permitted:

(i) The provision of approved fire and smoke partitions within each story creating horizontal exits (ANSI—no similar provision); or

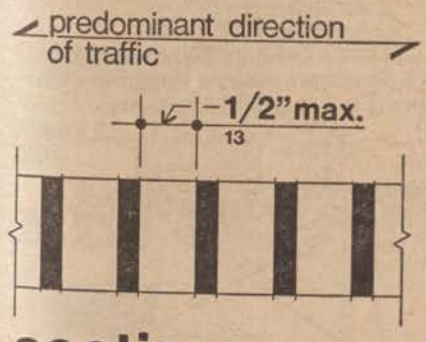
(ii) The provision of areas of refuge within each floor approved by agencies having authority for safety. (ANSI 4.3.10)

(2) [Reserved].

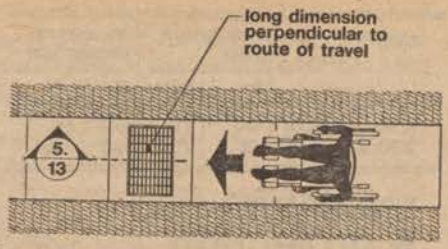
(i) *Ground and floor surfaces.*

(1) Surface Condition. Surfaces of paving and floors shall be stable, firm, and slip-resistant. Irregular paving and flooring materials that may cause tripping or difficult wheelchair passage because of height differentials are not permitted on accessible routes. (ANSI 4.5.1*)

(2) Drainage. Design accessible routes so that their surfaces will not collect water. Gratings located in accessible routes shall have openings no greater than ½ inch (13 mm) when measured in the dominant direction of travel (fig. 5.13). Gratings with elongated openings shall be so placed that the long dimension is perpendicular to the predominant route of travel (figure 5.14). (ANSI 4.5.4 and 4.8.8) (ANSI—no figures similar to 5.13 and 5.14)



section: grating
detail of fig. 5.14 — 5. 13



grating orientation — 5. 14

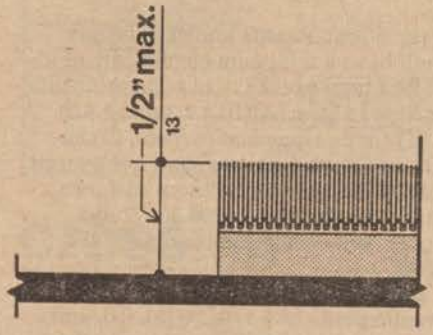
(3) Carpeting. If carpet or carpet tile is used on an accessible ground or floor surface, it shall:

(i) Be securely attached (ANSI 4.5.3);

(ii) Have a firm cushion or pad or no cushion or pad (ANSI 4.5.3);

(iii) Have a construction of level loop, textured loop, level cut pile, or level cut/uncut pile (ANSI 4.5.3);

(iv) If carpet tile is used on an accessible ground or floor surface, it shall have a maximum combined thickness of pile, cushion, and backing height of ½ inch (13 mm) (figure 5.15). If carpet is used, then it should also meet this requirement, but in no case shall the pile height exceed ½ inch. (ANSI 4.5.3*) (ANSI—no figure similar to ATBCB 5.15)



carpet tile height — 5. 15

(v) Exposed edge(s) and trim shall be securely fastened in place and shall comply with § 1190.50(g), Changes in level. (ANSI 4.5.3)

§ 1190.60 Parking and passenger loading zones.

(a) *General.* Parking and passenger loading zones required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.6.1)

(b) *Location.* Accessible parking spaces and accessible passenger loading zones shall:

(1) Be the spaces or zones located closest to the nearest accessible entrance on an accessible route (ANSI 4.6.2); and

(2) If located in a separate building or facility, be on the shortest accessible route to an accessible entrance of the parking facility. (ANSI 4.6.2)

(c) *Accessible parking spaces.* Provide accessible parking spaces (figure 6.1) (ANSI figure 9) that:

(1) Are at least 8'–0" (2,440 mm) wide (ANSI, 4.6.3);

(2) Have an adjacent access aisle at least 5'–0" (1,525 mm) wide and shall comply with § 1190.50, Walks, floors, and accessible routes. (ANSI 4.6.3)

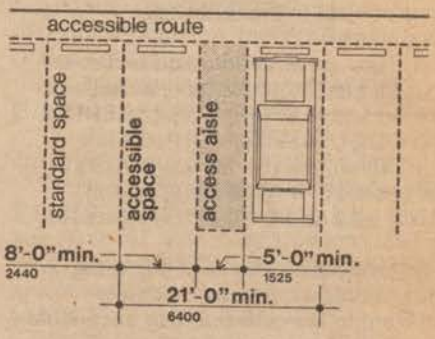
(i) *Exception.* If accessible parking spaces for vans designed for handicapped persons vans are provided, each should have an adjacent access aisle at least 8'–0" (2,440 mm) wide complying with § 1190.50, Walks, floors, and accessible routes. (ANSI—no similar provision)

(ii) [Reserved].

(3) May share a common access aisle between two parking spaces (ANSI 4.6.3);

(4) Do not permit parked vehicle overhangs to reduce the clear width of accessible routes (ANSI 4.6.3); and

(5) Have parking spaces and access aisles with surface slopes not exceeding 1:48 (¼ inch per foot) in all directions. (ANSI—no similar provision)



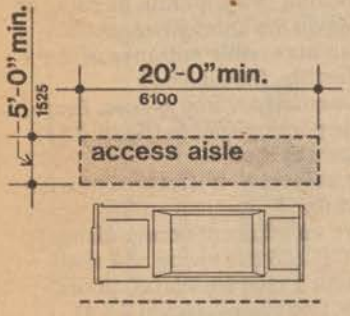
accessible parking — 6. 1
two spaces sharing one aisle

(d) *Passenger loading zones.* Provide accessible passenger loading zones that:

(1) Have an access aisle at least 5'–0" (1,525 mm) wide by 20'–0" (6 m) long adjacent, parallel, and level with the vehicle standing space (figure 6.2) (ANSI 4.6.5*) (ANSI figure 10*);

(2) Have curb ramps conforming to § 1190.70, Ramps and curb ramps, if there are curbs between the access aisle and other portions of the accessible route (ANSI 4.6.5); and

(3) Have vehicle standing spaces and access aisles with surface slopes not exceeding 1:48 (¼ inch per foot) in all directions. (ANSI—no similar provision)



unloading zone 6.2

(e) *Vertical clearance.* Provide minimum vertical clearances of 9'–6" at accessible passenger loading zones and along vehicle access routes to such areas from site entrances. Minimum vertical clearances of 9'–6" (3.45 m) at accessible van parking spaces should be provided. (ANSI—no similar provision)

(f) *Signage.* [Reserved] (ANSI 4.6.4)

§ 1190.70 Ramps and curb ramps.

(a) *General.* Ramps and curb ramps required by Subpart C—Scope shall comply with this section. (ANSI 4.7.1)

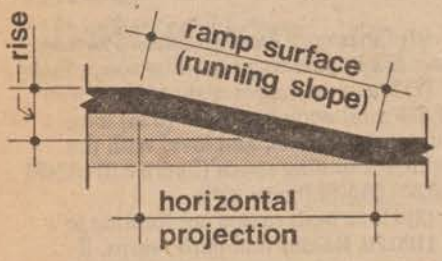
(b) *Slopes and rise.* Provide the least practical slope for any ramp or curb ramp subject to the following maximums:

(1) New construction requirements:

(i) Maximum running slope shall not exceed 1:12 (8.3%) (fig. 7.1). (ANSI 4.7.2 and 4.8.2) (ANSI figures 11 and 16);

(ii) Maximum rise for any run shall not exceed 2'–6" (760 mm) (fig. 7.2). (ANSI 4.7.2 and 4.8.2) (ANSI figure 16); and,

(iii) Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible routes shall not exceed 1:20 and shall comply with § 1190.70(e)(8) (fig. 7.11). (ANSI—no similar provision)



ramp slope 7.1

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:12 to < 1:16	30	760	30	9
1:16 to < 1:20	30	760	40	12

maximum rise & projection 7.2
new construction

(2) Existing construction requirements:

(i) If space limitations prevent compliance with § 1190.70(b)(1), slopes and rises listed in figure 7.3 may be used. (ANSI Table 2)

(ii) [Reserved].

slope	maximum rise		maximum projection	
	in	mm	ft	m
1:10 to 1:8	3	75	2	0.6
1:12 to 1:10	6	150	5	1.5

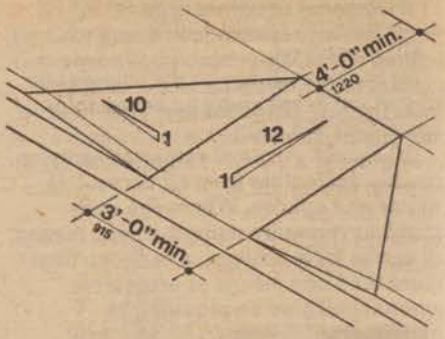
maximum rise & projection 7.3
alterations to existing construction

(c) *Width.* Ramps and curb ramps shall have a minimum clear width of 3'–0" (915 mm) exclusive of edge protection or flared sides. (ANSI 4.7.3 and 4.8.3)

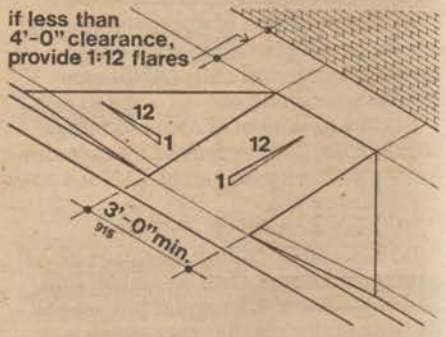
(d) *Cross-slope and surface.* Cross-slope of ramp surfaces shall not exceed 1:48 (¼ inch per foot). Ramp surfaces shall comply with § 1190.50, Walks, floors, and accessible routes. (ANSI 4.8.6)

(e) *Curb ramps.* In addition to the requirements of § 1190.70 (a), (b), and (c), curb ramps shall comply with the following requirements:

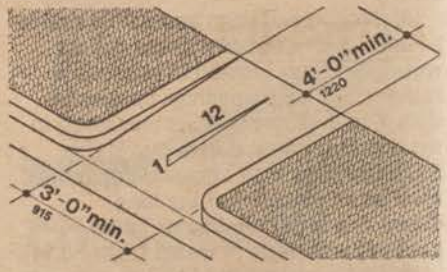
(1) Provide flared sides if a circulation path crosses any part of the ramp or curb ramp not protected by handrails or guardrails; flared slope shall not exceed 1:10 (fig. 7.4) where a 4'–0" (1,220 mm) landing is provided at the top of the curb ramp. If less than 4'–0" (1,220 mm) is provided, the flared slope shall not exceed 1:12 (fig. 7.5). Where pedestrians will not normally walk across a ramp, returned curbs may be used (fig. 7.6). (ANSI 4.7.5*) (ANSI figures 12 (a) and (b)) (ANSI does not have a figure similar to ATBCB 7.5)



curb ramp 7.4

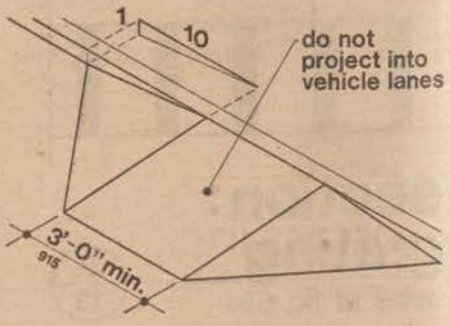


curb ramp 7.5



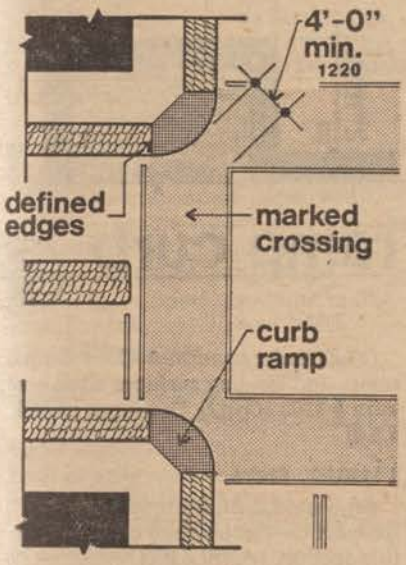
curb ramp 7.6

(2) Locate built-up curb ramps so that they do not project into vehicular traffic lanes (fig. 7.7). (ANSI 4.7.6) (ANSI figure 13)

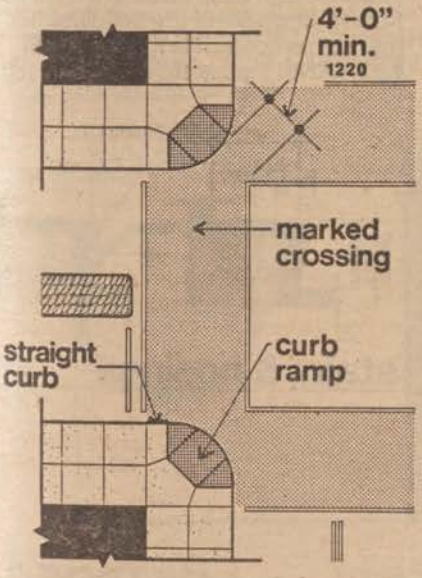


curb ramp 7.7

(3) Diagonal or corner type curb ramps having returned curbs or well defined edges, shall have such edges parallel to the direction of pedestrian flow (fig. 7.8). Diagonal or corner type curb ramps having flared sides shall have at least a 2'–0" (610 mm) long segment of straight curb located on each side of the curb ramp and within marked crossings (fig. 7.9). (ANSI 4.7.10) (ANSI figures 15 (c) and (d))



crossing 7.8

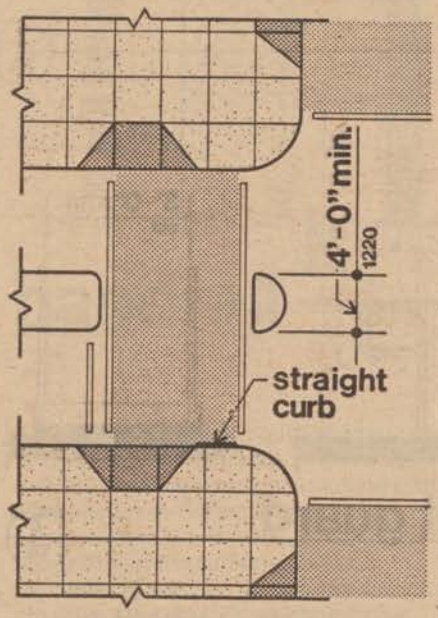


crossing 7.9

(4) Curb ramp discharge (bottom) shall be to a 4'–0" (1,220 mm) minimum deep clear space. If the marked crossings are provided, locate bottom discharge entirely within marked crossings (figs. 7.8 and 7.9). (ANSI 4.7.9 and 4.7.10) (ANSI figures 15 (c) and (d))

(5) Locate curb ramps to prevent blockage of discharge areas by parked vehicles. (ANSI 4.7.8)

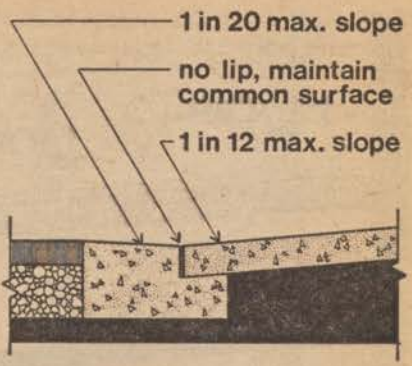
(6) Cut any islands through flush with street surfaces or ramp each side to permit crossing. Provide 4'–0" (1,220 mm) long rest area (see fig. 7.10). (ANSI 4.7.11) (ANSI figures 15 (a) and (b))



crossing 7.10

(7) Curb ramps which cross a circulation path, but do not have an abrupt change in level, do not require handrails. (ANSI 4.8.5)

(8) Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes (Fig. 7.11). (ANSI—no similar provision)



section 7.11

(9) *Warning textures.* [Reserved]

NOTE.—The "Warning textures" is reserved until such time as sufficient research and/or field experience dictate a requirement in this area. For information on warning textures, see ANSI A117.1(1980) § 4.7.7 and 4.7.12 and ANSI figure 14, Warning Signals at Curb Ramps.

(f) *Ramps.* In addition to the requirements of § 1190.70 (a), (b), (c) and (d) provide the following at all ramps:

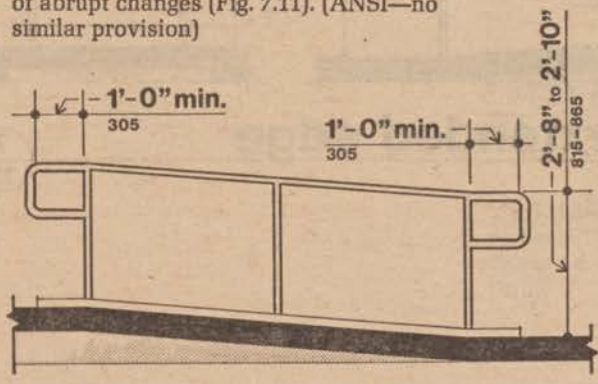
(1) Provide landings at the top, bottom, and at changes of direction. If ramp runs exceed maximum projection given in figures 7.2 and 7.3, provide intermediate landings. (ANSI 4.8.4) Landings shall:

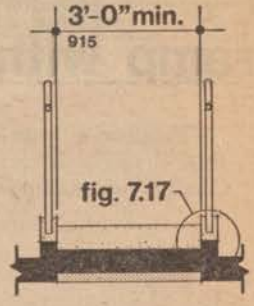
(i) Have a width at least as wide as the widest ramp run approaching it. (ANSI 4.8.4(1));

(ii) Have a minimum length of 5'–0" (1,525 mm). (ANSI 4.8.3(2)); and,

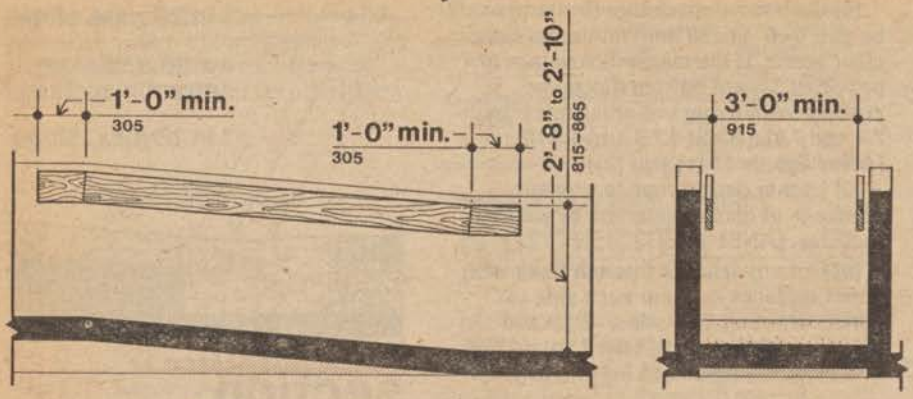
(iii) Comply with § 1190.130, Doors, if doors open into them. (ANSI 4.8.3(4))

(2) Provide handrails that comply with § 1190.90, Handrails, on both sides of any ramp run exceeding a 6-inch (150 mm) rise or a 6'–0" (1,830 mm) horizontal projection (figs. 7.12, 7.13, 7.14, and 7.15). (ANSI 4.8.5) (ANSI figure 17)

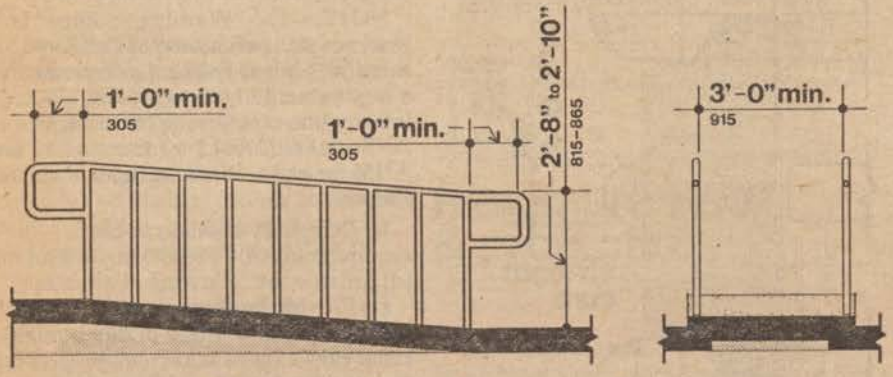




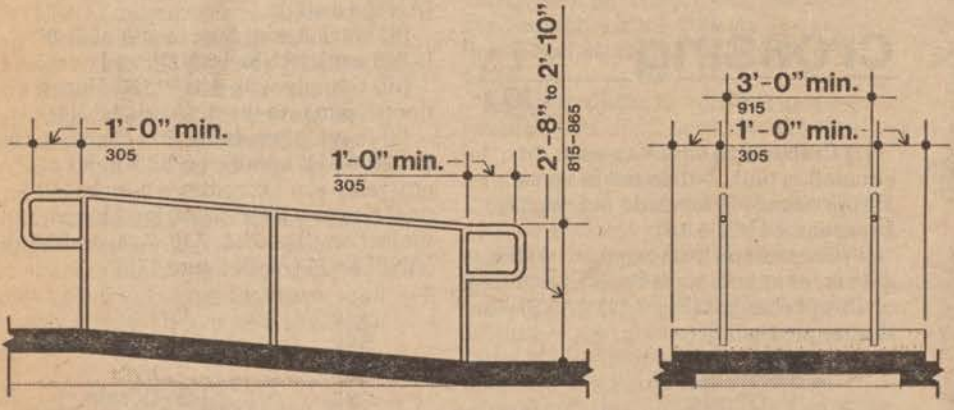
ramp with curb 7.12



ramp with wall 7.13

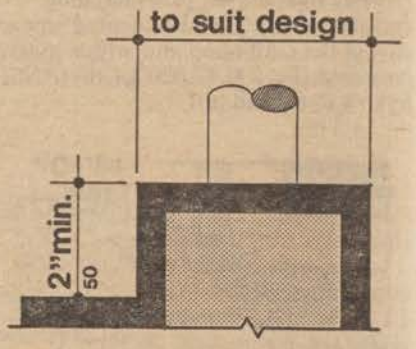


ramp with vertical guard 7.14



ramp with extended edge 7.15

(3) Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs. Minimum curb height shall be 2 inches (50 mm) (fig. 7.16). (ANSI 4.8.7) (ANSI figure 17)



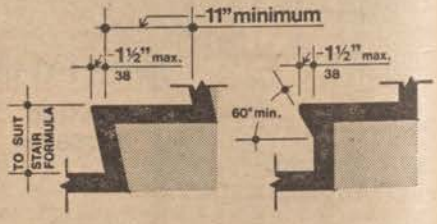
ramp curb 7.16

(g) *Exterior condition.* Curb ramps, ramp, and landing surfaces shall comply with § 1190.50(i)(2), Drainage. (ANSI 4.8.8)

§ 1190.80 Stairs.

(a) *General.* Stairs required by Subpart C—Scope shall comply with this section. (ANSI 4.9.1)

(b) *Treads and risers.* On any given flight of stairs, all steps shall have a uniform riser height and uniform tread width. Stair treads shall be no less than 11 inches (280 mm), measured from riser to riser. Open risers are not permitted (fig. 8.1) on accessible routes. (ANSI 4.9.2) (ANSI figures 18 (a), (b), and (c))



stairs & nosings 8.1

(c) *Nosings.* Nosings shall:

(1) Project a maximum of 1½ inch (38 mm) (ANSI 4.9.3);

(2) Have a leading edge with a maximum radius of curvature of ½ inches (13 mm) (ANSI 4.9.3); and

(3) Be formed by risers that are sloped, or shall have undersides of the nosings which form an angle not less than 60 degrees from the horizontal (fig. 8.1). (ANSI 4.9.3) (ANSI figures 18 (a), (b), and (c))

(d) *Handrails.* Provide continuous handrails at both sides of stairways. Handrails shall comply with § 1190.90, Handrails. (ANSI 4.9.4)

(e) *Exterior conditions.* Stair treads and landing surfaces shall comply with § 1190.50(i)(2), Drainage. (ANSI 4.9.6)

(f) *Tactile warnings.* [Reserved].

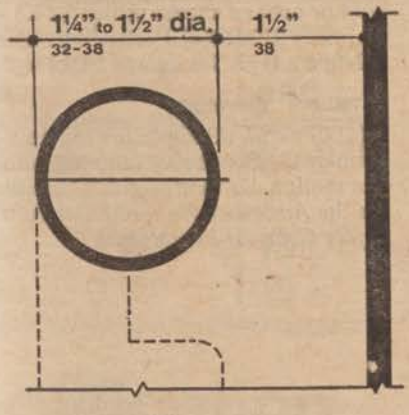
Note.—Tactile warnings at stairs has been reserved until such time as sufficient research and/or field experience support a solution in this area. For information, see ANSI A117(1980) § 4.9.5.

§ 1190.90 Handrails.

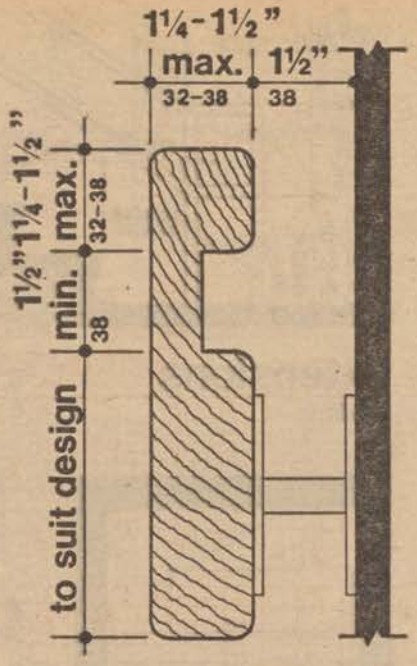
(a) *General.* Handrails for ramps or stairs required by Subpart C—Scope shall comply with this section. (ANSI 4.8.5, 4.9.4, and 4.16.1)

(b) *Size and spacing.* Size and spacing of handrails shall:

(1) The handgrip portion of the handrail, if round, shall be not less than 1¼ inches (32 mm) nor more than 1½ inches (38 mm) in diameter (fig. 9.1). If the shape of the handrail is not round, then the dimensions shall be not more than 1½ inches (38 mm) (fig. 9.2) nor less than 1¼" (32 mm). (ANSI 4.26.2) (ANSI figures 39(a), (b), and (c))

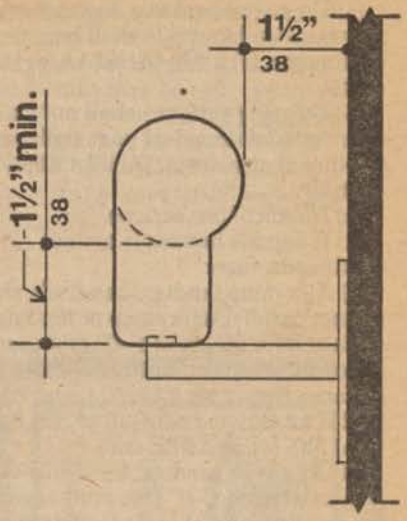


handrail 9.1

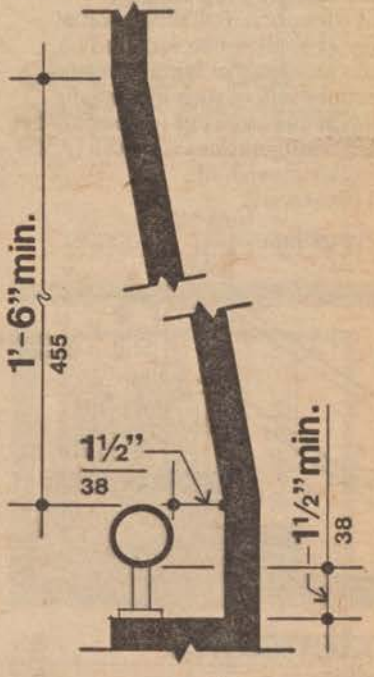


handrail 9.2

(2) If handrails are mounted adjacent to walls or other surfaces, provide a 1½ inch (38 mm) (minimum/maximum) clear space between the surface and the handrail (figs. 9.1, 9.2, 9.3, and 9.4). The handrail and the surfaces adjacent to the handrail shall be free of any sharp or abrasive elements. Edges shall have minimum radius of ⅛ inch (3 mm). Freestanding rails located farther than 6 inches (150 mm) from wall or other vertical surfaces are not subject to this provision. (ANSI 4.26.2) (ANSI figures 39(a), (b), (c), and (d))



handrail 9.3



handrail 9.4

(3) Handrails may be mounted in recesses if the recesses comply with figure 9.4. (ANSI 4.26.2) (ANSI figure 39(d))

(4) On switchbacks or dogleg ramps or stairs, inside handrails shall be continuous. (Fig. 9.8) (ANSI 4.8.5(1) and 4.9.4)

(5) Gripping surfaces shall not be interrupted with newel post, ballisters, or other obstructions. (ANSI 4.8.5(4) and 4.9.4(4))

(c) *Handrail projections.*

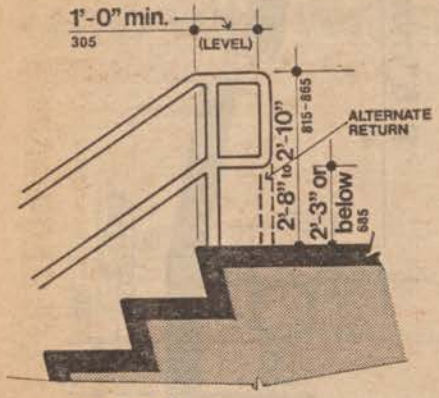
(1) If outside handrails are not continuous, then:

(i) At a ramp landing, handrails shall project parallel with ramp or landing surface for a length of 1'–0" (305 mm) beyond the top and bottom of ramp surfaces (figs. 7.12, 7.13, 7.14, and 7.15), (ANSI 4.8.5(2) and 4.9.4(2)) (ANSI figures 17(a), (b), (c), and (d)); and,

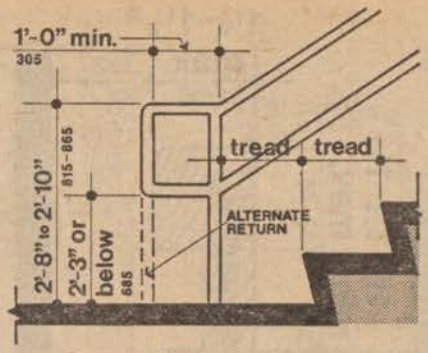
(ii) At a stair landing, handrails shall project at least 1'–0" (305 mm) beyond the top riser and at least 1'–0" (305 mm) plus the depth of one tread beyond the bottom riser. The 1'–0" (305 mm) projection shall in each instance be parallel with the floor (figs. 9.5, 9.6, and 9.7). (ANSI 4.8.5(2) and 4.9.4(2)) (ANSI figures 19(a), (b), (c), and (d))

(iii) *Exception.* Full extension of handrails shall not be required on certain handrails at landings or in alterations where such extensions would be hazardous or impossible due to plan configurations (fig. 9.8). (ANSI — no similar provision)

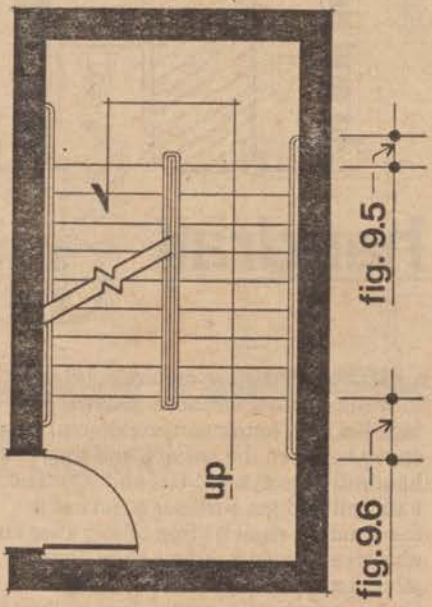
(2) [Reserved].



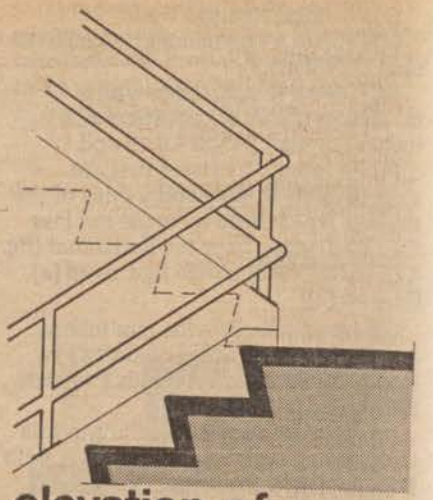
extensions
handrails
9.5



extensions
handrails
9.6



stairway
9.7



elevation of center handrail
9.8

(d) *Mounting height.* Mount handrails for accessible stairs and ramps at a height of 2'8" to 2'10" (815 mm to 865 mm) above stair nosing(s) or ramp surface as applicable (see figs. 7.13, 7.14, 7.15, and 7.16). (ANSI—no similar provision)

(e) *Structural strengths.*

(1) Handrails, as installed, shall support a minimum momentary concentrated load applied at the top edge of 200 lbs. (91 kg) horizontally and 30 percent of that load vertically downward. (ANSI 4.26.2)

(2) Handrails shall not rotate within their fittings. (ANSI—no similar provision)

(f) *Hazards.* Ends of freestanding handrails shall be returned smoothly to floor or post as shown in figures 9.5 and 9.6 (see § 1190.50(c), Protruding objects). (ANSI 4.2.4) (ANSI figures 19 (c) and (d))

§ 1190.100 Elevators.

(a) *General.* (1) Elevators required by Subpart C—Scope shall comply with this section. For additional information see the *American National Standard Safety Code for Elevators,*

Dumbwaiters, Escalators and Moving Walks, A17.1, and see also National Elevator Industry, Inc. (NEII) *Suggested Minimum Elevator Requirements for the Handicapped.* (ANSI 4.10.1*)

(2) Freight elevators shall not be considered as meeting the requirements of this section, unless the only elevators provided are used as combination passenger and freight elevators for the public and employees. (ANSI—no similar provision)

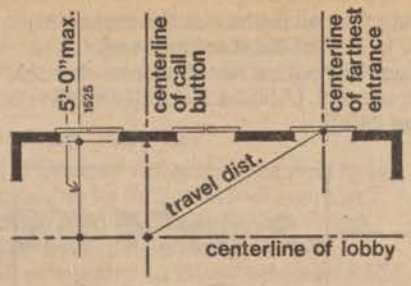
(b) *Operation and leveling.* Elevators shall be automatic and shall be provided with a self-leveling feature that will automatically bring the car to the floor landing within a tolerance of ½ inch (13 mm) under normal loading and unloading conditions. The self-leveling feature shall, within its zone, be entirely automatic and independent of the operating device and shall correct for over-travel or under-travel and shall maintain the car approximately level irrespective of loading conditions. (ANSI 4.10.2)

(c) *Elevator door operation.* Elevator doors shall be a minimum of 3'–0" (915 mm) wide and automatic door controls shall comply with the following requirements:

(1) The minimum acceptable time from notification that a car is answering a hall call until the doors of that car start to close shall be as indicated in fig. 10.1 and table 10.1. The travel distance shall be established from a point in the center of the corridor or lobby directly opposite but not more than 5'–0" (1,525 mm) from the farthest call button to the centerline of the farthest hoistway entrance (fig. 10.2) and Table 10.1. (ANSI 4.10.7) (ANSI figure 21):

travel distance		time
ft	m	sec
0-7.5	0-2.3	5
10	3	7
15	4.5	10
20	6	13

notification time 10.1



travel distance 10.2

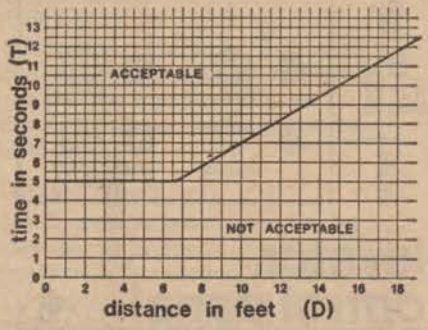


table 10.1

(2) [Reserved]

Note.—Timing on elevator door opening has been reserved pending further review. For information on elevator door timing see ANSI A117.1 (1980), Section 4.10.7.

(3) Provide doors with a reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car door is obstructed while the door is closing. This reopening device shall also be capable of sensing a person or an object in the path of a closing door at a nominal height of 5 inches and 2'–5" (125 mm and 735 mm) above finished floor without requiring contact for activation. Such devices shall remain effective for a period of not less than 20 seconds. (Fig. 10.9) For additional information, see ANSI A17.1. (ANSI 4.10.7)

(i) *Exception.* If a safety edge is provided in existing automatic elevators, then the automatic door reopening devices may be omitted. (ANSI—no similar provision)

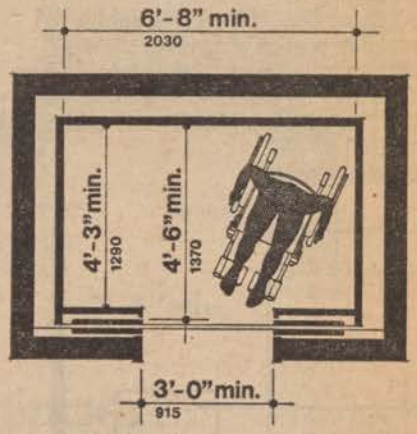
(ii) [Reserved].

(d) *Elevator cars.*

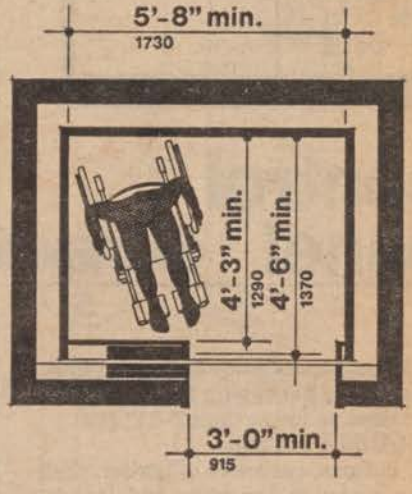
(1) The minimum floor areas of elevator cars shall comply with figures 10.3 and 10.4. The floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuver within reach of controls, and exit from the car. (ANSI 4.10.9) (ANSI figure 22)

(i) *Exception.* Where existing shaft or structural elements prohibit strict compliance in alteration work, these dimensions may be reduced by the minimum amount necessary, but in no case shall they be less than 4'–0" by 4'–0" (1,220 mm by 1,220 mm) clear minimum car area. (ANSI—no similar provision)

(ii) [Reserved].



elevator car center opening 10.3



elevator car side opening 10.4

(2) Car floors shall comply with § 1190.50, Walks, floors and accessible routes. The horizontal clearance between the car platform sill and the edge of any hoistway landing shall be no greater than 1¼ inches (32 mm). (ANSI 4.9.10 and 4.10.10)

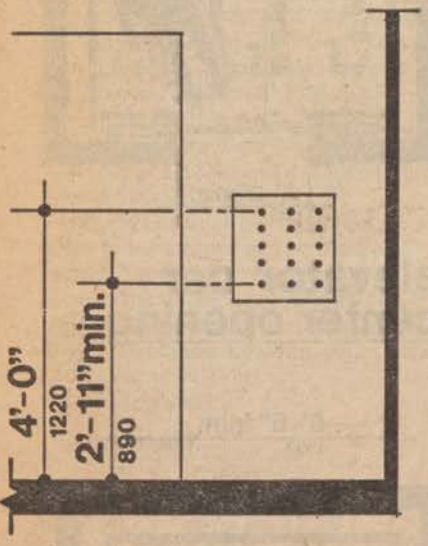
(3) Car controls shall comply with the following:

(i) Provide a visual signal indicating when each call is registered and answered. (ANSI 4.12.2(1));

(ii) Mount the highest floor buttons at a maximum of 4'–0" (1,220 mm) above the floor and the lowest buttons at a minimum of 2'–11" (890 mm) above the floor (fig. 10.5). (ANSI 4.10.12(3)*)) (ANSI figure 23(b))

(A) *Exception.* If there is a subtantial increase in cost as a result of the 4'–0" (1,220 mm) requirement, the highest floor buttons may be mounted at a maximum of 4'–6" (1,370 mm). (ANSI—no similar provision)

(B) [Reserved].

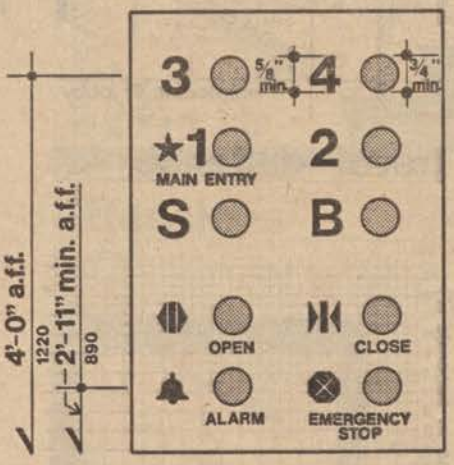


control panel 10. 5

(iii) Group emergency buttons at the bottom of the panel with their centerlines no lower than 2'–11" (890 mm). (ANSI 4.10.12(3))

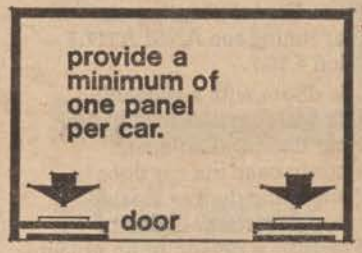
(iv) Buttons, exclusive of border, shall have a minimum dimension of ¾ inch (19 mm) and shall be raised or flush with the operating panel. (ANSI 4.12.1(1))

(v) Designate all control buttons by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in figure 10.6. For additional information see ANSI A17.1 and see also NEII *Suggested Minimum Elevator Requirements for the Handicapped.* Place raised designations to the immediate left of the button to which they apply. Permanently attached, applied plates are acceptable. Locate the call button for the main entry floor in the left-most column and designate it with a raised star as shown in figure 10.6. (ANSI 4.10.12(2)) (ANSI figure 23(a))



elevator control panel 10. 6

(vi) Locate control panels as shown in figures 10.7 and 10.8. (ANSI 4.10.12(3)) (ANSI figures 23(c) and (dd))



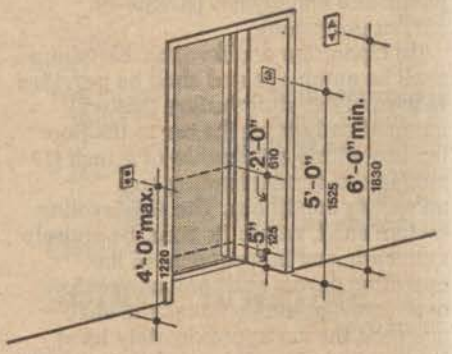
control locations 10. 7
center opening

control locations 10. 8
side opening

(e) *Door jamb markings.* Provide floor designation markings at each hoistway entrance on both jambs and that comply with the following:

(1) The centerlines of characters shall be located 5'–0" (1,525 mm) above finished floor (figure 10.9) (ANSI 4.10.5) (ANSI figure 20); and

(2) [Reserved] (ANSI 4.10.5)



elevator entrance 10. 9

(f) *Lobby call buttons.* (1) Call buttons shall:

(i) Be mounted with centerlines at 4'–0" (1,220 mm) maximum above finished floor (fig. 10.9) (ANSI 4.10.3*) (ANSI figure 20*);

(ii) Be a minimum of ¾ inch (19 mm) in diameter (ANSI 4.10.3);

(iii) Have visual signals indicating when a call is registered and answered (ANSI 4.10.3);

(iv) Be raised or flush (ANSI—no similar provision); and

(v) Have the button designating "up" mounted on top. (ANSI 4.10.3)

(2) Objects mounted beneath lobby call buttons shall not project into the elevator lobby more than 4 inches (100 mm). (ANSI—no similar provision)

(g) *Hall lanterns.* Provide an audible and visual signal at each hoistway entrance to indicate car arrival and its travel direction. (ANSI 4.10.4)

(1) Audible signals shall sound once for the up direction and twice for the down direction or shall annunciate the words "up" or "down." (ANSI 4.10.4)

(2) Visual signals shall:

(i) Be mounted with their centerlines a minimum of 6'–0" (1,830 mm) above finished floor (fig. 10.9) (ANSI 4.10.4(1)) (ANSI figure 20);

(ii) Have a minimum dimension parallel to the mounting surface of 2½" (64 mm) (ANSI 4.10.4(2));

(iii) Distinguish between up and down travel directions (ANSI 4.10.4); and

(iv) Be visible from the vicinity of call buttons. (ANSI 4.10.4(3))

(3) In-car lanterns mounted on car door jambs and that comply with § 1190.100(e)(2) are acceptable. (ANSI 4.10.4(3))

(h) Car position indicator and signal. Provide audible and visual car position indicators within each elevator car as follows:

(1) Audible indicators shall (ANSI 4.10.13):

(i) Signal as the car passes or stops at each landing. Signal shall exceed the ambient noise level by at least 20 decibels with a frequency below 1,500 Hz (ANSI 4.10.13); or

(ii) Provide an automatic verbal announcement. (ANSI 4.10.13*)

(2) Visual indicators shall:

(i) Be located above the car operating panel or over the car door (ANSI 4.10.13);

(ii) Visually display the floor number as the car passes or stops at a landing (ANSI 4.10.13);

(iii) [Reserved] (ANSI 4.10.13)

(i) *Illumination levels.* Illuminate car controls, platform, car threshold, and landing sill to a minimum of 5 footcandles. (ANSI 4.10.11)

(j) *Intercommunication systems.* If provided, emergency intercommunication systems shall comply with the following:

(1) Locate the highest operable part of the system no higher than 4'–0" (1,220 mm) above car floor (ANSI 4.10.14*);

(2) [Reserved](ANSI 4.10.14)

(3) If system employs a handset, provide a 2'–5" (735 mm) cord length (ANSI 4.10.14);

(4) If system is located in a closed compartment, compartment door hardware shall conform to § 1190.170, Controls and operating mechanisms (ANSI—no similar provision); and,

(5) The emergency intercommunication system shall not require voice communication. (ANSI—no similar provision)

§ 1190.110 Platform lifts.

(a) *General.* Platform lifts required by Subpart C—Scope, shall comply with this section. (ANSI 4.11.1)

(b) *Requirements.* Platform lifts:

(1) Shall accommodate an occupied wheelchair within the space provisions of § 1190.40, Human data (ANSI 4.11.2);

(2) Shall have accessible controls complying with § 1190.170, Controls and operating mechanisms (ANSI 4.11.2 and 4.27);

(3) Shall satisfy safety requirements of the agency having responsibility for safety of the facility (ANSI 4.11.2);

(4) Should facilitate unassisted entry and exit from the lift in accordance with the provisions of § 1190.50, Walks, floors, and accessible routes. (ANSI—no similar provision)

§ 1190.120 Entrances.

(a) *General.* Entrances required to be accessible by Subpart C—Scope shall comply with § 1190.50, Walks, Floors and Accessible Routes; § 1190.120, Entrances; and § 1190.130, Doors. (ANSI 4.14.1)

(b) *Service entrances.* A service entrance is not to be used as the only accessible entrance unless it is the only entrance to the building or facility. (ANSI 4.14.2)

(c) *Access to elevators.* If accessible elevators are provided, an accessible route shall be provided from an accessible entrance to the elevators. (ANSI 4.14.2)

§ 1190.130 Doors.

(a) *General.* Doors required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.13.1)

(1) Gates, including ticket gates, shall comply with this section. (ANSI 4.13.3);

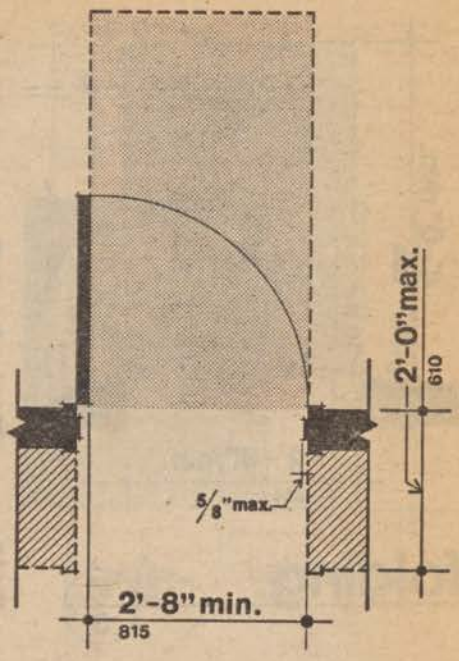
(2) In double-leaf doorways, at least one leaf shall comply with this Section and it shall be the active leaf. Double-leaf automatic doors are excepted from the one leaf provision if both leaves are automatic. (ANSI 4.13.4*); and,

(3) Revolving doors or turnstiles are not accessible doors and shall not be the sole means of access at any accessible entrance or on any accessible route. An accessible door shall be provided adjacent to the turnstile or revolving door and shall be so designed as to facilitate the same use pattern. (ANSI 4.13.2*)

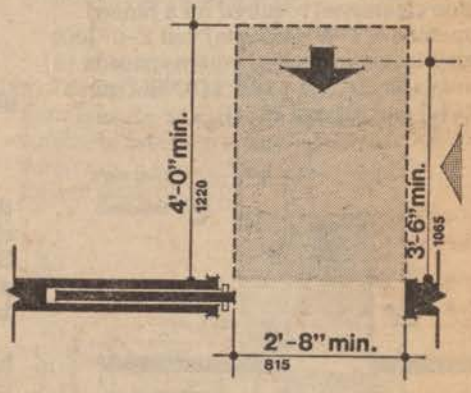
(b) *Clear width.* Provide doorways with clear openings of 2'–8" (815 mm) as measured with the door open 90 degrees between the face of the door and the latch side jamb (figs. 13.1, 13.2, and 13.3). Where existing elements prohibit strict compliance in alteration work, the latch side stop may project into this clear opening 5/8 inch maximum (16 mm). Openings deeper than 2'–0" (610 mm) shall be a minimum of 3'–0" (915 mm) wide (fig 4.1). (ANSI 4.13.5) (ANSI figures 24(a), (b), (c), (d), and (e), 25(a) and 1)

(1) *Exception.* If a space and the elements within that space comply with the requirements of § 1190.40, Human Data, and the user does not require full passage into that space, then the opening to that space may be a minimum of 1'–8" (510 mm) wide. (ANSI—no similar provision)

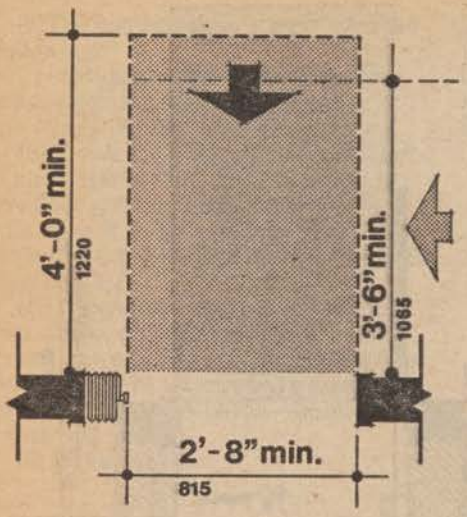
(2) [Reserved.]



hinged 13. 1



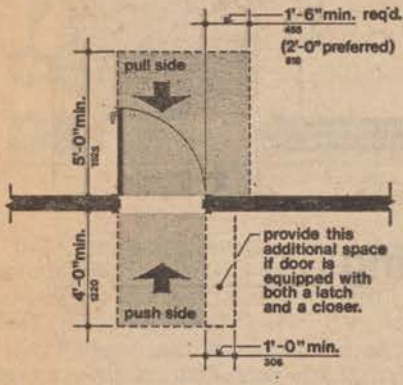
sliding 13. 2



folding 13.3

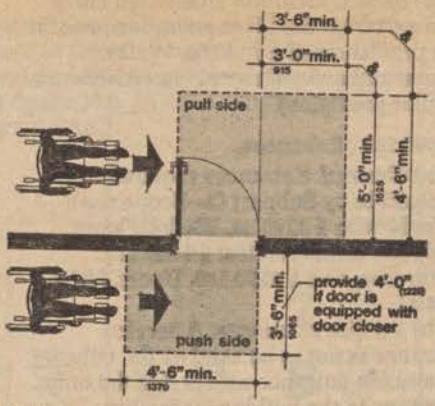
(c) *Maneuvering space.* Provide the following space at all non-automatic and non-power-assisted doors:

(1) At doors allowing front approach only, maneuvering space shall be as shown in figures 13.2, 13.3, and 13.4. The minimum maneuvering space (*i.e.*, latch side clearance) required for a hinged opening is 1'–6" (455 mm), but 2'–0" (600 mm) is recommended where space is available. (ANSI 4.13.6*) (ANSI figures 24 (c) and (d) and 25 (a))



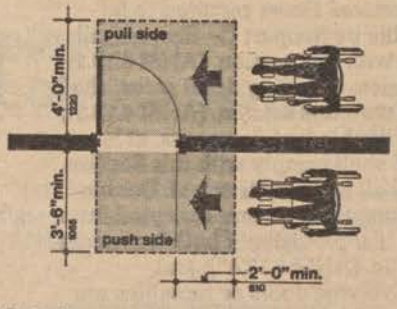
front approach 13.4

(2) At doors allowing hinge side approach only, maneuvering space shall be as shown in figure 13.5. (ANSI 4.13.6) (ANSI figures 25 (b) and (e))



hinge approach 13.5

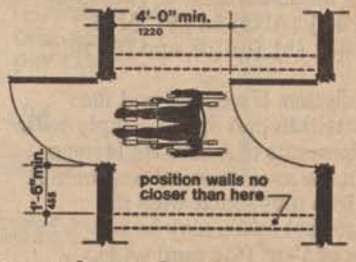
(3) At doors allowing latch side approach only, maneuvering space shall be as shown in figure 13.6. (ANSI 4.13.6) (ANSI figures 25 (c) and (f))



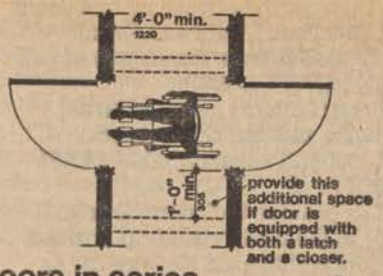
latch approach 13.6

(4) The floor or surface area within the required maneuvering space shall be clear and shall comply with § 1190.50(i), Ground and floor surfaces. It shall have a slope in any direction no greater than 1:48 (¼ inch per foot). (ANSI 4.13.6)

(d) *Doors in series.* Between any two hinged or pivoted doors in series, provide a minimum of 4'–0" (1,220 mm) plus the width of any door swinging into the space. Opposing doors shall not swing towards each other, into the intervening space (see figs. 13.7 and 13.8). (ANSI 4.13.7) (ANSI figure 26)



doors in series 13.7



doors in series 13.8

(e) *Thresholds.* Raised thresholds, if provided, shall be beveled with a slope not to exceed 1:2 and with heights not exceeding the following:

(1) Exterior sliding patio doors: ¾ inch (19 mm) maximum. (ANSI 4.13.8)

(2) Other doors: ½ inch (13 mm) maximum. Bevel not required if less than ¼ inch (6 mm). (ANSI 4.13.8)

(f) *Hardware.* Provide handles, pulls, latches, locks and other operating hardware that are easy to grasp with one hand and that do not require twisting of the wrist, tight grasping, or tight pinching to operate. Acceptable designs include, but are not limited to, lever-operated hardware, push-type hardware, and U-shaped handles. Operating hardware shall be exposed and usable from both sides when sliding doors are fully open. Mount no operating hardware higher than 4'–0" (1,220 mm) above finished floor. (ANSI 4.13.9)

(g) *Doors to hazardous areas.* Provide a textured surface on any door handle, knob, pull, or other piece of operating hardware on doors that lead to areas that may prove hazardous to blind people. Such areas may include, but are not limited to, loading platforms, mechanical equipment rooms, stages, and similar spaces. Textured surfaces may be achieved by knurling, roughening, or applying materials on the hand contact surface. Do not provide textured surfaces on hardware leading to emergency egress or on any doors other than those leading to hazardous areas. (ANSI 4.29.3)

(h) *Closers and opening forces.*

(1) Door closers, if provided, shall have a sweep period adjusted so that from a position of 70 degrees open it will take the door a minimum of 3 seconds to reach a point 3 inches (75 mm) from the door jamb, measured from the leading edge of the door. (ANSI 4.13.10)

(2) Maximum pushing or pulling opening forces for doors shall be as follows:

(i) Exterior hinged doors: [Reserved] (ANSI 4.13.11(2)(a)*)

(ii) Interior hinged doors: 5 lbs (2.3 Kg) (ANSI 4.13.11(2)(b))

(iii) Sliding or folding doors: 5 lbs (2.3 Kg) (ANSI 4.13.11(2)(c))

(iv) Adjust fire doors for the minimum opening and closing forces required by the agency having responsibility for the safety of the facility. (ANSI 4.13.11(1))

(v) Power-assisted doors: Comply with § 1190.130(g)(2) for closing force. These forces do not apply to forces required to retract or disengage latch bolts or other door latching devices. (ANSI 4.13.2*)

(i) *Automatic doors.* If automatic pedestrian doors are provided:

(1) They shall not open to back check in less than 3 seconds (ANSI 4.13.12); and

(2) They shall not require more than 15 lbs (6.8 Kg) to stop door movement (ANSI 4.13.12);

(3) Latch side clearances provided by § 1190.130(c), Maneuvering space, are not required for automatic doors;

(4) See the *American National Standard for Power-Operated Pedestrian Doors,* ANSI A156.10 (latest edition) for additional information on the requirements for both standard and custom designed installations. The ANSI publication contains information on slow opening, low powered automatic pedestrian doors. (ANSI 4.13.12)

§ 1190.140 Windows [Reserved]

Note.—ATBCB has reserved § 1190.140 Windows until such time as research and/or field experience support a requirement in this area. For information on window requirements, see ANSI A117.1 (1980), Section 4.12.

§ 1190.150 Toilet and bathing facilities.

(a) *General.* Toilet rooms and bathing facilities required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.16.1, 4.17.1, 4.18.1, 4.19.1, 4.20.1, 4.21.1, 4.22.1, 4.23.1, and 4.24.1)

(1) *Exception.* Where alterations to existing facilities make strict compliance with § 1190.150 structurally impracticable, the addition of one "unisex" toilet per floor containing one water closet and one lavatory that complies with § 1190.150(b) located adjacent to existing facilities will be acceptable in lieu of making existing toilet facilities for each sex accessible. (ANSI—no similar provision)

(2) [Reserved].

(b) *Doors.* Doors to toilet rooms and bathing facilities shall:

(1) Comply with § 1190.130, doors (ANSI 4.22.2, 4.23.2, and 4.13.6); and

(2) Not swing into clear floor spaces required at fixtures. (ANSI 4.22.2, 4.23.2, and 4.13.6)

(c) *Clear turning space.* Each accessible toilet room and bathing facility shall have an unobstructed turning space that:

(1) Complies with §1190.40(b)(3) (ANSI 4.22.3, 4.23.3, and 4.2.3);

(2) Adjoins an accessible route complying with § 1190.50, Walks, floors, and accessible routes (ANSI 4.22.3, 4.23.3, and 4.2.3); and

(3) May overlap the accessible route and clear floor space at fixture(s). (ANSI 4.22.3, 4.23.3, and 4.2.4.1)

(i) *Exception.* In toilet rooms with one water closet, one lavatory and/or one shower a clear floor space of 2'–6" by 5'–0" (815 mm x 1,525 mm) may be used in lieu of the unobstructed turning space.

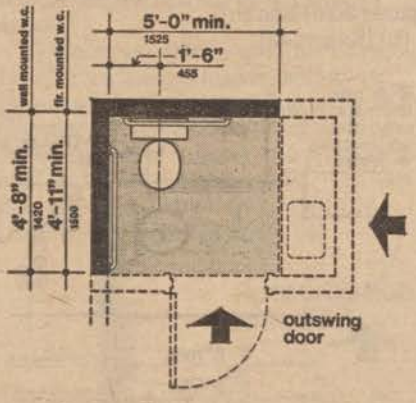
(ii) [Reserved].

(d) *Signage.* [Reserved] (ANSI 4.30.1)

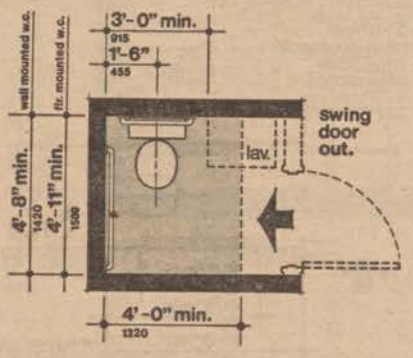
(e) *Toilet fixtures and accessories.*

(1) Water closets. Accessible water closets shall:

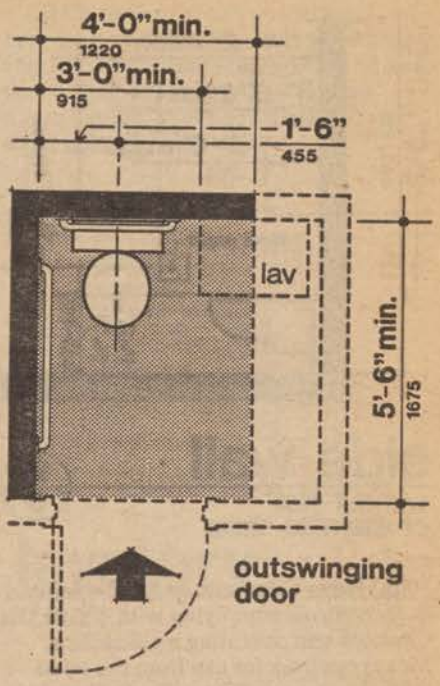
(i) Be provided with clear floor access spaces complying with figures 15.1, 15.2, and 15.3 for fixtures not mounted in stalls. Clear floor space may be provided to allow either left-handed or right-handed approach. (ANSI 4.16.2) (ANSI figure 28)



clear floor space
(right-hand approach) 15. 1

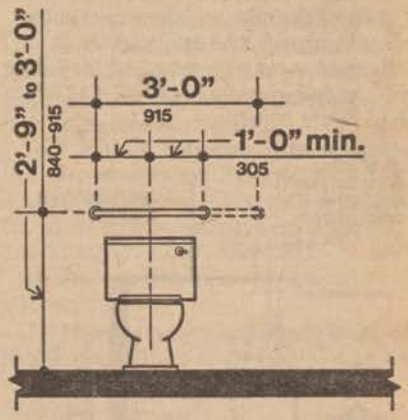


clear floor space
(right-hand approach) 15. 2

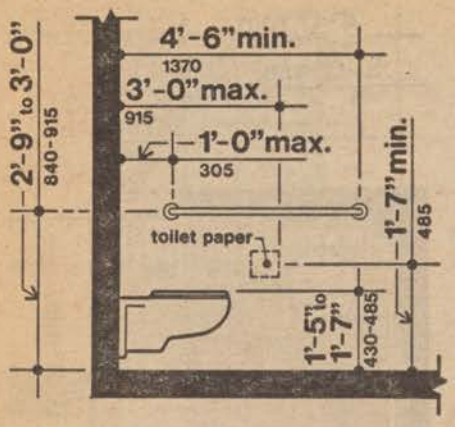


clear floor space
(right-hand approach) 15. 3

(ii) Have top of seats mounted 1'–5" to 1'–7" (430 mm to 485 mm) above finished floor (see fig. 15.5). Seats shall not be sprung to return to a lifted position when not in use. (ANSI 4.16.3*) (ANSI figures 29(a) and (b))



rear wall elevation
without stall or alternate stalls 15. 4



side wall
without stall or alternate stalls
15. 5

(iii) Have automatic or hand-operated flush controls complying with § 1190.170, Controls and operating mechanisms. Mount controls for use from the wide side of access area (see fig. 15.4) and no higher than 3'–8" (1,120 mm) above finished floor. (ANSI 4.16.5)

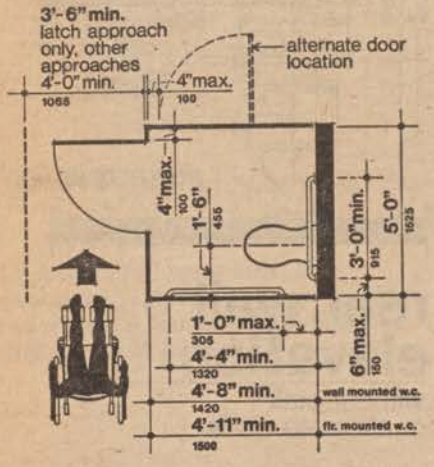
(iv) Have toilet paper dispensers mounted as shown in figure 15.5. Do not use dispensers that control delivery or that do not permit continuous paper flow. (ANSI 4.16.6*)

(v) Have grab bars mounted of the length and positioning as shown in figures 15.1, 15.2, 15.3, 15.4, and 15.5. (ANSI 4.16.4) (ANSI figures 28 and 29)

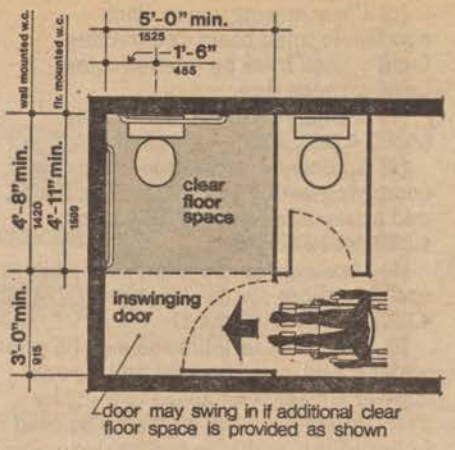
(2) Toilet stalls. Accessible toilet stalls shall:

(i) Have a water closet complying with 1190.150(b)(1) (ANSI 4.17); and

(ii) Be of the size and arrangement as shown in figures 15.3 and 15.6. Stall configuration may be reversed for left or right-handed approach. (ANSI 4.17.3*) (ANSI figure 30(a))



standard stall
(left-hand approach)
15. 6

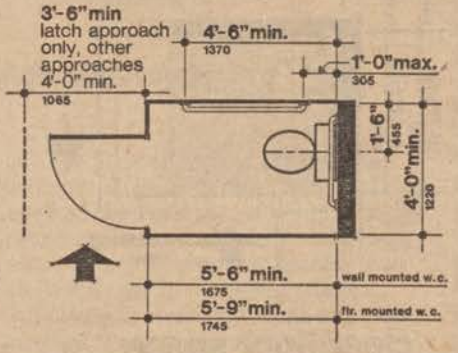


door may swing in if additional clear floor space is provided as shown

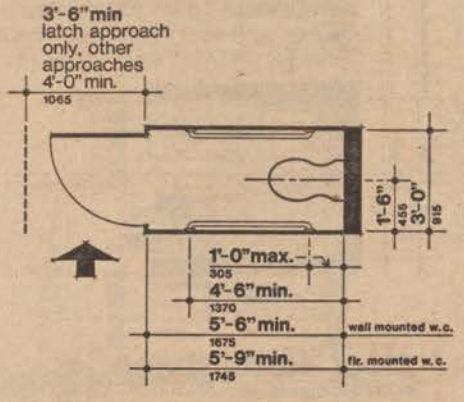
clear floor space
(right-hand approach)
15. 7

(A) *Exception.* In instances of alteration work where provision of a standard stall (figs. 15.6 and 15.7) is structurally impracticable or plumbing fixture code requirements prevent combining existing stalls to provide space, alternate stalls (figs. 15.8 and 15.9) may be provided in lieu of the standard stall. (ANSI 4.17.3) (ANSI figures 30(a) and (b))

(B) [Reserved].



alternate stall - 4' wide
15. 8



alternate stall - 3' wide
15. 9

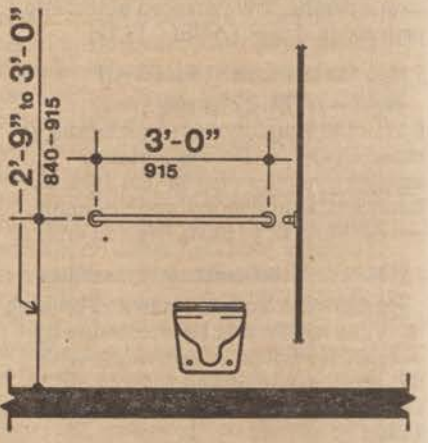
(iii) Have toe clearances at the front partition and at least one side partition of 9 inches (230 mm) above finished floor. If stall depth is greater than 5'–0" (1,525 mm), then toe clearance is optional. (ANSI 4.17.4)

(iv) Have doors that comply with § 1190.130, Doors, and that do not reduce clear floor area and have hardware that complies with § 1190.170 Controls and operating mechanisms. (ANSI 4.17.5 and 4.13)

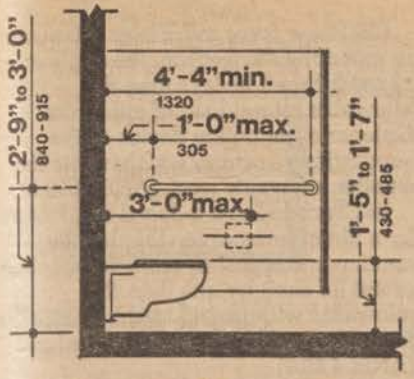
(A) *Exception.* If toilet stall approach is from the latch side of the stall door, clearance between the door side of the stall and any obstruction may be reduced to a minimum of 3'–6" (1,065 mm). (ANSI 4.17.3*)

(B) [Reserved].

(v) Have grab bars mounted of the length and positioning shown in figures 15.4, 15.5, 15.6, 15.7, 15.8, 15.9, 15.10, and 15.11. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear area. Grab bars shall comply with § 1190.150(g). (ANSI 4.17.6) (ANSI figures 30(a), (b), (c), and (d)).



rear wall elevation
standard stall
15. 10



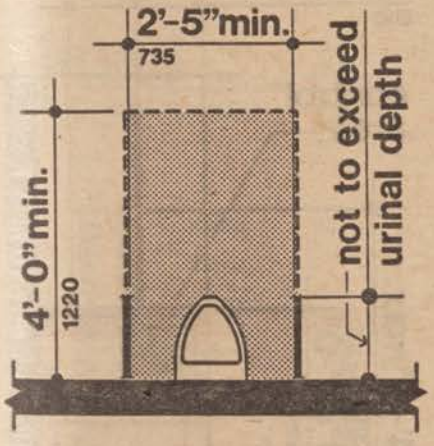
side wall
standard stall
15.11

(3) Urinals. Accessible urinals shall:

(i) Have a clear floor space that complies with § 1190.40, Human data. (ANSI 4.18, 4.18.3, 4.22.5, 4.23.5) (ANSI—no similar provision)

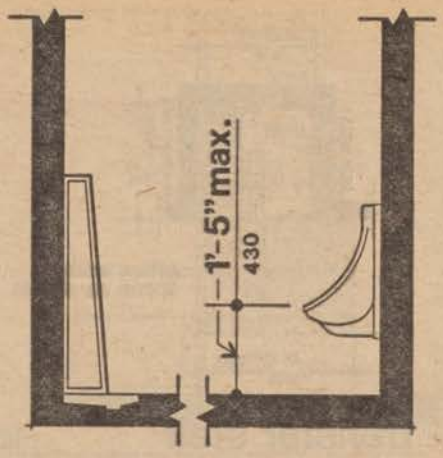
(A) *Exception.* Urinal shields as allowed by some plumbing codes that do not extend beyond the front edge of the urinal rim may be provided with 2'–5" (735 mm) clearance between them. (see fig. 15.12) (ANSI—no similar provision)

(B) [Reserved].



urinal shields
15.12

(ii) Be floor mounted stall type or wall-hung with an elongated rim mounted at 1'–5" (430 mm) maximum above finished floor (fig. 15.13). (ANSI 4.18.2) (ANSI—no similar provision)

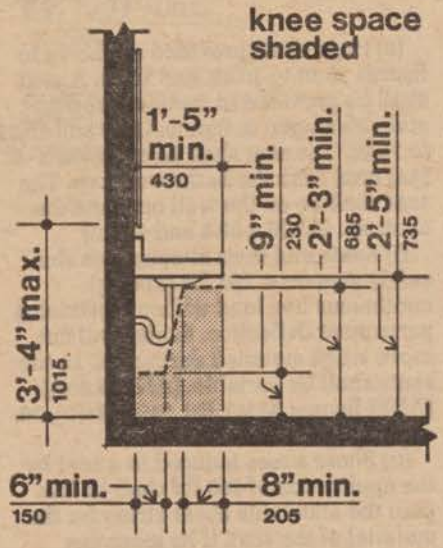


urinals
15.13

(iii) Have automatic or hand-operated controls complying with § 1190.170, Controls and operating mechanisms, and mounted no higher than 3'–8" (1,120 mm) above finished floor. (ANSI 4.18.4)

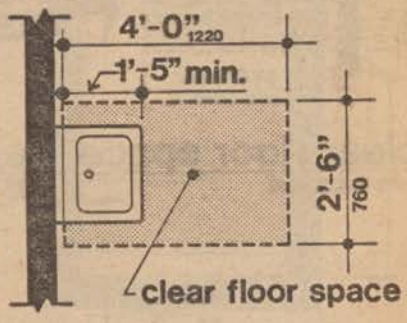
(4) Lavatories and sinks. Lavatories and sinks shall meet the following requirements (ANSI 4.19, 4.22.6, and 4.23.6):

(i) Mount lavatories with the rim or counter surface no higher than 2'–10" (865 mm) above finished floor. Provide clearance between bottom of apron and finished floor of at least 2'–5" (735 mm) high and 2'–6" (760 mm) wide. Provide knee space as shown in figure 15.14. (ANSI 4.19.2*) (ANSI figure 31)



lavatory
15.14

(ii) Clear floor space permitting front approach shall comply with § 1190.40, Human Data. Clear floor space and knee space shall overlap 1'–5" (485 mm) minimum (fig. 15.15). (ANSI 4.19.3 and 4.24.5) (ANSI figure 32)



lavatory
15.15

(iii) Insulate or cover hot water and drain lines. Allow no sharp or abrasive surfaces to remain exposed under accessible lavatories or sinks. (ANSI 4.19.4 and 4.24.6)

(iv) Acceptable faucet control designs include level-operated, push type, touch-type, and electronically controlled mechanisms that comply with § 1190.170, Controls and operating mechanisms. (ANSI 4.19.5* and 4.24.7)

(A) *Exception.* Self-closing valves are permitted at lavatories if the faucet remains open for at least 10 seconds. (ANSI 4.19.5)

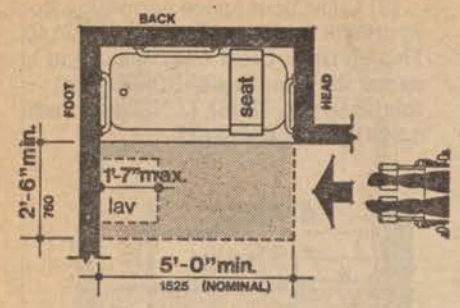
(B) [Reserved].

(5) Mirrors. Mount mirrors with the bottom edge of reflecting surface no higher than 3'–4" (1,015 mm) above finished floor (fig. 15.13). (ANSI 4.19.6) (ANSI figure 31)

(6) Controls, dispensers, receptacles, or other equipment. Accessible equipment shall comply with § 1190.170, Controls and operating mechanisms. (ANSI 4.22.7, 4.23.7, and 4.27)

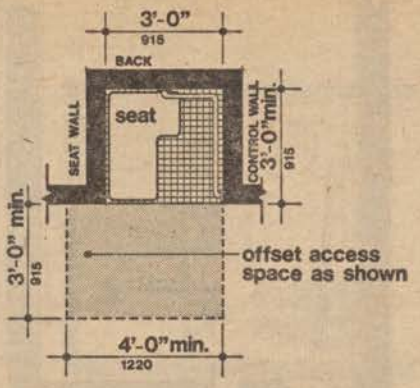
(f) *Bathing facilities.* Bathtubs or showers shall:

(1) Have clear access space as shown in figures 15.16 to 15.20. (ANSI 4.20.2 and 4.21.2) (ANSI figures 33(a), (b), and 35(a)(b))



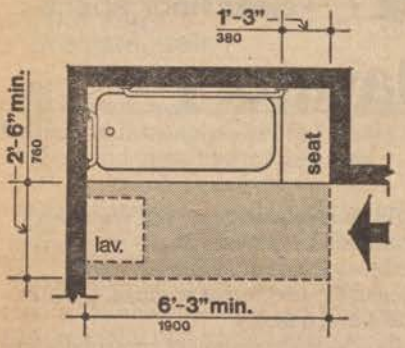
clear floor space
with in-tub seat

15.16



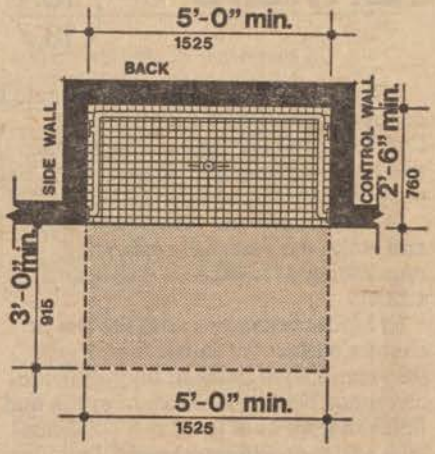
transfer stall

15.19



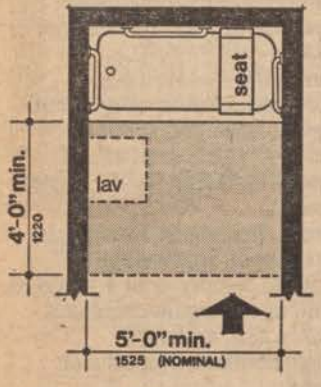
clear floor space
with ledge seat

15.17



roll-in stall

15.20



clear floor space
with in-tub seat

15.18

(2) Have seats provided as shown in figures 15.16 to 15.19, and 15.24. A seat shall be provided in transfer shower stalls as shown in figures 15.19 and 15.26 to 15.28. The seat shall be mounted 1'-6" (435 mm) from the bathroom floor. The seat shall be on the wall opposite the controls. (ANSI 4.20.3 and 4.21.3)

(i) Seats and their attachments shall safely support a 250 lbs (114 Kg) continuous live load without sustaining permanent deflection. Seats shall not move when mounted during use. In-tub seats shall be portable. (ANSI 4.26.3) (ANSI figures 33 (a), (b), 35(a), 34(b), 36, and 37(a))

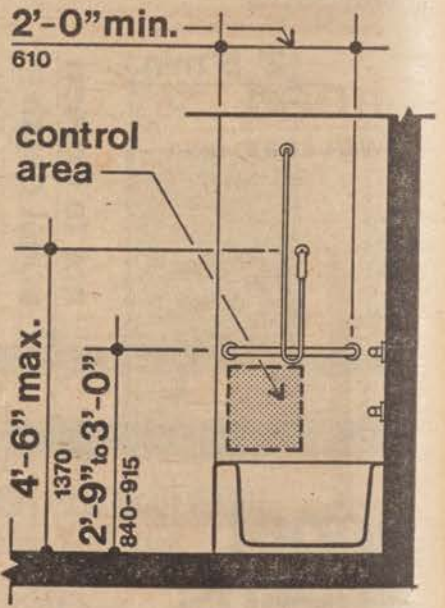
(ii) Shear stress induced in a seat by the application of 250 lbf shall be less than the allowable shear stress for the material of the seat. If its mounting bracket or other support is considered to be fully restrained, then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress. (ANSI 4.26.3)

(iii) Shear force induced in a fastener or mounting device from the application of 250 lbf shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load. (ANSI 4.26.3)

(iv) Tensile force induced in a fastener by a direct force of 250 lbf plus the maximum moment from the application of 250 lbf shall be less than the allowable withdrawal load between the fastener and the supporting structure. (ANSI 4.26.3)

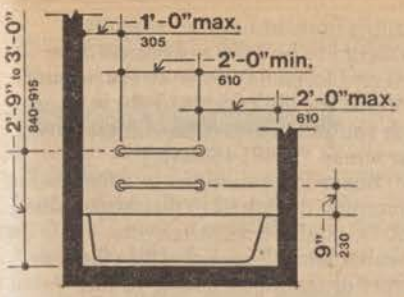
(3) Have grab bars mounted of the length and positioning shown in figures 15.16 to 15.32. (ANSI 4.20.4 and 4.21.4) (ANSI figures 33(a), (b), 35(a), (b), 34(a), (b), 36, and 37 (a), (b))

(4) Have faucets and controls complying with § 1190.170, Controls and Operating Mechanisms, located as shown in figures 15.21 and 15.29. In shower stalls 3'-0" x 3'-0" (915mm x 915mm), all controls, faucets, and the shower unit shall be mounted on the side wide opposite the seat. (ANSI 4.20.5 and 4.21.5) (ANSI figures 34(a) and 37(a) and (b))

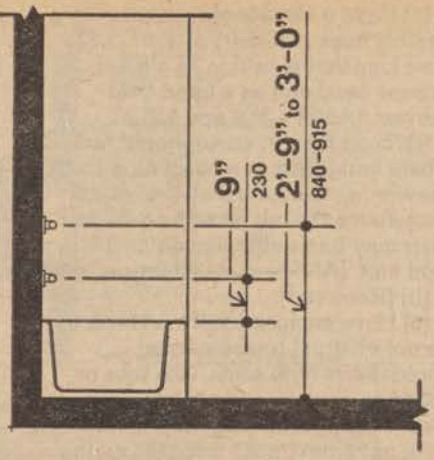


foot

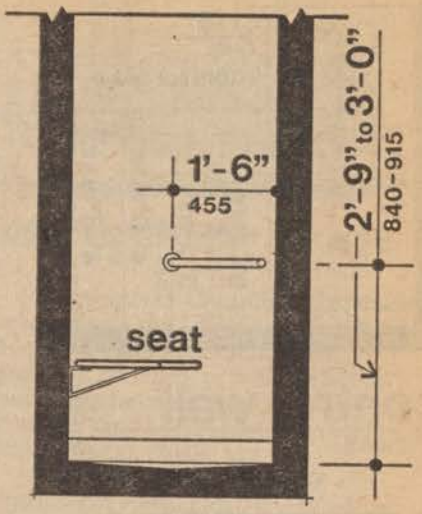
15.21



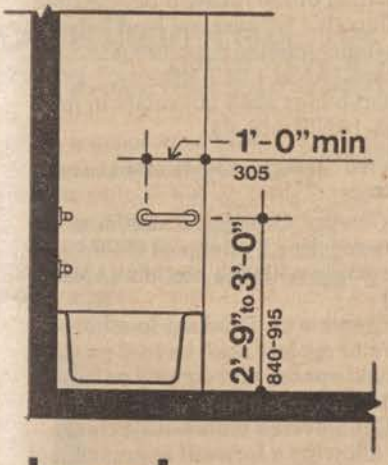
bathtub back
with in-tub seat
15.22



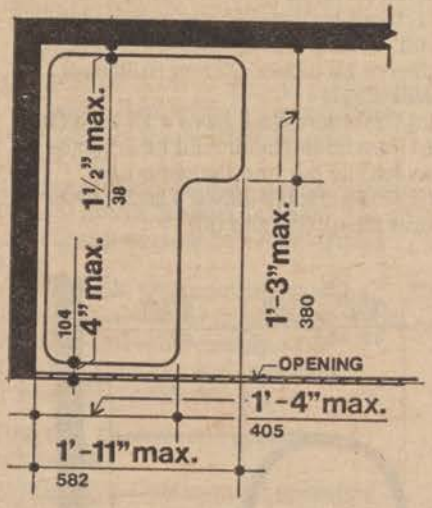
head
with ledge seat
15.25



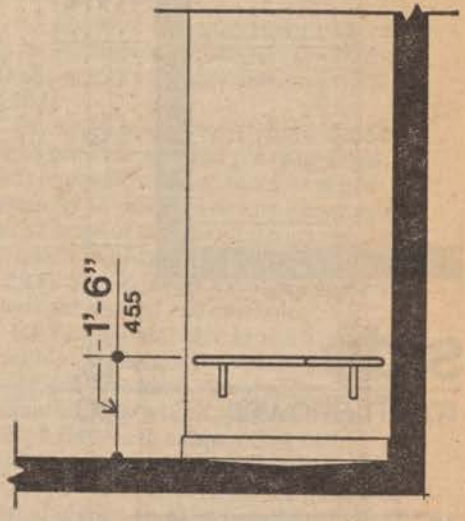
back
transfer shower
15.27



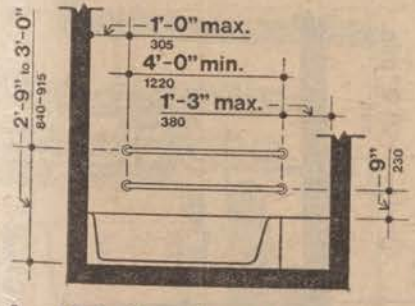
head
with in-tub seat
15.23



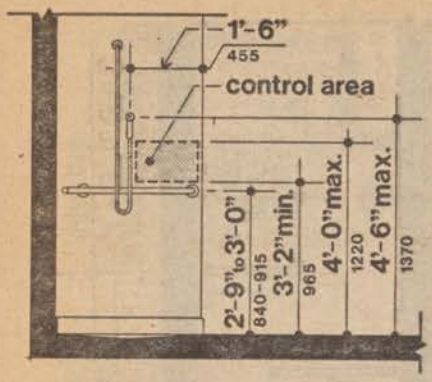
seat
transfer shower
15.26



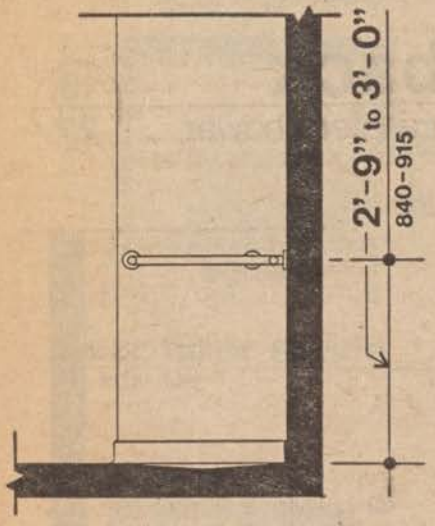
seat wall
transfer shower
15.28



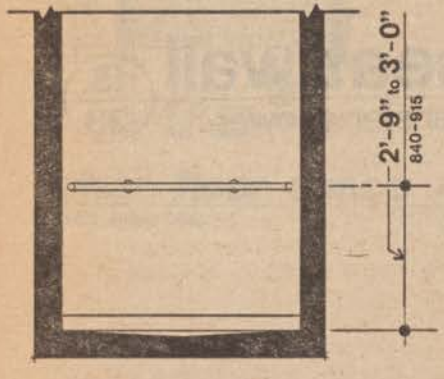
bathtub back
with ledge seat
15.24



control wall
showers
15.29



side
roll-in shower
15.30



back wall
roll-in shower
15.31

(5) Have a shower spray unit with a flexible hose minimum of 5'-0" (1,525 mm) long that is usable as a fixed shower head and as a hand-held shower. (ANSI 4.20.6 and 4.21.6)

(i) *Exception.* In unmonitored facilities where vandalism is a concern, a fixed shower head mounted at 4'-0" (1,220 mm) above the tub bottom or shower floor may be used in lieu of the hand-held unit. (ANSI—no similar provision)

(ii) [Reserved].

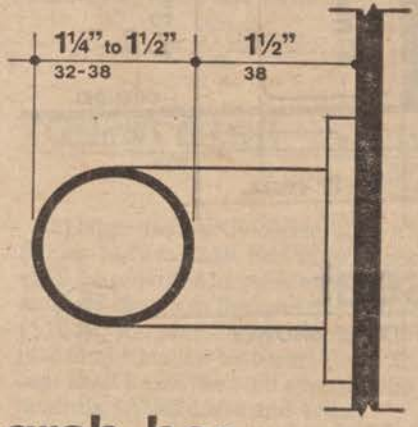
(6) Have enclosures, if provided, that do not obstruct transfer from wheelchairs onto seats, into tubs or showers, or access to controls from clear floor spaces. Bathtub enclosures shall not have tracks mounted on the bathtub rims. (ANSI 4.20.7 and 4.21.7)

(7) Have shower curbs or threshholds no higher than ½ inch (13 mm) beveled. (ANSI 4.21.7*)

(g) *Grab bars for accessible toilet and bathing fixtures:*

(1) Grab bars shall have a diameter or width of the gripping surfaces that is 1¼ inches to 1½ inches (32 mm to 38 mm). (ANSI 4.26.2)

(2) Grab bars shall have a 1½ inch (38 mm) (maximum/minimum) clear space between the bar and the mounting surface (fig. 15.32). (ANSI 4.26.2) (ANSI figures 39 (a), (b), and (c))



grab bar
15.32

(3)(i) Bending stress in a grab bar induced by the maximum bending moment from the application of 250 lbf shall be less than the allowable stress for the material of the grab bar. (ANSI 4.16.3(5))

(ii) Shear stress induced in a grab bar by the application of 250 lbf shall be less than the allowable shear stress for the material of the grab bar. If the connection between the grab bar and its mounting bracket or other support is considered to be fully restrained then direct and torsional shear stresses shall be totaled for the combined shear stress, which shall not exceed the allowable shear stress. (ANSI 4.26.3(5))

(iii) Shear force induced in a fastener or mounting device from the application of 250 lbf shall be less than the allowable lateral load of either the fastener or mounting device or the supporting structure, whichever is the smaller allowable load. (ANSI 4.26.3(5))

(iv) Tensile force induced in a fastener by a direct tension force of 250 lbf plus the maximum moment from the application of 250 lbf shall be less than the allowable withdrawal load between the fastener and the supporting structure. (ANSI 4.26.3(5)).

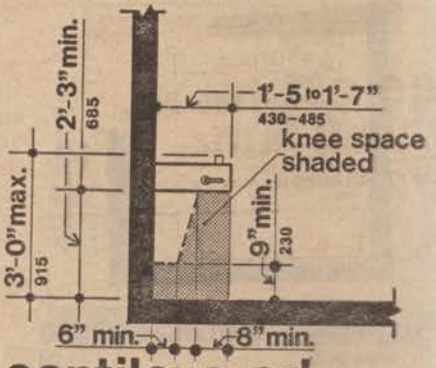
(4) Grab bars shall not rotate in their fittings. (ANSI 4.26.3(5)

§ 1190.160 Drinking fountains and water coolers.

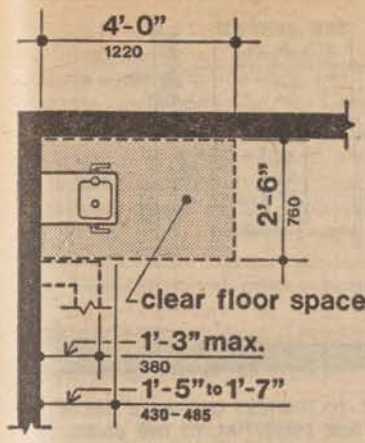
(a) *General.* Drinking fountains and coolers required by Subpart C—Scope shall comply with this section. (ANSI 4.15.1)

(b) *Clearances.* Drinking fountains and water coolers shall have clear floor or ground spaces that comply with § 1190.40, Human data, and shall be:

(1) Cantilevered units with a clear space allowing a forward approach and having a knee space under the unit that is at least 2'–3" (685 mm) high, 2'–6" (760 mm) wide, and 1'–5" (430 mm) to 1'–7" (485 mm) deep (figs 16.1 and 16.2) (ANSI 4.15.5) (ANSI figures 27 (a) and (b)); or

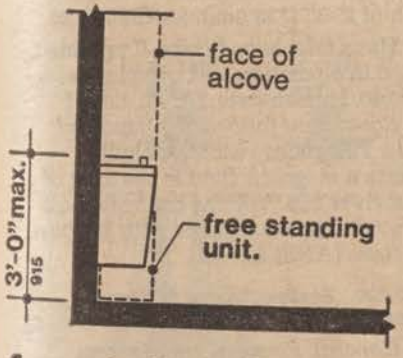


cantilevered
drinking fountain
16.1

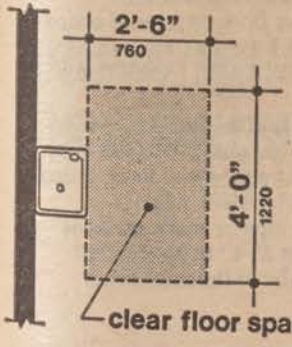


cantilevered (16.2)
drinking fountain

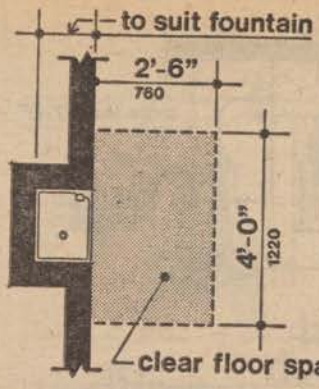
(2) Free-standing or built-in units with a clear space allowing a parallel approach and not having knee-space (fig. 16.3 and 16.4 and 16.5). (ANSI 4.15.5(2)) (ANSI figures 27 (c) and (d); ANSI does not have a figure similar to ATBCB 16.3)



free standing or wall hung (16.3)
drinking fountain



free standing or wall hung (16.4)
drinking fountain



built in (16.5)
drinking fountain

(c) *Spouts of drinking fountains and water-coolers.* Spouts shall:

(1) Be mounted no higher than 3'-0" (915 mm) above the finished floor, measured to the spout outlet. (ANSI 4.15.2)

(2) Be at the front of the unit and shall direct water flow trajectory parallel or nearly parallel the front of the unit. (ANSI 4.15.3)

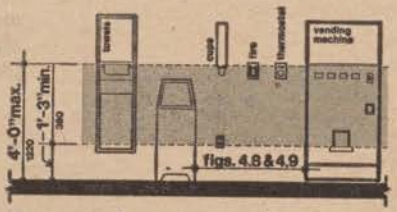
(3) Direct water flow at least 4 inches (100 mm) above the unit basin to facilitate cup or glass insertion. (ANSI 4.15.3)

(d) *Controls.* Unit controls shall be front mounted or side mounted near the front edge and shall comply with § 1190.170, Controls and operating mechanisms. (ANSI 4.15.4*)

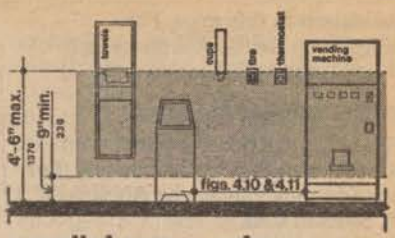
§ 1190.170 Controls and operating mechanisms.

(a) *General.* Controls and operating mechanisms required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.27.1)

(b) *Location requirements.* Controls and operating mechanisms shall adjoin clear floor or ground space complying with § 1190.40, Human data. Mount controls and operating mechanisms in compliance with approach direction and reach limitations specified in § 1190.40(c), Clear floor or ground space, and § 1190.40(d), Reach limitations (figs 17.1 and 17.2). (ANSI 4.27.2 and 4.27.3) (ANSI—no similar figures)



forward approach (17.1)



parallel approach (17.2)

(c) *Operations.* Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than 5 lbs. of force (2.2 Kg). (ANSI 4.27.4)

(d) *Specialized equipment.* If specialized mechanical, electrical, or process equipment has inherent functional requirements which dictate location or force requirements other than those specified in this section, locate the equipment as dictated by its functional requirements. (ANSI 4.27.3)

§ 1190.180 Alarms.

(a) *General.* Alarm systems required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.28.1)

(b) *Audible alarms.* Audible alarms shall produce a sound pressure level that exceeds ambient room or space noise by 15 decibels or any maximum noise level of 30 second duration by 5 decibels, whichever is greater. (ANSI 4.28.2). Sound levels for alarm signals shall not exceed 120 decibels.

(c) *Visual and other sensory alarms.* If audible alarms are provided, then in addition, provide a visual alarm device adjacent to or within each exit sign which flashes in conjunction with audible alarms and operates from the same power source. Flash frequency of visual alarms shall be less than 5 Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms. (ANSI 4.28.3)

(1) *Exception.* Specialized systems utilizing advanced technology may be substituted if equivalent protection is afforded handicapped users of the building or facility. (ANSI—no similar provision)

(2) [Reserved.]

(d) *Pull Stations.* Alarm pull stations shall comply with § 1190.170, Controls and operating mechanisms. (ANSI—no similar provision)

§ 1190.190 Tactile Warnings. [Reserved]

Note.—Tactile Warnings has been reserved until such time as sufficient research and/or field experience dictate

a requirement in this area. For information on tactile warnings, see ANSI A117–1 (1980), Section 4.29.

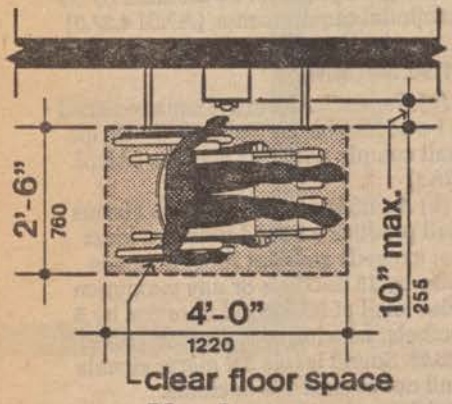
§ 1190.200 Signage. [Reserved]

Note.—Signage has been reserved temporarily pending further review. For information on signage, see ANSI A117.1 (1980), Section 4.30.

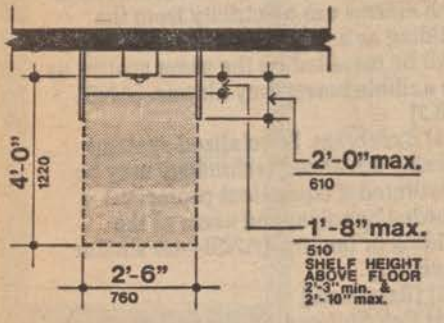
§ 1190.210 Telephones

(a) *General.* Public telephones and related equipment required to be accessible by Subpart C—Scope shall comply with this section.

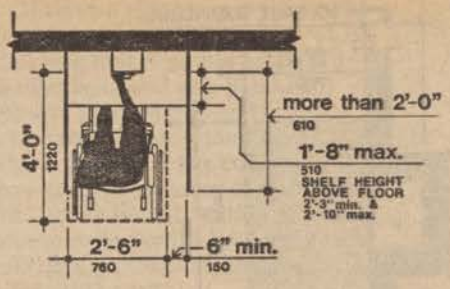
(b) *Clear floor or ground space.* Clear floor or ground spaces that comply with § 1190.40, Human data, shall be provided at each telephone (figs. 21.1, 21.2, and 21.3). These clear spaces shall not be restricted by installation of bases, fixed seats, or enclosures. (ANSI 4.31.2 and 4.31.4) (ANSI figures 44(a), (b), and (c))



parallel approach 21.1
telephone enclosures



forward approach 21.2
telephone enclosures

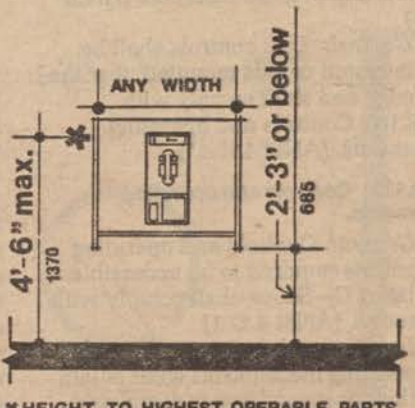


forward approach 21.3
telephone enclosures

(c) *Protruding objects.* Telephones shall comply with § 1190.50(c), Protruding objects. (ANSI 4.31.2)

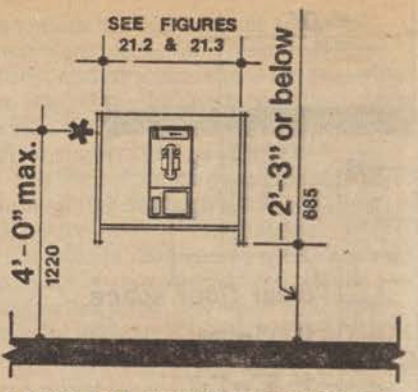
(d) *Equipment characteristics.* Telephone equipment shall:

(1) Have the highest operable parts which are essention to the basic operation of the telephone located at a maximum of 4'–6" (1,370 mm) above finished floor for side reach (fig. 21.4); and at a maximum 4'–0" (1220 mm) above finished floor for forward reach (figs. 21.5.) (ANSI 4.31.3) (ANSI figures 44(a), (b), and (c))



*HEIGHT TO HIGHEST OPERABLE PARTS WHICH ARE ESSENTIAL TO THE BASIC OPERATION OF THE TELEPHONE

side reach 21.4
telephone enclosures



*HEIGHT TO HIGHEST OPERABLE PARTS WHICH ARE ESSENTIAL TO THE BASIC OPERATION OF THE TELEPHONE

forward reach 21.5
telephone enclosures

(2) Have push button controls where service by such equipment is available. (ANSI 4.31.6)

(3) Have a minimum handset cord length of 2'–5" (735 mm). (ANSI 4.31.8)

(4) Have telephone books, if provided, located in a position that complies with § 1190.40, Human data. (ANSI 4.31.7)

(e) *Equipment for hearing impaired people.* Telephone receivers shall generate a magnetic field in the area of the receiver cap. Volume controls shall be provided in accordance with Subpart C—Scope. (ANSI 4.31.5)

§ 1190.220 Seating, tables, and work surfaces.

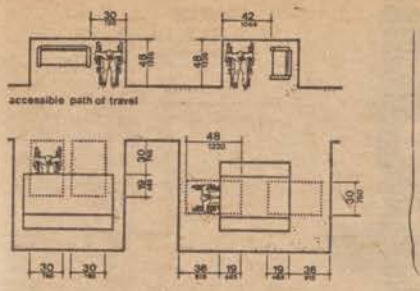
(a) *General.* Fixed seating spaces, tables, or work surfaces required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.32.1)

(b) *Clearances.* Seating spaces for people in wheelchairs at tables, counters, or work surfaces shall:

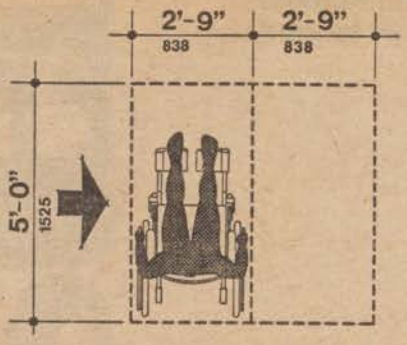
(1) Have a clear floor or ground space that comply with § 1190.40, Human data (figure 22.1). (ANSI 4.32.2) (ANSI figure 45)

(2) Have knee spaces that are at least 2'–6" (760 mm) wide and 1'–7" (485 mm) deep, clear access space and knee space may overlap 1'–7". (ANSI 4.32.3)

(3) Have table tops or work surfaces mounted between 2'–4" to 2'–10" (710 mm to 865 mm) above finished floor. (ANSI 4.32.4)



minimum clearances seating and tables (22.1)



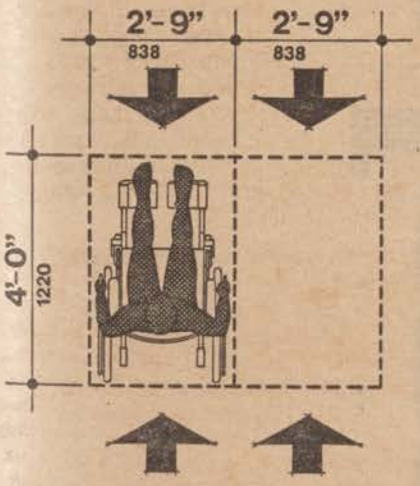
viewing positions (23.2)

§ 1190.230 Assembly areas, conference, and meeting rooms.

(a) *General.* Assembly areas required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.33.1)

(b) *Size and location of viewing positions.* Accessible viewing positions shall:

(1) Provide minimum, level clear floor or ground areas as shown in figures 23.1 and 23.2 (ANSI 4.33.2) (ANSI figures 46 (a) and (b))



viewing positions (23.1)

(2) Accommodate one occupied wheelchair or one portable seat to accommodate persons with crutches or leg braces. (ANSI 4.33.2)

(3) Be in an adjoining configuration if only two positions are provided. Additional positions may be in single position configurations. (ANSI 4.33.2)

(4) Be an integral part of the seating plan and shall be dispersed throughout the assembly area providing sight lines comparable to those for all seating. (ANSI 4.33.3)

(i) *Exception.* In alteration work where it is structurally impracticable to alter seating locations to disperse seating throughout, seating may be located in collected areas as structurally feasible. Seating must adjoin an accessible route that also serves as a means of emergency egress. (ANSI—no similar provision)

(ii) [Reserved].

(5) Adjoin an accessible route of emergency egress as required by § 1190.50(h), Egress. (ANSI 4.33.3)

(6) Have surfaces that comply with § 1190.50(i), Ground and floor surfaces. (ANSI 4.33.4)

(c) *Listening systems.* Provide listening systems as required by 1190.31(s). (ANSI 4.33.6* and 4.33.7*)

(1) If the listening system serves individual seats, locate such seats within 50 feet (15 m) of the stage or arena. Such locations shall provide a complete view of the stage or arena. (ANSI 4.33.6)

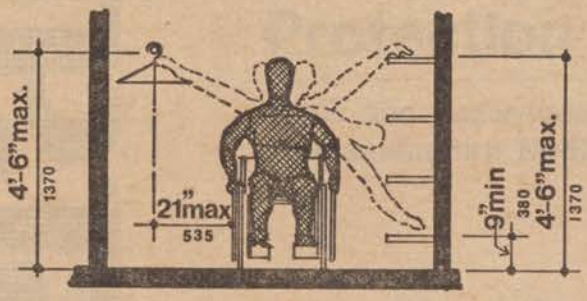
(2) Acceptable types of listening systems include, but are not limited to, audio loops and radio frequency systems. (ANSI 4.33.7)

§ 1190.240 Storage.

(a) *General.* Storage facilities required to be accessible by Subpart C—Scope shall comply with this section. (ANSI 4.25.1)

(1) Provide clear floor or ground spaces that comply with § 1190.40, Human data. (ANSI 4.25.2)

(2) Provide storage spaces and clothes rods that comply with figure 24.1. (ANSI 4.25.3) (ANSI figure 38)



storage (24.1)

(3) Provide accessible hardware that complies with § 1190.170, Controls and operating mechanisms. (ANSI 4.25.4)

(b) [Reserved].

Subpart E—Special Building or Facility Types or Elements. [Reserved]

[FR Doc. 82-20984 Filed 8-3-82; 8:45 am]
BILLING CODE 4000-07-M

federal register

Wednesday
August 4, 1982

Part IV

Environmental Protection Agency

Toxic and Hazardous Substances Control; Premanufacture Notification

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 723

[OPTS-50032A; TSH-FRL 2105-1]

Premanufacture Notification; Proposed Exemption for Site-Limited Intermediate Chemical Substances and Chemical Substances Manufactured in Quantities of 10,000 Kg or Less Per Year

May 24, 1982.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires that persons notify EPA before they manufacture or import a new chemical substance for commercial purposes. Section 5(h)(4) of TSCA authorizes the Administrator, upon application and by rule, to exempt the manufacturer or importer of any new chemical substance from the provisions of section 5 if the Agency determines that the manufacture, processing, distribution, use, or disposal of the substance will not present an unreasonable risk of injury to health or the environment. EPA proposes to grant a section 5(h)(4) exemption from the requirements of section 5(a)(1)(A) for persons who manufacture certain new site-limited intermediates in any quantity or certain other new chemical substances in quantities of 10,000 kg or less per year. To ensure that these chemicals will not present an unreasonable risk, EPA has included certain procedural safeguards and other conditions in the proposed exemption.

DATES: Comments must be received by October 4, 1982. Informal hearing date and time (if a hearing is requested): November 1, 1982, at 10:00 a.m. in Washington, D.C. Requests to make an oral presentation should be made through the Industry Assistance Office (IAO) toll-free telephone number (800-424-9065; in Washington, D.C., 554-1404; outside the U.S., Operator 202-554-1404) before October 4, 1982. A public meeting will be held only if such requests are received. Persons are advised to call the IAO in advance to ascertain if a meeting is to be held and the exact location.

ADDRESS: All written comments should be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, D.C. 20460.

The informal hearing, if a hearing is requested, will be held in Washington, D.C. The exact location of the hearing may be obtained by calling the toll-free number 800-424-9065 (in Washington, D.C., 554-1404; outside the U.S., Operator 202-554-1404).

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C., 20460, toll-free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator 202-554-1404).

I. Background

A. Introduction

Under section 5(a)(1)(A) of TSCA, any person who intends to manufacture or import a new chemical substance must notify EPA 90 days before manufacture or import begins. A new chemical substance is any chemical substance that is not on the Chemical Substance Inventory compiled by EPA under section 8(b) of TSCA.

The requirement to submit premanufacture notices (PMNs) for new chemical substances became effective on July 1, 1979, 30 days after publication of the Initial Inventory. EPA proposed Premanufacture Notification Requirements and Review Procedures in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 49964). EPA is operating the PMN program under statements of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) and November 7, 1980 (45 FR 74378).

Section 5(h)(4) of TSCA allows the Administrator, upon application and by rule, to grant an exemption from any requirement of section 5 if he or she determines that the manufacture, processing, distribution, use, or disposal of a substance will not present an unreasonable risk of injury to health or the environment. To grant a section 5(h)(4) exemption, the Agency must follow the rulemaking procedures in section 6(c) (2) and (3) of TSCA. The Agency proposed an exemption for chemicals used in or for instant photographic film articles in the **Federal Register** of November 3, 1981 (40 FR 54585).

B. Exemption Requests

1. *CMA petition.* EPA received a petition from the Chemical Manufacturers Association (CMA) on May 21, 1981, requesting exemptions for: (1) Site-limited intermediates; (2) chemical substances produced in quantities of 25,000 pounds or less per year; and (3) polymers whose precursor monomers are on the TSCA Inventory. In addition, CMA requested an exemption that would authorize EPA to allow manufacture of new chemicals of low concern before the end of the 90-day PMN review period. CMA also requested that EPA issue regulations establishing a procedure to process individual section 5(h)(4) exemption applications.

In support of its petition, CMA argued that the requirements of section 5 of TSCA inhibit innovation in the chemical industry. According to CMA, the requested exemptions would significantly reduce the impact of section 5 on innovation and, by requiring review by an industry "qualified expert," would encourage industry to conduct adequate risk assessments before introducing new chemical substances into commerce. CMA also stated that its proposal embodied a "pay as you go" approach. Under such an approach, PMNs on exempt chemicals would be deferred until the cost of PMN submission, relative to sales of the chemical, would be less burdesome, and until more comprehensive information developed by manufacturers might be available for review.

2. *Related petitions—SOCMA.* EPA received a petition from the Synthetic Organic Chemical Manufacturers Association (SOCMA) on June 28, 1981, requesting exemptions from PMN requirements for the same categories of chemicals as proposed by CMA. SOCMA argued that premanufacture notice requirements are unnecessarily broad and significantly impair the ability of small companies to introduce new chemical substances into commerce. According to SOCMA, if EPA exempted substances whose annual production volume did not exceed 25,000 pounds per year, manufacturers could afford to conduct more toxicological testing and develop more exposure data in support of a PMN in the event the manufacturer intended to exceed the 25,000 pound production volume limit.

DETO. EPA received a petition from the Dyes Environmental and Toxicology Organization, Inc. (DETO) on July 10, 1981, requesting an exemption for new dyes manufactured in quantities of 25,000 pounds per year or less and site-limited intermediates used to manufacture dyes. In addition, DETO requested an exemption that would authorize EPA to shorten the PMN review period for chemicals of low concern.

DETO stated that the ability to innovate and respond quickly to customers' needs is crucial to the dye industry and that the present PMN

requirements have significantly inhibited the introduction of new dyes and have delayed responses to customer needs. DETO also stated that dyes and dye intermediates are typically low in toxicity and exposure potential, and therefore that an exemption would be particularly appropriate for these chemicals. DETO suggested that dyes belonging to certain categories suspected of having high toxicity might appropriately be found ineligible for the exemption.

EPA published a notice in the **Federal Register** of November 3, 1981 (46 FR 54688) announcing the receipt of the CMA petition and the other petitions listed above. This notice also requested comments on the petitions. At the same time, EPA placed copies of the petitions and other relevant material in the public file. All comments that EPA received were considered in the development of this proposed rule.

C. Scope of the Proposal

This proposal responds to requests to exempt site-limited intermediates and low volume chemicals in the CMA, SOCMA, and DETO petitions. The Agency is developing an exemption for polymers in a separate rulemaking.

EPA agrees that it makes sense to allow early manufacture of a new chemical when Agency review is completed and no concerns are raised. However, EPA has decided not to propose at this time an exemption rule that would authorize the Agency to shorten the PMN review period because (1) EPA believes that the proposed exemptions for site-limited intermediates, low volume chemicals, and certain polymers will substantially reduce or eliminate the need for such an exemption, and (2) there is a serious question as to whether the act permits early manufacture either by a rule or policy statement. The Agency requests comments on the need for and appropriateness of a shortened review period.

In addition, EPA has also decided not to propose regulations establishing a procedure to process individual section 5(h)(4) exemption applications. Because of limited resources, the Agency has decided to defer consideration of this request until this rulemaking and the polymer rulemaking have been completed.

II. Proposed Approach

A. Summary of Proposed Approach

Under this proposal, site-limited intermediates and chemicals manufactured or imported at 10,000 kg or less per year would be potentially eligible for an exemption from PMN requirements. To qualify for an exemption, chemicals within these categories would have to meet certain toxicity criteria; in addition, the rule would impose certain procedural and other safeguards. Although these safeguards would not ensure that there would be no risk from exempt chemicals, the Agency believes that they are sufficient to ensure against unreasonable risk, which is determined by balancing risks against benefits.

The basic outlines of the exemption are described below:

1. Chemicals manufactured or imported at 1,000 kg or less per year would be eligible for an exemption unless they may cause serious acute or chronic effects in humans or significant environmental effects under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal. The manufacturer would notify EPA 14 days before production begins. The notice would include chemical identity, a description of use, and site of manufacture. EPA would declare a chemical ineligible for the exemption if it did not meet the exemption criteria. EPA could make this determination on the basis of either available toxicity data or structure-activity analyses.

2. Chemicals manufactured or imported at between 1,000 and 10,000 kg per year and site-limited intermediates manufactured at greater than 1,000 kg per year would be eligible for an exemption unless (i) the chemicals are known to be or are reasonably suspected of being carcinogens or teratogens, (ii) in the case of the low volume exemption, the chemicals are acutely toxic, as defined in the rule, or (iii) under anticipated conditions of manufacture, processing, distribution, use, or disposal, the chemicals may cause serious acute or chronic effects in humans or significant environmental effects. To ensure that these criteria were met and that exempt chemicals in these categories did not pose an unreasonable risk, the rule would require the following:

a. That a "qualified expert," employed by the manufacturer, review the new chemical substance and its projected conditions of manufacture, processing, distribution, use, and disposal. The chemical would be eligible for an exemption only if the qualified expert concluded that it met the toxicity and risk criteria listed above.

b. That the company intending to manufacture or import the exempt chemical notify EPA 14 days before first manufacture. This notice would have to contain (i) chemical identity, (ii) a description of use (for low volume chemicals), (iii) production volume (for site-limited intermediates), and (iv) site of manufacture.

For chemicals in any exemption category, EPA would declare a specific chemical ineligible if it failed to meet the criteria for the exemption. The rule would also establish procedures by which EPA could revoke an exemption for a specific chemical after manufacture had begun if new information indicated that it did not meet the criteria for an exemption.

The Agency recognizes that few precedents exist for the implementation of section 5(h)(4) of TSCA. EPA welcomes comments concerning all the issues raised by this proposal. EPA will consider all comments concerning legal and policy issues when deciding whether or not to adopt the proposed approach or an alternative approach in a final rulemaking.

The following chart summarizes the major provisions that would apply to each exemption category:

MAJOR EXEMPTION PROVISIONS

Exemption category [1]	Imports eligible?	Qualified expert review?	Exclusions (automatic)	Exclusions (under conditions of use)	Subsequent exemption notice required	Other manufacturers eligible for exemption?
Low volume (<1,000 kg).	Yes	No	None	Serious acute or chronic effects; significant environmental effects.	Before use or site of manufacture changes.	No.
Low volume (≤10,000 kg).	Yes	Yes	Carcinogenic or teratogenic effects. Acutely toxic effects	Serious acute or chronic effects; significant environmental effects.	Before use or site of manufacture changes.	No.
Site-limited intermediates.	No	Yes	Carcinogenic or teratogenic effects.	Serious acute or chronic effects; significant environmental effects.	Before volume increases or site of manufacture changes.	Yes.

[1] Some new chemical substances may be eligible for more than one exemption. Manufacturers and importers may apply for any exemption for which they are eligible.

III. Provisions of the Rule

A. Exemption Categories

Under section 5(h)(4), EPA may develop exemptions either for specific chemical substances or for categories of substances. (Under section 26(c) of TSCA, any action taken by EPA on a single chemical substance may also be taken with respect to a category of chemical substances, as long as the members of the category "are in some way suitable for classification as such for purposes of this Act.") For the purposes of this proposal, and as a general principle, EPA believes that exemption categories should be drawn as broadly as possible, consistent with the need to protect human health and the environment.

In this proposal, EPA has defined low volume chemicals and site-limited intermediates as exemption categories. Both of these categories define limits on the magnitude or extent of possible exposure to humans and the environment. In combination with the toxicity restrictions and other safeguards in this proposed exemption, EPA believes these categories are appropriate for the purposes of section 5(h)(4) and that new low volume chemicals and site-limited intermediates manufactured under the terms of the exemption would not present an unreasonable risk. The Agency specifically requests comments on the appropriateness of these categories and on their proposed definitions.

The specific exemption categories are described below.

1. *Low volume chemicals.* In the proposed rule, EPA has adopted a two-tiered approach to low volume chemicals. Chemicals manufactured at 1,000 kg or less per year would be eligible for an exemption without an automatic toxicity exclusion or a qualified expert's review. Chemicals manufactured at 10,000 kg or less per year would be eligible if they were not automatically excluded under certain toxicity criteria and if they underwent review by a qualified expert. In both categories, chemicals would be ineligible if they may cause serious acute or chronic effects in humans or significant environmental effects under conditions of manufacture, processing, distribution in commerce, use, or disposal. For chemicals in both categories, 14-day notice and EPA review before manufacture would be required. The contents of the notice and the nature of EPA's review are described later in this proposal.

Companies intending to manufacture a new chemical at 1,000 kg or less per year would have the option of manufacturing that chemical under either the under-1,000 kg/yr or the under-t0,000 kg/yr exemption, as long as they met the specific exemption terms applying to that category. For example, a company producing a chemical at less than 1,000 kg per year might choose to produce that chemical under the 10,000 kg/year exemption, thereby avoiding the necessity of submitting a second exemption notice if production volume later exceeded 1,000 kg per year. In this case, of course, the manufacturer would be required to comply with all the terms of the under-10,000 kg/yr exemption (e.g., qualified expert review, automatic exclusions).

The proposed rule adopts TSCA's definition of "manufacture," which includes "import." Therefore, importers are eligible for the low volume exemption if they comply with all of the exemption terms.

2. *Site-limited intermediates.* For the purposes of the proposed exemption, "intermediate" has been defined as "any chemical substance which is (a) used as a reactant in the intentional manufacture of another chemical substance and (b) is consumed in whole or in part in that reaction." This definition, which is consistent with the common understanding of the term "intermediate" within the chemical industry, differs in an important respect from the definition of "intermediate" in the Inventory reporting rules (40 CFR 710.2(n)). The Inventory definition, which CMA suggested for this exemption, included as intermediates chemicals "intentionally present [in a chemical reaction] for the purpose of altering the rate of such chemical reaction(s)."

The Inventory definition would apply to chemicals such as catalysts and emulsifiers, which are used to promote chemical reactions but do not take part in the reaction and for the most part are not consumed in it. EPA has excluded these chemicals from the exemption because, in assessing the risks that might be posed by site-limited intermediates, it considered the fact that intermediates are largely consumed in chemical reactions and thus do not generally leave the site of manufacture, either in emissions, waste, or final products, except in relatively small amounts. In addition, exposure to nonintermediate site-limited chemicals may be greater than exposure to intermediates if the nonintermediates are further processed or recycled for reuse.

EPA experience in the PMN program indicates that very few new chemical substances are site-limited catalysts, emulsifiers, or other reaction promoters. Furthermore, such chemicals would for the most part be produced in low volume and therefore would be potentially eligible for the low volume exemption. As a result, the exclusion of such chemicals from the intermediate exemption will impose little burden.

EPA considered a more specific definition of "consumed in part," perhaps one that would include a quantitative limit on unreacted intermediate. This alternative, is discussed in more detail in Unit III.B. of this preamble.

Under the proposed rule, site-limited intermediates must be manufactured and processed at the site where they are produced. Therefore, imported chemicals would not be eligible for the site-limited intermediate exemption. An exempt site-limited intermediate can be manufactured at one or more specific sites, as long as it is consumed at the site of manufacture and is not transported to a different site. "Site" is defined as "a contiguous property unit." Property divided only by a public right-of-way is considered one site. There may be more than one manufacturing plant at a single site. This is the definition of "site" in the Inventory reporting rules (40 CFR 710.2(w)).

Companies intending to manufacture new site-limited intermediates at less than 10,000 kg per year (or less than 1,000 kg per year) would have the option of producing that chemical under either the site-limited intermediate or one of the low volume categories, as long as they met the specific exemption terms applying to that category.

B. Conditions of the Exemption

Under the proposed rule, exempt chemicals (including both low volume chemicals and site-limited intermediates) would be automatically ineligible for an exemption if they met certain criteria concerning toxicity and exposure. These criteria, which vary somewhat depending on the category of exempt chemical, are described below.

1. *Automatic toxicity exclusions*—a. *Exclusion of chemical substances reasonably suspected of causing carcinogenic or teratogenic effects*—i. *Discussion of exclusion.* Under the proposed approach, chemical substances produced at greater than

1,000 kg per year will not be eligible for the exemption if they are known to cause or can reasonably be suspected of causing carcinogenic or teratogenic effects under any circumstances of exposure. These chemicals instead would be subject to more extensive PMN review.

For the purposes of this proposal, automatic exclusion would apply to (1) chemicals that have been shown to cause either of these effects in humans or in at least one species of laboratory animal, and chemicals that have given positive results in a short-term test indicative of carcinogenic potential; (2) chemicals that have significant structural similarity to another chemical that has been shown to cause either of these effects in humans or in at least one species of laboratory animal, or chemicals that belong to a class of chemicals that are reasonably suspected of causing these effects; and (3) chemicals that are known or can reasonably be anticipated to metabolize in animals or humans to a chemical that meets the criteria described in (1) or (2) of this paragraph.

The Agency believes that this exclusion is necessary to reduce the possibility that new chemical substances with potential for producing carcinogenic or teratogenic effects would be manufactured under the exemption. The Agency believes that these substances would require more thorough PMN review, which would enable the Agency to focus on the strength of evidence of carcinogenicity and teratogenicity and the circumstances of possible exposure. In general, the Agency does not believe these questions could be adequately addressed during a 14-day review period. Decisions to deny the exemption for a specific chemical would not necessarily result in regulatory action under the PMN program.

EPA has identified carcinogenicity and teratogenicity as properties of particular concern in this rule for several reasons. First, cancer and teratogenic effects are serious, irreversible effects that can occur even at low exposures. As the Agency's risk assessment (summarized later in this preamble) illustrates, long-term low level exposure to a potent carcinogen may lead to a substantial risk of cancer; in the case of teratogens, a single exposure during pregnancy may lead to teratogenic effects. In both cases, people exposed may have little awareness that they or their children are at risk, and damage is likely to be irreversible by the time signs first manifest themselves. Also, in both cases, the cost to the individual and society is substantial.

Second, the exclusion of possible carcinogens and teratogens reflects Congress' intent, expressed both in the Act itself and the legislative history, that EPA give high priority to potential carcinogens and teratogens. Sections 4(e) and 4(f) of TSCA, for example, specifically mention cancer and birth defects as priority effects to be considered in the development of test rules and regulatory controls.

Finally, in the PMN review process EPA has identified a number of chemicals that raised some level of concern for possible carcinogenicity and teratogenicity. When EPA has a reasonable question during PMN review that a new chemical might have some carcinogenic or teratogenic potential, it has taken special care to assess the strength of its concern and to review possible exposure to the chemical under intended conditions of manufacture and use. Where the Agency has identified serious concerns about these effects during PNM review, it has frequently required the 90–180 day period to conduct a proper assessment and to develop negotiated or regulatory controls.

EPA also considered an automatic exclusion of possible mutagens, in part because sections 4(e) and 4(f) of TSCA also mention gene mutations as an effect of concern. However, the Agency has decided not to include such a provision in this proposal. Potential for human mutagenicity is difficult to demonstrate, structure-activity principles for this effect are not well established, and EPA has generally not identified human mutagenicity as a concern in the PMN process. Instead, mutagenicity, whether demonstrated in mammals, bacteria, or other organisms, would be considered, for the purposes of this exemption, to be an indicator of potential carcinogenicity. Under the terms of the proposed rule, if a new chemical substance has been shown to be a mutagen in a short-term screening test for carcinogenicity, it will automatically be excluded from this exemption. EPA believes that the assessment of the results of such a test, including any conclusions about what the test may or may not indicate about potential carcinogenicity, should generally take place within the context of the full PMN review. For these reasons, EPA believes that chemicals demonstrated to have potential for mutagenicity will be effectively excluded and that it is not necessary to exclude them *per se* from the exemption.

The Agency recognizes that the standards in the proposed rule for excluding carcinogens and teratogens cannot be guaranteed to eliminate all chemicals potentially capable of causing these effects. In defining the standards, however, EPA has attempted to draw a line that would ensure PMN review for a chemical, regardless of conditions of use, where there was a reasonable suspicion of carcinogenicity or teratogenicity. In some cases, of course, there may be weak or speculative evidence suggesting that a chemical may be carcinogenic or teratogenic—for example, it may be a distant analog to a known carcinogen, or it may be an analog to a substance that has given positive results in a screening test indicative of carcinogenic potential. In these cases, the chemical would not be automatically excluded.

However, when a manufacturer (or the "Qualified expert") believes that a chemical meets the standards for inclusion in the exemption, but is aware of weak evidence that it may have some potential for carcinogenic or teratogenic effects, the manufacturer would be required to ensure that exposure to the chemical is minimized and that appropriate controls are used. EPA would have the opportunity during the 14-day review to conduct its own assessment of the chemical's carcinogenic or teratogenic potential and to evaluate potential exposure under conditions of use. If production volume expanded above 10,000 kg a year (for low volume chemicals) or if the chemical left the site of manufacture (for site-limited intermediates), the chemical would undergo PMN review. At that time, EPA could require additional data or exposure controls if potential risks warranted it.

ii. *Short-term test indicative of carcinogenic potential.* The rule defines short-term tests indicative of carcinogenic potential as "(1) limited bioassays which measure tumor or preneoplastic induction, and (2) tests indicative of interaction of a chemical with DNA (i.e., positive response in assays for gene mutation, chromosomal aberrations, DNA damage and repair, or cellular transformation)." A new chemical substane giving positive results in any of these tests would not be eligible for the exemption. Examples of both types of short-term tests are given below; this list is not all-inclusive.

Limited bioassays: These include (a) strain A mouse lung tumor assay; (b) Sprague-Dawley mammary tumor assay; (c) Sencar mouse skin tumor assay; (d) pulmonary tumor induction assay in newborn mice; and (e) iron-resistant liver foci assay. Description of these tests may be found in Lund, MP;

Connery, J; Sayigh, A; and Trontell, A. 1982. "Analysis of limited bioassays as potential carcinogenicity screening tests." Office of Toxic Substances, U.S. EPA 68–01–6196.

Tests indicating interaction with DNA. These include tests demonstrating the following effects:

(a) Gene mutation, as indicated by (1) reverse mutation in bacteria such as *Salmonella typhimurium* or *Escherichia coli*; (2) mutation in somatic cells in culture; (3) host-mediated assays using mammalian (rodent or higher species) hosts and any prokaryotic or eukaryotic indicator system such as bacteria, yeast, or mammalian or somatic cells; and (4) positive responses in forward or reverse assays in yeast or fungi, mutation in insects such as *Drosophila melanogaster*, and gene mutation in plants.

(b) Chromosomal aberrations, as indicated by (1) in vitro cytogenetic assays in cultured mammalian somatic cells; (2) in vivo cytogenetic assays in mammals, including chromosomal aberrations and micronucleus formation; and (3) cytogenetic assays in lower eukaryotes such as yeast or fungi, in insects (e.g., *Drosophila melanogaster*), or in plants.

(c) DNA damage and repair, as indicated by (1) sister chromatid exchanges in cultured mammalian somatic cells; (2) in vivo sister chromatid exchanges in mammals; (3) unscheduled DNA synthesis in cultured mammalian somatic cells; (4) bacterial DNA damage and repair assays; and (5) positive response in assays for mitotic recombination, gene conversion, or crossing over in yeasts or fungi.

(d) Cellular transformation, as indicated by a positive response in any of the several assays currently available for detecting morphological transformation of cells in culture, including those for viral enhancement.

None of these tests is completely accurate in detecting carcinogens and all are subject to both false positive and false negative results. A positive response in any of these tests, therefore, is not a definitive indication of carcinogenicity but rather an indication of possible carcinogenic potential. Because of this possibility, chemicals giving such results will automatically be ineligible for the site-limited and the under-10,000 kg per year exemption. (At the same time, a negative result in any of these tests, if properly conducted, will add to the body of knowledge about a chemical and increase the degree of confidence about chemical safety, but it would not constitute an absolute assurance of noncarcinogenicity.)

iii. *Significant structural similarity.* As described above, substances will be automatically ineligible for the site-limited intermediate and the under-10,000 kg per year exemption if they have "significant structural similarity" to an animal or human carcinogen or teratogen, or if they belong to a class of chemicals that are reasonably suspected of causing these effects. Factors that will be considered in evaluating structural similarity include the molecular size, shape, charge distribution, and weight, and the position, size, and chemical characteristics of functional groups or other substituents. These factors are judged in terms of their effect on such parameters as chemical reactivity, stereochemically governed interaction with enzymes, absorbability and distribution, metabolism, and excretion from an organism. (Other factors and parameters may be important in specific cases.) The greater the number of such factors that are identical or nearly identical between two substances, the closer the structural similarity.

The absolute degree of structural similarity, however, is not the most important determinant of the *significance* of structural similarity. For the purposes of the automatic exclusion in the proposed rule, the significance of structural similarity to a human or animal carcinogen or teratogen would be judged with reference to the probability of eliciting carcinogenic or teratogenic effects. Therefore, all available information concerning possible mechanisms of action of a carcinogen or teratogen will be relevant to an assessment of the significant of structural similarities between that substance and a new chemical substance. Moreover, information indicating that certain groups on the carcinogen or teratogen are or may be critical for toxicologic activity has to be considered before determining whether the new molecule has significant structural similarity to a referent chemical. Structural similarities at toxicologically significant sites of a molecule are of greater importance than similarities at other sites.

In a number of cases, neither the mechanism of action nor structural requirements for activity of a referent toxic substance is known, even though its toxicity has been clearly established. In such instances, attention is usually drawn to chemically or biologically active groups as potential sites of action. Structural similarity at these sites would reasonably be accorded higher significance than similarity at less reactive sites.

It follows from this summary statement that a determination of significant structural similarity is often dependent on the kinds and amount of toxicological information available for the referent chemical. Because this information will vary for each new substance, the Agency is unable to prescribe definitive criteria against which structural similarity can be measured. The determination whether there is significant structural similarity will be based primarily on whether there is an identifiable and plausible mechansim of toxicity that can be shared by the referent chemical and the new substance; or, lacking information or hypotheses on mechanism, whether substructures known or expected to be required for activity of the referent chemical are present in the new substance.

b. *Automatic exclusion of acutely toxic low volume chemicals.* Under this proposal, low volume chemicals (except those manufactured at 1,000 kg a year or less) would be automatically ineligible for the exemption if they are judged capable of producing acute "toxic" effects, as defined in the rule. This exclusion would not apply to chemicals manufactured under the site-limited intermediate exemption.

EPA has adopted the definition of "acute toxicity" that CMA suggested in its petition. This definition is consistent with the standards for acute toxicity adopted by the American National Standards Institute (ANSI) and in the Federal Hazardous Substances Act (FHSA), which are generally recognized by toxicologists as reasonable measures of a toxic chemical's acute lethality.

Under the proposal, a substance would be considered capable of producing acute toxic effects (and therefore would be ineligible for the low volume exemption at production volumes of greater than 1,000 kg a year) if it had been demonstrated in laboratory tests to have any of the following properties, or if EPA or a "qualified expert" concluded that it would have any of these properties:

i. A 14-day, oral LD50 of 500 mg/kg or lower in albino rats.

ii. A 14-day, dermal LD50 of 1,000 mg/kg or lower in any mammalian species, preferably albino rabbits, exposed continuously for 24 hours or less.

iii. A 14-day, inhalation LC50 of 2,000 ppm or less or 20 mg/liter or less for one hour or less in albino rats. (LD50 is the dose required to kill half of a group of animals within a specified period of time; LC50 refers to the concentration required to kill half the group.)

The proposed approach establishes a different standard for site-limited intermediates and low volume

substances. Low volume chemicals are ineligible if they are acutely "toxic"; site-limited intermediates, as described later, would not be automatically excluded because of acute toxicity. Rather, they would be ineligible if they might have acute effects under the conditions of manufacture and use. (Low volume chemicals would also be ineligible if they might have serious sublethal acute effects under conditions of manufacture and use. This exclusion is discussed more fully later in the preamble.)

The distinction between acute toxicity requirements for the low volume and site-limited intermediate exemptions reflects the fact that toxic site-limited intermediates can be handled safely with appropriate process controls, industrial hygiene practices, and other measures, and that chemical manufacturers can generally be expected to protect against recognized acute hazards. However, exposure to low volume substances (without restrictions on use) may be relatively uncontrolled, and persons exposed to the substances may be less protected. Therefore, EPA has taken a more conservative approach to low volume chemicals, excluding acute hazards from the exemption.

EPA is also considering an automatic exclusion for low volume chemicals exhibiting a certain level of acute aquatic toxicity—for example, chemicals that have an acute aquatic toxicity value of 1 ppm or less (96-hour LC50). This would reflect the Agency's concern for environmental effects and would reduce the likelihood that chemicals high in aquatic toxicity would be manufactured under the exemption. However, the Agency has not included such a restriction in the proposed rule; rather it is proposing that the qualified expert's and EPA's review address environmental risks under conditions of manufacture, processing, distribution, use, and disposal. EPA believes that, where release to water will be sufficiently limited to prevent the occurrence of adverse effects, a chemical should not be automatically excluded from the exemption because of aquatic toxicity.

The Agency requests comments on its approach to acute toxicity in this proposal.

2. *Other exclusions.* The proposal would also exclude all chemicals that, under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal, may cause serious acute or chronic effects in humans or significant environmental effects. This exclusion would apply to all exemption categories, including chemicals manufactured at 1,000 kg or less per year.

EPA recognizes that the application of these proposed standards will in large part be based on the professional judgment of the manufacturer's qualified expert and EPA reviewers. The Agency does not believe that totally objective standards are possible, given the amount of definitive health and safety data that could reasonably be expected to be available on new chemical substances and the complexities of interpreting data when they are available. EPA requests comments on the adequacy of the proposed standards and suggestions for modifying them.

a. *Serious acute or chronic effects in humans.* Serious acute or chronic effects in humans are defined in the rule as human disease processes that are likely to result in death or severe or prolonged incapacitation. These would be effects that (1) lead to sudden death; (2) shorten life expectancy; (3) produce an invalid, chronic (long-term) disease, or irreversible tissue damage; (4) reduce strength, coordination, or endurance; (5) cause significant reduction in alertness, consciousness, attention, or vigilance; or somnolence, tremors, or amnesia; (6) cause disfigurement; (7) produce severe, persistent, or intractable pain; (8) produce major deterioration of functioning, with or without demonstrable tissue damage; and (9) produce transient but severe discomfort, disturbance of sleep or appetite, or changes in mood or motivation. Therefore, the proposed rule would exclude a new chemical substance if the new substance, a reasonably anticipated metabolite, or a degradation product, may cause such effects, either as a result of short-term or chronic exposure, under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal. In cases where chemicals are suspected of causing serious acute or chronic effects, the manufacturer must ensure that they are controlled to levels that will prevent their occurrence. As explained earlier, this requirement would also apply to chemicals for which there is any level of concern for carcinogenicity or teratogenicity, but which do not meet the standards for automatic exclusion.

In developing this proposal, EPA considered an automatic exclusion for all chemical substances known to cause or reasonably suspected of causing any serious chronic effects (e.g., neurotoxicity, reproductive toxicity, hepatotoxicity, or nephrotoxicity), regardless, of the circumstances of exposure. The Agency recognizes, however, that most chemical substances, even those considered to be "safe," will have irreversible, chronic effects if the magnitude and duration of exposure are great enough. Therefore, if EPA excluded all chemicals with potential for chronic toxicity under any circumstances of exposure, virtually all new chemical substances would be ineligible for the exemption. Consequently, the Agency is proposing to exclude chemicals capable of causing such effects under conditions of manufacture, processing, use, or disposal.

c. *Significant environmental effects.* Chemicals would also be excluded from the exemption if they (or reasonably anticipated environmental transformation products may cause significant adverse environmental effects under conditions of manufacture and use. "Significant" environmental effects are defined in the proposed rule as "injury to the environment which reduce or adversely affects the productivity, utility, value, or function of biological, commercial, or agricultural resources, or causes the loss of an individual member of a rare or endangered species." EPA does not intend by this definition to exclude chemicals that might cause any harm to any organism. Rather, the significance of environmental effects must be viewed in terms of the extent of the environmental damage, the potential recovery or repairability of the damage, and the degree to which the damage will impair the utility or function of the environmental unit affected.

As described earlier, EPA is also considering a provision that automatically would exclude chemicals shown or judged to have an acute aquatic toxicity value of less than 1 ppm (96-hour LC50) (or with a chronic aquatic toxicity value of less than 10 ppb). This would decrease the likelihood that chemicals highly toxic to aquatic organisms would be produced under the exemption; however, it might unnecessarily exclude chemicals where environmental release was minimal. EPA requests comments on the appropriateness of this alternative approach, as well as on its proposed approach for excluding environmental hazards.

d. *Byproducts.* In exempting a chemical substance under section 5(h)(4), EPA must find that the manufacture, processing, distribution in commerce, use, and disposal of the substance will not present an unreasonable risk. This language clearly indicates that the finding must address byproducts as well as the new chemical substance itself. (The requirement under section 5(d)(1) that PMNs contain

reasonably ascertainable information on byproducts supports this conclusion.) Therefore, the proposed rule would exclude substances from the exemption if byproducts of manufacture, processing distribution, use, or disposal—including waste and emissions—may cause serious effects in humans or significant effects in the environment.

The proposal defines "byproduct" as a "chemical substance" produced without separate commercial intent during the manufacture, processing, distribution, use, or disposal of another chemical substance or misture. Therefore, the term "byproducts" includes waste and emissions.

3. *Qualified expert review.* Before submitting the exemption notice for a specific site-limited intermediate or low volume chemical subtance, a manufacturer would be required to certify that all the terms of the exemption were met. Except for chemicals manufactured at 1,000 kg or less a year, this would include review by a "qualified expert," who would evaluate the substance against the toxicity criteria outlined above and would ensure that exposure controls were appropriate.

EPA recognizes the need for flexibility in defining the nature of the qualified expert's review, because the level of expertise and extent of review that are necessary will vary widely from substance to substance. Nevertheless, a critical part of this exemption is the requirement that companies manufacturing new chemical substances under the exemption conduct a careful review of those substance before manufacture.

The qualifications of the "qualified expert" and the nature of his or her review are discussed below.

a. *Definition of qualified expert.* EPA has not attempted to propose specific standards for defining the qualifications of the qualified expert. Rather, the qualified expert has been defined as "a person(s) who, because of education, training, or experience, is capable of (1) evaluating the health and environmental effects of the new chemical substance reviewed, (2) assessing potential human exposure to and environmental release of the new chemical substance, and (3) integrating those assessments to determine the new chemical substance's potential for health and environmental risks." The qualified expert could either be an employee of the manufacturer or a consultant, assuming that he or she meets the qualifications listed above.

The level of expertise required will vary from substance to substance and from process to process. In some cases—for example, when the new chemical substance is both (1) a member of a well-characterized class for which substantial human and environmental effects data are already available, and (2) exposure to humans and the environment will be low—a single individual whose expertise is largely limited to the class of chemical substances in question may be appropriate. In other cases, a multi-disciplinary group may be necessary—for example, when the chemical substance does not belong to a well-characterized class or when evaluation of risk involves difficult judgments about how to estimate potential exposure or release, evaluate complex structure-activity relationships, interpret data on a broad range of health or environmental effects, or predict the chemical's behavior in the environment.

Under the proposed rule, however, the qualified expert or experts, at a minimum, must be familiar with general principles of chemistry, human and environmental toxicology, exposure assessment, and risk assessment, and with the specific literature relevant to assessing the risks of the chemical substance in question (either as a result of a systematic literature search or updated general knowledge.) Where particular areas of concern have been identified (e.g., there is likely to be significant environmental release), the expert must be qualified to address these concerns and must be familiar with the relevant literature.

b. *Nature of qualified expert's assessment.* The qualified expert's assessment should be designed to ensure (1) that a manufacturer does not submit an exemption notice on a chemical reasonably suspected of having carcinogenic or teratogenic effects, and (2) that exposure to chemicals that may cause other adverse health or environmental effects is controlled to a point at which these effects will not occur.

Because of the diversity of new chemical substances that may be eligible for this exemption, the Agency is not prescribing specific guidelines on how such assessments should be performed nor does it impose any specific testing requirements. Both the approach and the level of effort required for the qualified expert's analysis will vary greatly from case to case. nevertheless, the qualified expert's assessment must provide a reasonable basis for concluding:

1. That the chemical substance and any reasonably anticipated metabolites in humans or animals are not known to cause and cannot reasonably be suspected of causing carcinogenic or teratogenic effects. For the low volume exemption, the expert would also conclude that the chemical is not acutely toxic. The standards for reaching this conclusion have been described previously.

2. That the new chemical, reasonably anticipated metabolites in humans or animals, and reasonably anticipated environmental transformation products will not cause serious chronic or acute effects in humans or significant environmental effects under anticipated conditions of manufacture, processing, distribution, use, and disposal. Where the qualified expert has identified potential hazards, the manufacturer must take steps to ensure that exposure is at level at which no serious effects will occur.

3. That by products (including waste and emissions) of the manufacture, processing, distribution, use, and disposal of the chemical will be handled and disposed of in a manner that will prevent serious risk to humans or the environment.

In conducting his or her review, the qualified expert frequently may not have concusive data available on the new chemical substance itself. This is particularly true in the area of chronic toxicity. For this reason, the conclusion that a substance is excluded from the exemption as a carcinogen or teratogen will generally depend on a combination of professional judgment and analyses of the chemical's physical-chemical properties, structure-activity relationships, and short-term screening tests (particularly in the case of carcinogenicity). Typically, such analyses will reflect familiarity with the relevant literature and considerable expertise in toxicology, exposure analysis, and chemical risk assessment.

In reviewing the chemical for other toxic effects (both acute and chronic), the qualified expert must similarly consider such factors as physical-chemical properties, available test data on the new chemical substance itself and on relevant analogs, and structure-activity analyses. Structure-activity analyses are based on the underlying principle that (without information to the contrary) the more two chemical agents resemble each other in molecular structure and physical properties, the more likely they are to be metabolized or degraded in a similar manner and to exhibit similar toxicologic properties. This principle generally can be used to predict the metabolites or environmental transformation products that may arise from new chemical substances and the adverse health and environmental effects that the new chemical substance, or its expected metabolites or

transformation products, may pose. The nature of such analyses cannot be prescribed rigidly, however, and EPA has not attempted to define what constitutes a "significant" structural similarity or a "reasonably anticipated" metabolite or environmental transformation product. (The question of "significant structural similarity" has been discussed more fully earlier in this preamble.)

Where the substance may be toxic, it is also essential that the expert develop or be provided with reasonable estimates about exposure, both to humans and the environment. In the case of site-limited intermediates, possible exposure at all stages of the chemical operation—including sampling, reactor charging, material handling, cleanup, and maintenance—should be addressed. The qualified expert must also carefully consider any possible risks posed by residual intermediate in the final product. Although levels of residual can generally be expected to be low, circumstances of exposure to these residuals may be very different from exposure to the intermediate itself.

In the case of low volumn chemicals, the qualified expert would address not only the manufacturer's own operations, but likely processing operations and circumstances of use.

In addition, for both site-limited intermediates and low volume chemicals, the expert would address environmental release, both in terms of possible indirect exposure to humans (e.g., from drinking water) and direct risks to the environment itself. Again, the nature of this review will vary from case to case; however, where any but minimal release would occur, the qualified expert would be expected to consider such questions as the possible toxicity of the chemical (and byproducts) to environmental organisms, its likely persistence in the environment, its tendency to bioaccumulate, the nature of its environmental transformation products, and similar questions.

EPA recognizes that other environmental statutes in some cases protect against risks associated with release of the exempt chemical itself or its byproducts. However, these acts do not generally address new chemical risks and do not by themselves ensure that unreasonable risks will not occur as a result of the manufacture or processing of a new chemical. Therefore, this proposal would require that the qualified expert address these risks specifically.

EPA does not believe that requiring this analysis imposes an undue burden on a manufacturer. (The average cost of such an analysis is discussed in the Economic Analysis.) Such assessments should be part of any chemical manufacturing operation, especially those involving new chemicals. Manufacturers have a responsibility to their workers, customers, and human and environmental populations close to the plant to ensure that risks are appropriately evaluated and controlled. CMA has indicated that responsible companies routinely conduct such analysis for new products.

c. *Documentation of qualified expert's review.* Under this proposal, manufacturers are not required to submit a report or summary of the qualified expert's review to EPA. However, as described later in the preamble, companies manufacturing site-limited intermediates and low volume chemicals above 1,000 kg a year must maintain records, available for EPA inspection, documenting the qualified expert's review.

This documentation must include a statement explaining why the qualified expert believes the chemical is eligible for the exemption; any report or reports prepared by the expert; test data on the substance, analogs, metabolites, or environmental transformation products used to support the expert's analysis; the rationale used to interpret the test data and other information; effects of concern identified and any analyses of exposure at which these effects might occur; names of analogs, metabolites, and environmental transformation products identified; the names of sources searched for relevant data, if such searches were conducted; any exposure estimates (and supporting analysis) developed by or provided to the qualified expert; and any other information on which the qualified expert's analysis is based. In addition, the documentation must include the identity of the qualified expert and a statement of his or her qualifications.

d. *Chemicals manufactured at 1,000 kg or less per year.* This proposal would not require review by a qualified expert for chemicals manufactured at 1,000 kg or less per year. Because of the very low production volume of these chemicals and the consequent limitations on exposure, EPA believes that its 14-day review will be adequate to ensure that chemicals in this category meet the terms of the exemption. Nevertheless, EPA assumes that companies manufacturing chemicals at 1,000 kg or less per year would take necessary precautions to ensure that these chemicals would not pose significant human or environmental risk. These precautions would include careful review by company staff normally responsible for health and environmental assessment and familiar with the general class of chemical, the manufacturing process, anticipated conditions of use, and exposures likely to be associated with manufacture and use. If, as a result of review by company staff, the manufacturer concluded that the manufacture of the new chemical would not meet the terms of the exemption because it might cause serious acute or chronic effects in humans or significant environmental effects under the conditions of manufacture, processing, distribution in commerce, use, or disposal, the manufacturer could not sign the required certification and could not qualify for the exemption. Furthermore, if EPA determined that the manufacture of the substance does not meet the terms of the exemption, EPA would notify the manufacturer that it may not begin manufacture under the exemption.

D. Procedural Requirements

Companies manufacturing any chemical under this proposed exemption would be required to provide EPA a brief informational notice 14 days before manufacture. During the 14-day review period, EPA would have the authority to determine that a specific chemical was ineligible for the exemption if it did not meet the toxicity or other criteria. The rule would also establish procedures by which EPA could revoke an exemption for a specific chemical after manufacture had begun.

These and other procedural requirements are described below. Except where explicitly noted, these requirements apply to all chemicals that would be exempt under this proposal, including chemicals manufactured at 1,000 kg or less per year.

1. *Exemption notice.* In developing information requirements for the proposed exemption notice, EPA has attempted to balance its needs for the 14-day review with the need to minimize the notification burden on companies seeking relief through this exemption. The Agency recognizes that, if the exemption is to provide significant relief, the costs of filing an exemption notice must be relatively low. At the same time, however, the notice must provide enough information to allow EPA to determine whether the chemical is eligible for the exemption.

Under this proposal, exemption notices would have to contain: (i) Manufacturer's name; (ii) type of exemption; (iii) chemical identity; (iv) description of use (for low volume chemicals); (v) production volume (for site-limited intermediates); (vi) site of

manufacture; and (vii) a certification. EPA believes that this information would be generally sufficient for its review, given the other restrictions and safeguards of this exemption.

The specific information requirements are discussed below. Other requirements considered by EPA are discussed in Unit IV of this preamble.

a. *Manufacturer's name.* This would include the name and address of the manufacturer and the name and telephone number of a technical contact.

b. *Type of exemption.* The manufacturer would be required to state which exemption the substance fell into (i.e., 1,000 kg or less per year, 10,000 kg or less per year, site-limited intermediate).

c. *Chemical identity.* Manufacturers would generally have to provide the same information on chemical identity as EPA recommends they provide in PMNs on new chemicals. (See Statement of Interim Policy, 45 FR 74378.) In its experience with the PMN program EPA has found that this information is the minimum necessary to identify the chemical unambiguously.

For substances whose composition can be represented by a definite structural diagram (class 1 substances), the notice would include the chemical name (preferably CAS or IUPAC nomenclature), molecular formula, CAS Registry Number (if available), known synonyms (including trade names), and a structural diagram.

For chemical substances that cannot be fully represented by a structural diagram (class 2 substances), the manufacturer would provide the chemical name, molecular formula, CAS Registry Number (if available), known synonyms (including trade names), immediate precursors by name and CAS Registry Number (if available), and partial or imcomplete structural diagram, if available.

For polymers manufactured under this exemption, the notice would identify monomers and other reactants used to manufacture the polymer by chemical name and CAS Registry Number; the amount of each monomer used (by weight percent of total monomer); the maximum residual of each monomer in the final polymer; and a partial or incomplete structural diagram, if available. The notice would also be required to indicate the number average molecular weight of the polymer and characterize the anticipated low molecular weight species. This information would be required for each typical number average molecular weight to be manufactured.

d. *Description of use.* For chemicals manufactured under the low volume exemption (includng chemicals manufactured at 1,000 kg or less per year), companies would be required to describe use. The description of use would have to be specific enough for EPA to determine the typical circumstances of exposure, including routes of exposure, associated with the substance. A general description such as "adhesive" or "industrial," "commercial," or "consumer" use would be insufficient. Instead, the use might be described as a fragrance in a consumer soap, a dye in synthetic fabrics for clothing, or an industrial spray adhesive in the manufacture of laminates. EPA believes this information is essential to a reasoned evaluation of low volume chemicals, because the uses of these chemicals, and the exposure to them can vary widely. In the PMN program EPA has found that manufacturers generally know this information and the Agency believes that providing it would impose little burden.

e. *Maximum annual production volume.* For site-limited intermediates, the exemption notice would include the estimated maximum production volume for any 12-month period of manufacture under the exemption. This information would be needed to estimate exposure and release. (Companies producing chemicals under the low volume exemptions would only certify that annual production volume would not exceed the relevant exemption limit.)

f. *Site of manufacture.* The notice would include the site or sites at which the exempt chemical will be manufactured. However, importers need not report the site of manufacture.

g. *Certification.* The manufacturer would certify that he or she was familiar with the terms of the exemption and would comply with those terms and that the new chemical substance meets all the exemption criteria. For low volume chemicals, the company would certify that production volume would not exceed the relevant limit (i.e., 1,000 kg or 10,000 kg per year). For chemicals manufactured above 1,000 kg per year, the manufacturer would also certify that a qualified expert had evaluated the new chemical substance and had concluded that it was eligible for the exemption.

2. *EPA review of the notice.* In the 14-day period before manufacture began, EPA would review the exemption notice to ensure that the substance met the terms of the exemption. In conducting this review, EPA intends to use the same general procedures as it now uses in the initial stages of the PMN review process.

An exemption notice, after being logged in, would be assessed by a team of senior scientists with expertise in metabolism, mechanisms of chemical action, carcinogenicity, general toxicology, environmental fate and toxicology, exposure assessment, and related disciplines. This assessment would be based on information provided in the notice (e.g. chemical identity production volume, use, and site of manufacture), supplemented by information available in reference texts and other secondary literature. Because test data generally would not be available on the chemical itself, the team would in most cases rely on structure activity relationships to estimate potential toxicity and to identify specific concerns.

If questions arose during the review—for example on the nature of the qualified expert's review, likely exposure, or controls used to reduce exposure—EPA would generally telephone the manufacturer's technical contact. Where information was unavailable, EPA would make reasonable worst-case assumptions on exposure and toxicity, based on the notice and other available information. The Agency would have the authority to declare a chemical ineligible on the basis of these assumptions. In addition, EPA would also have the authority to declare a chemical ineligible if serious unresolved issues concerning toxicity or exposure required further review before the Agency could determine whether or not a chemical met the terms of the exemption.

If EPA does not inform the manufacturer by the end of the review period that a chemical is ineligible, manufacture of the new chemical substance may start when the review period expires.

3. *Determination that a chemical is not eligible for exemption*—a. *During the review period.* Under this proposal, EPA would determine that a substance is ineligible for an exemption if it finds that (A) the substance (or metabolites) is known to be or is reasonably suspected of being a carcinogen or teratogen (except for chemicals manufactured at 1,000 kg or less per year) or (B) under conditions of manufacture, processing, distribution, use, or disposal, the substance (or its metabolites, environmental transformation products, or byproducts) may cause serious acute or chronic health effects in humans or significant environmental effects under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal. In addition, as described above, EPA would declare a chemical ineligible if significant concerns about toxicity or exposure required further

review not possible within the 14-day period.

If EPA determines during the review period that a chemical is not eligible, the Director of the EPA Office of Toxic Substances—or any EPA employee designated by the Office Director to carry out his or her functions under this rule—will inform the manufacturer by telephone, followed by a letter, that the new chemical substance did not meet the terms of the exemption. The letter would explain the reasons for EPA's determination. The manufacturer would then have the option of resubmitting the exemption notice with explanatory information or submitting a PMN.

b. *After the review period expires.* After the review period expires, the Agency may obtain information on an exempt chemical indicating that manufacture, processing, distribution, use, or disposal of the new chemical substance does not meet the exemption requirements. The specific action EPA would take in such circumstances would depend on the Agency's judgment about the good faith of the manufacturer in submitting an exemption notice and the possible hazards associated with continued manufacture.

If EPA determines that the manufacturer willfully or negligently failed to comply with the terms of the exemption, the Office Director would immediately notify the manufacturer by telephone and subsequently, by certified letter, that the new chemical substance is not eligible for the exemption and that manufacture must cease within 24 hours of receiving the telephone notification. EPA would act under this provision if it had reason to believe that there were adequate data showing that the new chemical substance does not qualify for the exemption and that the manufacturer is, or should have been, familiar with such data at the time of the exemption application. EPA would also act under this authority in the case of a clear violation of the exemption provisions, e.g., a new chemical substance manufactured in quantities of more than 1,000 kg per year had not been review by a qualified expert or the manufacture of a low volume chemical exceeded the appropriate production volume limit.

On the other hand, if EPA believed that the manufacturer acted diligently and in good faith, but the Agency concluded that continued manufacture of the chemical would present a serious or imminent hazard, it would take immediate action. EPA would attempt to work out voluntary or negotiated controls; however, if this did not prove possible, it could take action under section 6 or 7 of TSCA. Under the "imminent hazard" provisions of section 7, EPA could apply for seizure of the chemical substance or articles containing the substance, or other necessary relief. EPA could also issue an immediately effective rule under section 6 to ban or limit the manufacture, processing, distribution, use, or disposal of a chemical substance if the Agency determines that the chemical substance is likely to result in an unreasonable risk of serious or widespread injury to health or the environment before a final rule can be issued.

Occasionally, a chemical manufactured under the exemption might not meet the standards for action under section 6 or 7, but EPA might believe nonetheless that it was ineligible for the exemption. Or, it might be necessary for EPA to halt production pending regulation of the new chemical under section 6. In these cases, the Office Director would inform the manufacturer by telephone and subsequently by letter that a preliminary determination had been made that the substance was not eligible for the exemption. The letter would state the reasons for this determination.

The manufacturer could file detailed objections to this preliminary determination within 15 days of the telephone notification. If the manufacturer did not file objections, the decision would become final at the end of the 15-day response period. If objections were filed, the Office Director would consider them and make a final determination within 30 days of their receipt. The manufacturer would be informed of the determination by telephone and by certified letter.

When the Office Director makes a final determination that a new chemical substance is no longer eligible for the exemption, the manufacturer must (1) cease to manufacture the new chemical substance within 15 days of the telephone notification, or (2) file a PMN within that period. If the manufacturer files a PMN, manufacture could continue throughout the notice review period unless EPA acts under section 5(e) or 5(f) of TSCA.

If for any reason the manufacturer is no longer manufacturing the chemical substance when EPA makes a preliminary determination that the substance is ineligible, the manufacturer could not begin to manufacture the substance before its exemption status is resolved. If EPA makes a final determination that the chemical is not eligible, the manufacturer could not begin to produce the substance until a PMN had been submitted and the PMN review period had ended.

4. *Additional data.* The proposed rule would also require companies manufacturing a chemical under this exemption to submit to EPA any test data or other information indicating that the substance may not qualify for the exemption. The information would have to be submitted to the Agency within 15 working days of its receipt. This requirement is necessary to ensure that EPA is aware of any new information available to the manufacturer that suggests that the chemical is not eligible for the exemption.

5. *Subsequent exemption notices.* Manufacturers producing site-limited intermediates under this exemption would be required to submit a new exemption notice (or a PMN) before they produced the exempt chemical at an annual production volume greater than that reported in the original notice. Manufacturers of low volume chemicals (including chemicals produced at 1,000 kg per year or less) would be required to submit a new exemption notice before manufacturing the substance for a use that was not reported in the original exemption notice. For both the site-limited and low volume exemptions, the manufacturers would be required to submit another exemption notice to EPA before they produced an exempt chemical at a site not listed in the original notice.

This requirement is important because the original review was based on the circumstances of exposure described in the first exemption notice. The subsequent notice would allow the Agency to review the new circumstances of exposure to determine whether the substance qualified for the exemption at the higher production volume, for the new use, or at the new site.

6. *Subsequent manufacturers.* The Agency is proposing that only one manufacturer be allowed to manufacture a given substance under each of the low volume exemptions (chemicals manufactured at 1,000 kg or less per year and chemicals manufactured at 10,000 kg or less per year). Subsequent manufacturers of the chemical substance would not be eligible for that exemption; they would be required instead to submit an exemption notice for a different category or a premanufacture notice. EPA believes this requirement is necessary because the risk assessments for the low volume exemptions assume that total production of chemicals in these exemption categories will not exceed the production volume limit.

There is no such restriction for the site-limited intermediate exemption.

Subsequent manufacturers of a specific site-limited intermediate would be eligible for an exemption if they complied with all the terms of this proposed rule.

The proposed restriction of the low volume exemptions to single manufacturers is discussed more extensively in Unit III of the preamble.

7. *Recordkeeping.* The proposed rule would require manufacturers to maintain (i) the records of the qualified expert's review described in Unit II(B)(4)(e)(iii) of this preamble, and (ii) the production volume for each year of the exemption. These records must be kept for five years after the final date of manufacture of the substance. If the manufacturer goes out of business before that time, the manufacturer must transfer these records to the Office of Toxic Substances.

Under this proposal, EPA would have the authority to require the manufacturer of an exempt chemical to submit copies of these records to EPA upon written request at any time. Manufacturers would be required to provide these records within 15 days of notification by the Office Director. This provision would supplement the inspection and subpoena authorities of section 11 of TSCA.

If the company later submitted a PMN on the chemical, it would be required under section 5(d)(1)(B)–(C) of TSCA to provide (i) any test data in the file relevant to the chemical's health and environmental effects, and (ii) a description of any other data in the file on health and environmental effects. This would include any reports prepared by the qualified expert.

8. *Audit procedure.* Under the proposed approach, manufacturers would not be required to provide a summary of the qualified expert's review or other information on this review in the exemption notice. However, EPA believes that it must have some general mechanism for monitoring the quality of industry reviews. Therefore, EPA intends to institute an audit program for this exemption, under which it would review the records of companies manufacturing chemicals under the exemption. EPA would conduct this program either under the inspection authority of TSCA section 11 or under the proposed authority in this rule requiring the submission of exemption records on request.

9. *Amendment or repeal.* TSCA requires that repeal or substantive amendment of a section 5(h)(4) exemption rule follow the formal rulemaking procedures of TSCA sections 6(c)(2) and (3). EPA would consider repeal and amendment of the rule if it learned that the conditions of the exemption may not be sufficient to protect health or the environment from an unreasonable risk of injury. EPA would use the amendment or repeal process to make general changes in the rule, not to at on individual new chemical substances. EPA may also amend the specific terms of the rule to expand or reduce the scope or applicability of the exemption.

10. *Enforcement.* The manufacture of a new chemical substance that is not exempt and is not on the Chemical Substance Inventory is a violation of section 15 of TSCA. It is unlawful for any person to fail or refuse to comply with any provision of section 5 or rules promulgated under section 5. Manufacture or processing of new chemical substances in violation of the specific conditions of this exemption would be a violation of section 15 and violators could be subject to civil and criminal liability.

Under the penalty provisions of section 16 of TSCA, any person who violates the provisions of this rule could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the exemption rule could also lead to criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies available to EPA include injunctions to restrain violations of the exemption rule and seizure of chemical substances manufactured or processed in violation of an exemption rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. In actions under section 16, EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported.

III. General Issues

In the course of developing the proposed approach, EPA has identified several general issues. These issues, and the reasons for the approach EPA adopted in this proposal, are discussed below. The Agency requests comments on its proposed approach and the alternatives considered in each case.

A. Review of Substantial Increase in Production Volume of Site-Limited Intermediates

Other things being equal, the amount of chemical substance released to the environment increases with production volume, and intermediates present as impurities in final products may be released in substantial amounts if the production volume is high. In addition, the frequency of worker exposure (or the number of workers exposed) will increase as a manufacturer increases the number of days of production to meet the higher production volumes. Therefore, substantial unreviewed risks could occur if production volume increased significantly beyond what was reported in the original exemption notice.

To address this potential problem, the proposed rule would require manufacturers to submit another exemption notice before the production volume for a site-limited intermediate exceeded the level indicated in the original notice—unless, of course, they chose to submit a PMN instead. (This requirement would not apply to manufacturers of low volume chemicals.) Therefore, the Agency would have the opportunity to review the intermediate in light of the higher production volume and possibly higher exposure.

As an alternative, EPA is considering a production volume limit on site-limited intermediates manufactured under the exemption. If the production volume limit were set at a reasonable level, the number of chemicals affected might not be large. For example, 89 percent of a sample of site-limited intermediates received so far in the PMN program had estimated maximum first year production volumes of 100,000 kg or less per year. Therefore, it is reasonable to estimate that, if the production volume limit were set at this level, approximately 90 percent of new site-limited intermediates would be eligible for the exemption, at least for the first year of production (assuming they met the toxicity criteria). If the level were set at 500,000 kg per year, the number of eligible intermediates would be considerably larger. Of the sample described above, 96 percent had first-year production volumes below that level.

A production volume limit, however, would establish an across-the-board PMN requirement for all site-limited intermediates when they reached a certain production volume, regardless of the potential hazard of the chemical. A PMN would be required on chemicals posing insignificant risk simply because their production volume had reached a specific level. At the same time, EPA would not have a opportunity to review significant increases in the production of exempt intermediates where the increased production volume did not

exceed the exemption cap. A production volume limit would also raise certain procedural issues—for example, whether subsequent manufacturers of a specific site-limited intermediate would be eligible for an exemption. For these reasons, the Agency prefers the approach in the proposed rule. EPA believes that this approach will provide adequate protection while eliminating the costs of a PMN for higher volume site-limited intermediates, and that it will enable more than one manufacturer to take advantage of the exemption for a given chemical.

B. Quantitative Limits on Residual Intermediates in the Final Product

Under the proposed rule, the qualified expert would be required to address any risks that might be associated with residual intermediates in the final product. EPA is also considering the possibility of setting quantitative limits on the amount of the exempt intermediate that may appear as a contaminant in final products.

In practice, final products are not made up entirely of the desired constituents. Product quality requirements and the feasibility of purifying the final product are factors which affect the amount of intermediate remaining in a final product. Thus the amount of intermediate in the final product might theoretically be relatively high. If the final product leaves the site with a large amount of intermediate, it might be argued that the substance is not "site-limited." In general, however, EPA believes levels of residual are likely to be low. Furthermore, risks posed by residual intermediates have not generally been identified in PMN review as a problem. Therefore, EPA is not proposing a quantitiative limit on residual in the final product, but rather would require that the qualified expert specifically address this question as part of his or her review.

C. Exclusion of Certain High Risk Categories

In developing this proposal, EPA considered compiling a list of chemical categories, based on structure, that would not be eligible for the exemption. The Dyes Environmental and Toxiciology Organization, Inc., (DETO) in effect suggested this approach in its exemption petition for dyes when it stated that EPA might consider excluding benzidine, *o*-tolidine, and *o*-dianisidine based dyes, and dyes containing N-N-dimethyl-4-aminobenzene analogs. The basis for this exclusion would be structure-activity information and test data suggesting that individual members of these categories may cause serious chronic health effects.

EPA has not adopted this approach for two reasons. First, it would be extremely difficult to develop a list of potentially hazardous categories of chemical substances and to justify their exclusion within the context of a reulemaking. At best, the process would be time-consuming and would have considerably delayed the proposal of this rule. Second, EPA believes that any general list of categories would provide no more protection than that already provided in the proposed rule by the toxicity criteria, the qualified expert's review, and EPA's 14-day review. New chemical substances belonging to highly suspect classes (such as the dye classes identified by DETO) would very likely be eliminated by the qualified expert or by EPA under the automatic toxicity exclusion.

D. Subsequent Manufacturers

The proposed unreasonable risk findings for the low production volume exemptions are based on the assumption that total production volume under each of these exemptions would not exceed the rule's production volume limits (i.e., 1,000 kg per year or 10,000 kg per year). Therefore, EPA does not believe it is appropriate to allow subsequent manufacturers to produce an exempt chemical substance under a low volume exemption if the total production volume would exceed the volume limit for that exemption. EPA considered two alternatives for preventing this: (1) Allowing more than one manufacturer to produce the same chemical under same low volume exemption category as long as the aggregate production did not exceed the volume limit for that category, and (2) limiting each of the low volumn exemptions to the first manufacturer of any new chemical substance under that exemption category, regardless of that manufacturers' production volume. Under the first alternative, two or more manufacturers could produce the same substance under the 1,00-kg per year exemption as long as total production volume did not exceed 1,000 kg per year. Similar requirements would apply to chemicals manufactured under the 10,000-kg per year exemption. Under the second alternative, only one manufacturer would be allowed to produce a given chemical under each of the low volume categories.

The first alternative would make the exemption more widely available while ensuring that total production volume under each low volume exemption category did not exceed the volume limit. However, this alternative would require a complicated administrative scheme. When EPA received a second exemption notice on a substance, it would have to determine how much the second manufacturer could produce before the aggregate production volume exceeded the rule's volume limit. In telling this manufacturer what it could produce, EPA might be required to disclose confidential business information. Furthermore, once the "quota" was split among two or more manufacturers, there would be no way to increase the production volume limit for one manufacturer if another manufacturer reduced its production limit, unless EPA monitored production volumes. Periodic reporting and adjustment of each manufacturer's volume limit every time one manufacturer's production volume changed would be burdensome to both the manufacturers and EPA.

Under the second alternative, EPA would allow only one manufacturer to produce a given chemical under the terms of each of the low volume exemptions. Subsequent manufacturers would not be without recourse; they could still submit a premanufacture notice. Under this alternative, EPA would not have to disclose the first manufacturer's production volume. EPA believes this alternative is preferable because it would eliminate the need for EPA constantly to monitor production volumes and adjust "quotas" so that total production did not exceed the rule's volume limit.

EPA recognizes that this approach, which would reward the innovating company would to a certain extent be anticompetitive, because subsequent manufacturers could not take advantage of the exemption; instead they would be required to submit a PMN, unless they were eligible for a different exemption category. Therefore, EPA encourages commenters to suggest workable procedures for allowing more than one manufacturer to produce the same new chemical substance under the 1,000 kg per year or the 10,000 kg per year exemption without exceeding the rule's volume limit.

E. Information Requirements

In its original petition, CMA proposed that exemption notices include the manufacturer's name, chemical identity, molecular and structural formulas, site of manufacture, and the qualified expert's certification. This proposal was revised in a subsequent submission dated January 27, 1982, in which CMA suggested that chemical substances with the potential to cause certain adverse chronic health effects not be eligible for

the site-limited intermediate or low volume exemption. In this submission, CMA stated that the notice need only contain a description of the substance's chemical identity and a certification by the manufacturer that it had complied with the requirements of the exemption; no other information would be required.

EPA believes that such a notice, while imposing minimal burden on the submitter, would frequently fail to provide information sufficient for the 14-day review. Because the Agency must assess many potential effects (including carcinogenicity and teratogenicity for chemicals manufactured at 1,000 kg or less per year) under conditions of manufacture, processing, distribution, use, and disposal, it believes that some information on exposure is important in the notice. While the Agency does not intend and would not have time to conduct extensive exposure analyses during the review period, it does need enough information to determine whether potential for human and environmental exposure is high and what the circumstances of exposure will be. For low volume chemicals, which could be produced for a wide variety of uses, this would include a description of use; for site-limited intermediates, which could be manufactured at any volume, this would include production volume. Therefore, EPA believes the manufacturer should provide information on the category of use for low volume chemicals and production volume for site-limited intermediates.

EPA is also considering requiring the manufacturer to submit a summary of the qualified expert's evaluation of the new chemical substance (except for chemical substances that are manufactured in quantities of 1,000 kg or less per year, which a qualified expert would not be required to review). The summary would explain why the qualified expert believed the substance would not have any adverse health or environmental effects that would make it ineligible for the exemption. In addition, EPA might require manufacturers to submit any available test data on the new chemical substance.

The qualified expert's summary and test data would be useful to EPA in reviewing the new chemical substance during the 14-day review period, and they would provide some basis for evaluating the quality of the expert's review. However, EPA believes that in general it will be able to conduct an adequate review of a chemical's eligibility without the summary or the test data, and therefore it is not proposing that they be required. Where EPA had identified serious concerns and required a better understanding of the qualified expert's analysis, the Agency expects that the company would provide a summary or test data voluntarily. If the concerns were not adequately resolved, EPA would declare the chemical ineligible.

EPA has also considered requiring the qualified expert's summary or test data only for exempt chemicals manufactured for consumer purposes. The risk assessment illustrates that the number of consumers exposed to low volume chemicals and the magnitude of exposure may be relatively high—even given low production volume. In addition, consumers are often not as aware of risks as industrial or commercial employees who handle chemicals at work, and they may not be as well protected from exposure. Although EPA believes that the safeguards built into the proposed rule will generally protect consumers from significant risk, it also believes that a more conservative approach may be appropriate in this area. By requiring a summary of the qualified expert's review or available test data for consumer chemicals, the rule would increase protection for consumers. To provide adequate time to review the qualified expert's summary, EPA is also considering the possibility of requiring a review period longer than 14 days for consumer chemicals or giving the Agency the authority to extend the review period a specific length of time if an adequate review cannot be conducted within 14 days.

For the purposes of such an approach, consumer chemicals might be defined as chemicals (1) sold or made available directly to consumers for their use, or (2) present in solution, mixture, suspension, or gels sold or made available to consumers. Examples of the latter chemicals include fragrances in soaps, pigments in consumer paints, and constituents in consumer spray adhesives.

The Agency requests comments on the need for and the adequacy of the specific information requirements it is proposing. It also requests comments on the appropriateness of further information or other requirements for consumer chemicals.

IV. Regulatory Analysis

This section summarizes EPA's risk assessment and economic analysis of the proposed rule and describes the various regulatory alternatives the Agency is considering. The risk assessment and alternatives are discussed separately for site-limited intermediates and low volume chemicals. This section also explains the basis for the Agency's proposed finding of no unreasonable risk.

A. Summary of Risk Assessment

1. *Site-limited intermediates.* EPA's analysis of the risks posed by site-limited intermediates consisted of two major parts. First, EPA evaluated the risks that could be associated with site-limited intermediates without the various restrictions or conditions that could be included in an exemption to control risks. This analysis provided an estimate of possible risks from such chemicals. In addition, the analysis provided a basis for determining whether or not various exemption provisions would be needed to limit risks. Second, EPA considered the impact of the proposed and alternative exemption provisions (e.g., exclusion of chemicals that may pose certain chronic effects) to determine the extent to which they would reduce the risks. Although such reductions in risk were not readily quantifiable, EPA believes that the provisions of the proposed exemption would significantly reduce the risks estimated in the risk assessment, so that unreasonable risks would not occur.

EPA's analysis of potential risks posed by site-limited intermediates considered both the toxicity and exposure that could be reasonably anticipated for site-limited intermediates. Specifically this analysis considered (1) a reasonable range of possible toxic effects that might be exhibited by chemicals that could be used as site-limited intermediates, and (2) worker exposure and environmental release data available from site-limited intermediate PMNs and other sources. This information was used to determine potential exposure to workers, exposure to persons living near a manufacturing site, environmental exposure, and the potential risk to human health and environmental populations that might result from such exposures. The risk assessment discussed in this section is available in the public record for this rulemaking.

a. *Analysis of potential health and environmental effects.* Because the site-limited intermediate exemption category is not based on specific structural classes of chemical substances, EPA assumed that site-limited intermediate chemicals could exhibit a range of toxic effects and potencies. This assumption is consistent with EPA's experience in reviewing PMNs and with the fact that chemicals having a wide variety of toxic properties have in fact been used as intermediates. While most site-limited intermediates do not appear to exhibit

high health or environmental hazard potential, a small but significant number do appear to possess some potential for significant health and/or environmental hazard.

b. *Exposure assessment.* The exposure assessment illustrates that, while site-limited intermediates have many characteristics that limit human exposure and environmental release, manufacture and further reaction of such chemicals can, unless specifically controlled, result in significant exposure. The exposure assessment discussed below is available in the public record for this rulemaking.

i. *Occupational exposure.* Site-limited intermediates are manufactured and used at a single site and do not leave the site except as waste or as a residual in the final product; furthermore, they are generally consumed in a reaction and do not undergo further processing. As a result exposure to workers is limited when compared with exposure to general industrial chemicals, particularly those transported to different sites for processing and use.

A review of PMN data on site-limited intermediates supported the conclusion that the numbers of workers exposed to site-limited intermediates is likely to be low, although it may vary widely. The number of workers exposed to new site-limited intermediates during one year of production ranged from 1 to 54, with an average of 5; the number of workers exposed increased slightly with production volume. Site-limited intermediates were produced for an average of 38 days per year; the duration of exposure ranged from 1 to 8 hr/day and averaged 3 hr/day. Duration and frequency of exposure generally increased with production volume. The Agency believes that these PMN data adequately indicate the numbers of workers exposed and the duration and frequency of exposures that can be expected for new site-limited intermediates.

Workplace exposure levels are much more difficult to estimate from PMN reports. Estimates in notices are typically based on the submitter's judgment rather than on an analysis of actual monitoring data. Therefore, EPA supplemented the PMN data on workplace exposure levels with monitoring data available from the Occupational Safety and Health Administration (OSHA), which provided monitored values of exposure levels to workers in the vicinity of chemical manufacturing processes representative of operations associated with intermediates.

Most PMN submitters estimated average ambient workplace concentration to be within a range of 0–1 mg/m^3. The highest average PMN levels reported were in the 1–10 mg/m^3 and 0–1 ppm ranges. PMN and OSHA values for workplace concentrations or airborne solids were comparable; however, OSHA values for vapor concentrations exceeded PMN values. The OSHA data gave time-weighted average (TWA) concentrations of 0.14 mg/m^3 with a maximum value of 0.6 mg/m^3 for airborne solids an an average TWA of 6 ppm with a maximum value of 72 ppm for vapors.

To provide a conservative estimate of potential risks, EPA used the OSHA data in its exposure analysis. These data, which are the result of actual measurements, can be expected to reflect actual workplace concentrations more accurately than do the PMN estimates. (However, EPA does not know in detail the circumstances under which these measurements were taken or whether these circumstances would be comparable to those used to manufacture PMN chemicals.) The greater difficulty of controlling exposure to volatile materials further justifies using the the higher OSHA value for estimating potential exposure levels for vapors.

EPA's review of PMNs and typical industry practices concerning the use of engineering controls and worker protective equipment during the manufacture of site-limited intermediates supports the general conclusion that the manufacture of new site-limited intermediates generally does not result in uncontrolled worker exposure. Of the site-limited intermediate PMNs, 86 percent were manufactured in processes operated in a controlled manner to reduce exposure in the workplace, 12 percent were manufactured in enclosed processes, and only 2 percent were manufactured in ways that would routinely result in direct chemical contact with the workplace air.

The use of personal protective equipment as well as good workplace practices and procedures would further diminish exposure to chemicals in the workplace. However, the Agency was not able to quantify the extent of such protection, and the risk assessment does not consider potential exposure reductions that such measures would provide.

ii. *Environmental release.* The amount of site-limited intermediate released to the environment during manufacturing operations appears to be limited, compared with the release potential for chemical substances that undergo further processing and use. Available data suggest that release to the environment generally increases with production volume.

Release amounts expressed as a percentage of total production reported in the site-limited intermediate PMNs ranged from <0.005 to 0.1 percent to air, <00.5 to 1.0 percent to water, and <0.05 to 0.7 percent to land. Durations of release ranged from 1 to 362 days per year and generally increased with production volume.

As in the cse of worker exposure, EPA believes that the PMN data on duration and frequency of release are more reliable than those on actual magnitude of release. Therefore, the PMN data on levels of release were supplemented by available industry-wide information which was believed to provide more reliable estimates of the amount of release that could occur in the manufacture of site-limited intermediates. The industry-wide data indicated average release rates to ambient air and water as high as 0.2 percent and 0.4 percent of production, respectively. Using the industry data for release rates and PMN data on the duration of release, EPA calculated environmental concentrations in air and water for a range of likely site characterisitics. For annual production volumes of 50,000, 100,000, and 500,000 kg per year, given reasonable assumptions on average amounts released, EPA estimated the maximum concentrations in water to be 2.6 ppm, 2.9 ppm, and 6.5 ppm, respectively. For the same production volumes, the long-term air levels were estimated to be 15 micrograms/m^3 during a 10-day period, 15 micrograms/m^3 during an 18-day period, and 6 micrograms/m^3 during a 40-day period.

c. *Estimated risks.* Given the above exposure and environmental release estimates, EPA evaluated the risks to workers, the environment, and the public living near a plant manufacturing site-limited intermediates with a range of potential toxicities. The assessment illustrated that, although the conditions of manufacture are generally controlled, the range of potential exposure is such that workers could be subjected to significant health risks.

For particulates, the average workplace concentrations were estimated to present significant risks in the case of highly to moderately potent carcinogens and for potent teratogens, neurotoxins, and reproductive hazards. For volatile chemicals, which are likely to present higher exposure potential, risks appeared to be significant even in the case of low potency carcinogens, teratogens, neurotoxins, and reproductive hazards.

EPA's analysis indicates that the health risks to individuals who live near a plant appear to be much less than risks to workers. At average release rates, the contamination of drinking water appears to present low risks, except where the released chemical is of high potency. Where chemicals are released at the maximum anticipated rate, and production volume exceeds 50,000 kg per year, EPA's analysis indicates that even chemicals of moderate potency may present significant risks. Exposure of the general population resulting from release of chemical substance to the ambient air appears to present insignificant risks unless the chemical is highly toxic and released a high rate.

In performing an environmental risk assessment, EPA focused on the potential impact to aquatic organisms resulting from the release of a new chemical through plant effluent to ambient waters. EPA took this approach because water effluents are likely to be the greatest source of environmental release. In addition, aquatic organisms are generally considered sensitive indicators of environmental risk.

EPA's environmental risk assessment compared the range of concentration expected in ambient waters to the levels at which selected industrial chemicals exhibit toxic effects. Environmental concentrations were compared to actual test data (both acute and chronic) for these selected chemicals. These data were taken from Water Quality Criteria Documents. Based on this analysis, EPA concluded that site-limited intermediates of relatively high acquatic toxicity could present significant risks to acuatic organisms. However, EPA's experience is that most site-limited intermediates do not possess such high toxicity.

To put these risks in perspective, EPA compared estimated environmental concentrations to chronic toxicity values estimated from acute toxicity values for a range of industrial chemicals. Because of the limited direct data available on chronic effects (which are known to occur at lower concentrations of a given chemical), EPA assumed a median ratio of 6.4 between acute and chronic acquatic toxicity values. The Agency used this median "chronicity ratio" to estimate the concentration at which significant chronic toxicity might occur. The chronicity ratio was derived by comparing the acute and chronic toxicity data for a selected group of industrial chemicals and by assuming that the median of these ratios was representative of the value of this ratio for typical chemicals that might qualify for the exemption.

Given the general distribution of LC50s among tyical industrial chemicals, it is reasonable to estimate that about 5 percent of new intermediates could be acutely toxic to acquatic organisms at concentrations below 35 ppb. Assuming a chronicity ratio of 6.4, approximately 5 percent could be toxic at chronic exposure to less than 5 ppb. While acutal environmental concentrations vary significantly with such parameters as the rate of discharge and the size of the receiving water bodies, EPA's analysis indicates that short duration exposure to concentrations of 35 ppb and greater, and repeated or continuous exposure to concentrations of 5 ppb, could reasonably occur.

Based on this analysis, EPA concluded that, given the low overall level of release and resulting environmental concentrations, most new site-limited intermediates would not present significant environmental risks. However, a small but significant number of site-limited intermediates could present such a risk under these circumstances.

d. *Risk under exemption conditions.* There are several elements of the proposed exemption that would significantly reduce the risks to human health and the environment presented by site-limited intermediates.

First, known or reasonably suspected carcinogens and teratogens have been excluded from the exemption. This would reduce the likelihood that chemicals presenting such effects, which may occur at low concentrations, would be manufactured under the exemption. If such chemicals are excluded, the range of potential risks would be substantially below the high end of EPA's estimates.

Second, a qualified expert employed by the manufacturer would be required to assess other chronic, acute, and environmental effects, and the manufacturer would be required to take steps to ensure that exposures are controlled to prevent the occurrence of such effects. If this provision is implemented with diligence, exposures should be controlled to levels that would not result in significant risks. Because the chemical will always be under the direct control of the company that submitted the exemption and employed the qualified expert, and because the chemical will not leave the site of manufacture, the manufacturer will be in a position to impose effective controls throughout all stages of the chemical's lifecycle.

Finally, EPA would review each new chemical before it is manufactured under the exemption. This provision should halp ensure that manufacturers will properly execute their responsibilities to evaluate and control risks. It will also provide an additional screen to eliminate chemicals that should undergo full PMN review.

These provisions should substantially reduce the likelihood that exempt chemicals would actually present the levels of risk that EPA has estimated might be associated with site-limited intermediates. EPA expects that chemicals that would pass through the exemption, as it is designed, would not be regulated in the PMN process under similar circumstances of manufacture, processing, distribution in commerce, use, and disposal.

2. *Low volume chemicals.* EPA used the same general approach to evaluate risks that might be associated with low volume chemicals. Three alternative annual production volume limits were considered in the analysis: 1,000 kg, 5,000 kg, and 10,000 kg. An analysis was conducted at each production level to determine possible exposure to workers, exposure to persons who might live near a manufacturing or processing site, environmental exposure, and exposure to consumers who might use products that contain new low volume chemicals. This section discusses the results of the exposure assessment and risk analysis for low volume chemicals.

a. *Exposure assessment.* The exposure assessment illustrates that, while low production volume in itself limits potential for exposure and environmental release, manufacture, processing, and use of such chemicals can in some circumstances result in significant exposures.

i. *Occupational exposure.* Low production volume typically limits the total number of workers who may be exposed to a chemical substance as well as the duration and frequency of exposure. However, the actual exposure levels for individual workers may be significant. Based on PMN data, the number of workers exposed during manufacturing ranged from an average of about 4 for chemical substances manufactured in quantities of 1,000 kg or less per year to an average of about 8 for chemical substances manufactured in quantities of 10,000 kg or less per year. Duration of exposure associated with manufacture averaged about 5 hours per day at all production levels, and the average number of days of production per year was 62.

Only a limited number of PMNs included workplace concentrations. The average concentrations associated with manufacture were reported in PMNs

most often in the ranges of 0–1 and 1–10 mg/m^3 for airborne solids and in the 1–10 ppm range for vapors. However, as with the site-limited intermediates analysis, EPA believes that data obtained from OSHA monitoring activities provided more reliable estimates of workplace concentrations.

The average and peak workplace concentrations associated with the manufacture of low volume chemicals was based on the same OSHA data used to provide exposure levels for site-limited intermediates. These data indicated an average TWA concentration of 0.14 mg/m^3 with a maximum value of 0.6 mg/m^3 for airborne solids and an average TWA of 6 ppm with a maximum value of 72 ppm for vapors.

EPA's analysis of processing and use of low volume chemicals indicated that the wide variety of possible processing and use operations can result in a wider range and higher level of exposures than typically associated with manufacturing operations. The average number of workers exposed during processing and use operations exceeded the average numbers typically exposed during manufacturing. The number ranged from an average of 12 workers for a chemical processed in quantities of 1,000 kg or less per year to an average of 141 workers for chemicals processed or used in quantities of 10,000 kg or less per year.

ii. *Consumer exposure.* Consumer exposures were assessed for five use scenarios—photographic chemicals used in home darkrooms; spray adhesives; paints; dyes; and fragrances used in soaps, detergents, or shampoos. The use scenarios, which reflected actual uses reported in PMNs, were selected to represent divergent and potentially significant exposure situations. In these scenarios, the individual lifetime average daily exposures were estimated to range from 0.0016 mg/kg/day for a fragrance in soap to negligible levels for dyed fabrics.

According to EPA's analysis, many of the consumer use scenarios could result in relatively large numbers of consumers exposed. The numbers of consumers potentially exposed at the 10,000-kg production level ranged from 76,000,000 for a fragrance in shampoo to 98,000 for a spray adhesive. Because the concentration of a new chemical substance in a final product remains constant, the production volume is likely to affect only the number of consumers exposed, not the exposure to each individual. Therefore, the number of consumers exposed at a 5,000-kg production limit is about half the number that would be exposed at a 10,000-kg limit.

b. *Environmental release.* Environmental release from manufacturing and the resultant environmental concentrations were estimated for low volume chemicals, EPA relied on PMN data in estimating the duration and frequency of releases. However, PMN projections of the amount released were considered less reliable than other sources of information.

The exposure analysis indicated that the average quantity released to water is 0.08 percent of the production volume with an upper bound of 0.4 percent. Amounts released to air average 0.03 percent of production volume with a 0.2 percent upper bound. However, some processing and industrial uses result in more substantial release rates, with a range from 0.3 to 25 percent of the production volume released to water. Discharges of a new low volume chemical from a single site processing 10,000 kg of the chemical were estimated to produce environmental concentrations ranging from <0.0005 to 5.2 ppm in a receiving stream whose stream dilution factor was equal to the national median for streams receiving effluents from industrial facilities.

In some cases, environmental release from consumer uses equaled the total production volume. However, the actual magnitude of enviromental exposure was determined to be insignificant due to the low production volume, the wide distribution of release, and the small amount of new chemical typically contained in each consumer product.

c. *Estimated risks.* Given the above exposure and environmental release estimates, EPA evaluated the risks to workers, consumers, aquatic organisms, and persons living near a plant manufacturing or processing low volume chemicals.

The assessment illustrated that, although low volume chemicals have characteristics that limit exposure, workers could nevertheless be subjected to significant health risks, even for chemicals which exhibit carcinogenic effects in low or moderate doses. Further, significant risks to workers may occur as a result of exposure to chemicals that are moderately or weakly potent teratogens, neurotoxins, or reproductive hazards.

EPA's analysis indicates that the health risks to individuals who live near a plant are much lower than potential risks to workers. Based on the estimated release rates of new low volume chemicals to the atmosphere and the significant dilution which occurs, exposure of the general population to airborne concentrations appears to present insignificant risk of any toxic effect, except in those cases where the released chemical is a highly potent carcinogen or teratogen. Aqueous releases that may contaminate drinking water also appear to present low risks, except where the release chemical is a highly potent toxic agent or where direct discharge occurs at the maximum release estimated by EPA.

The estimated exposures to consumers under most of the scenarios considered appear to present significant risks if the new chemical is at least a moderately potent carcinogen. In addition, potent teratogens, neurotoxins, and chemicals capable of inducing reproductive effects might also present significant risks.

Environmental risks from low volume chemicals appear similar to risks from site-limited intermediates. Most chemical substances should not present significant risks to aquatic organisms at the estimated discharge rates. However, EPA's analysis also demonstrates that it is reasonable to expect that a small but significant number of chemicals may present substantial risks to aquatic organisms at anticipated concentration levels.

Thus, unless potential environmental impacts are assessed and releases properly controlled, low volume chemicals can have the potential to present significant risks in a variety of circumstances.

d. *Chemicals manufactured at 1,000 kg or less per year.* For chemicals manufactured at 1,000 kg or less per year, significantly fewer workers and consumers are likely to be exposed. Furthermore, actural exposure at this level or production will in most cases be significantly less than the amount indicated in the exposure analysis, which is based in part on available data from relatively large-scale operations.

For small-scale operations to reach the workplace exposure concentrations indicated in the exposure assessment, production of the total 1,000 kg would generally have to take place in a relatively short time—perhaps as short as a day or two. In this case, the duration of exposure would be low, and therefore the potential for adverse chronic effects would be significantly reduced. Where manufacture took place over a relatively long period, workplace exposure would be unlikely to reach the levels identified in the exposure assessment.

Small-volume operations would typically be conducted over an extended period only if there were a need for

careful control (for example, to ensure product purity); this control would be likely to reduce exposure. Because of the small daily production volume, the small size of equipment, and the localized nature of operations, effective control is possible, and release and exposure to the worker from such activities as material transfer, sampling, and cleanup is minimized.

In addition, chemicals produced at 1,000 kg or less per year will typically be specialty products that do not receive wide distribution. In many cases, they are produced for limited purposes or do not achieve commercial success and thus do not remain in the market long. Therefore, widespread or long-term exposure to commercial users or consumers is unlikely.

For these reasons, EPA believes that exposure to chemicals manufactured at 1,000 kg per year will be substantially less than to chemicals manufactured at 10,000 kg per year.

e. *Risk under exemption conditions.* There are several elements of the proposed exemption that would significantly reduce risks to human health and the environment.

Chemicals substances with carcinogenic and teratogenic potential appeared to present the greatest risks even at relatively low exposures. The provision that excludes known or reasonably suspected carcinogens and teratogens from the under-10,000 kg per yr exemption should significantly reduce the likelihood that chemicals that present such effects would be manufactured under this exemption. If such chemicals are excluded, the range of potential risks would be substantially below the high end of EPA's estimates. Also, other chronic, acute, and environmental effects of chemicals in this exemption category must be assessed by a qualified expert, and manufacturers must take steps to ensure that exposure is controlled to prevent their occurrence. If this provision is implemented with diligence, exposure would be controlled to levels that would not result in significant risks.

In addition, EPA would review all new chemicals, including chemicals manufactured at 1,000 kg or less per year, before they were manufactured under the terms of the exemption. This provision would help ensure that manufacturers will properly execute their responsibilities to evaluate and control risks, as well as provide a screen to identify chemicals that do not qualify for the exemption. As with site-limited intermediates, EPA expects that low volume chemicals that would pass through the exemption, as it is designed, would not be regulated in the PMN process under similar circumstances of manufacture, processing, distribution in commerce, use, and disposal.

B. Summary of Economic Analysis

1. *Introduction.* To perform the economic analyses of the site-limited intermediate and low volume exemptions, the Agency created a data base consisting of information from a sample of about 500 PMNs, which represented the total submitted during a specific period during 1980 and 1981. This data base provides an overview of the Agency's recent experience with the PMN program. The Agency reviewed this data base to determine the types of chemicals being submitted for review, their projected production volumes, their intended uses, and in some cases their potential toxicity. The Agency also reviewed the disposition of these PMNs. While the analysis is retrospective, it does provide a good indication of what may happen under the various exemption alternatives being considered.

The Agency also reviewed the current impact of the PMN program on site-limited intermediates and low volume chemicals and the cost in EPA resources for reviewing both PMNs and exemptions notices. In addition, EPA estimated the direct relief to industry, reflected in decreased reporting costs, that would result from different exemption alternatives.

In assessing the potential benefits of this proposed exemption and alternative approaches, EPA also considered nonquantifiable benefits, such as increase in chemical innovation and the decrease in time required to bring exempt chemicals to the market. Although the Agency could not attach specific figures to these benefits, they are likely to be substantial. EPA's analysis of the impact on industry of its proposed PMN rules suggests that the nonquantifiable costs of the program may be greater than the quantifiable costs. By extension, it appears reasonable to assume that the nonquantifiable benefits of an exemption may be greater than those that can be quantified.

The complete economic analyses can be found in the economic support documents in the public file.

2. *Current impact of PMN program.* As a baseline for its economic analysis, EPA estimated the annual direct costs of submitting PMNs on site-limited intermediates and low volume chemicals. A review of the sample of 500 PMNs indicates that about 10 percent of all PMNs (or 70 out of the annual submission rate of 700 PMNs) are site-limited intermediates. using the current direct PMN reporting costs of $1,200 to $7,900 per PMN, EPA estimated the annual reporting costs for site-limited intermediates to be between $84,000 and $553,000. About 43 percent of all new chemical substances reported in PMNs (or 301 out of the annual submission rate of 700 PMNs) have estimated production volumes of 10,000 kg or less per year during the first year of production. Using the current PMN reporting costs, the annual reporting costs to industry can be estimated to be between $361,000 and $2,738,000. Approximately 61 percent of site-limited intermediates are also low volume chemicals in their first year of production; therefore, the combined reporting costs for site-limited intermediates and low volume chemicals can be estimated to be between $393,760 and $2,953,670 per year. The various exemption alternatives under consideration would provide significant relief from this reporting cost.

3. *Benefits of the exemption.* The Agency estimated the number of the new chemical substances that would be eligible for the exemption under the proposed approach and other alternatives considered. From this base, EPA then calculated the annual net benefits of the exemption. These benefits include only the actual direct cost savings to industry; they represent the difference between: (1) The cost of submitting a PMN if the exemption were not available, and (2) the cost of completing the exemption notice plus the cost of having a qualified expert review the new chemical substance. The cost of the qualified expert's review consists of two components: the cost of conducting the risk assessment (chemistry assessment, gathering and review of data, evaluation of potential hazard, and preparation of the report), and the cost of conducting an exposure assessment when exposure to the new chemical substance is not limited.

Depending on the conditions of the exemption (which would define the number of chemicals eligible, the amount of information required in an exemption notice, and the nature of the qualified expert's review), total direct benefits to industry for a site-limited intermediate exemption would fall between $23,000 and $553,000 per year. Direct benefits for a low volume exemption would fall between $93,000 and $1,597,000 per year.

The "low" end of the net benefits range for each alternative considered was based on the lowest estimates of the cost to submit a PMN and the lowest estimates of the cost to submit an exemption notice; the "high" end of the

benefits was based on the highest estimates of these figures. For the low volume exemption alternatives, the cost figure also includes the discounted cost of submitting a PMN in the third year for chemical substances whose production volume would exceed the volume limit by the third year of production.

In addition, EPA's analysis indicates that the exemption is likely to lead to direct savings in EPA resources that would otherwise be spent reviewing PMN's. For site-limited intermediates, these savings would fall between $94,000 and $301,000 per year. For low volume chemicals, the savings would fall between $373,000 and $571,000 a year. (These figures reflect the difference between costs or reviewing a PMN and estimated costs of reviewing an exemption notice. Of course, EPA resources would not be freed if the exemptions increased innovation to the point that review of the large number of exemption notices would require as many resources as the review of the smaller number of PMNs EPA would have received if the exemption were not available.)

In addition to the benefits which EPA has quantified, there are certain benefits which the Agency has examined qualitatively. Chief among these are the benefits of reduced delay and of increased innovation. Under the terms of the proposed exemption, eligible chemicals could be manufactured after 14 days rather than 90 days following notification of EPA. This reduced delay would enable manufacturers and consumers to benefit sooner from new chemical innovations and would allow manufacturers to take advantage of market opportunities that require quick response.

By reducing direct PMN filing costs and delay costs, the exemption will encourage chemical innovation. Depending on the practices of the manufacturer and the exemption category, PMN direct filing cost would be reduced from 50 to 90 percent of the current cost. This reduction together with shorter delay period, will mean that chemicals which formerly were not profitable to introduce would now be acceptable investments. The net value of this additional innovation would constitute additional benefits, both to the chemical industry and its customers.

In addition, the proposed exemption would provide benefits to EPA and the public because exempt chemicals would not be added to the TSCA Chemical Substance Inventory. Therefore, EPA would receive a PMN before exempt low volume chemicals increased in production volume beyond the exemption limit and before exempt site-limited intermediates were removed from the site of manufacture or were manufactured for other uses. The Agency would be able to review and, if necessary, control the risks prior to such changes in use or production volume. Under the current PMN process, the Agency would have to promulgate a significant new use rule to achieve the same level of followup.

Based on comments from industry, EPA expects the PMN's submitted on chemicals that had been manufactured under an exemption would contain more extensive and reliable information on toxicity and exposure than normally provided in a PMN. The availability of such information would assist EPA in reviewing these notices and identifying chemical substances that may present an unreasonable risk.

C. Major Alternatives Considered

1. *Site-limited intermediates.* In developing this proposal, EPA considered several major alternatives for site-limited intermediates. These alternatives are described and compared below. EPA requests public comment on these approaches.

a. *Description of alternatives.*

Alternative I—Deny The Site-Limited Intermediate Exemption

Under this approach, EPA would deny CMA's exemption petition to exempt site-limited intermediates. Instead, EPA would state that, for the purpose of section 5(h)(4), categories should be defined more narrowly in terms of likely exposure or chemical class. For example, EPA could develop exemptions for chemical substances with similar structure.

This alternative is the baseline against which the other alternatives are compared. If the site-limited intermediate exemption request is denied, manufacturers would continue to submit PMNs until EPA promulgated rules exempting narrower categories that included site-limited intermediates. Manufacturers and EPA would continue to incur the present costs associated with PMN review. The annual direct costs of submitting PMNs on site-limited intermediates would be between $84,000 and $553,000 and the annual cost to EPA of reviewing these PMNs would be approximately $297,000. The present impact of the program on innovation would also continue. The economic consequences of promulgating exemption rules on many narrow categories cannot be predicted without knowing what the individual categories would be or what restrictions would be included in such exemptions.

Alternative 2—Exempt All Site-Limited Intermediates Without Any Restrictions

EPA considered exempting all site-limited intermediates from PMN requirements without restrictions. There would be no toxicity criteria; a manufacturer would not notify EPA that it was manufacturing a site-limited intermediate under the exemption; and there would be no qualified expert or EPA review of individual chemicals manufactured under the exemption.

This alternative would be roughly comparable to the approach taken by the European Economic Community, which has adopted premarket notice requirements that exempt new chemical substances that are not distributed in commerce (e.g., site-limited intermediates) from full notification requirements. Although the European system has other provisions that make direct comparisons difficult (e.g., specific data and notification requirements for new chemicals before distribution in commerce), exempting all site-limited intermediates from PMN requirements would eliminate competitive disadvantage for U.S. industry by bringing the U.S. system closer in line with the European system.

The annual net benefits to industry of this approach would be between $84,000 and $553,000. These benefits reflect the cost savings to manufacturers because they would not have to file PMNs on site-limited intermediates. In addition, EPA estimates there would be a $301,000 annual savings in Agency resources because there would be fewer PMNs to review.

As the risk assessment illustrates, this approach might result in significant risks. It would allow any new site-limited intermediate to be manufactured without review by EPA, regardless of the chemical's toxic properties or the level of controls applied by the manufacturer. Without restrictions on toxicity and the procedural safeguards built into the other approaches, it would be difficult to make the finding of "no unreasonable risk" for site-limited intermediates.

Alternative 3—Require Quantitative Exposure And Release Limits For Toxic Intermediates

Under this alternative, all site-limited intermediates would be eligible for the exemption. However, specific quantitative exposure and release limits would be set for "toxic" intermediates. Therefore, potentially toxic chemicals would be eligible if exposure and release were controlled below a certain level. Furthermore, an industry qualified

expert would be required to review the chemical substance to determine whether these limits were adequate or whether further controls were necessary. Companies manufacturing an exempt chemical substance would notify EPA 14 days before manufacture began, and EPA would have the authority to find that the chemical substances was ineligible for the exemption. "Nontoxic" intermediates could be manufactured without exposure and release limits.

This alternative would allow manufacture of any site-limited intermediate under the exemption, as long as the manufacturer controlled exposure and release of "toxic" chemicals to the required levels. Therefore, while many new chemical substances would be eligible for the exemption, the quantitative limits would place a bound on exposure to potentially toxic chemicals manufactured under the exemption.

Because the potency of chemicals varies widely, it would be difficult for EPA to set appropriate quantitative exposure and release levels for all chemicals. Stringent limits would be expensive to implement and unnecessary for chemicals with moderate toxicity, so that few manufacturers might take advantage of the exemption for such chemicals. Higher limits appropriate for moderately toxic chemicals would be inadequate to protect against the risks presented by highly toxic chemicals. Another drawback to this approach is that, to ensure that manufacturers were complying with the exposure and release limits for "toxic" chemicals, it might be necessary to require them to monitor workplace air and plant emissions. This could increase the cost of complying with the exemption significantly. Therefore, manufacturers might choose to submit a PMN rather than incur monitoring and control costs.

The annual net benefits to industry of this alternative, expressed as relief from direct reporting costs, have been estimated to be between $41,000 and $484,000. These figures assume that "toxic"intermediates would be manufactured under the exemption. The figures reflect the costs incurred by industry to submit the required exemption notice and to employ a qualified expert to assess the risks associated with the site-limited intermediate. They do not reflect any costs associated with monitoring, controlling exposure to the specified limit, or submitting PMNs on "toxic" intermediates instead of complying with the exemption.

EPA estimates there would be a $196,000 annual net savings in Agency resources because EPA would not have to review PMNs on the site-limited intermediates that qualify for the exemption.

(EPA also considered an approach that would exempt toxic chemicals only if they were produced in "enclosed" or "controlled release" processes. The Agency rejected this approach, which was initially suggested by CMA, because of the difficulty of defining such terms. Because of the wide variety of chemical processes and methods of controlling exposure and release, the Agency found it impossible to develop clearcut language distinguishing "controlled" or "enclosed" from open processes.)

Alternative 4—Exclude Chemicals Suspected of Having Carcinogenic or Teratogenic Effects; Require Review By Qualified Expert and EPA

This alternative is the proposed approach. Chemical substances known to or reasonably suspected of causing carcinogenic or teratogenic effects would be automatically excluded. In addition, chemicals that may cause other serious adverse effects on humans (either acute or chronic) or significant environmental effects under conditions of manufacture, processing, distribution, use, or disposal would be ineligible. An industry qualified expert would review the exempt chemical substance before manufacture to ensure that the chemical met these criteria. The manufacturer would notify EPA 14 days before manufacture and EPA would have the authority to determine that a chemical was ineligible.

The automatic toxicity exclusion and the requirement that other hazards be carefully reviewed and controlled would reduce overall risk and create an incentive for the chemical industry to focus innovation on chemicals unlikely to have those effects.

From its experience with the PMN program, EPA believes that about 25 percent of new site-limited intermediates might be automatically excluded under this approach. Consequently, the annual net direct benefits to industry of this alternative would be between $35,000 and $370,000, based on the current rate of PMN submissions. These benefits reflect the cost savings to industry because companies would not have to file a PMN, minus the costs to submit an exemption notice to EPA and to employ a qualified expert to assess the risks associated with the site-limited intermediate.

In addition, EPA estimates there would be a $148,000 annual net savings in Agency resources because there would be fewer PMNs to review.

There would also be a nonquantifiable "uncertainty" cost associated with this exemption because EPA would have the authority to determine that a specific chemical was ineligible. However, EPA believes that the criteria for eligibility (particularly with the exclusion of certain potential hazards) are reasonably clear. A company complying with the qualified expert provision should have a high level of certainty that EPA would not declare a chemical ineligible.

b. *Comparison of alternatives and preferred approach.* Of the alternatives considered, Alternative 2, which would exempt all site-limited intermediates and not require review by a qualified expert or an exemption notice, would exempt the most site-limited intermediates, and therefore provide the most relief to industry. However, as the risk assessment illustrates, it might also entail substantial risk, and the finding of no unreasonable risk would be difficult to make.

Alternative 3 would the problem of risk by requiring certain exposure controls, as well as other safeguards. While still providing substantial relief, this alternative might impose extensive costs for control and monitoring. Alternative 4 would exclude site-limited intermediates with certain adverse health effects and would require manufacturers to apply appropriate exposure controls to limit risks from other adverse effects. As a result, it would provide needed protection, allow industry flexibility to determine the proper exposure controls, and avoid many of the problems of developing or enforcing exposure controls.

For these reasons, the proposed rule adopts the approach outlined in Alternative 4: It excludes chemical substances with certain adverse health and environmental effects, and it requires review by both an industry qualified expert and EPA before manufacture begins. EPA believes that this alternative would effectively protect human health and the environment while minimizing regulatory cost and delay. Of the alternatives considered, EPA believes that the preferred approach provides the broadest relief consistent with administrative feasibility and the statutory requirements of TSCA section 5(h)(4).

EPA is interested in receiving comments on the appropriateness of each of these alternatives and on the alternative proposed.

2. *Low volume chemicals.* The following section describes the major alternatives EPA considered for chemical substances manufactured in quantities of 10,000 kg or less per year. EPA requests public comments on these alternatives.

a. *Description of alternatives.*

Alternative 1—Deny the low volume exemption

Under this alternative, EPA would not grant an exemption for low volume chemical substances; instead, the Agency would respond to petitions for exemptions based on more specific categories of use or chemical structure.

This alternative is the baseline against which the other alternatives are compared. If EPA denies the request to exempt low volume chemicals, manufacturers would continue to submit PMNs on low volume chemicals until the Agency promulgated rules exempting narrower categories that include low volume chemicals. Thus, it is estimated that they would continue to incur the current direct PMN filing costs of between $361,000 and $2,378,000 a year, based on the current rate of PMN submissions, and EPA would incur costs of $1,350,000 a year to review the PMNs. The present impact of the PMN program on innovation would also continue.

Alternative 2—1,000 KG Volume Limit; Require Review By EPA

This alternative would be limited to chemical substances produced in volumes of 1,000 kg of less per year. The manufacturer would submit a short exemption notice 14 days before manufacture began. A qualified expert would not be required to review the new chemical substance. No chemical substances would be automatically inelligible based on toxicity, although EPA would have the authority to determine a chemical ineligible because of high potential for risk.

This approach is similar to that adopted by the European Economic Community (EEC), and would further the goal of increasing uniformity in the international community.

The risks presented by chemical substances manufactured at this low volume will generally be limited because of the limited size of the potential population at risk and because only small amounts of the new chemical substance would be released during manufacture, processing, and use. Based on PMN data, 21 percent of new chemical substances have first-year production volumes of 1,000 kg per year or less. However, setting the low volume limit at 1,000 kg may not provide a significant alternative to submission of a PMN since many new chemical substances must be produced in volumes substantially greater than 1,000 kg to be commercially successful.

The annual net benefits to industry would be between $126,000 and $916,000. These benefits reflect the cost savings to industry because companies would not have to file PMNs on chemicals that qualify for the low volume exemption and are based on the current rate of PMN submissions. Also, EPA would save approximately $483,000 in resources because it would not have to review PMNs on new chemical substances that qualified for the exemption.

Alternative 3—5,000 KG Volume Limit; Exclude Chemicals Suspected of Having Acute Lethal, Carcinogenic, or Teratogenic Effects; Require Review by Qualified Expert and EPA

This alternative would exempt new chemical substances manufactured at 5,000 kg or less per year. The manufacturer would be required to have a qualified expert evaluate the new chemical substance to determine whether it would cause certain acute or chronic health effects or adverse environmental effects that would make it ineligible for the exemption. Chemicals with potential for acute toxicity, carcinogenicity, and teratogenicity would be automatically excluded. The manufacturer would be required to submit a notice 14 days before manufacture begins so that EPA could determine whether the new chemical substance is eligible for the exemption.

Exclusion of certain suspect new chemical substances from eligibility for the exemption would help ensure that the low volume category of chemical substances would not present an unreasonable risk to health or the environment. The qualified expert's review and EPA's review of the exemption notice to determine whether the chemical substance is eligible for the exemptions would provide additional safeguards; if the Agency were aware of information indicating that the new chemical substance might not be eligible for the exemption, EPA could prevent its manufacture.

In reviewing PMNs, EPA found that 33 percent of the new chemical substances had estimated first-year production volumes of 5,000 kg or less per year. After adjusting for the number of chemicals that might be excluded, EPA estimates that about 27 percent of PMN chemicals would have been eligible in their first year of production. The annual net benefits to industry would be between $68,000 and $962,000. These benefits reflect the cost savings to industry because they would not have to file PMNs on chemicals that qualified for the low volume exemption and are based on the current rate of PMN submissions. There would be additional benefits that reflect a net savings of $591,000 in government resources because EPA would not have to review PMN notices on new chemical substances that qualified for the exemption.

Alternative 4—5,000 KG Limit for Certain Consumer Uses, 10,000 KG Volume Limit for All Other Uses; Exclude Substances Suspected of Having Acute Lethal, Carcinogenic, or Teratogenic Effects; Require Review by Qualified Expert and EPA

This alternative would exempt new chemical substances manufactured in volumes of 10,000 kg or less per year. However, for new chemical substances with certain uses expected to result in high consumer exposure, the volume limit would be 5,000 kg per year. Risk would be limited because chemical substances with certain acute or chronic health effects or adverse environmental effects would not be eligible for the exemption and the new chemical substance would be reviewed by a qualified expert and EPA. The 5,000 kg production limit for new chemical substances with uses that have high consumer exposures would reduce the numbers of consumers potentially at risk.

Based on the PMN data, 43 percent of new chemical substances have first-year production volumes of 10,000 kg or less and 10 percent of new chemical substances have first year production volumes between 5,000 and 10,000 kg. Of the chemicals whose first year production volume fell between 5,000 and 10,000 kg, 23 percent had consumer uses and therefore would not have qualified for this exemption. After adjusting for the number of chemicals that might have been excluded because of use or toxicity, EPA estimates that about 33 percent of PMN chemicals would have been eligible for the exemption.

The annual net benefits to industry would be between $90,000 and $1,243,000. These benefits reflect the cost savings to industry because they would not have to file PMNs on low volume chemicals that qualified for the exemption and are based on the current rate of PMN submissions. There would be additional benefits reflecting a net savings of approximately $581,000 in government resources because EPA would not have to review PMNs on low

volume chemicals that qualified for the exemption.

(As discussed in Unit IV of the preamble, EPA is also considering other safeguards to ensure that exempt chemicals will not present an unreasonable risk to consumer—for exemple, by requiring that manufacturers provide a summary of the qualified expert's review for consumer chemicals.)

Alternative 5—10,000 KG Volume Limit; Exclude Chemicals Suspected of Acute Lethal, Carcinoginic, or Teratogenic Effects; Require Review by Qualified Expert and EPA

This alternative is the same as Alternative 3, except that the volume limit of 10,000 kg per year would apply to all chemical substances. Based on PMN data on first-year production volume, 43 percent of all new chemicals, including substances with consumer uses, would be eligible for the exemption (if they met the other exemption requirements). After adjusting for the number of chemicals that might be excluded, EPA estimates that about 35 percent of the PMN chemicals would have been eligible.

The annual net benefits to industry would be between $93,000 and $1,294,000, based on the current rate of PMN submissions. These benefits reflect the direct cost savings to industry because they would not have to file PMNs on chemicals that qualified for the low volume exemption. There would be additional benefits reflecting net savings of approximately $601,000 in government resources because EPA would not have to review PMNs on new chemical substances that qualified for the exemption.

b. *Comparison of alternatives and preferred approach.* The alternatives for exempting low volume chemicals include different production volume limits (e.g., 1,000 kg, 5,000 kg, and 10,000 kg) and different safeguards to ensure that the manufacture of new chemical sustances under the terms of the exemption would not present an unreasonable risk of injury to health or the environment (e.g., exclusion of certain chemical substances from eligibility, review by a qualified expert, 14-day EPA review). Clearly, the higher the production volume limit and the fewer the safeguards included in the rule, the more chemicals that would be exempt and the greater the benefits. On the other hand, the lower the production volume and the more safeguards included, the more unlikely it is that a new chemical substance manufactured under the exemption would present an unreasonable risk.

The proposal adopts both Alternative 1 (1,000 kg production volume limit, EPA review, no qualified expert review) and Alternative 5 (10,000 kg limit with certain toxicity exclusions and review by a qualified expert and EPA). Based on the current rate of PMN submissions about 40 percent of new chemical substances would be eligible for the low volume exemption if EPA adopts these two alternatives. The annual net benefits to industry would be between $185,000 and $1,768,000. These benefits reflect the direct savings to industry because companies would not have to file PMNs on chemicals that qualified for the low volume exemption. There would be approximately an $802,000 annual net savings in Agency resources because EPA would not have to review PMNs on low volume chemicals that qualify for the exemption.

EPA believes that together, these two alternatives balance industry's interest in reducing PMN costs with the Agency's responsibility to ensure that new chemical substances manufactured under the terms of this exemption do not present an unreasonable risk of injury to health or the environment. Of the alternatives considered, EPA believes that the preferred approach provides the broadest relief consistent with administrative feasibility and the statutory requirements of section 5(h)(4).

EPA requests comments on the appropriateness of each of these alternatives and on the alternative selected. The final rule will be based on EPA's balancing of the benefits and risks presented by the various alternatives.

D. Finding of no Unreasonable Risk

To grant an exemption under section 5(h)(4), EPA must find that the exempt chemical substances will not present an unreasonable risk of injury to health or the environment. The Agency has made a preliminary determination that new site-limited intermediates and chemical substances manufactured in quantities of 10,000 kg or less per year will not present such a risk when manufactured and processed under the terms of the proposed exemptions.

EPA's preliminary determination of no unreasonable risk is based on a consideration of (1) the limitations on risk that would result from the safeguards built into the rule, (2) the limitations on risk resulting from the restriction of exemptions to site-limited intermediates and chemical substance manufactured in low volume, and (3) the benefits to industy and the public provided by chemical substances manufactured under the exemption.

From the risk assessment, and from general knowledge of chemical hazards, the Agency has concluded that, although certain aspects of the manufacture, processing, distribution, use, and disposal of site-limited intermediates and low volume chemicals limit exposure, there is nothing inherent in these categories that eliminates risk or that necessarily reduces it to a reasonable level. Highly potent chemicals falling into either of these categories could pose substantial risks. For these reasons, the restrictions and safeguards built into the preferred approach are essential elements of the finding of no unreasonable risk.

EPA recognizes that, even with these safeguards, the proposed approach would not ensure that there would be no risk from chemicals manufactured under the exemption. The statute does not define no unreasonable risk to be zero risk. Rather, it defines no unreasonable risk as a balancing of risk and benefit. Because of the safeguards in the proposed rule and the restricted nature of the exemption categories, EPA believes that risks are not likely to be any greater than if PMNs were filed. Furthermore, the new chemicals provide benefits to industry and to the public. These benefits are an important element in the finding of no unreasonable risk.

1. *Exemption conditions.* There are several exemption provisions that directly or indirectly reduce the likelihood that new chemical substances manufactured under the proposed exemption would adversely affect health or the environment. EPA believes that the combined effect of these provisions would significantly limit risk and that they would adequately support a finding of no unreasonable risk, given the bounds on exposure associated with the exemption categories and the benefits of the exemption.

The major provisions that limit risk are discussed below:

a. *Hazard exclusions.* Except for chemicals produced in quantities of 1,000 kg or less per year, chemicals known to be or reasonably suspected of being carcinogens or teratogens would be excluded from the exemption, regardless of the conditions of exposure. Also, acutely toxic chemicals would be excluded from the exemption for chemicals manufactured at 10,000 kg or less per year. These provisoins should significantly reduce the likelihood that chemicals with carcinogenic and teratogenic potential would be manufactured under the exemption. In addition to this exclusion, the exemption would not be extended to any chemicals (including chemicals manufactured at

1,000 kg or less per year) that might cause serious acute or chronic effects in humans or significant environmental effects under conditions of manufacture, processing, distribution, use, and disposal.

Serious hazards may be presented not only by the new chemical substance itself but also by its metabolites, environmental transformation products, and the byproducts of its manufacture, processing, distribution, use, and disposal. For this reason, the hazard limitations apply to substances associated with the new chemical substance as well as the new chemical itself.

b. *Qualified expert and EPA review.* The qualified expert's review of possible risks posed by site-limited intermediates and by chemicals manufactured under the 10,000 kg per year exemption would provide important assurance that the hazard criteria listed above are met. (EPA will develop an audit program to ensure that the qualified expert concept is working as it was conceived to work.) Because of the relatively low exposure likely to be associated with chemicals manufactured at 1,000 kg or less per year, EPA believes that its 14-day review, described below, would provide adequate assurance against unreasonable risk without a qualified expert's review.

EPA's 14-day review before manufacture begins would provide important protection against unreasonable risk for all of the exemption categories. Because evaluating the toxicity of a new substance and the risks it may pose is often a complex task demanding considerable judgment, and because circumstances of toxicity and exposure may vary widely for new site-limited intermediates and low volume chemicals, EPA believes that an independent Agency review is a necessary element in ensuring that the manufacture, processing, distribution, use, and disposal of a chemical meet the terms of the exemption and do not present an unreasonable risk. In its experience in the PMN program, EPA has found that, although 14 days is not long enough for the review of problematic chemicals, it does provide enough time for the Agency to determine whether a potential problem exists and whether further review is necessary. For this reason, a 14-day review would be adequate for EPA to identify potential problem chemicals and exclude from the exemption.

EPA's review will contribute to the proper implementation of the toxicity exclusion and to the finding of no unreasonable risk in two ways. First, it will provide an incentive for manufacturers to take adequate steps to ensure that the new chemical has been properly evaluated and is eligible for the exemption. Second, EPA's review will provide an independent opinion about the chemical's toxicological properties and risk potential and thus will help ensure that risks will be limited.

If EPA determines that a new chemical is not eligible for an exemption, manufacture could not begin. The manufacturer would then be required to comply with TSCA section 5(a)(1) before the chemical could be manufactured for commercial purposes.

c. *New information and EPA revocation.* In addition to these safeguards, the proposed rule contains several other provisions that would further limit the probability that exempt chemicals would present significant risks. Most important, the proposed rule establishes procedures for revocation of the exemption if EPA later determines that the chemical does not meet the conditions of the exemption. In addition, EPA would have the authority to require documents relevant to an exemption from the manufacturer, and the manufacturer would be required promptly to submit to EPA any new data that might indicate that a chemical was ineligible for the exemption. These provisions will ensure that eligibility for the exemption will be determined on the basis of the best available information, regardless of when the information becomes available.

2. *Exemption categories.* A critical element of the finding is that chemicals manufactured in quantities of 10,000 kg or less per year, chemicals manufactured at 1,000 kg or less per year, and site-limited intermediates have exposure characteristics that limit risk. EPA believes that, with the other provisions of this proposed rule, these characteristics will ensure no unreasonable risk.

Site-limited intermediates would be confined to the industry site at which they are manufactured and therefore public exposure is minimized; they are under the direct control of the company that holds the exemption and employs the qualified expert; they are typically manufactured in a controlled manner; a limited number of workers are likely to be exposed to them; the duration and frequency of exposure are limited, judging from PMN data; and they are generally consumed in a chemical reaction, reducing exposure and release.

Chemicals manufactured in volumes of 10,000 kg or less per year also have limited exposure potential. Worker exposure is generally limited in terms of the number of workers exposed and the duration and frequency of exposure. The risk assessment illustrates that significant numbers of consumers could be exposed, but the levels of exposure would decrease as the number of people exposed increased.

The number of people exposed and the magnitude of exposure would be substantially less for chemicals manufactured at 1,000 kg or less per year. In fact, as discussed early, actual exposure at this production level is likely to be significantly less than the amount indicated in the exposure analysis. For this reason, EPA believes that its 14-day review will be sufficient to support the finding of no unreasonable risk for this category, without automatic toxicity exclusions or review by a qualified expert.

3. *Benefits.* EPA believes that this proposed exemption would significantly increase innovation in site-limited intermediates and low volume chemcals and that it would in some cases allow manufacturers to introduce new chemicals in commerce more rapidly than they could if they were required to wait the full 90-day PMN review period. The benefits derived from chemicals that would not have been introduced into commerce without an exemption, and the increase in benefits associated with the more rapid introduction of new chemicals, are likely to be substantial. In addition, to the extent that savings in PMN costs are passed on to consumers through lower prices, chemicals manufactured under the exemption would be of greater benefit than they would be if they had undergone PMN review.

4. *Conclusion.* Given the limitations on risks posed by chemicals manufactured under this exemption, and the benefits that would be derived from these chemicals, EPA has made the preliminary determination that chemicals manufactured under the terms of this exemption will not present an unreasonable risk.

Although EPA has made its preliminary finding of no unreasonable risk only for the proposed approach, such a finding may also be possible for some or all of the alternatives discussed in this section. EPA requests comment on the appropriateness of the finding of no unreasonable risk for each of the alternatives identified.

V. Related Issues

A. Confidentiality

Persons who submit confidential business information under this proposed rule would be required to assert all claims of confidentiality when

they submit the information to the Agency. Information claimed confidential would be handled according to the Agency's confidentiality rules in 40 CFR Part 2. Information would be claimed confidential by circling, bracketing, or underlining it and marking it with "CONFIDENTIAL" or some other appropriate designation. Information not claimed confidential could be disclosed to the public without further notice to the submitter.

Under the proposed rule, manufacture of a low volume chemical substance under the terms of this exemption is limited to the first manufacturer. Therefore, if the Agency receives a second exemption notice on a new chemical substance, it will inform the second manufacturer that it cannot manufacture the new chemical substance under the exemption. Also, if a company submits a *bona fide* request to find out whether a chemical is being manufactured under a low volume exemption, and the chemical is in fact being manufactured under such an exemption, the Agency will inform the second manufacturer that it is not eligible for the exemption. When the first manufacturer has claimed chemical identity confidential, these notifications will disclose to the second manufacturer that someone else is already manufacturing the chemical under the exemption. EPA believes this disclosure is an unavoidable consequence of the rule.

B. Inventory

The TSCA Chemical Substance Inventory is a list of chemical substances in commerce. The major purpose of the Inventory is to define PMN Requirements. Chemicals not included on this list are subject to TSCA section 5(a)(1) premanufacture notification.

Because they have not undergone full PMN review, new chemical substances manufactured under this exemption would not be added to the Inventory. Therefore, manufacturers who intend to manufacture exempt chemicals outside the scope of the exemption would be required to submit premanufacture notices. After review of a premanufacture notice and upon receipt of a commencement of manufacture notice, the chemicals would be added to the Inventory.

Since exempted chemicals will not appear on the Inventory, EPA is considering ways of informing the public of which chemicals are being manufactured under the exemption without disclosing confidential business information. The Agency encourages commenters to suggest workable procedures for providing nonconfidential information to the public.

VI. Application of Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the Regulatory Impact Analysis requirement. This regulation is not major because it does not satisfy any of the criteria of a major regulation described in the Executive Order. The annual impact of this rule on the economy will not exceed $100 million. This exemption will not increase costs to industry or consumers. EPA believes that the savings from reducing or eliminating premanufacture notification requirements for the exempt substances will outweigh the cost of submitting an exemption application. No particular geographic region will be burdened and the exemption rule will not affect government agencies, except that it may reduce the burden of PMN review for EPA. The exemption will improve the ability of domestic manufacturers to compete with foreign manufacturers and encourage domestic innovation. EPA expects that the net effect of this exemption rule on the economy will be positive.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

The reporting and recordkeeping provisions in this proposed rule will be submitted for approval to OMB under section 3504(n) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Any final rule will explain how the reporting or recordkeeping provisions in the rule respond to any OMB or public comments.

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The proposed rule would not have negative impacts on small businesses; in fact they would benefit from it. The proposed rule would not discriminate between large and small manufacturers. Instead, it would provide relief from the burdens of the present PMN requirements. The Chemical Specialties Manufacturers Association, which represents many small businesses, has stated that "declines in the rates of projected innovation as a result of TSCA costs were on the whole substantial, and were particularly heavy for firms in smaller size classes." Since the exemption would reduce PMN filing costs, reduce regulatory uncertainty, and shorten production delays, small manufacturers would benefit from the proposed rule.

The exemption for low volume chemicals would be especially beneficial to small firms. The PMN data base indicates that smaller firms are more likely to submit PMNs on low volume chemicals (10,000 kg or less per year) than are larger manufacturers. The 1,000-kg exemption will provide a great deal of benefit to small firms since 31 percent of their PMN submissions have been on chemicals with projected production volumes of 1,000 kg or less per year, while 21 percent of all PMNs have been on such chemicals. Therefore, the Agency will not prepare a Regulatory Flexibility Analysis for this rule.

VII. Public Comments

EPA invites comments on all issues raised in this notice. Comments should focus on EPA's approach to granting the exemption, the appropriateness of the exemption categories, the Agency's finding of no unreasonable risk, the reasonableness of the volume limits, the information required in the exemption notice, and the role of the qualified expert. All comments in the public record will be considered in promulgating the final rule.

VIII. Public Hearings

If requested, EPA will conduct public hearings on November 1, 1982 in accordance with the requirements of TSCA sections 6(c)(2) and 6(c)(3). Requests to make an oral presentation must be received by October 4, 1982. The agency will prepare a transcript of any requested hearings for inclusion in the official public record.

IX. Public Record

Interested persons may submit written comments regarding this proposal to the Document Control Offficer (TS–793), Rm. E–401, Office of Pesticides and Toxic Substances, 401 M St., SW., Wshington, DC 20460. Each commenter must submit three copies of all comments, except that individuals may submit single copies of comments. The comments must be identified with the document control number "[OPTS–50032A]."

EPA has established a public record of this rulemaking (Docket Number: OPTS–50032) which is available for inspection in the OPTS Reading Room, Rm. E–107, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal

holidays, at the above address. Persons who do not have access to the record in the public reading room should contact Douglas A. Bannerman, Director, Industry Assistance Office (TS–799), at the above address for assistance.

The record includes all information considered by the Agency in developing this exemption proposal, except confidential business information contained in premanufacture notices. The Agency will supplement the record with additional information as it is received. The record currently includes the following documents:

1. Arthur D. Little, Inc., "Estimated Costs for Preparation and Submission of Reproposed Premanufacture Notice Form," prepared for Office of Toxic Substances, U.S. Environmental Protection Agency, September 1979.

2. Chemical Manufacturers Association, "Petition of Chemical Manufacturers Association (CMA) for the Commencement of Rulemaking Proceedings Under Section 5(h)(4) of TSCA," dated May 21, 1981.

3. Chemical Manufacturers Association, "Letter of Transmittal of the CMA Petition from Robert A. Roland, President of CMA, to Anne M. Gorsuch, Administrator of USEPA," dated May 21, 1981.

4. USEPA–OTS, "Agenda for Chemical Control Division's Meeting with Representatives of CMA on CMA's Exemption Petition," held on June 4, 1981.

5. USEPA–OTS, "Summary of the June 4, 1981 Meeting with CMA and CMA's Exemption Petition," dated June 17, 1981.

6. Synthetic Organic Chemical Manufacturer's Association, Inc., "Petition of Synthetic Organic Chemical Manufacturers Association, Inc. for the Commencement of Rulemaking Proceedings Under Section 5(h)(4) of the Toxic Substances Control Act," dated June 17, 1981.

7. National Paint and Coatings Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 24, 1981.

8. Chemical Specialties Manufacturers Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 29, 1981.

9. National Association of Printing Ink Manufacturers, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 30, 1981.

10. Dyes Environmental and Toxicological Organization, Inc., "Petition of Dyes Environmental and Toxicological Organization, Inc. for PMN Exemption Rule under Section 5(h)(4) of the Toxic Substances Control Act for Low Volume Dyes and Site-Limited Dye Intermediates and for Fast Track PMN Review," dated July 10, 1981.

11. USEPA–OTS, "Agenda for the Office of Toxic Substances Meeting with the Dyes Environmental and Toxicological Organization, Inc. (DETO) on DETO's Exemption Petition," held on July 14, 1981.

12. USEPA–OTS, "Summary of the July 14, 1981 Meeting with Dyes Environmental and Toxicological Organization, Inc. (DETO) on DETO's Exemption Petition," dated August 8, 1981.

13. National Association of Manufacturers, "Endorsement of CMA Petition, letter from P. Conmon to E. Clark," dated July 27, 1981.

14. USEPA–OTS, "Summary of the July 22, 1981 Meeting with CMA on CMA's Exemption Petition," dated September 9, 1981.

15. USEPA–OTS, "Summary of the August 12, 1981 Meeting with Chemical Specialties Manufacturers Association to Discuss Exemptions under Section 5(h)(4)," dated August 26, 1981.

16. USEPA–OTS, "Agenda for the Office of Toxic Substances Meeting with the Synthetic Organic Chemical Manufacturers Association (SOCMA) on SOCMA's Exemption Petition," held on August 20, 1981.

17. USEPA–OTS, "Summary of the September 2, 1981 Meeting with CMA on the CMA Exemption Petition," dated September 16, 1981.

18. USEPA–OTS, "Proposed Regulatory Program for Development of a Generic Exemption Rule under Section 5(h)(4) of TSCA," submitted for use during the meeting between CMA and EPA on September 2, 1981, draft dated August 28, 1981.

19. Chemical Specialties Manufacturers Association, "Letter Containing Comments on Summary of the September 2, 1981 Meeting between EPA and CMA," dated September 28, 1981.

20. The Adhesive and Sealant Council, Inc., "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated September 2, 1981.

21. Dry Color Manufacturers' Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated September 10, 1981.

22. USEPA–OTS, "CMA Exemption—Preliminary Review," dated September 15, 1981.

23. Chemical Manufacturers Association, "Preliminary CMA Response to EPA Working Paper on PMN Exemption," dated September 24, 1981.

24. USEPA–OTS, "Agenda for OTS–CMA Meeting on CMA Petition on September 30, 1981,"

25. USEPA–OTS, "Summary of the September 30, 1981 Meeting with CMA on the CMA Exemption Petition."

26. USEPA–OTS, "Low Volume Exemption—Working Paper for October 9, 1981 Meeting," dated October 8, 1981.

27. USEPA–OTS, "Summary of the October 9, 1981 Meeting with CMA to Discuss Low Volume Exemptions."

28. USEPA–OTS, "Letter from Margaret Stasikowski, Acting Director, Chemical Control Division, to Jerald A. Jacobs, General Counsel to the Adhesive and Sealant Council, Inc.," dated October 14, 1981.

29. USEPA–OTS, "Low Volume Issues," draft dated November 2, 1981.

30. Chemical Manufacturers Association, "Proposed CMA Position Concerning the Requirements for Using Qualified Experts During the PMN Exemption Process," submitted for use during the meeting between CMA and EPA on November 3, 1981, draft dated October 28, 1981.

31. USEPA–OTS, "Site-Limited Intermediate Exemption Staff Working Paper," submitted for use during the meeting between CMA and EPA on November 4, 1981, draft dated October 26, 1981.

32. USEPA–OTS, "Summary of November 2, 1981 Meeting with CMA to Discuss Site-Limited Intermediate Exemption."

33. USEPA–OTS, "Notice of Receipt of CMA Section 5(h)(4) Exemption Petition," 46 FR 54688, dated November 3, 1981.

34. USEPA–OTS, "Summary of November 3, 1981 Meeting with CMA to Discuss Low Volume Exemptions."

35. Chemical Manufacturers Association, "Memorandum—Role of Other Environmental Statutes in Preventing Potentially Harmful Environmental Discharges of Low Volume Chemicals and Site-Limited Intermediates Exempted from PMN Requirements under Section 5(h)(4) of TSCA," draft dated December 4, 1981.

36. Chemical Manufacturers Association, "Proposed CMA Position Concerning the Requirements for Exempting Site-Limited Intermediates from the PMN Exemption Process," draft dated December 7, 1981.

37. USEPA–OTS, "Summary of December 9, 1981 Meeting with CMA."

38. USEPA–OTS, "Low Volume Chemicals: TSCA 5(h)(4) Exemption Hazard Analysis, " December 1981.

39. Chemical Specialties Manufacturers Association, "Impact of the Toxic Substances Control Act on Innovation in the Chemical Specialties Manufacturing Industry," dated December, 1981.

40. Chemical Manufacturers Association, "Preserving Innovation Under the Toxic Substances Control Act," dated January 20, 1982.

41. Comments received in response to the Notice of Receipt of the CMA Petition, 46 FR 54688, November 3, 1981.

42. Chemical Manufacturers Association, "Memorandum—Exclusion of Low Volume Chemicals and Site-Limited Intermediates with Chronic Hazard Potential from EPA's PMN Exemption Rule under Section 5(h)(4) of TSCA," draft dated January 27, 1981.

43. USEPA–OTS, "Summary of January 29, 1982 Meeting with CMA to Discuss the CMA Exemption Petition."

44. USEPA–OTS, "Low Volume Exemption," submitted for use during the meeting with CMA on January 29, 1982, dated January 28, 1982.

45. USEPA–OTS, "Site-Limited Intermediates," submitted for use during the meeting with CMA on January 29, 1982, dated January 27, 1982.

46. USEPA–OTS, "Site-Limited Intermediate Chemicals: TSCA 5(h)(4) Exemption Hazard Analysis," January 1982.

47. Natural Resources Defense Council, Inc., "Letter in Response to CMA's Proposed Exclusion of Chemicals with Chronic Hazard Potential," dated February 9, 1982.

48. Chemical Specialties Manufacturers Association, "Letter Concerning Exemption Issues Related to Small Chemical

Manufacturers and Chemical Specialties Manufacturers," dated February 12, 1982.

49. USEPA–OTS, "Ecotoxicity Data for Site-Limited and Low Volume Exemptions." Memorandum from I. Baumel, Director, Health and Environmental Review Division to E. Klein, Director, Chemical Control Division," dated February 26, 1982.

50. USEPA–OTS, "Low Volume Exemption: Occupational Exposure and Environmental Release Assessment," dated March 19, 1982.

51. USEPA–OTS, "Site-Limited Intermediate Exemption: Occupational Exposure and Environmental Release Assessment," dated March 19, 1982.

52. General Software Corporation and JRB Associates, "Assessment of Potential Exposure to Low Volume Chemicals and Site-Limited Intermediates," prepared for Office of Toxic Substances, U.S. Environmental Protection Agency, March 22, 1982.

53. USEPA–OTS, "Economic Impact Analysis of TSCA Section 5(h)(4) Exemptions: Low Volume Chemicals," April 1982.

54. USEPA–OTS, "Economic Impact Analysis of TSCA Section 5(h)(4) Exemptions: Site-Limited Intermediates," April 1982.

55. USEPA–OTS, "Risk Assessment for Low Volume Chemicals and Site-Limited Intermediates," May 1982.

56. Synthetic Organic Chemical Manufacturers Association, "PMN Exemption for Very Low Volume Chemicals in Low Exposure Use," undated.

List of Subjects in 40 CFR Part 723

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting.

Dated: July 27, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 723—PREMANUFACTURE NOTIFICATION EXEMPTIONS

Therefore, it is proposed that Chapter I of Title 40 of the Code of Federal Regulations be amended by adding a new Subpart A to Part 723, consisting at this time of § 723.10 to read as follows:

Subpart A—General Provisions

§ 723.10 Site-limited intermediates and chemical substances manufactured in quantities of 10,000 kilograms or less per year.

(a) *Purpose and scope.* (1) This section grants an exemption from the premanufacture notice requirements of section 5(a)(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2604(a)(1)(A)) for the manufacture of site-limited intermediates and chemical substances manufactured in quantities of 10,000 kilograms or less per year.

(2) To manufacture a new chemical substance under the terms of this exemption, (i) a manufacturer must submit a notice of intent to manufacture 14 days before manufacture begins, as required under paragraph (f) of this section, (ii) a qualified expert employed by the manufacturer must review the new chemical substance, unless it is a member of the category described in paragraph (c)(1) of this section, and conclude that it is eligible for the exemption, and (iii) the manufacturer must comply with all recordkeeping requirements under paragraph (m) of this section.

(b) *Definitions.* (1) "Act" means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(2) "Acutely toxic effects" means that a chemical substance would kill within 14 days:

(i) At least half of a group of albino rats weighing between 200 and 300 grams each, when it is administered orally at a single dose of 500 milligrams per kilogram or less of body weight (LD50); or

(ii) At least half of a group of an appropriate mammalian species, preferably albino rabbits weighing between 2 and 3 kilograms each, tested at a dosage of 1,000 milligrams per kilogram or less of body weight, when it is administered by continuous contact with the bare skin for 24 hours or less (LD50); or

(iii) At least half of a group of albino rats weighing between 200 and 300 grams each tested at a concentration in air of 2,000 parts per million or less by volume of gas or vapor, or 2 milligrams or less per liter of mist, fume, or dust, when it is administered by continuous inhalation at a steady concentration for one hour or less (LC50).

(3) The terms "Administrator," "chemical substance," "environment," "health and safety study," "manufacture," "new chemical substance," and "process" have the same meanings as in section 3 of the Act (15 U.S.C. 2602).

(4) The terms "article," "EPA," "importer," "person," and "site" have the same meanings as in § 710.2 of this chapter.

(5) "Byproduct" means a chemical substance produced without separate commercial intent during the manufacture, processing, distribution, use, or disposal of another chemical substance or mixture. Byproducts include waste and emissions from these activities.

(6) "Carcinogenic effects" means benign or malignant neoplasms, including sarcoma and leukemia.

(7) The term "category of chemical substances" has the same meaning as in section 26(c)(2) of the Act (15 U.S.C. 2625).

(8) "Environmental transformation product" means any chemical substance resulting from the action of an environmental process(es) on a parent compound which changes its molecular integrity.

(9) "Director of the Office of Toxic Substances" means the Director of the EPA Office of Toxic Substances or any EPA employee designated by the Office Director to carry out the Office Director's functions under this section.

(10) "Intermediate" means any chemical substance which is (i) used as a reactant in the intentional manufacture of another chemical substance, and (ii) is consumed in whole or in part in that reaction.

(11) "Metabolite" means a chemical entity produced by one or more enzymatic or nonenzymatic reactions as a result of exposure of an organism to a chemical.

(12) "Qualified expert" means a person(s) who, because of education, training, or experience, is capable of (i) evaluating the health and environmental effects of the new chemical substance reviewed, (ii) assessing potential human exposure to and environmental release of the new chemical substance, and (iii) integrating those assessments to determine the new chemical substance's potential for health and environmental risks. The qualified expert must be familiar with general principles of chemistry, human and environmental toxicology, exposure assessment, and risk assessment, and with the specific literature relevant to assessing the risks of each chemical substance that the expert evaluates.

(13) "Serious acute effects" means human disease processes that have a short latency period for development, result from short-term exposure, or are a combination of these factors and which are likely to result in death or severe or prolonged incapacitation.

(14) "Serious chronic effects" means human disease processes that have a long latency period for development, result from long-term exposure, are long-term illnesses, or are a combination of these factors and which are likely to result in death or severe or prolonged incapacitation.

(15) "Short-term test indicative of carcinogenic potential" means: (i) Limited bioassays which measure tumor or preneoplastic induction,and (ii) tests indicative of interaction of a chemical with DNA (i.e., positive response in assays for gene mutation, chromosomal aberrations, DNA damage and repair, or cellular transformation).

(16) "Significant environmental effects" means injury to the environment which reduces or adversely affects the productivity, utility, value, or function of biological, commercial, or agricultural resources, or causes the loss of a member of a rare or endangered species.

(17) "Site-limited intermediate" means an intermediate manufactured and processed only at the site of manufacture and not intentionally distributed outside that site except for waste disposal. For purposes of this rule, "site of manufacture" means the site where the intermediate is produced.

(18) "Teratogenic effects" means any structural or functional abnormalities occurring during the period of embryonic and fetal development.

(19) "Test data" means: (i) Data from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement; and (ii) information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

(c) *Applicability.* This exemption applies to (1) the first manufacturer of each new chemical substance manufactured in quantities of 1,000 kilograms or less per year under the terms of this exemption, (2) the first manufacturer of each new chemical substance manufactured in quantities of 10,000 kilogrmas or less per year under the terms of this exemption, and (3) any manufacturer (not including importers) of a new site-limited intermediate under the terms of this exemption. A chemical substance that falls into two or more exemption categories may be manufactured under any category for which it qualifies.

Chemical substances that cannot be manufactured under this exemption—(1)—*Automatic exclusions*—(i) *Carcinogenic or teratogenic effects.* New chemical substances described in paragraphs (c)(2) and (c)(3) of this section cannot be manufactured under this exemption if the new chemical substance:

(A) Has been shown to cause carcinogenic or teratogenic effects in humans or in at least one species of laboratory animal, or has given positive results in a short-term test indicative of carcinogenic potential.

(B) Has a significant structural similarity to another chemical substance that has been shown to cause carcinogenic or teratogenic effects in humans or in at least one species of laboratory animal, or belongs to a class of chemical substances that are reasonably suspected of having these effects, or

(C) Is known or can reasonably be anticipated to metabolize in animals or humans to a chemical substance that meets the criteria in paragraph (d)(1)(i)(A) or (B) of this section.

(ii) *Acute toxicity.* A new chemical substance described in paragraph (c)(2) of this section cannot be manufactured under the terms of this exemption if the new chemical substance has been demonstrated to cause acutely toxic effects in laboratory tests or can reasonably be expected to cause acutely toxic effects.

(2) *Other exclusions*—(i) *Chronic effects.* A new chemical substance described in paragraph (c)(1), (2), or (3) of this section cannot be manufactured under this exemption if that substance or a reasonably anticipated metabolite or environmental transformation product may cause serious chronic effects, including carcinogenic and teratogenic effects, under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal.

(ii) *Acute effects.* A new chemical substance described in paragraph (c)(1), (2), or (3) of this section cannot be manufactured under this exemption if that substance or a reasonably anticipated metabolite or environmental transformation product may cause serious acute effects (lethal or sublethal) under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal.

(iii) *Environmental effects.* A new chemical substance described in paragraph (c)(1), (2), or (3) of this section cannot be manufactured under this exemption if the new chemical substance or a reasonably anticipated environmental transformation product may cause significant environmental effects under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal.

(iv) *Byproducts.* A new chemical substance described in paragraph (c)(1), (2), or (3) of this section cannot be manufactured under this exemption if the reasonably anticipated byproducts of manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance, including waste or emissions, may cause serious acute or chronic effects in humans or significant environmental effects under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal.

(v) *Residuals.* A new site-limited intermediate cannot be manufactured under this exemption if the residual of the new site-limited intermediate contained in a final product leaving the site of manufacture may cause serious acute or chronic effects in humans or significant environmental effects under anticipated conditions of manufacture, processing, distribution in commerce, use, or disposal.

(e) *Qualified expert.* (1) To manufacture a new chemical substance described in paragraph (c)(2) or (3) of this section, a qualified expert employed by the manufacturer must evaluate the new chemical substance to determine whether it is excluded from the exemption, as described in paragraph (d) of this section. This review must address the potential toxicity of the new chemical substance itself; its reasonably anticipated metabolites, environmental transformation products, and byproducts; and its projected circumstances of manufacture, processing, distribution in commerce, use, and disposal. Environmental releases must be reviewed both in terms of possible indirect exposure to humans and direct risks to the environment.

(2) Where the qualified expert has identified potential adverse health or environmental effects that do not automatically exclude a new chemical substance, the manufacturer must take steps to ensure that exposure is at a level at which serious acute and chronic effects in humans and significant environmental effects will not occur.

(f) *Exemption notice.* The manufacturer must submit a notice to EPA at least 14 days before manufacture begins. This notice must include:

(1) *Manufacturer's name.* The name and address of the manufacturer of the new chemical substance and the name and telephone number of a technical contact must be provided.

(2) *Type of exemption.* The notice must state whether the new chemical substance is being manufactured under the exemption for (i) chemical substances manufactured in quantities of 1,000 kilograms or less per year, (ii) chemical substances manufactured in quantities of 10,000 kilograms or less per year, or (iii) site-limited intermediates.

(3) *Chemical identification*— (i) *Class 1 substances.* For substances whose composition can be represented by a definite structural diagram (class 1 substances), the notice must provide the chemical name (preferably CAS or IUPAC nomenclature), the molecular formula, CAS Registry Number (if available), known synonyms (including trade names), and a structural diagram.

(ii) *Class 2 substances.* For chemical substances that cannot be fully represented by a structural diagram (class 2 substances), the notice must provide the chemical name, the molecular formula, the CAS Registry Number (if available), and known synonyms (including trade names). The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if available). The

notice must include a partial or incomplete structural diagram, if available.

(iii) *Polymers.* For a polymer, the notice must identify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number. The notice must indicate the amount of each monomer used (by weight percent of total monomer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if available. The notice must indicate the number average molecular weight of the polymer and characterize the anticipated low molecular weight species. The notice must include this information for each typical number average molecular weight composition of the polymer to be manufactured.

(4) *Description of use* (for new chemical substances described in paragraph (c) (1) and (2) only). The notice must describe each use for which the chemical would be manufactured by function and application (e.g., spray adhesive in the manufacture of laminates). The description of use must be specific enough to indicate the typical circumstances of exposure, including routes of exposure, associated with the new chemical substance.

(5) *Maximum annual production volume* (for new chemical substances described in paragraph (c)(3) only). The notice must state the maximum anticipated production volume for any 12-month period of manufacture under the exemption.

(6) *Site of manufacture* (except for chemical substances that are imported). The notice must state the name and address of the site or sites of manufacture.

(7) *Certification.* The manufacturer must certify that:

(i) The manufacturer is familiar with the terms of the exemption and will comply with those terms.

(ii) The new chemical substance for which the notice is submitted meets all applicable exemption conditions.

(iii) For new chemical substances described in paragraph (c)(2) or (3), a qualified expert has performed the required analysis, and has concluded that the chemical is not excluded from the exemption.

(g) *Review period.* EPA will review the notice submitted under paragraph (f) of this section to determine whether the new chemical substance is eligible for the exemption. The review period will end 14 days after receipt of the notice by the Agency. Upon expiration of the 14-day review period, if the Agency has taken no action, the manufacturer may begin to manufacture the new chemical substance under the other terms of this exemption.

(h) *Notice of ineligibility*—(1) *Notification during the review period.* If the Director of the Office of Toxic Substances determines during the review period that the new chemical substance does not meet the terms of this section, or if serious unresolved issues concerning toxicity or exposure remain at the end of the review period, he or she will notify the manufacturer by telephone and, subsequently, by certified letter, that the substance is not eligible. The manufacturer may not begin manufacture of the new chemical substance without complying with section 5(a)(1) of the Act.

(2) *Notification after the review period.* After the review period has ended, the Director of the Office of Toxic Substances may determine that the manufacture of the new chemical substance does not meet the terms of this section.

(i) If the Director of the Office of Toxic Substances determines that the manufacturer willfully or negligently failed to comply with all of the terms of this section, the Director will immediately notify the manufacturer by telephone and, subsequently, by certified letter, that the new chemical substance is not eligible for the exemption and that the manufacture must cease manufacture within 24 hours of receipt of the telephone notification. Such action does not preclude a subsequent enforcement action by EPA.

(ii) If the Director of the Office of Toxic Substances determines that the manufacturer acted with due diligence and in good faith to comply with all of the terms of this section, then:

(A) The Director will immediately notify the manufacturer by telephone and, subsequently, by certified letter, that the new chemical substance is not eligible for the exemption.

(B) The manufacturer may submit detailed objections to the determination within 15 days of receipt of the telephone notification. If the manufacturer does not submit such objections, the determination becomes final at the end of the fifteenth (15th) day after receipt of the telephone notification.

(C) If the manufacturer submits timely objections, the Director of the Office of Toxic Substances will consider the objections, make a final determination, and notify the manufacturer of the final determination by telephone within 30 days of receipt of the comments, and subsequently, by certified letter.

(D) If the final determination under either paragraph (h)(2)(ii)(B) or (C) of this section is that the new chemical substance does not meet the terms of this section, the manufacturer must cease manufacture within 15 days of receipt of the telephone notification unless the manufacturer submits a premanufacture notice on the new chemical substance under section 5(a)(1) of the Act within that time.

(E) If the manufacturer has submitted a timely premanufacture notice for the new chemical substance, manufacture of the substance may continue during the premanufacture review period unless EPA takes action under section 5(e) or (f) of the Act.

(F) If the manufacturer is for any reason not manufacturing a chemical substance when it receives the notice under paragraph (h)(2)(ii)(A) of this section declaring that the substance is ineligible for the exemption, the manufacturer cannot manufacture that substance before a PMN has been submitted and the PMN review period has ended, or before EPA has notified the manufacturer under paragraph (h)(2)(ii)(C) of this section that continued manufacture of the new chemical substance meets all the terms of this exemption.

(i) *Additional data.* If the manufacturer of a new chemical substance under the terms of this exemption obtains test data or other information indicating that the new chemical substance may not qualify for the exemption, the manufacturer must submit these data or information to the Agency within 15 working days of receipt of the information.

(j) *Changes in site, use, or production volume.* (1) Any person who manufactures a new chemical substance described in paragraph (c)(1) (2) or (3) must comply with the provisions of paragraph (f) of this section before manufacturing the new chemical substance at a site that was not reported in a previous exemption notice.

(2) Any person who manufactures a new site-limited intermediate substance described in paragraph (c)(3) of this section under the terms of the exemption must comply with the provisions of paragraph (f) of this section before manufacture of the new site-limited intermediate exceeds the maximum annual production volume reported in the previous exemption notice.

(3) Any person who manufactures a new chemical substance described in paragraph (c)(1) or (2) of this section under the terms of this exemption must comply with the provisions of paragraph (f) of this section before manufacturing the new chemical substance for a use

that was not reported in the previous exemption notice.

(k) *Confidentiality.* If the manufacturer submits to EPA under this section information which it claims to be confidential business information, the manufacturer must clearly identify the information at the time of submission to the Agency by bracketing, circling, or underlining it and stamping it with "CONFIDENTIAL" or some other appropriate designation. Any information so identified will be treated in accordance with the procedures in 40 CFR Part 2. Any information not claimed confidential at the time of submission may be made available to the public without further notice.

(l) *Determination of first manufacturer of a new chemical substance dscribed in paragraph (c)(1) or (2) of this section.* (1) A person who intends to manufacture a new chemical substance under paragraph (c)(1) or paragraph (c)(2) of this section may determine whether that particular substance is already being manufactured under that paragraph and, therefore, whether the person is eligible for the exemption, by submitting a notice on the substance under paragraph (f) of this section. EPA will inform the manufacturer within the 14-day review period if the manufacturer is not eligible for the exemption because it is not the first manufacturer of that substance.

(2) Alternatively, the manufacturer may ask EPA whether another manufacturer is already producing the new chemical substance under paragraph (c)(1) or (2) of this section. EPA will respond to this inquiry only if EPA determines that the manufacturer has shown a *bona fide* intent to manufacture the substance under the terms of this section.

(i) To establish a *bona fide* intent to manufacture, the manufacturer must submit to EPA:

(A) A signed statement that the person intends to manufacture the substance under the terms of this section.

(B) A description of the chemical identity of the substance in accordance with paragraph (f)(3) of this section.

(c) The exemption category (1,000 kilograms or less per year or 10,000 kilograms or less per year) under which the chemical would be manufactured.

(D) A description of the research and development activities conducted to date and the purposes for which the substance would be manufactured.

(ii) The Director of the Office of Toxic Substances will promptly examine the manufacturer's submission.

(A) If the Director determines that the manufacturer has not shown *bona fide* intent to manufacture the new substance under the terms of this section, he or she will promptly notify the manufacturer. The manufacturer may then submit a notice under paragraph (f) of this section or a premanufacture notice under section 5(a)(1) of the Act.

(B) If the Director detemines that the manufacturer has shown a *bona fide* intent to manufacture the new substance under the terms of this section, he or she will promptly inform the manufacturer whether the substance is being manufactured under the exemption category identified in the *bona fide* application. If the substance is not being manufactured under that category, the manufacturer may submit a notice under paragraph (f) of this section. If the new chemical substance is being manufactured under that category, the manufacturer must submit a premanufacture notice on the chemical substance (unless it is eligible for a different exemption category) before commercial production.

(m) *Recordkeeping.* (1) Each manufacturer of a new chemical substance under this exemption must keep records documenting the qualified expert's review for 5 years from the final date of manufacture. If the manufacturer goes out of business, the manufacturer must transfer these records to the Office of Toxic Substances.

(2) The records must include the following: (i) The qualified expert's analysis, supporting data, and conclusions, including a statement explaining why the qualified expert believes that the new chemical substance is eligible for the exemption and any reports prepared by the qualified expert.

(ii) Any test data on the new chemical substance, analogs, metabolites, or environmental transformation products used to support the qualified expert's analysis.

(iii) Effects of concern identified by the qualified expert and any analyses of exposure at which these effects might occur.

(iv) Names of analogs, metabolites, and environmental transformation products identified by the qualified expert and the name of sources searched for relevant data, if such searches were conducted.

(v) Any exposure estimates and supporting analysis developed by or provided to the qualified expert.

(vi) Any other information on which the qualified expert's analysis is based.

(vii) Identity of the qualified expert and statement of the expert's qualifications.

(viii) The production volume of the new chemical substance for each year of manufacture under the exemption.

(3) The manufacturer must submit the records listed in paragraph (n)(l) of this section to EPA upon written request by the Director of the Office of Toxic Substances. Manufacturers must provide these records within 15 working days of receipt of this request. In addition, any person who manufactures a new chemical substance under the terms of this exemption must, upon request of any officer or employee of EPA designated by the Administrator, permit such person at all reasonable times to have access to and to copy these records.

(n) *Amendment and repeal.* (1) EPA may amend or repeal any term of this exemption if the Agency determines that the manufacture, processing, distribution, use, or disposal of new chemical substances under the terms of the exemption may present an unreasonable risk of injury to health or the environment. EPA also may amend this exemption to enlarge the exemption category or to reduce the restrictions or conditions of the exemption.

(2) As required by TSCA section 5(h)(4), EPA will amend or repeal the substantive terms of an exemption granted under this Part only by the formal rulemaking procedures described in TSCA sections 6(c) (2) and (3) (15 U.S.C 2605(c)(2) and (3)).

(o) *Enforcement.* (1) A failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Submitting materially misleading or false information in connection with the requirements of any provison of this exemption is a violation of this regulation and therefore a violation of TSCA section 15 (15 U.S.C. 2614).

(3) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation.

(4) EPA may seek to enjoin the manufacture of a new chemical substance in violation of this exemption or act to seize any chemical substances manufactured in violation of the exemption under the authority of TSCA section 17 (15 U.S.C. 2616)).

[FR Doc. 82-20817 Filed 8-3-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 723

[OPTS-50033; TSH-FRL2130-3.]

Premanufacture Notification; Proposed Exemption for Polymers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance for commercial purposes to submit a premanufacture notice (PMN) to EPA before manufacture or import begins. Section 5(h)(4) of TSCA authorizes the Administrator, upon application and by rule, to exempt any person from the provisions of section 5 if the Agency determines that the chemical substance will not present an unreasonable risk of injury to health or the environment when manufactured, processed, distributed, used, or disposed of under the exemption. EPA proposes in this notice to issue a section 5(h)(4) exemption for persons who manufacture or import certain polymers.

DATES: Comments must be received by October 4, 1982. Informal hearing date and time (if a hearing is requested): November 1, 1982, at 10:00 a.m. in Washington, D.C. Requests to make an oral presentation should be made through the Industry Assistance Office (IAO) toll-free telephone number (800–424–9065; in Washington, D.C., 554–1404; outside the U.S., Operator 202–554–1404) before October 4, 1982. A public meeting will be held only if such requests are received. Persons are advised to call the IAO in advance to ascertain if a meeting is to be held and the exact location.

ADDRESS: All written comments should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–401, 401 M St. SW., Washington, D.C. 20460.

The informal hearing, if a hearing is requested, will be held in Washington, D.C. The exact location of the hearing may be obtained by calling the toll-free number 800–424–9065 (in Washington, D.C., 554–1404; outside the U.S., Operator 202–554–1404).

FOR FURTHER INFORMATION CONTACT: Douglas A. Bannerman, Acting Director, Industry Assistance Office (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–511, 401 M St. SW., Washington, D.C. 20460, toll-free: (800–424–9065), in Washington, D.C. (554–1404), outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance must notify EPA before manufacture or import begins. A new chemical substance is any substance that is not on the inventory of existing substances compiled by EPA under section 8(b) of TSCA. The requirement to submit premanufacture notices for new chemical substances became effective on July 1, 1979, 30 days after the publication of the Initial Inventory. EPA proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 49964). EPA is operating under the Statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564), and November 7, 1980 (45 FR 74378).

Section 5(h)(4) of TSCA provides that the Administrator may, upon application and by rule, grant an exemption from any requirement of section 5 if he or she determines that the manufacture, processing, distribution, use, or disposal of a chemical substance will not present an unreasonable risk of injury to health or the environment. To grant a section 5(h)(4) exemption, the Agency must follow the rulemaking procedures in section 6(c) (2) and (3) of TSCA.

B. Exemption Requests

On May 21, 1981, the Agency received a petition to commence exemption rulemaking from the Chemical Manufacturers Association (CMA). The petition requested exemptions for (1) site-limited intermediates; (2) chemical substances produced in quantities of 25,000 pounds or less per year; and (3) polymers whose precursor monomers are on the TSCA Chemical Substance Inventory. In addition, CMA requested an exemption that would authorize EPA to shorten the PMN review period. Finally, CMA requested that EPA promulgate a rule to establish procedures for processing individual section 5(h)(4) exemption applications. The Synthetic Organic Chemical Manufacturers Association (SOCMA) submitted a petition for the same categories on June 28, 1981. Subsequently, EPA received petitions from Ashland Chemical Company and Cargill, Incorporated for exemptions for certain polymers. This proposed rule responds to the petitions that would exempt polymers from premanufacture review.

1. *The CMA and SOCMA Petitions.* CMA and SOCMA petitioned EPA to grant an exemption for all polymers manufactured from monomers listed on the TSCA Inventory. As an alternative to this approach, CMA and SOCMA petitioned the Agency to develop a series of exemptions for more narrowly defined categories of polymers. CMA and SOCMA suggested that these categories might include (1) structural polymers; (2) high molecular weight polymers; (3) polymers approved by the Food and Drug Administration for food contact but not listed on the TSCA Inventory; and (4) specific classes of polymers similar in use or chemical composition.

CMA argued that many studies demonstrate that most polymers are inert and nonreactive, are rarely absorbed into the body, and have low toxicity. Manufacturers make minor changes to monomer content to meet immediate customer needs. Some polymers are produced only in small quantities or for specialized purposes. CMA believes that section 5(h)(4) exemption is justified because manufacturers incur substantial premanufacture review costs for substances of low risk.

2. *The Ashland Petition.* Ashland Chemical Company petitioned EPA to exempt unsaturated polyester resins, defined as the polyester resin of an alpha, beta-ethylenically unsaturated dicarboxylic cid, or a mixture of such with a saturated dicarboxylic acid, and a dihydric alcohol. These unsaturated polyester resins would comprise the acids and polyols or polyepoxides identified in the Ashland petition. Ashland believes such an exemption is justified because (1) EPA's review of unsatuarted polyester resins has shown them to be of low health and environmental concern; (2) such resins form a relatively large percentage of new substances manufactured; (3) there is a large market for slight modifications of existing polymers for specialty needs; and (4) in some instances, a change in composition does not alter the chemical nature of the final product.

3. *The Cargill Petition.* Cargill, Incorporated petitioned EPA to exempt (1) new polymers made by the substitution of a natural oil or mixture of oils derived from natural sources in an Inventory-listed polymer and (2) alkyd and polyester resins whose monomers used at greater than two percent by weight are on a list of TSCA-inventoried substances proposed by Cargill.

According to Cargill, many oil-based resins would be considered identical for the Inventory if the polymers were listed in terms of monomeric components, instead of the base oil. Additionally,

because most natural oils used in coating resins are biodegradable and edible, substitution of the oil does not change the low toxicity of the original resin. Cargill also stated that exposure to and environmental release of the resins are low. Because oil and fatty acid availability and customer needs fluctuate, Cargill argued that there is economic need for the exemption.

Cargill stated that there is general agreement that alkyd resins are inert and nonreactive. They stated that the monomers on their list exhibit low toxicity, and therefore after polymerization the alkyd resins derived from these monomers pose little risk. Cargill's literature search on alkyd resins identified no definitive studies with long-term chronic toxicity effects and indicated that many reports demonstrate low biological activity from polymers. Cargill found that worker exposure is minimal and that disposal of residues and byproducts of these resins presents no unreasonable risk.

Cargill stated that most alkyd resins, especially those used by a single customer, have low potential sales volumes. Additionally, customers usually need newly developed resins in a short time. Therefore, the cost and time of premanufacture review discourages manufacture of these new resins.

EPA issued a notice published in the Federal Register of November 3, 1981 (46 FR 54688) announcing the receipt of the CMA petitions and the other petitions listed above. This notice also requested comments on the petitions. At the same time, EPA placed copies of the petition and other relevant material in the public file. All comments that EPA received were considered in the development of this proposed rule.

C. Scope of the Proposal

This proposal responds to requests to exempt polymers submitted by the CMA, SOCMA, Ashland Chemical Company, and Cargill, Incorporated. The Agency has proposed an exemption for site-limited intermediates and low volume chemicals in a separate rulemaking. Low volume polymers could be exempt under the site-limted/low volume intermediates exemption rule if they meet all the provisions of that rule. Based on its review of a sample of PMNs, EPA estimates that approximately eight percent of new polymers would have third year production quantities at or below the production level defined in the low volume exemption.

As stated in the site-limited intermediate/low volume chemical exemption proposal, EPA agrees that it is reasonable to allow early manufacture of a new chemical when Agency review is completed and no concerns are raised. While the polymer exemption proposal would exempt certain polymers from a portion of the 90-day PMN review period, EPA has decided not to propose at this time an exemption rule that would authorize the Agency to shorten the PMN review period for all new chemical substances that have completed review because (1) EPA believes that the proposed exemptions for site-limited intermediates, low volume chemicals, and polymers will substantially reduce or eliminate the need for such an exemption, and (2) there is a serious question as to whether the Act permits EPA to allow early manufacture for all chemical substances, either by a rule or policy statement. The Agency requests comments on the need for and the appropriateness of a shortened review period.

In addition, EPA has also decided not to propose regulations establishing a procedure to process individual section 5(h)(4) exemption applications. Because of limited resources, the Agency has decided to defer consideration of this request until this rulemaking and the low volume chemical/site-limited intermediate rulemaking have been completed.

II. Summary of Proposed Approach

Under this proposal, new polymers would be eligible for exemption from some or all PMN requirements if they were not automatically excluded by specific criteria in the rule. Polymers meeting certain criteria would be exempt from all PMN requirements; other eligible polymers would be required to undergo limited PMN review before manufacture. The rule would also impose certain procedural requirements for all exempt polymers. Although the exemption requirements would not ensure that there would be no risk from exempt chemicals, the Agency believes that the requirements are sufficient to ensure against unreasonable risk, which is determined by balancing risks against benefits.

EPA has based its selection of the exclusion and exemption criteria on (1) a review of the available literature on the toxicity of and potential exposure to polymers, (2) analyses of various samples from the PMN data base, (3) information provided by outside groups early in the development of the exemption, and (4) the professional judgment of EPA staff scientists. The scientific and economic bases for EPA's development of the proposed approach are summarized in Part IV of this preamble, "Regulatory Analysis," and described in detail in the support documents in the public record of this proposed rulemaking.

In evaluating the risks associated with this exemption, EPA has limited its assessment to the risks of the new polymer as manufactured and distributed in commerce. The Agency believes that the risks associated with feedstock chemicals during manufacture are not a result of the new chemical substance per se and thus are more appropriately addressed under other sections of TSCA or other statutes. However, EPA believes that risks associated with residual materials in the substance as distributed in commerce are risks associated with the new polymer per se. Therefore, these risks have been assessed in developing this exemption.

The basic elements of the exemption are described below.

1. Certain polymers would be automatically excluded from the exemption: polymers intended or reasonably anticipated to be watersoluble, biopolymers, polymers that exceed specified content levels for certain elements, polymers with covalently bonded halogen or cyano groups, polymers with certain reactive functional groups, and polymers designed to degrade, decompose, or depolymerize.

2. Eligible polymers meeting the criteria (a)–(c) below would be exempt from all PMN requirements. Manufacturers would be required to notify EPA when they begin to produce these substances. The following polymers would be exempt:

a. Polyesters made from a specified list of monomers. Residual content of certain of these monomers would be limited to one percent. Manufacturers would be required to provide only the identify of the new polymer in an exemption notice.

b. Polymers with a number-average molecular weight of 20,000 or greater. The notice would be required to contain (i) chemical identity and (ii) number-average molecular weight and the method of its determination.

c. Polymers with certain number-average molecular weight and polydispersity values. The notice would be required to contain (i) chemical identify, (ii) number-average and weight-average molecular weights and their method of determination, and (iii) polydispersity.

3. Eligible polymers with a number-average molecular weight above 1,000 would undergo a shortened PMN review.

a. For these substances, manufacturers would be required to submit a limited PMN to EPA at least 14 days before they manufacture the new polymer. The limited PMN would include (i) chemical identity, (ii) residual monomer and low molecular weight species content, (iii) production volume, and (iv) a description of use.

b. If EPA did not take action within the 14-day period, manufacture could begin. However, EPA could extend the initial 14-day PMN review for a period not to exceed an aggregate of 90 days if it determined that serious unresolved issues concerning toxicity or exposure remained at the end of such review. EPA would have the authority to extend the review period for up to an additional 90 days under section 5(c) of TSCA. EPA would retain the authority to initiate regulatory action under section 5(e) or 5(f) during the extended review period if the Administrator determined that the new polymer may or will present unreasonable risk.

4. EPA would have the authority to declare a chemical ineligible for the exemption if the chemical failed to meet the terms of the exemption.

The specific provision of the proposed rule are described more fully below.

III. Provisions of the Rule

A. Exemption Category

Under section 5(h)(4), EPA may develop exemptions either for specific chemical substances or for categories of substances. Under section 26(c) of TSCA, any action taken by EPA on a single chemical substance may also be taken with respect to a category of chemical substances, as long as the members of the category "are in some way suitable for classification as such for purposes of this Act." For the purposes of this proposal, and as a general principle, EPA believes that exemption categories should be drawn as broadly as possible, consistent with the need to protect human health and the environment.

Under this proposal, certain new polymers would be eligible for an exemption. As limited by the exclusions, exemption criteria, and procedural requirements in this proposed exemption, EPA believes this category is appropriate for the purposes of section 5(h)(4) and that substances manufactured under the terms of the exemption would not present an unreasonable risk of injury to human health or the environment. Polymers that meet the proposed criteria for polyesters would be made primarily from precursors that EPA has determined present low risk. The polyester polymers manufactured from such precursors would present even lower risks because the toxicity of a polymer is typically lower than the toxicity of the substances used in its manufacture. Polymers with a number-average molecular weight of 20,000 or greater or that meet the molecular weight and polydispersity criteria would also present limited risks because they would have low potential for biological absorption and would contain low levels of low molecular weight species that may be absorbed. Polymers that would be eligible for exemption because their number-average molecular weight is 1,000 or greater would be subject to a 14-day PMN review period. If EPA determined that any such polymer may or will present unreasonable risk, regulatory action under TSCA sections 5(c) or 5(f) could be taken. The Agency specifically requests comment on the appropriateness of the proposed exemption category and its proposed definition.

The rule would define polymer as a chemical substance that is predominantly composed of molecules that contain at least two structural units derived from functioning monomers. A functioning monomer would be defined as a chemical substance composed of molecules that are covalently linked to two or more other molecules. A polymer would be predominantly composed of certain molecules if it contained a simple weight majority of the molecules. A polymer could not be predominantly composed of molecules of a single chemical substance whose composition can be represented by a definite structural diagram.

For example, a substance made of only one kind of monomer (a homopolymer of monomer A whose structural unit is –A–) would be eligible for exemption if the substance were predominant composed of the tetramer, –A–A–A–A, and higher molecular weight species. (Note that terminal structural units are not considered functioning monomers.) The Agency requests comments on the specific criteria it has proposed to define "polymer" and on alternative definitions.

B. Polymers Automatically Ineligible for the Exemption

Under the proposed rule, certain polymers would be automatically ineligible for the exemption. EPA has excluded those polymers for which (1) the Agency has insufficient data and review experience to find that they will not present an unreasonable risk, or (2) the Agency has found that, under certain conditions, they may present significant risk. However, the Agency believes that the close examination of the conditions of manufacturing, processing, distribution, use, and disposal during a full 90-day PMN review is necessary to make a final determination about risk. The particular exclusions and the risk concerns they address are described below.

(1) *Exclusion of water-soluble polymers.* Under this proposal, substances that are designed or intended to be water-soluble or reasonably anticipated to be water-soluble would be automatically excluded from eligibility.

Water is a primary medium by which new substances can be distributed to biological systems. The Agency believes that many polymers have low water solubility. A summary of the information contained in polymer PMNs confirms this fact and is included in the public record (USEPA–OTS), Document Number 54). If water solubility is low, the opportunity for distribution of a substance in the environment is reduced and thus the potential exposure to human and environmental populations is reduced. With low exposure potential, the opportunity for absorption of polymers by biological systems is significantly decreased. However, for polymers that are appreciably soluble in water, exposure potential via water may be great. Additionally, EPA has data that indicate that several classes of water-soluble polymers can be toxic to certain vertebrate species (USEPA–OTS, Document Number 49).

In addressing risk concerns associated with water-soluble polymers, the Agency was unable to define sufficiently those prospective classes of water-soluble polymers of little or no concern or those of concern. EPA therefore believes that the full 90-day PMN review is needed for all water-soluble polymers. The Agency requests comments on the reasonableness of using this generic approach to address its risk concerns. The Agency also requests the submission of data that would identify classes of water-soluble polymers that may present low risk and that therefore may be eligible for exemption.

The rule would exclude polymers intended or designed to function or act as soluble because they are designed to be used in aqueous solutions and thus may present significant exposure potential. Examples of such polymers are water-soluble thickeners, surface-active agents used in aqueous solutions, and levelers for water-soluble dyes. In addition, polymers that are reasonably anticipated to be water-soluble would

be excluded because of the increased potential for exposure to water-soluble polymers, the lack of data showing low toxicity for all polymers, and the inability of the Agency to accurately characterize exposure to such polymers during a limited PMN review.

The Agency believes that polymers designed or intended to function or be water-soluble can be readily identified by their intended use because of their particular function in that use. For polymers the assumption that no significant concentration of these polymers will enter the aquatic environment cannot be made. EPA therefore believes that such water-soluble polymers should be excluded from the exemption regardless of the level of solubility.

Certain polymers that are not intended to be used in aqueous solutions are nevertheless known or can be reasonably anticipated to be water-soluble to some degree. EPA believes that polymers with a water-solubility of 1.0 percent or greater on a weight-to-volume basis should be reasonably anticipated to be water-soluble. That is, the solubility must be no more than 1.0 gram of polymer per 100 milliliters of aqueous solution at ambient temperature. This level corresponds roughly to the usual interpretation by chemists of the phrase "slightly soluble." Polymers that are not intended for use in aqueous solutions and that are less soluble than this limit are considered less likely to enter the aquatic environment in significant concentrations and therefore would not be automatically excluded from the exemption.

The Agency, however, has neither proposed the 1.0 percent level in the rule as a requirment in the rule nor required that a specific test be used to determine water-solubility. The Agency believes that, in the great majority of cases, the determination of whether a polymer is soluble at the 1.0 percent level will be clear without testing, based on manufacturers' knowledge of the structural and behavorial characteristics of the substance. In cases where a substance may exhibit solubility at close to the 1.0 percent level, it may be necessary to quantify the actual level. EPA believes that most chemical manufacturers have the capability to determine solubility in this range and that it is reasonable to allow manufacturers flexibility in choosing the test that is appropriate for a given substance.

The Agency does not consider polymers to be soluble in water if they are only suspended or dispersed in water. The exclusion of polymers that are soluble in water, designed, or intended to be soluble in water, or that are reasonably anticipated to be soluble in water does not include polymers that are suspended or dispersed in aqueous media. An example of the kind of ploymer for which the Agency does not consider this exclusion applicable is polymers that are intrinsically less than slightly soluble in water, such as polymeric components of water-based coatings commonly known as latex paint.

EPA also considered proposing water extractability criteria because of concern that low molecular weight oligomeric species and residual monomers may leach into water during use and disposal of polymers and therefore be available to be biologically absorbed. The Agency has not proposed an extractability level because (1) the other exclusions and the exemption conditions limit the risk posed by low molecular weight species and residual monomers (e.g., by limiting the content of certain functional groups) and because (2) establishing a test method may be unreasonably restrictive, given the other provisions of the exemption that address similar concerns. The Agency also requests comments on whether water extractability should be a basis for exclusion.

2. *Exclusion of polymers that contain less than 32.0 weight percent of the atomic element carbon.* Polymers with less than 32.0 weight percent of carbon would be ineligible under the rule. Manufacturers of new polymers with lower carbon composition would therefore be required to submit a PMN.

EPA's experience in premanufacture review has been primarily with "classical" synthetic organic polymers that typically have large weight percentages of the element carbon significantly greater than 32.0 percent (USEPA–OTS, Document Number 52). Additionally, the information on the toxicity of and the exposure to polymers is generally limited to the kinds of polymers that are already common in commerce, such as polyolefins, polyesters, polyamides, polyurethanes, and polysiloxanes. However, exotic polymers exist and can be developed that could contain an atypically low level of carbon. Because of the lack of information and review experience on these kinds of polymers, and because of the wide variety of low carbon content polymers that could be made, presenting a wide range of exposure scenarios, the Agency does not have sufficient information to conclude that such polymers, as a class, will not present an unreasonable risk.

The 32.0 percent level is slightly below the carbon content of certain polysiloxanes which have the lowest carbon content of the typical polymers that the Agency has reviewed in the PMN program (USEPA–OTS, Document Number 54). EPA requests comments on the appropriateness of the 32.0 weight percent level and the submission of data supporting alternative levels.

3. *Exclusion of polymers with certain weight content of certain elements.* The rule would exclude from eligibility for the exemption polymers containing certain levels of elements as an integral part of the polymer structure. Under the proposal, polymers could be manufactured containing the elements hydrogen, carbon, nitrogen, oxygen, sodium, magnesium, aluminum, silicon, phosphorus, sulfur, potassium, calcium, titanium, iron, and tin without specific weight content limitations. Polymers that contain as an integral part of the polymer structure elements other than those identified above at greater than 0.10 weight percent of a single element or 0.20 weight percent total would be ineligible.

EPA's PMN review experience and the available toxicity information are, as previously stated, substantially limited to typical polymers. Analysis of the PMN data base showed that most polymers primarily use the elements identified above. EPA therefore has review experience and data on polymers containing these elements. However, polymers can be made that contain high weight percentages of other elements (USEPA–OTS, Document Number 54). Because EPA's review experience and available toxicity data are limited to typical organic polymers containing certain elements, and because there is a wide variety of atypical polymers that could be made from other elements for which the Agency has insufficient review experience or data, EPA has no basis on which to make a no unreasonable risk finding.

The exclusion is intended to address only those elements intended or reasonably anticipated to be incorporated into the polymer itself, either because they were constituent elements in the monomers, or because the polymer was deliberately reacted so as to incorporate them (for example, by direct metallation of a preformed polymer). The Agency understands that many elements not on the list may be present in the form of catalyst residues, additives, adjuvants, and so forth; such are not considered "part of the polymer structure." EPA's analysis of PMN data demonstrated that the proposed allowable levels of excluded elements

would not typically result in the exclusion of polymers as a result of the use of such elements as catalysts, chain transfer agents, adjuvants, and similar reactive agents (USEPA–OTS, Document Number 52). Therefore, EPA believes that it would be unusual to find the elements not on the list in excess of the specified content levels unless they were intentionally incorporated into the polymer structure.

EPA requests comments on the reasonableness of the content levels, data supporting alternative levels, and on other elements that should be considered common elements.

4. *Biopolymer exclusion.* The proposed rule would exclude biopolymers, synthetic equivalents of the biopolymers, and derivatives and modifications of biopolymers if the initial biopolymer is substantially or significantly intact. EPA would define biopolymers as polymers directly produced by living or once-living cells or cellular components.

Biopolymers, their synthetic equivalents, and derivatives and modifications of biopolymers represent a diverse class of substances for which EPA has limited review experience and data. Certain members of the class present known health risks. Additionally, there is a likelihood of biologically activity for these substances (USEPA–OTS, Document Numver 47). Because of its very limited review experience and data, EPA is unable to predict the biological mechanisms by which members of this class act and is unable to predict future uses and thus exposure. Therefore, the Agency cannot now make the no unreasonable risk finding for these substances.

The Agency requests comments on the appropriateness of this definition of biopolymer and this exclusion. EPA recognizes that some members of this class may present low risk and invites commenters to submit data on narrowly defined classes of biopolymers that could be exempt in the final rule.

5. *Exclusion of certain halogenated or cyanated polymers.* The proposed rule would exclude certain halogenated and cyanated polymers. The major risk concern with such polymers is associated with low molecular weight monomer residuals. The toxicity of low molecular weight residuals of halogenated and cyanated monomers such as vinlyl bromide, vinly chloride, and acrylonitrile has been well documented in the available literature. Halogenated and cyanated polymers that contain halogen and cyano residuals may be used in consumer products with potential for high exposure during processing and use.

As a result of these concerns, the rule would exclude polymers that contain covalently bonded fluorine, chlorine, bromine, or iodine atoms or cyano groups. This exclusion addressed halogen atoms or cyano groups that are incorporated into a polymer because they are retained in the structure. The rule does not intend to exclude polymers that inadvertently contain trace residuals of halogen atoms or cyano groups as a result of incomplete polymerization. Therefore, the rule would not exclude chemical substances that retain halogen atoms or cyano groups due to slightly incompleted reactions in which such atoms or groups are normally lost.

The Agency considered establishing a level that specified the degree to which polymers could be halogenated or cyanated. However, EPA has not proposed a level (1) because of the wide range of exposures possible that would change the basis for establishing a given level, (2) because the appropriate level would vary depending on the substance manufactured, and (3) because a complete PMN review would be required to conduct a thorough analysis of the specific conditions of toxicity and exposure that would be necessary to characterize risks.

The Agency request comments on this approach to addressing the risks presented by halogenated and cyanated monomers and the appropriatenes of excluding other groups of concern. EPA also invites commenters to submit data on types of halogenated or cyanated polymers that they believe present low risk because of certain physical and chemical properties or use characteristics and therefore should not be excluded.

6. *Exclusion of polymers containing certain reactive functional groups.* The rule would exclude polymers containing certain reactive functional groups intended to undergo further reaction to produce other polymers. Examples of such groups include epoxides, isocyanates, imines, acrylate or methacrylate pendant groups, phenols, and aldehydes.

Because polymers with reactive groups are intended to undergo facile reactions to produce higher polymers, they have a wide variety of uses. As a result, it is difficult for the Agency to anticipate the range of exposure potential. Also, may intentionally reactive functional groups are capable of reacting with the tissues or chemical constituents of living organisms. Crosslinking in genetic materials is of particular concern. Irritation caused by the presence of these groups may increase the potential for absorption, which in turn may increase the likelihood of exposure to potentially toxic residual monomers and low molecular weight oligomeric species. EPA's exclusion of polymers with reactive functional groups is based on its inability to characterize a wide range of exposures for polymers that may be biologically reactive. EPA believes that this exclusion criterion can be objectively applied because manufacturers clearly know when a substance, because of its use in making higher polymers, contains functional groups that are intended to further react.

The rule would not exclude polymers in which reactive functional groups are present in less than one gram formula weight of a functional group per 10,000 grams of substance. Based on professional judgment, EPA believes that this level would insure that each reactive functional group is substantially diluted by a large mass of inert polymeric material, reducing the likelihood of interaction with living tissues or biologically important chemical constituents of an organism (USEPA–OTS, Document Number 54). EPA requests comments on the reasonableness of this level.

EPA has found that some groups that are reactive in purely chemical terms are relatively unreactive in a biological setting, in that they tend not to react in the same way that they would in forming a polymer. This suggests that crosslinking in a biological setting would be unlikely. For example, polyesters are made by condensing (i.e., esterifying) polycarboxylic acids with polyhydroxy compounds. Nevertheless, carboxylic acid groups and aliphatic hydroxyl groups, widely present in living systems, will generally not undergo esterification unless the molecules in which they are present are specific substrates for an esterase enzyme. Additionally, condensation polymerization proceeds industrially under dehydrating conditions not available in the largely aqueous biological setting. Unreacted carboxylic acid and aliphatic hydroxyl groups in a polymer therefore would not present the same risk concerns as other reactive groups. The same can be said for the presence in polymers of reactive unconjugated olefinic groups, butenedioic acid groups, or conjugated olefinic groups in natural fats, natural oils, and natural carboxylic acids, which are reasonably reactive as crosslinkers or polymer formers only under relatively rigorous nonbiological conditions. As a result, these groups have not been considered "reactive" for the purposes of this exclusion. EPA requests

comments on this approach and the submission of data to support additional reactive groups that should not render a polymer ineligible in the final rule.

7. *Exclusion of polymers designed to substantially degrade, decompose, or depolymerize.* The rule would exclude from eligibility polymers that are designed to substantially degrade, decompose, or depolymerize. EPA has reviewed few polymers that are intended to degrade, decompose or depolymerize upon use (USEPA-OTS, Document Number 52). Such polymers may substantially break down into lower molecular weight components. These polymers are more likely to make available for exposure residual monomers and low weight oligomeric species, the major concerns with polymer toxicity. Additionally, EPA's lack of review experience and the limited information on these polymers because of the general infrequency of their manufacture does not allow EPA to anticipate reasonably the potential uses of these polymers and, thus, their potential exposure.

EPA recognizes that all polymers degrade or depolymerize at slow rates over time. The proposed rule would not exclude such polymers. The exclusion would not apply, for instance, to the normal oxidation of paints. EPA believes that this criterion can be objectively applied because polymers that are designed to substantially degrade can be identified readily by their end use. For example a photoresist polymer may be designed to degrade so that it can be removed from a substrate. The Agency requests comments on the appropriateness of this exclusion.

C. Exemption Criteria

Polymers that are not specifically excluded from the exemption would be exempt from all premanufacture notice requirements if they are (1) certain polyesters, (2) polymers with a number-average molecular weight of 20,000 or greater, or (3) polymers with certain number-average molecular weight and polydispersity. Any polymer that is not specifically excluded would be eligible for a limited PMN submission and a 14-day PMN review (rather than the normal submission and a 90-day review) if its number-average molecular weight is 1,000 or greater. Manufacturers of substances that did not meet any exemption criteria would have to submit a PMN as required under section 5(as)(1) of TSCA. A detailed description of these criteria follows. The Agency requests comments on the reasonableness of this approach.

1. *Polyesters from a specific list of monomers.* The rule would exempt new polyesters made exclusively from the monomers and other precursors identified in Table 1 of the rule. EPA has defined polyester as a polymer characterized by the repetition of at least two carboxylic acid ester linkages holding repeating structural or substgructural units together. These polymers would not be required to undergo review by EPA to commencement of manufacture. Manufacturers would submit a brief exemption notice identifying the chemical substance when manufacture begins. If manufacturers wished to manufacture a new substance from monomers on the proposed list and one or more monomers not on the list, the substance would not be eligible for this exemption under the polyester criteria. Manufacturers who do not meet the polyester criteria should review the other provisions of this exemption to determine whether the new polymer meets any of those criteria.

EPA's preliminary assessment of the majority of the monomers on its proposed list, based on the professional judgment of EPA scientists and the limited information available to the Agency, indicates that they present low health and environmental hazards. When the monomers are integrated into a polymeric structure, the new polymer will generally present lower risk than the monomers themselves because of the decreased potential for absorption. For certain other monomers, although they present low risk as part of the polymeric structure, exposure to large amounts of such monomers as residuals may present risk. For these monomers, the rule would limit the residual levels of the monomers in the new polymer to 1.0 percent. The Agency is proposing the 1.0 percent limit because EPA believes that, for these monomers, such levels will generally limit risk and that the one percent level is technologically feasible without placing an unreasonable burden on manufacturers.

The Ashland Company and Cargill Incorporated petitions requested that polyesters manufactured from specific monomers be exempt. Certain monomers identified by Ashland and Cargill are not included in the list proposed by EPA because concerns with the toxicity of these monomers prevents EPA from making the no unreasonable risk finding. EPA intends to further assess the risks associated with the monomers on the list and with polymers made from these monomers. The Agency requests additional information that supports the inclusion or deletion of the proposed monomers in the final rule. EPA may remove monomers from its proposed list based on public comment or the results of the additional analysis that will be performed.

The Agency requests comments on the reasonableness of the 1.0 percent residual level and invites commenters to submit information demonstrating that monomers should be added or deleted from the proposed list. The Agency also requests comments on the adequacy of the definition of "polyester." Finally, the Agency requests comments on other classes of substances that could be exempt by monomer content and on monomers that would be appropriate for these classes.

2. *Polymers with number-average molecular weight of 20,000 or greater.* The rule would exempt polymers with number-average molecular weight of 20,000 or greater. EPA has found that very high number-average molecular weight polymers typically present low risk to human health or the environment (USEPA-OTS, Document Number 47). EPA's review of polymer PMNs that contained data on residual levels and theoretical considerations indicate that such polymers normally contain only small amounts of low weight species potentially absorbable by biological systems (USEPA-OTS, Document Numbers 51 and 54). In addition, these polymers are generally highly resistant to degradation, so that residual monomers and oligomers are integrated into the polymer structure. Therefore, exposure to species of concern is typically low. EPA requests comment on the 20,000 number-average molecular weight level for limiting low molecular weight species.

Manufacturers would be required to submit a brief exemption notice when manufacture begins, identifying the chemical substance and providing the number-average molecular weight of the substance and its method of determination. Polymers under 20,000 number-average molecular weight would not be exempt unless they met other criteria of the exemption.

3. *Polymers with certain polydispersity criteria.* The Agency also proposes to exempt polymers that meet specific criteria for polydispersity and number-average molecular weights. The proposed criteria are designed to limit the amount of potentially absorbable low molecular weight species that could be present in polymers. Manufacturers would be required to submit a brief exemption notice identifying the chemical substance when manufacture begins. Polymers that did not meet the criteria for polydispersity would not be exempt unless they met other criteria of the exemption.

The eligibility of specific polymers under this provision would be determined by a sliding scale based on a linear relationship between number-average molecular weight and polydispersity. Polydispersity, which is an index used to characterize the distribution of the molecular weight species in a polymer, is defined in the proposed rule as the ratio of weight-average molecular weight (M_w) to number-average molecular weight (M_n). As a result of this relationship, if two substances have the same number-average molecular weight, the substance with the lower polydispersity would, in theory, have a lower weight percent of low molecular weight species. Similarly, if two substances have the same polydispersity, the substance with the higher molecular weight would have a lower weight percent of low molecular weight species.

Table 2 of the rule identifies the polydispersity that substances of various number-average molecular weight ranges must meet to be exempt under this provision. The table is derived from the following equation. The derivation of this equation is briefly described below and in greater detail in support document Number 54 in the public record. As an alternative to using this table, manufacturers could use the equation to determine intermediate values of polydispersity.

Eligibility for the exemption under number-average molecular weight and polydispersity criteria would be based on the equation:

$$\ln P \leq a M_n + b$$

where in P is the natural logarithm of the of the polydispersity and a and b are constants. The rule would establish the value of the constant a at 2.0×10^{-4} and the value of the constant b at -0.6 to limit the magnitude of the polydispersity.

Any polymer of a given number-average molecular weight would be exempt from all PMN requirements if it had the specified or lower polydispersity, as determined by this equation. EPA's proposed approach has the effect of limiting low molecular weight species to reduce potential exposure and thus risk. For example, a log-normal model of molecular weight distributions predicts that a polymer of number-average molecular weight 6,466 and a polydispersity no greater than 2.0 would typically contain 0.70 percent residual below 500 molecular weight. A polymer of molecular weight 17,979 and a polydispersity of no greater that 20.0 would contain 1.92 percent residual below 500 molecular weight.

The generally accepted standard research methods for determing the molecular weights of polymers are by light scattering (for weight-average molecular weight) and osmometry (for number-average molecular weight). Based on the agency's review of PMNs, EPA believes the these tests are seldom used, however. EPA also believes the most common method of molecular weight determination for polymers to be gel permeation chromatography (GPC). Rather than require that a specific method be used to determine molecular weights, EPA has adjusted the constants in the polydispersity/molecular weight function to take into account the usual overestimation of molecular weights and thus the underestimation of residual content by GPC, so that this less costly method can be used. The Agency believes that this is the least burdensome approach to using this exemption mechanism.

The levels of low molecular weight species given by the relationship are only predictions of what could be typically expected. In actual manufacture, polymers could have higher or lower levels. For example, polymers can be manufactured whose molecular weight distributions have disproportionately high levels of low molecular weight species compared to the log-normal model due to atypical polymerization parameters. However, polymers can also be manufactured whose molecular weight distributions have disporportionately low levels of low molecular weight species compared to the log-normal model due to processing that removes these species. EPA considered such departures from the theoretical model when establishing the contants a and b.

EPA requests comments on the appropriateness of the molecular weight/polydispersity approach for exempting medium molecular weight polymers, the adequacy of the values of constants a and b, the use of the log-normal model to predict the weight-percent of low molecular weight species, and the Agency's adjustment of the relationship to take into account the use of GPC to determine number-average molecular weight. A detailed discussion of these subjects is contained in the public record on this proposed rule.

4. *Polymers greater than 1,000 number-average molecular weight.* Polymers with a number-average molecular weight of 1,000 or greater would be eligible for a limited PMN submission. Manufacturers would be required to submit a limited PMN to EPA at least 14 days before manufacture begins. A polymer could be manufactured after 14 days unless the Agency notified the manufacturer during the 14-day review period that (1) the polymer was ineligible because it did not meet the terms of the exemption, (2) that the review period had been extended for good cause because there were substantial unresolved issues concerning toxicity or exposure, or (3) that the Agency believes the chemical should be considered for regulatory action under section 5(e) or 5(f).

EPA selected the 1,000 number-average molecular weight ($\overline{M}_n$) level for the following reasons: (1) The available toxicity information on polymers $\overline{M}_n$ of 1,000 or greater suggests that they have low, if any, toxicity (2) most polymers with number-average molecular weights of 1,000 or greater are generally composed of molecular species of molecular weight greater than 500, and (3) molecular weight species of this size are not expected to be readily absorbed through the skin in appreciable quantities—dermal absorption is the major route of exposure for most polymers (USEPA–OTS, Document Number 47).

The number-average molecular weight level of 1,000 does not establish a no risk level. For example, polymers that contain substantial quantities of residual monomers or lower weight species that are highly toxic may have the potential to present significant risks. The Agency's PMN review experience indicates that the 14-day review would allow EPA sufficient time to identify polymers that present serious unresolved issues concerning toxicity or exposure (USEPA–OTS, Document Number 53). In these situations, the proposed rule would allow EPA to extend the review period to resolve such issues or to initiate appropriate regulatory action to prevent the occurrence of unreasonable risks.

Section D of this Preamble, "Procedural Requirements," describes the notice and review requirements. The Agency requests comments on the appropriateness of exempting a category of polymers defined by molecular weight, the appropriateness of requiring a limited PMN review for this category, and the appropriateness of the 1,000 molecular weight level cutoff.

D. Procedural Requirements

A manufacturer of a polymer that is exempt from all PMN requirements would be required to submit an exemption notice to EPA that included the identity of the new polymer when manufacture begins. A manufacturer of a polymer for which shortened PMN review is required would submit a

limited PMN at least 14 days before manufacture. For such a polymer, EPA could extend the initial 14-day PMN review period, not to exceed an aggregate of 90 days, if it determined that serious unresolved issues concerning toxicity or exposure remained at the end of the 14-day review. EPA would also have the authority to extend the review period beyond 90 days under section 5(c) of TSCA and to initiate regulatory action under 5(e) or 5(f) during the extended review period if the Administrator determined that the new polymer may or will present unreasonable risk. EPA could also determine that any specific chemical substance is ineligible for the exemption if it did not meet the terms of exemption.

These and other procedural requirements are discussed below.

1. *Exemption Notice*—a. *Notification for substances that would be exempt from all PMN requirements.* Manufacturers of (1) certain polyesters, (2) polymers whose number-average weight is 20,000 or greater, and (3) polymers that meet certain molecular weight and polydispersity criteria would submit a brief notice to EPA when manufacture begins. This notice would allow EPA to verify that the substance meets the conditions of the exemption and would include the following information.

i. *Manufacturer's name.* This would include the name and address of the manufacturer and the name and telephone number of a technical contact.

ii. *Site of manufacture.* The notice would include the site or sites at which the exempt chemcial will be manufactured. However, importers need not report the site of manufacture.

iii. *Type of exemption.* The manufacturer would be required to state whether the substance is a polyester, has a number-average molecular weight of 20,000 or greater, or whether it meets the molecular weight/polydispersity criteria.

iv. *Chemical identity.* Manufacturers would identify the monomers and other reactants used to manufacture the polymer by chemcial name and CAS Registry Number. Manufacturers would also provide a representative structural diagram.

v. *Number-average molecular weight and polydispersity.* For polymers greater than 20,000 number-average molecular weight, manufacturers would be required to provide the number-average molecular weight of the polymer as defined by the rule and the method of its determination. For polymers exempt by meeting number-averge molecular weight and polydispersity criteria, manufacturers would provide the above information and would also provide the polydispsersity of the substance as defined by the rule.

vi. *Certification.* The manufacturer would certify that he or she was familiar with the provisions and that the exemption and would comply with those provisions of the new chemical substance (1) is not specifically excluded from the exemption and (2) meets the criteria for the exemption.

b. *Notification for substances for which PMN review prior to manufacuture is required.* Manufacturers of polymers with a number-average molecular weight of 1,000 or greater that are exempt from certain PMN requirements would be required to submit a limited PMN to EPA at least 14 days prior to manufacture. In developing information requirements for the proposed limited PMN, EPA has attempted to balance its needs for the 14-day review with the need to minimize the notification burden on companies seeking this exemption. The Agency recognizes that, if the exemption is to provide significant relief to the company, the costs of filing a limited PMN must be relatively low. At the same time, however, the notice must provide enough information to allow EPA to determine whether the chemical may warrant additional review beyond the initial 14-day period or to determine if regulatory action should be initiated under sections 5(e) or 5(f) of TSCA.

Under this proposal, the limited PMN would have to contain (1) manufacturer's name, (2) chemical identity, (3) site of manufacture, (4) residual monomer and low molecular weight species content, (5) number-average molecular weight, (6) production voume, (7) description of use, (8) generic chemical identity and use information if that information is claimed as confidential, (9) test data on the polymer that are in the possession or control of the manufacturer, and (10) a certification. If EPA did not receive complete and unambiguous identification of this information, the notice period would not begin. EPA would notify the submitter by telephone of the information the Agency needed to review the polymer under the exemption. If a manufacturer were unable to provide the information that would be required, the polymer would be ineligible for the exemption. EPA believes that this information would be sufficient for its review, given the other restrictions and safeguards of this exemption.

The specific information requirements are discussed below. Other requirements considered by EPA are discussed in Part IV of this preamble.

i. *Manufacturer's name.* This would include the name and address of the manufacturer and the name and telephone number of a technical contact.

ii. *Site of manufacture.* The notice would include the site or sites at which the exempt chemical will be manufactured. However, importers need not report the site of manufacture.

iii. *Chemical identity.* The notice would identify monomers and other reactants used to manufacture the polymer by chemical name and CAS Registry Number. Manufacturers would report the maximum amount (by weight-percent) of each monomer or reactant that would be used in any composition of the polymer that would be manufactured. Finally, manufacturers would provide a representative structural diagram of any composition of the polymer intended to be manufactured.

iv. *Residual monomer, impurity, and low molecular weight species content.* The notice would provide the maximum amount (by weight) of residual of each monomer or reactant that would be present in any composition of the polymer to be manufactured under the exemption. The manufacturer would also identify the name and CAS registry number of any other impurity reasonably anticipated to be present in any composition of the polymer. Manufacturers would also characterize the maximum amount of low molecular weight species below 500 and 1,000 number-average molecular weight for any composition of the polymer manufactured under the exemption. EPA would use this information to analyze potential exposure to and absorption of residual monomers and low molecular weight species.

v. *Number-average molecular weight.* Manufacturers would be required to provide the lowest number-average molecular weight of any composition of the polymer that would be manufactured and describe the method used to determine it.

vi. *Maximum annual production volume.* The exemption notice would include the estimated maximum production volume for any 12-month period of manufacture. This information would be needed to estimate exposure and release.

vii. *Description of use.* Manufacturers would be required to provide a description of use. The description of use would have to be specific enough for EPA to determine the typical circumstances of exposure, including routes of exposure, associated with the

substance. A general description such as "adhesive" or "industrial," "commerical," or "consumer" use would not be sufficient. Instead, the use might be described as a coating used for electrodisposition, a resin used as a rubber tackifier, or an industrial spray adhesive used in the manufacture of laminates. Manufacturers generally know this information and the Agency believes that providing it would impose little burden.

viii. *Generic chemical identify and use information.* Under section 5(d)(2) of TSCA, EPA must publish a notice in the **Federal Register** providing the chemical identity of a substance for which a PMN is received and its proposed uses. If the chemical identity or use of the substance is claimed as confidential, manufacturers must provide non-confidential, generic information. The generic chemical identity should be as generic as necessary to protect the confidential identity of the substance but should reveal to the maximum extent possible toxicologically significant aspects of the molecular structure. Similarly, the generic use description should allow, to the maximum extent possible, an assessment of the populations that may be exposed to the new chemical substance.

ix. *Test data.* The notice must include any test data on the new chemical substance's health and environmental effects that are in the possession or control of the person giving such notice.

x. *Certification.* The manufacturer would certify that he or she was familiar with the terms of the exemption and has compiled with those terms and that the new chemical substance (1) meets the definition of polymer and (2) is not specifically excluded from the exemption.

c. *Importers.* Import is included in the proposed definition of manufacture. Persons wanting to import a new polymer under the exemption would be subject to all its terms.

2. *Federal Register.* Under section 5(d)(2) of the Act, five days after EPA receives a premanufacture notice the Agency must publish in the **Federal Register**, subject to section 14, a notice that includes information identifying the new substance and its "uses or intended uses." EPA would publish such a notice for the PMN it receives under this rule.

3. *EPA review of the exemption notice and PMN.* The Agency would verify that, based on the information given, the substance is a polymer and is eligible for exemption. For polymers that would require PMN review, EPA would notify the manufacturer by telephone of the date on which the Agency received the notice. The Agency would review the PMN in the 14-day period to determine whether the substance should be considered for possible regulatory action under sections 5(e) or 5(f) of TSCA or if unresolved issues concerning toxicity or exposure required further review before the Agency could determine whether regulatory action was warranted.

The PMN would be assessed by a team of senior scientists with expertise in chemistry, metabolism, mechanisms of chemical action, carcinogenicity, general toxicology, environmental fate, environmental toxicology, and exposure assessment. The team's assessment would be based on information provided in the notice (e.g., chemical identity, production volume, and use), supplemented by information available in reference texts and other secondary literature. The assessment would focus on toxicity concerns, primarily on the toxicity of residual monomers and low molecular weight species. Because test data would often not be available on the chemical itself, the team would in most cases rely on structure-activity relationships to estimate potential toxicity and to identify specific concerns. Exposure potential would be assessed when toxicity concerns were significant.

If questions arose during PMN review—for example, on the identity of the polymer, the likely exposure, or the controls used to reduce exposure—EPA would generally telephone the manufacturer's technical contact. Where information was unavailable, EPA would make reasonable worst-case assumptions on exposure and toxicity, based on the notice and other available information.

4. *Extension of the PMN notice period.* EPA would have the authority to extend the review period if it believed the new chemical should be considered for regulatory action under section 5(e) or 5(f) of TSCA or for good cause, such as when unresolved issues concerning toxicity or exposure required further review before the Agency could determine whether regulatory action was warranted. If EPA determined during the 14-day review period that the review period should be extended, the Director of the EPA Office of Toxic Substances—or any EPA employee designated by the Office Director to carry out his or her functions under this rule—would inform the manufacturer by telephone, followed by a letter, that the notice period had been extended. The letter would specify the length of the extension and explain the reason for EPA's determination. EPA could extend the initial 14-day review under this provision for a period not to exceed an aggregate of 90 days.

If EPA did not inform the manufacturer by the end of the 14-day PMN review period that the notice period had been extended, manufacture of the new chemical substance could begin.

5. *Extension of the review period under section 5(c).* Section 5(c) of TSCA provides that EPA can extend the 90-day notice review period for up to an additional 90 days for good cause. Under the rule, EPA would extend the review period of the Agency could not resolve serious issues concerning the toxicity of or exposure to the new chemical substance during the initial review period. The Agency would also extend the review period if it determined that regulatory action under sections 5(e) or 5(f) was warranted. If EPA determined that extension of the review period was needed, it would notify the manufacturer by certified letter, return receipt requested, prior to the end of the review period, that the Agency is extending the review period for a specified length of time and state the reasons for the extension. As required by section 5(c), EPA would also publish a notice in the **Federal Register** stating that EPA is extending the review period and the reasons for the extension. If the initial extension of the review period were for fewer than 90 days, EPA could make additional extensions. The total of the extensions could not exceed 90 days for any PMN. The maximum review as a result of the Agency's use of both provisions would be 180 days.

6. *Expiration of the review period.* EPA would notify the manufacturer by telephone that the review period had expired. The expired review period does not constitute EPA approval or certification of the substance and does not mean that EPA may not take regulatory action on the substance in the future. After expiration of the review period, the submitter may manufacture or import the chemical substance if EPA has not taken action on the substance under sections 5(e) or 5(f).

7. *Notice of commencement.* Any person who begins to manufacture or import a new substance for which a limited PMN has been submitted under this exemption must notify EPA when manufacture begins so that the Agency can add the substance to the *TSCA Chemical Substance Inventory.* Any person who submits a limited PMN under this exemption must submit a notice when he or she begins to manufacture or import the new substance for commercial purposes, on

or about the date when manufacture or import commences. At a minimum this notice must include the identity of the substance; the premanufacture document number the Agency previously assigned to the substance in the section 5(d)(2) Federal Register notice; and the date upon which manufacture or import begins. There is no requirement that the notice be submitted in any particular form. It should be addressed to the Document Control Officer, Office of Toxic Substances, at the address indicated above.

This reporting requirement is imposed under section 8(b) of TSCA. That provision states, "In the case of a chemical substance for which a notice is submitted under section 5, such chemical substance shall be included in such list [the inventory] as of the earliest date (as determined by the Administrator) on which such substances was manufactured or processed in the United States." EPA believes that a submittal of a notice of commencement is a reasonable method to implement this statutory provision.

8. *Actions under section 5(e) or section 5(f) of the Act.* The rule indicates that the Agency will take action under sections 5(e) and 5(f) of the Act on substances that undergo limited PMN review when the appropriate findings can be made. Under section 5(e) of the Act, EPA may issue a proposed order to regulate the manufacture, processing, distribution in commerce, use, or disposal of a new substance if the Agency determines that the information available is insufficient to evaluate its health or environmental effects and that the substance either (1) may present an unreasonable risk of injury to health or the environment or (2) will be produced in substantial quantities, with possible significant or substantial exposure to the substance. If a manufacturer objects to a proposed order, or if EPA has not issued a proposed order 45 days before expiration of the notification period, EPA may apply to a U.S. District Court for an injunction to regulate a new substance under section 5(e). Such an order or injunction remains effective pending development and submission to the Agency of sufficient date to evaluate the substance's effects.

Section 5(f) authorizes EPA to regulate a new substance if there is a reasonable basis to conclude that the substance will present an unreasonable risk to health or the environment before a rule promulgated under section 6 can protect against such risk. To ban manufacture of a chemical, EPA may issue a proposed order; if EPA has not issued a timely order, or if a manufacturer or processor objects to the order, EPA must apply to a U.S. District Court for an injunction. Otherwise the Agency may regulate a chemical under section 5(f) by issuing a section 6(a) rule which is immediately effective upon publication in the Federal Register.

9. *Determination that chemical is not eligible for an exemption.* Under this proposal, EPA would have the authority to determine at any time that a substance which had not been added to the Chemical Substance Inventory is ineligible for an exemption if it finds that the new polymer (1) does not meet the definition of polymer provided in the rule; (2) is specifically excluded from the exemption, or (3) does not meet the exemption criteria for which an exemption notice or limited PMN was submitted. This authority could be used for exempt substances that do not undergo EPA review and for substances for which a limited PMN has been submitted but for which a commencement of manufacture notice has not been received. Action under this authority would not preclude action under sections 15, 16, and 17 of TSCA.

a. *Prior to manufacture.* EPA could determine before manufacture begins that a chemical is not eligible for the exemption because it does not meet the provisions of the exemption. The Director of the EPA Office of Toxic Substances or a designated employee, would inform the manufacturer by telephone, followed by a letter, that the new polymer is not eligible for the exemption. The letter would explain the reasons for EPA's determination. The manufacturer would then have the option of submitting an exemption notice or a limited PMN if the substance meets any other criteria of the exemption or of submitting a full PMN for 90-day review. The substance could not be manufactured before its exemption status was resolved.

b. *After manufacture begins.* At any time after commencement of manufacture of a new substance for which a limited PMN has not been submitted the agency may obtain information on an exempt chemical indicating that the substance does not meet the terms of the exemption. The specific action EPA would take in such circumstances would depend on the Agency's judgment about the good faith of the manufacturer and the possible hazards associated with continued manufacture.

If the Director of the Office of Toxic Substances concludes that a substance is ineligible, he would inform the manufacturer by telephone and certified letter, that a preliminary determination has been made that the substance is not eligible for the exemption. The letter will specify the reasons for this determination.

The manufacturer could file objections to a preliminary determination within 15 days of receipt. If the manufacturer did not file objections, the decision would become final at the end of the 15-day response period. If the manufacturer filed objections, the Director would consider the objections and respond within 30 days of their receipt. The manufacturer would be informed of the final determination by telephone and by certified letter.

If the Director makes a final determination that a substance is not eligible, the manufacturer must (1) cease manufacture of the new polymer within 15 days, or (2) file a PMN within that period. Otherwise manufacture could continue throughout the notice review period unless EPA acts under section 5(e) or 5(f) of TSCA. If the Director determined that the manufacturer had will fully or negligently failed to comply with the terms of the exemption, the manufacturer would be required to cease manufacture within 24 hours of receiving telephone notification.

If the manufacturer is not manufacturing the new chemical substance when it receives the preliminary determination declaring the chemical substance ineligible, he could not begin to manufacture that substance before its exemption status is resolved. If EPA makes a final determination that the chemical is not eligible, the manufacturer could not begin to produce the substance until a PMN has been submitted and the PMN review period has ended. The EPA requests comments on all these procedures for determining ineligibility.

If the Agency concluded that continued manufacture of an exempt chemical would present a serious or imminent hazard, it would take immediate action. EPA would attempt to work out voluntary or negotiated controls; however, if this did not prove possible, it could take action under section 6 or 7 of TSCA. Under the authority of section 6, EPA may issue an immediately effective rule to ban or limit the manufacture, processing, distribution, use, or disposal of the chemical if the Agency has a reasonable basis to conclude that the substance presents or will present an unreasonable risk to health or the environment. Also, under the "imminent hazard" provisions of section 7, EPA may apply for seizure of the chemical substance or articles

containing the substance, or other necessary relief.

10. *Confidentiality.* EPA recognizes the need for manufacturers to preserve the confidentiality of business information. Under the rule, any information provided under the rule could be claimed as confidential. Persons who submit confidential business information would be required to assert all claims of confidentiality when they submit the information to the Agency. Information would be claimed as confidential by circling, bracketing, or underlining it and marking it "CONFIDENTIAL" or some other appropriate designation. Information claimed confidential would be handled according to the Agency's confidentiality rules in 40 CFR Part 2. Information which is not claimed as confidential could be disclosed to the public without further notice to the submitter.

Under section 5(d)(2) of TSCA, EPA must publish a notice in the Federal Register providing the chemical identity of a substance for which a PMN is received and its proposed uses. The rule would allow the manufacturer to claim this information as confidential. If the information was claimed confidential, the rule would require submitters to provide generic descriptions of chemical identity and use. If generic information is provided by the submitter, it would reduce the possibility of EPA inadvertently releasing confidential business information when preparing the 5(d)(2) notice as well as reducing the time necessary to prepare such a notice.

The Agency strongly encourages persons to submit two copies of the limited premanufacture notices if some of the information is claimed confidential. Section 5(d)(1) of TSCA requires the Agency to make public any nonconfidential information in premanufacture notices. Therefore, if a submitter does not file a nonconfidential copy, EPA will prepare an excised copy for the public file, based upon the submitter's confidentiality claims. Submitter preparation of the public copy will ease the administrative burden on EPA, and will reduce the remote possibility that EPA inadvertently will disclose information which a submitter claims as confidential.

11. *Recordkeeping.* The proposed rule would require manufacturers to maintain certain records for each new polymer that would be exempt under the proposed provisions concerning (1) polyesters made from a specified list of monomers, (2) polymers with a number-average molecular weight of 20,000 or greater, and (3) polymers with certain number-average molecular weight and polydispersity values. Manufacturers of exempt polymers for which a limited PMN is submitted would not be required to maintain these records.

Manufacturers would maintain these records to the degree necessary to show continuing compliance with the terms of the exemption. Specifically, manufacturers would maintain a record of (1) the unique chemical identity of the new polymer, (2) the number-average molecular weight of the polymer and its method of determination, (3) the weight-average molecular weight and its method of determination, (4) the polydispersity of the polymer, if this information is required in the exemption notice, and (5) the site or sites where the polymer is being manufactured. Manufacturers using this exemption would also retain information sufficient to demonstrate that the new polymer is not specifically excluded from the exemption. For example, if a substance contained as an integral part of the polymer substance an element not on the element list provided on the rule, the manufacturer would have to maintain records to show that it determined that the polymer contained no more than 0.10 weight percent of that element. Similarly, manufacturers would have to demonstrate that they took adequate steps to determine water solubility and so on. Finally, any test data on the new polymer or its analogs, metabolites, or environmental transformation products would be retained. EPA believes this information would be sufficient to indicate continuing compliance with the exemption. The Agency requests comments on the adequacy of these recordkeeping requirements.

The manufacturer would maintain the records for five years after the final date of manufacture of the new polymer. Under this proposal, EPA would have the authority to require, by written request, the manufacturer of an exempt chemical to submit copies of these records to EPA at any time. Manufacturers would be required to provide these records within 15 days of notification by the Director of the Office of Toxic Substances or his or her designee. Manufacturers must permit any officer or employee of EPA designated by the Administrator to have reasonable access to and to copy these records. This provision would supplement the inspection and subpoena authorities of seciton 11 of TSCA.

12. *Audit procedure.* EPA believes that it must have some general mechanism for monitoring the performance of industry under the terms of the exemption. Therefore, EPA intends to institute an audit program for this exemption, under which it would review the records of companies manufacturing chemicals under the exemption. EPA would conduct this program either under the inspection authority of TSCA section 11 or under the proposed authority in this rule requiring the submission of exemption records upon request.

13. *Amendment or repeal.* Under this proposal, EPA would amend the rule if it found that the conditions of the rule may not protect health or the environment from unreasonable risks. It may also amend the rule to expand or reduce the scope or applicability of the exemption.

TSCA requires that EPA repeal or amend a section 5(h)(4) exemption rule through the rulemaking procedures of sections 6(c) (2) and (3). EPA would amend or repeal the rule to make general changes in the rule, not to act on individual new chemical substances.

14. *Enforcement.* The manufacture of a new chemical substance that is not exempt and is not on the Chemical Substance Inventory is a violation of section 15 of TSCA. It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture of new chemical substances in violation of the specific provisions of this exemption would be a violation of section 15. Violators may be subject to criminal and civil liability.

Under the penalty provisions of section 16 of TSCA, any person who does not comply with the provisions of this rule could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the exemption rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies available to EPA would include seeking an injunction to restrain violations of the exemption rule and the seizure of chemical substances manufactured or processed in violation of an exemption rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals who report false information or who cause it to be reported.

III. General Issues

A. Information Requirements

EPA has found that it can exempt certain new polymers without review before manufacture and exempt certain others with a shortened PMN review.

The Agency believes that it must have sufficient information to verify that each new polymer meets the terms of the exemption and to establish the chemical's unique identity for tracking the substances made under the exemption. However, this minimal information would not be sufficient to perform an assessment of risk. Therefore, the rule proposes to require more information in the limited PMN than in the exemption notice.

For substances that would be exempt from all PMN requirements, the rule would require submitters to provide the number-average molecular weight and weight-average molecular weight of the substance and its polydispersity. The Agency considered not requiring these chemical properties. The Agency has retained this provision because (1) it allows quick verification that the substance meets the terms of the exemption, (2) it ensures that manufacturers have taken reasonable steps to measure these properties, and (3) it provides valuable data for use in subsequent PMN review. The Agency requests comments on the reasonableness of requiring this information for substances that do not undergo EPA review.

EPA considered requiring a similar notice for substances that undergo the shortened PMN review. However, the Agency believes that such a notice, while imposing minimal burden on the submitter, would frequently fail to provide information sufficient to review risk. The rule would require information on molecular weight distribution and residual monomer content so that the Agency may assess the risks presented by low molecular weight species. The rule would also require production volume and use information. EPA considered not requiring volume and use information. However, in some cases the Agency may not have sufficient information on the chemical's structure and physical properties to determine use. EPA would have to make worst case exposure assumptions which may be unrealistic and may result in a determination that the review period should be extended or regulatory action under sections 5(e) or 5(f) is necessary in cases when risks were not significant. While the Agency does not intend and would not have time to conduct extensive exposure analyses during the review period, it does need enough information to determine exposure circumstances peculiar to the chemical substance for which the notice is submitted. EPA requests comments on the reasonableness of requiring this information in the exemption notice and the general adequacy of the notice content for 14-day PMN review.

B. Inventory

Under this proposal, substances that do not undergo 14-day review would not be listed on the Inventory. Substances for which limited premanufacture notices are submitted would be added to the Inventory when manufacture begins.

The TSCA Inventory is a list of chemical substances in commerce. EPA believes that the major purpose of the Inventory is to determine PMN applicability, since chemicals not included on this list are subject to TSCA section 5(a)(1) premanufacture notification. Manufacturers of substances which meet the polyester, 20,000 number-average molecular weight, or number-average molecular weight/polydispersity conditions of the exemption would not be required to submit a PMN. Therefore, these polymers would be subject to premanufacture review before they could be manufactured outside the conditions of the exemption. Because such substances would be subject to premanufacture review if manufactured outside the conditions of the exemption, EPA would not add these polymers to the Inventory. The Agency requests comments on the appropriateness of this approach and recommendations on appropriate public notice that such substances are being manufactured.

Conversely, the proposed exemption would require a shortened PMN review for substances over 1000 number-average molecular weight. Since these substances undergo PMN review, although shortened, and since these substances would not again be subject to premanufacture review, the Agency would add these substances to the Inventory. EPA considered adding such polymers to the Inventory by composition. Under this approach EPA could add an exempt polymer to the Inventory with specific restrictions or conditions concerning composition, number average molecular weight, polydispersity, residual monomer content, or other appropriate exemption criteria or exclusions. If another manufacturer wanted to manufacture the polymer with the individual monomers at a different weight composition than identified on the Inventory, for instance, the manufacturer would be required to submit a limited PMN under the exemption or a complete notice under section 5(a)(1) of the Act. EPA did not propose this approach because new polymers that undergo the shortened PMN review would be treated differently on the Inventory than new polymers that undergo full PMN review. However, EPA believes that listing exempt polymers on the Inventory with specific restrictions may be appropriate and will consider adopting this approach in the final rule. EPA requests comments on this alternative approach to listing exempt polymers on the Inventory and its proposed approach to adding exempt substances to the Inventory.

IV. Regulatory Analysis

This section summarizes EPA's risk assessment and economic analysis of the proposed rule and describes the various regulatory alternatives the Agency is considering. This section also explains the basis for the Agency's finding of no unreasonable risk. The documents "Risk Assessment in Support of Proposed Exemption for Polymers" and "Economic Analysis of TSCA section 5(h)(4) Exemptions: Polymers," which are summarized here, are included in the public record.

A. Summary of Risk Assessment

1. *Introduction.* EPA's analysis of the risks posed by polymers is based on the following approach: (1) Identification and selection of adverse health and environmental effects which are of concern with respect to polymers and their associated oligomers and monomers; (2) review of available information on polymers, oligomers, and certain monomers; (3) identification of scenarios representative of possible polymer uses, releases, and exposures; and (4) use of either quantitative or qualitative risk estimates derived from all these factors to predict whether it is reasonable to anticipate that new polymers will pose significant risks. The Agency also considered typical industry practices and existing regulatory standards when assessing exposure.

The Agency has assumed that it is reasonable to anticipate that substances developed and used under the terms of the polymer exemption will have many of the same physical and chemical properties as existing polymers. The toxicities and exposures of new polymers can reasonably be expected to fall within the range of toxicity and exposure characteristics of existing polymers. Based on the known toxicities and exposures of existing polymers, predictions regarding the magnitude of risk to human and ecological populations from the commercialization of new polymers may be developed.

The following sections summarize the hazards associated with various polymers, oligomers, and monomers; the potential for dermal and gastrointestinal

absorption; occupational, consumer, and environmental risks; and the anticipated risks under the exemption conditions. Although EPA has treated the polymer molecules, low molecular weight oligomeric species, and residual monomers separately for the purposes of its risk analysis, it believes that these components together make up the new chemical substance as distributed in commerce which must be assessed before being exempted.

2. *Potential effects analysis.* In its assessment of potential adverse health and environmental effects that might be posed by polymers, the Agency reviewed available information on polymers, associated oligomers, and residual monomers that might be found in the polymer. EPA reviewed the effects of concern that are routinely addressed in the PMN process. They are: carcinogenicity, teratogenicity, reproductive effects, neurotoxicity, and environmental effects.

The potential health and environmental hazards of many monomers have been adequately documented in the available literature. For example, the carcinogenicity of vinyl chloride and acrylonitrile is well documented, as are the teratogenic effects of acrylic acid and the neurotoxic effects of acrylamide. The existing data base, however, is limited regarding the effects of concern for polymers and their associated oligomers. Of the data reviewed for carcinogenicity, teratogenicity, reproductive effects, neurotoxicity, and environmental effects, significant concerns were identified for a few polymers. Essentially no toxicologic data are available on oligomers per se. The Agency, however, has assumed that the order of toxic hazard for most polymer families is monomer>oligomer>>polymer. This assumption is based on the expectation that the pharmacokinetic properties of the monomer, oligomer, and polymer will vary such that the monomer will be more easily absorbed and, on a weight basis, be a more reactive substance than an oligomer or polymer made from it.

3. *Polymer absorption.* Absorption is an important factor in assessing the potential hazards of a substance. A substance that is not available to biological systems (as a result of limited or no absorption) generally is not expected to present a significant health hazard, even though it may possess inherent toxic properties. Potential exposures to polymers are most likely to result from dermal contact with polymers or inhalation of polymer particles or vapors. Inhaled particles may travel up the mucociliary escalator or the respiratory system and be swallowed, thereby entering the gastrointestinal tract, from which they may be absorbed.

Of the factors influencing dermal absorption of a molecule, molecular size (weight) and lipophilicity appear to be the most important factors. Limited information is available to the Agency regarding dermal absorption. Based on data on certain types of low molecular weight substances (i.e., organophosphates, molecular weight <500), it appears that as molecular weight approaches 400, the rate of dermal absorption approaches zero. Information regarding skin penetration of larger molecules, including certain polymers (e.g., polyether diamines), is difficult to assess because absorption, suggested by toxicity following dermal application, might be due to the absorption of low molecular weight monomeric or oligomeric species in the polymer. In light of the available, although limited, information on the dermal absorption of chemicals, the Agency has tentatively established a molecular weight limit of 1000 beyond which substances generally are not expected to be dermally absorbed.

Gastrointestinal absorption is dependent on factors such as lipophilicity, molecular weight, particle size, and metabolism of chemicals in the gastrointestinal tract. Available information suggests that substances with a molecular weight of about 5000 or greater may not be absorbed from the gastrointestinal tract.

4. *Exposure assessment.* Polymers have many characteristics that tend to limit human exposure and environmental releases. However, there is potential for exposure to significant levels of low molecular weight residuals.

a. *Occupational exposure.* Workers who process and use polymers in industrial settings are anticipated to receive the highest exposure to polymers, oligomers, and monomers. In addition to monomers which are released from polymers during processing and use, workers also may be exposed to polymeric particles. The route of exposure to polymer particles is expected to be inhalation followed by fractional deposition in the lung and fractional ciliary clearance from the bronchial system followed by swallowing.

Analysis of data in PMNs submitted on polymers during 1981 showed that workers processing and using polymers would be exposed in many industrial scenarios. These scenarios include use of polymers for additives; adhesives; casting; coating by (a) conventional spraying, (b) electrodeposition, (c) electrostatic spraying, (d) knife coating, (e) roll coating, and (f) curtain coating; extrusion; film; foam; and compression molding and injection molding. Industrial exposure levels to polymers were found or estimated to vary from less than 1 mg/m^3 to up to 320 mg/m^3 for specific industrial processing activities. In many instances, personal protective devices are typically used by workers, particularly in the surface coating activities where the highest exposure levels were found. Actual levels of exposure to the workers are estimated to be typically between 10 mg/m^3 and 15 mg/m^3.

Exposures to monomers which are released from polymers could be significant if residual levels are high. Limited data are available on workplace exposure levels for monomer vapors released during polymer processing. Levels were found or estimated to be up to 1 mg/m^3. However, unlike monomers, vapor phase exposures to oligomers and polymers are not expected to be as significant as worker exposures to particulates because of the low vapor pressures of oligomers and polymers. Thus, the particulate-associated inhalational doses of polymers and oligomers used to estimate worker risks are believed to represent an upper limit on potential risks posed by polymers and oligomers.

b. *Consumer exposure.* Polymers are used in an extremely wide variety of products with which consumers frequently come in contact. Based on its assessment of consumer exposures to polymers, the Agency believes that many of the polymers used in consumer products are high molecular weight polymers (i.e., M_n>50,000) which typically contain low levels of oligomers and residual monomers. Consumer exposures to high molecular weight polymers are generally of little concern, even though they are frequent, because the high molecular weights of such polymers are expected to preclude their absorption into the body. As discussed above, the risk of adverse health effects is likely to be low if absorption is low.

There are, however, some consumer products which usually are composed of low molecular weight polymers (i.e., M_n <5,000). Some polymers often contain large amounts of low molecular weight oligomers and residual monomers. The monomers, and lower molecular weight oligomers, unlike the large polymer molecules, are generally not prevented by their weight from being absorbed into the body. Likewise, polymers of <1,000 M_n may be absorbed through the skin,

and polymers of $<5{,}000$ M_n may be absorbed from the gastrointestinal tract if they are inhaled and then swallowed. Since absorption cannot be ruled out, exposures to products which contain large amounts of low molecular weight polymers can be of concern, especially if the polymers contain large amounts of residual monomers or oligomers that are toxic.

Based on an analysis of PMNs, paints and coatings are examples of consumer products which typically contain low molecular weight polymers. Exposures to these products could involve exposures to monomers and other low molecular weight species. Given the assumptions which are stated in the Agency's Consumer Exposure Assessment, a daily absorbed dose of monomer of 8.7×10^{-3} mg/kg could reasonably be expected from use of house paints over a short period of time. Inhalation of volatilized monomer and spills of paint onto skin are the expected ways in which consumers would be exposed.

c. *Exposure due to environmental releases of polymers.* The environmental releases of polymers that are of primary concern are those to aquatic environments. As a result of these releases, members of the general population may be exposed via contaminated drinking water, and aquatic organisms may be exposed via contaminated ambient water. In assessing the potential exposure of these populations, the Agency treated polymers with an appreciable degree of water solubility and essentially non-water-soluble polymers as distinct classes. Exposure to non-water-soluble polymers involves exposure to the polymers themselves and to water-extractable materials (assumed to be low on molecular weight monomers and oligomers) in the polymers.

Because most water-soluble polymers will remain in solution, they will remain in solution, they will have a greater chance of reaching aquatic environments than insoluble polymers. This could lead to potentially significant levels of exposure, especially for aquatic organisms. Unfortunately, there is no information on which to base a reasonable estimate of the levels of water-soluble polymers to which affected populations will be exposed and, thus, the doses that they may receive.

The Agency believes that the insolubility of non-water-soluble polymers will limit the distribution and potential exposure levels of the polymers themselves. However, humans and acquatic organisms may be exposed to water-extractable monomers and oligomers released from these polymers. The projected concentration of these materials in surface water from which drinking water is drawn and in ambient water are assumed to be the same as those calculated for waters receiving effluents from a compression-molding operation. Compression molding was selected as the model for the exposure calculations because, of the uses evaluated by the Agency, this one has the highest environmental release rate. A key assumption made in calculating the above concentations is that 5 percent by weight of the insoluble polymer particles will be water-extractable materials. The Agency believes that this figure represents a conservative upper limit for the amount of water-extractable materials likely to be contained in the particles. It was also assumed that none of the materials will be removed from water by treatment, natural degradation, or partitioning to sediment or suspended solids.

The average concentrations of insoluble polymer particles in receiving waters resulting from direct discharges during compression-molding operations are estimated to be 13.0 μg/L under mean flow conditions and 160.0 μg/L under low flow conditions. The respective concentrations of water-extractable materials in these waters are 0.65 and 8.0 μg/L.

At a moderate level of exposure, the daily and lifetime average daily doses of water-extractable materials likely to be received by a 70-kg person who consumes 2 liters of water per day are 1.9×10^{-5} and 4.0×10^{-7} mg/kg/day, respectively. At a high exposure level, those doses would be 2.3×10^{-4} and 4.8×10^{-6} mg/kg/day, respectively. The lifetime average daily doses take into account the projection that release of a new polymer from a typical compression-molding operation might take place 134 days/yr and that the new polymer would have a 4-year commercial lifetime. Thus, exposure would be limited to this period of time.

6. *Risk estimates.* Using the exposure and environmental release estimates described in the previous section, the Agency prepared quantitative estimates of the potential risks to workers, consumers, and the environment resulting from exposures to monomers contained in polymers. Vinyl chloride and acrylonitrile were selected as model chemicals for estimation of carcinogenic risks. Acrylonitrile, acrylic acid, and acrylamide were used as a representative reproductive effects agent, teratogen, and neurotoxicant, respectively. The Agency prepared qualitative estimates of the risks from exposure to oligomers and polymers because of the general lack of toxicologic data that is necessary to produce such estimates.

a. *Potenial risks to workers.* Based on its exposure assessment, the Agency anticipates that workers involved in the processing and use of polymers will be exposed to polymers, oligomers, and monomers as a result of inhalation of either particulate material or vapors that may result during processing and use operations. Although workers also may be dermally exposed to these substances, the Agency's exposure assessment indicates that such exposures will be minimal due to the use of gloves and other protective clothing.

The Agency does not expect significant risks from polymers and oligomers because: (a) worker exposures to vapors of polymers and oligomers are expected to be minimal due to the low vapor pressures of these substances which will minimize their vaporization; (b) some polymers and oligomers are expected to be poorly absorbed if they are inhaled in particulates; and (c) there is a general lack of toxicologic data which demonstrate that polymers and oligomers, in general, pose human health hazards. However, workers who inhale polymer particulates may experience significant carcinogenic, reproductive effects, teratogenic, and neurotoxic risks if the particulates contain significant levels of residual monomers and the monomers are as toxic as the representative monomers listed in the preceding paragraph. (Likewise, workers who inhale vapors of monomers may experience significant health risks.) However, in both cases, the actual degree of risk will be highly variable, and will depend on the extent of exposure and the toxicity of the residual monomer.

b. *Potential risks to consumers.* In general, consumers are expected to be at little risk of adverse effects caused by the use of polymers in consumer products. As explained earlier, the use of high molecular weight polymers in many consumer products suggests that absorption of the polymer molecules into the body will be minimal. When low molecular weight polymers are used to make consumer products, however, there may be significant risks to consumers. The risks are expected to be primarily due to the presence of residual monomer molecules and, to a lesser extent, low melecular weight oligomers. Both monomers and oligomer species are usually found in greater percentages in low molecular weight polymers than in high molecular weight polymers.

Paints and coatings are consumer products which typcially contain low molecular weight polymers. An evaluation of potential risks that could be associated with the use of house paints (given the Agency's assumptions and the model chemicals used to assess various health hazards) suggests that inhalation and dermal absorption of residual monomers could lead to significant risks of teratogenicity and other adverse effects.

Although the Agency believes that the risk estimates discussed above are based upon a reasonable set of assumptions concerning what might be considered a typical pattern of consumer use of house paint, there is a wide range of plausible scenarios concerning consumer uses of house paints. Some involve higher levels of exposure and risk; others involve lower levels. Thus, as in the case of potential risks to workers, consumer risks will be highly variable, depending on the extent of actual exposures and the toxicities of the monomers to which consumers are exposed.

Potential consumer exposures to monomers, oligomers, and polymers in inhaled polymer particles are expected to be low. Even assuming worst-case monomer toxicity, consumers are not expected to experience significant risks of carcinogenicity, reproductive effects, teratogenicity, or neurotoxicity. Likewise, exposures to polymers and oligomers, as used in the above scenario, generally are not expected to result in significant health risks.

Consumers also may be exposed to vapors of polymers, oligomers, and monomers. Risks from exposure in the vapor phase to polymers and oligomers are considered to be low. Based on the Agency's house-painting scenario, the level of risk due to inhalation exposures to monomers is also low, considering that the carcinogenic potencies of vinyl chloride and acrylonitrile were used in the risk estimates.

Dermal exposures to oligomers and polymers generally are not expected to result in significant risks due to the low absorption potential of high molecular weight substances and the limited toxicity of certain types of polymers and their associated oligomers. However, many monomers have low molecular weight and, if significant dermal contact with a highly toxic monomer occurs, risks due to dermal absorption of the monomer could be significant.

c. *Potential risks to the general population and to aquatic organisms from environmental releases.* The population considered to be at greatest potential risk from environmental releases of water-soluble and non-water-soluble polymers to water are (1) members of the general population who may be exposed to contaminated drinking water, and (2) aquatic organisms.

The Agency did not attempt to quantify risks to the above populations from water-soluble polymers because of a lack of appropriate data on the toxicity, environmental fate, and levels of exposure of these substances. Although the Agency assumes that water-soluble polymers have a greater chance of reaching drinking water systems than nonsoluble polymers, it does not have reason to expect that they will be appreciably toxic to humans. With respect to aquatic organisms, however, there is concern over increased exposure levels because some polymers have been reported to produce acute toxic effects in these organisms at a concentration of about 1 ppm.

The risks posed by the release of non-water-soluble polymers to water are a combination of the risks due to the polymers themselves and those due to the presence of water-extractable materials (i.e., monomers and oligomers) in the polymers. Because of a similar lack of data, the Agency also did not attempt to quantify risks to the general population or aquatic organisms from non-water-soluble polymers themselves in drinking or ambient water. However, the Agency is unaware of any reason to generally expect significant levels of human or aquatic toxicity from environmental releases of these polymers. For this reason, and the anticipated low levels of exposure to these substances, the Agency concludes that risks posed by non-water-soluble polymers to humans and aquatic organisms would be low.

The Agency has prepared a quantitative assessment of the risks that might result from the release of water-extractable monomers and oligomers from nonsoluble polymers in water. Potential risks of carcinogenicity and potential risk ratios for teratogenicity, neurotoxicity, and reproductive effects were calculated for humans receiving moderate or high levels of exposure. In spite of the conservative assumptions used, none of the calculated risks or risk ratios suggest that the general population would experience significant health risks as a result of ingesting water contaminated with materials extracted from insoluble polymers. Potential risk ratios for effects to aquatic organisms were calculated using the 96-hour LC_{50} of acrylonitrile in bluegill sunfish. Neither of the calculated risk ratios suggest that aquatic organisms will experience significant risks as a result of exposure to materials extracted from insoluble polymers that may be present in ecosystems.

d. *Risks under exemption conditions.* There are several elements of the proposed exemption that would significantly reduce the risks to human health and the environment presented by polymers.

First, certain polymers which may present significant risk or for which little is known about risk would be excluded from eligibility. For instance, polymers with covalently bonded halogen groups would be excluded as a result of toxicity concerns for residuals. Water-soluble polymers would be excluded because of high exposure potential. Polymers intended to be easily degraded or depolymerized would be excluded because EPA would have no basis on which to anticipate exposure potential or biological activity. Other exclusions would similarily reduce risks.

Second, the exemption conditions would substantially limit risk. Polyesters could be made without EPA review before manufacture begins only if they were manufactured from specified low toxicity monomers. Polymer toxicity would be even lower than monomer toxicity. Certain polymers with lower number-average molecular weight would be exempt without EPA review before manufacture begins only if they met certain polydispersity criteria which would substantially reduce the content of low molecular weight species that could be present in the polymer. Polymers with 20,000 number-average molecular weight or greater would be exempt without EPA review because they contain small amounts of low molecular weight species potentially absorbable by biological systems. Polymers with a number-average molecular weight over 1000 would be exempt only after review by EPA ensures that these substances would not present significant risks. EPA expects that polymers that would meet the proposed exemption criteria also would not have been regulated after the normal 90-day PMN review.

B. Summary of Economic Analysis

1. *Introduction.* To perform the economic analyses of the polymer exemption, the Agency created two PMN data bases; the first consists of information from a sample of about 500 PMNs, which represent the total submitted during a specific period during 1980 and 1981. This data base provides an overview of the Agency's recent experience with the PMN program. The Agency reviewed this data base to determine the types of polymers

being submitted for review, their physical and chemical properties, their projected production volumes, their intended uses, and in some cases, certain health and environmental effects data. The Agency also reviewed the disposition of these PMNs. While the analysis is retrospective, it does provide a good indication of what may happen under the various exemption alternatives being considered. A second data base of about 100 PMNs was used to analyze the effect of this proposal in terms of the number of polymers likely to be exempt from PMN review. The economic analysis of the proposal is based on information from both data bases.

The Agency also reviewed the current impact of the PMN program on polymers and the cost in EPA resources for reviewing both PMNs and exemption notices. In addition, EPA estimated the direct relief to industy, reflected in decreased reporting cost, that would result from different exemption alternatives.

In assessing the potential benefits of this proposed exemption and alternative approaches, EPA also considered nonquantifiable benefits, such as the increase in chemical innovation and the decrease in time required to bring exempt chemicals to the market. Although the Agency could not attach specific figures to these benefits, they are likely to be substantial. EPA's analysis of the impact on industry of its proposed PMN rules suggests that the nonquantifiable costs of the program may be greater than the quantifiable costs. Therefore, it appears reasonable to assume that the nonquantifiable benefits of an exemption may be greater than those that can be quantified.

The complete economic analysis appears in the economic support document in the public file.

2. *Current impact of PMN program.* As a baseline for its economic analysis, EPA estimated the annual direct costs of submitting PMNs on polymers. A review of the sample of 500 PMNs indicates that about 49 percent of all PMNs (or about 345 out of the annual submission rate of 700 PMNs) are on chemicals initially identified as polymers. Using the current direct PMN reporting costs of $1,200 to $7,900 per notice, EPA estimated the annual reporting costs for polymers to be between $0.41 million and $2.73 million. The various exemption alternatives under consideration would provide significant relief from this reporting cost.

3. *Benefits of the exemption.* The Agency estimated the number of new chemical substances that would be eligible for the exemption under the proposed approach and other alternatives considered. From this base, EPA then calculated the annual net benefits under each approach. The quantified benefits include only the actual direct cost savings to industry; they represent the difference between: (1) The cost of submitting a PMN if the exemption were not available, and (2) the cost of completing the exemption notice plus the cost of any tests necessary to determine if the new chemical substance meets the terms of the exemption.

Depending on the terms of the exemption (which would define the number of chemicals eligible for the exemption, and the amount of information required in the exemption notice), total direct benefits of industry for a polymer exemption would fall between $0.06 million and $2.59 million per year.

The "low" end of the net benefits range for each alternative considered was based on the lowest estimates of the cost to submit a PMN and the lowest estimates of the cost to submit an exemption notice; the "high" end of the benefits was based on the highest estimates of these figures.

In addition, EPA's analysis indicates that the exemption is likely to lead to direct savings in EPA resources that would otherwise be spent reviewing PMNs. For polymers, these savings would fall between $0.08 million and $0.90 million per year. These figures reflect the difference between the cost of reviewing a PMN and the estimated cost of reviewing an exemption notice. EPA resources would not be freed if the exemptions increased innovation to the point that review of the large number of exemption notices would require as many resources as the review of the smaller number of PMNs EPA would have received if the exemption were not available.

In addition to the benefits which EPA has quantified, there are certain benefits which the Agency has examined qualitatively. Chief among these are the benefits of reduced delay and of increased innovation. Under the terms of the proposed exemption, eligible polymers could be manufactured either immediately or after 14 days following notification of EPA, rather than after 90 days. This reduced delay would enable manufacturers and consumers to benefit sooner from new chemical innovations and would allow manufacturers to take advantage of market opportunities that require quick response.

By reducing direct PMN filing costs and delay costs, the exemption would encourage chemical innovation. Depending on the practices of the manufacturer and the exemption category, the PMN direct filing cost would be reduced from 65 to 98 percent of the current cost. This reduction, together with the shorter delay period, would mean that chemicals which formerly were not profitable to introduce would now be acceptable investments. The net value of this additional innovation would constitute additional benefits, both to the chemical industry and its customers.

In addition, the proposed exemption would provide intangible benefits to EPA and to the public because certain exempt polymers would not be added to the TSCA Chemical Substance Inventory. For such polymers, EPA would receive a PMN before exempt polymers would be manufactured outside the conditions of the exemption. The Agency would be able to review, and if necessary, control any risks prior to such changes. Under the current PMN process, the Agency would have to promulgate a significant new use rule to achieve the same level of followup.

Also, based on comments from industry, EPA expects that PMNs submitted on chemicals that had been manufactured under an exemption would contain more extensive and reliable information on toxicity and exposure than normally provided in a PMN. The availability of such information would assist EPA in reviewing these notices and identifying chemical substances that may present an unreasonable risk.

C. Major Alternatives Considered

In developing this proposal, EPA considered several major alternatives for exempting polymers. These alternatives are described and compared below.

1. *Description of alternatives.*

Alternative 1—Deny the Polymer Exemption

Under this approach, EPA would deny CMA's petition to exempt polymers. Instead, EPA would state that for the purpose of section 5(h)(4), categories should be defined more narrowly in terms of likely exposure or chemical class. For example, EPA could develop exemptions for polymers with a specific structure or similar use.

This alternative is the baseline against which the other alternatives are compared. If the polymer exemption request is denied, manufacturers would continue to submit PMNs until EPA promulgated rules exempting narrower categories that included polymers. Manufacturers and EPA would continue to incur the present costs associated

with PMN review. The annual direct costs of submitting PMNs on polymers would be between $0.41 million and $2.73 million and the annual cost to EPA of reviewing these PMNs would be approximately $1.13 million. The present impact of the program on innovation would also continue. The economic consequences of promugating exemption rules on many narrow categories cannot be predicted without knowing what the individual categories would be or what conditions would be included in such exemptions.

Alternative 2—Exempt All Polymers Without Any Conditions

EPA could exempt all polymers made from monomers on the TSCA Chemical Substance Inventory from PMN requirements without restrictions. There would be no exclusions or exemption conditions and there would be no EPA review of individual chemicals manufactured under the exemption. This alternative is the preferred approach suggested by CMA.

The annual net benefits to industry of this approach would be between $0.35 million and $2.59 million. These benefits reflect the cost savings to industry because they would not have to file PMNs on polymers. In addition, EPA estimates there would be a $0.90 million annual savings in Agency resources because there would be fewer PMNs to review. By exempting about 99 percent of all polymers from PMN review, this alternative would have the greatest positive impact in terms of reducing marketing delays and encouraging innovation by industry.

As the risk assessment illustrates, however, this approach might result in significant risks. It would allow any new polymer to be manufactured without review by EPA, regardless of the polymer's toxic properties, the level and toxicity of residuals in the polymer, or exposure potential to the polymer, oligomers, or residual monomers. Without the exclusions, exemption criteria, and procedural safeguards built into the other approaches, it would be difficult to make the finding of "no unreasonable risk" for polymers.

Alternative 3—Exempt All Polymers Which Meet Specific Chemical Property Criteria

EPA could exempt all polymers which meet certain chemical property criteria. For instance, the Agency could establish a minimum average molecular weight or a maximum residual content criterion for all exempt polymers.

EPA could develop a rule that establishes criteria to protect against unreasonable risk without EPA review. This approach would result in a rule which is easy to understand and administer since it would require little interpretation or information from manufacturers.

Under this approach, however, EPA would not be able to tailor criteria for specific characteristics of a given category of polymer. Therefore, EPA would establish a criterion which may be too strict for certain polymers. The resulting level would not provide the significant relief that is appropriate for many polymers. For example, the Agency could set a molecular weight limit as several petitioners proposed. To exempt substances without a review period, EPA would have to establish a level high enough to protect against the risks posed by highly toxic monomer residuals and low weight species. This approach would not provide relief for some lower molecular weight polymers which could be exempted. Such an approach would likely result in the submission of numerous petitions on individual categories that may be appropriate for an exemption under less stringent criteria, an approach which would be resource-intensive and time-consuming for both the Agency and the industry.

For example, if polymers would be required to have a number-average molecular weight of 5000 or more, about 27 percent of new polymers would be exempt. The annual net benefits to industry would be between $0.09 million and $0.69 million. These benefits reflect the cost savings to industry because they would not have to file PMNs on chemicals that qualify for the polymer exemption and are based on the current rate of PMN submissions. Also, EPA would save approximately $0.24 million in resources because it would not have to review PMNs on new chemical substances that qualified for the exemption. Since over one-fourth of new polymers would be exempt under this alternative, this option would significantly lessen the adverse delay and innovation costs associated with the current PMN process.

Alternative 4—Exempt Certain Classes of Polymers

EPA could exempt all substances in a class or classes of polymers, such as polyolefins, with or without criteria, and without review. This approach would allow EPA to concentrate its assessment of risk on specific physical and chemical characteristics of polymers. Additionally, the class approach would concentrate EPA's assessment on substances which the Agency most often reviews, therefore limiting the scope of the assessment and enabling the Agency to provide quicker relief. However, EPA believes that the available data are too limited for the Agency to reasonably set chemical property criteria for specific classes. Because of general concerns for low molecular weight species, water solubility, and residual monomers, this approach of exempting classes without restrictions would likely result in exemptions for few classes that would present minimal risk if certain criteria would apply. As with Alternative 2, such an approach would likely result in the submission of many additional petitions with the associated disadvantages.

The Agency evaluated the impact of exempting polymers falling into eight classes (polyolefins, polyacrylate/methacrylate esters, polyesters, polystyrenes, polyethers, polyurethanes, polysiloxanes, and polyacrylamides). About 63 percent of the polymers in the PMN data base fall exclusively into these classes. If the Agency could exempt polymers in all these classes, the annual net benefits to industry would fall between $0.22 million and $1.64 million. These benefits reflect the cost savings to industry because they would not have to file PMNs on polymers that qualified for the exemption and are based on the current rate of PMN submissions. There would be additional benefits reflecting a net savings of approximately $0.57 million in government resources because EPA would not have to review PMNs on polymers that qualified for the exemption. This alternative would also significantly reduce the adverse delay and innovation effects associated with the current PMN process. However, exempting all of the above classes without restrictions may result in significant risk of adverse health or environmental effects. In this situation, it would be difficult for EPA to make the required finding of no unreasonable risk.

Alternative 5—Exclude Specific Polymers of High Concern; Exempt Certain Polymers Without Review; Exempt Certain Other Polymers With 14-Day Limited PMN Review

Under this approach, EPA would address the risks posed by certain categories of polymers. The Agency would exclude from the exemption polymers for which it could not make a risk finding except in PMN review. It would exempt polymers that met certain criteria from all PMN requirements and polymers that met other criteria would be required to undergo a 14-day limited PMN review.

Following this approach, EPA could tailor the terms of the exemption to

respond to risk concerns about specific categories. The category approach, along with varying the requirements for review, would allow EPA to apply the terms of the exemption as narrowly as possible. In this way, EPA could exempt the greatest number of polymers possible, while protecting public health and the environment.

This approach, however, results in a more complicated rule which may be difficult to administer since more information would be necessary to determine that a substance is being manufactured under the terms of the exemption. In cases where data necessary to determine whether or not a polymer met the exemption criteria are not routinely developed, the exemption may impose a burden to obtain this information.

From its experience with the PMN program, EPA believes that about 57 percent of new polymers would be exempt under this approach. Consequently, the annual net direct benefits to industry of this alternative would be between $0.20 million and $1.48 million based on the current rate of PMN submissions. These benefits reflect the cost savings to industry because companies would not have to file a PMN, minus the cost to submit an exemption notice to EPA. In addition, EPA estimates there would be a $0.44 million annual net savings in Agency resources because there would be fewer PMNs to review.

There would also be a nonquantifiable "uncertainty" cost associated with this exemption because EPA would have the authority to determine that a specific chemical was ineligible. However, EPA believes that the criteria for eligibility are reasonably clear. In addition, EPE believes that the circumstances in which additional information would show that an exempt substance would present a risk is extremely rare.

2. *Comparison of alternatives and preferred approach.* The alternatives for exempting polymers include various chemical property criteria and different safeguards (e.g., exclusion of certain polymers from eligibility, 14-day EPA review) to ensure that the manufacture of new chemical substances under the terms of the exemption would not present an unreasonable risk of injury to health and the environment. The less restrictive the chemical property criteria and the fewer safeguards, included, the more polymers would be exempt and therefore the greater the benefits to industry. Conversely, the more restrictive the chemical property criteria and the more safeguards included, the less likely it is that a new chemical substance manufactured under the exemption would present an unreasonable risk.

The proposal adopts Alternative 5: excluding specific polymers of high concern, exempting certain polymers without EPA review prior to commencement of manufacture, exempting certain other polymers with a 14-day PMN review. Based on the current rate of PMN submissions, about 27 percent of new chemical substances would be eligible for the polymer exemption if EPA adopts this alternative. The annual net benefits to industry would be between $0.20 million and $1.48 million. These benefits reflect the direct cost savings to industry because companies would not have to file PMNs on chemicals that qualified for the polymer exemption. There would be annual net savings in Agency resources of approximately $0.44 million because EPA would not have to review PMNs on polymers that qualify for the exemption.

EPA believes that this alternative balances the Agency's responsibility to ensure that new chemical substances manufactured under the terms of this exemption do not present an unreasonable risk of injury to health or the environment with the benefits of more rapid innovation and introduction of chemical products and reduced PMN costs. Of the alternatives considered, EPA believes that the preferred approach provides the broadest relief by tailoring the terms of the exemption to address specific risks.

EPA requests comments on the appropriateness of each of these alternatives and on the alternative selected. The final rule will be based on EPA's balancing of the benefits and risks presented by the various alternatives.

D. Finding of No Unreasonable Risk

To grant an exemption under section 5(h)(4), EPA must find that the exempt chemical substances will not present an unreasonable risk of injury to health or the environment. The Agency has made a preliminary determination that the manufacture, processing, and use of new polymers included in the exemption will not present such a risk.

EPA's preliminary determination of no unreasonable risk is based on a consideration of (1) the limitations of risk that would result from the safeguards built into the rule, (2) the Agency's finding that the manufacture, processing, use, and disposal of new polymers that meet the exemption criteria generally present low risk, and (3) the benefits to industry and the public that the exemption would provide.

From the risk assessment, and from general knowledge of chemical hazards, the Agency has concluded that although new polymers generally present low risk, a high content of low molecular weight species or residual monomers, along with the potential for exposure, may present significant risk. In addition, there are certain polymers for which the Agency had limited review experience or data from which to determine risk. Therefore, the restrictions and safeguards built into the preferred approach are essential elements of the finding of no unreasonable risk.

EPA recognizes that, even with these restrictions and safeguards, the proposed approach would not ensure that there would be no risk from chemicals manufactured under the exemption. TSCA does not define "no unreasonable risk" to be zero risk. Rather, it defines no unreasonable risk as a balancing of risk and benefit. Because of the exclusion and exemption criteria and procedural requirements of the proposed rule, EPA believes that health and environmental risks are likely to be very limited. Furthermore, as the Economic Impact Analysis indicates, the proposed approach would provide significant benefits to the public and to industry. These benefits are an important element in the finding of no unreasonable risk.

1. *Exemption provisions.* There are several exemption provisions that directly or indirectly reduce the likelihood that new chemical substances manufactured under the proposed exemption would adversely affect health or the environment. EPA believes that the combined effect of these provisions would significantly limit risk and that they would adequately support a finding of no unreasonable risk. The major provisions that limit risk are discussed below.

a. *Exclusions.* The rule would exclude certain substances for which the Agency cannot make the unreasonable risk finding. The rule would exclude these substances because: (1) the Agency has information that shows that these polymers may present a significant risk, or (2) the Agency has little or no data or review experience with which to make a reasonable assessment of risk. The exclusions would limit the eligibility of the exemption to those polymers which EPA has found, based on its review experience and the available data, to generally present low risk.

b. *Exemption criteria—i. Polyesters.* The rule would exempt without EPA review prior to commencement of

manufacture only those polyesters made from monomer which EPA is preliminary review has determined to present low risk. Polymers made from these monomers would present lower risk than the monomers themselves. A one percent residual limitation for certain monomers would address risk concerns in certain cases where high residual content may present risk.

ii. *Polymers with number-average molecular weight of 20,000 or greater.* The rule would exempt without EPA review prior to commencement of manufacture polymers with a number-average molecular weight of 20,000 or greater. EPA's review of PMN data and theoretical considerations indicate that these polymers contain small amounts of potentially absorbable low molecular weight species. Additionally, these polymers are generally highly resistant to degradation so that exposure to low molecular weight species is further limited.

iii. *Polymers with certain number-average molecular weight or molecular weight/polydispersity criterion.* The rule would exempt high molecular weight polymers that EPA believes present low risks based on review experience and data that show that such polymers contain limited amounts of low molecular weight species. Since the limited risk concerns with these polymers are based on potential absorption of residual low molecular weight species, the rule would establish a minimum number-average molecular weight requirement of 20,000 or a molecular weight/polydispersity criterion for polymers below that weight. These provisions would ensure that the polymers would not contain significant amounts of residual monomers or other low molecular weight species which are the primary source of polymer risks.

iv. *Polymers over 1,000 number-average molecular weight.* Manufacturers of these polymers would be required to submit a limited PMN on the polymer 14 days before manufacture begins. Manufacturers would submit information on the identity, properties, production volume, and use of the polymer so EPA could review the substance for possible risk before manufacture and determine whether it needed additional information or review to make a risk finding. If EPA determined that a polymer may present an unreasonable risk, the PMN review period could be extended and appropriate regulatory action taken under TSCA section 5(e) or 5(f). In addition, the 1,000 number-average molecular weight criterion would eliminate from eligibility those polymers which contain a majority of low weight species that could be absorbed and thus present risk.

3. *Benefits.* EPA believes that this proposed exemption would significantly increase innovation in new polymers and that it would in some cases allow manufacturers to introduce new polymers in commerce more rapidly than they could if they were required to wait the full 90-day PMN review period. Consumers will benefit from chemicals that would not have been introduced without the exemption and from more rapid introduction of new polymers. The resulting benefits are likely to be substantial. In addition, consumers may benefit from lower chemical prices than would have been the case if PMNs were submitted on these substances.

4. *Conclusion.* Given the substantial benefits this exemption would provide and the limitations on toxicity and exposure described above, EPA has made the preliminary determination that chemicals manufactured under the terms of this exemption will not present an unreasonable risk.

Although EPA has made its preliminary finding of no unreasonable risk only for the proposed approach, such a finding may also be possible for some or all of the alternatives described above. Therefore, EPA requests comment on the appropriateness of the finding for each of the alternatives identified.

V. Confidentiality

EPA recognizes the need for manufacturers to preserve the confidentiality of certain business information. EPA is proposing that persons who send confidential business information to the Agency assert all claims of confidentiality when they submit the information. Rather than propose new requirements in this rule for claiming and substantiating confidentiality claims, EPA proposes that persons claim information confidential under the Agency's confidentiality rules in 40 CFR Part 2. Information which is not claimed confidential could be disclosed to the public without further notice to the submitter. EPA requests comments on this approach and alternative approaches to protecting the confidentiality of submitted information.

VI. Application of Executive Order 12291, and the Regulatory Flexibility and Paperwork Reduction Acts

1. *Executive Order 12291.* Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the Regulatory Impact Analysis requirement. This regulation is not major because it does not satisfy any of the criteria of a major regulation as outlined in the Executive Order. The annual impact of this rule upon the economy would not exceed $100 million. This exemption would not increase costs to industry or consumers. EPA's analysis shows that the savings from reducing or eliminating premanufacture notification for the exempt polymers would outweigh the cost of submitting an exemption application. No particular geographic region would be burdened and the exemption rule would not affect government agencies, except that it may reduce the Agency's burden of PMN review. The exemption will improve the ability of domestic manufacturers to compete with foreign manufacturers and encourage domestic innovation. EPA expects that the net effect of this exemption rule on the economy would be positive.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

2. *Paperwork Reduction Act.* The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) authorizes the Director of the Office of Management and Budget (OMB) to review certain information collection requests by federal agencies to determine that the information collection is necessary and that the information has practical utility. The reporting and recordkeeping provisions in this rule will be submitted for approval to OMB under section 3504(b) of this Act. EPA will explain how it responded to any comments by OMB or the public in any final rule.

3. *Regulatory Flexibility Act.* Following the provisions of the Regulatory Flexibility Act (5 U.S.C 605(b)), EPA hereby certifies that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The majority of companies that have submitted premanufacture notices for polymers that would be exempt have been large manufacturers. Since manufacturer of these polymers is normally in large volumes for a large variety of uses, companies that manufacture these substances generally must be large. Although some small companies may begin to manufacture the exempt polymers as a result of this rule, EPA's economic analysis shows that the number of companies that would do so is probably small and the impact on these companies would not be substantial. Additionally, in the majority of cases, the impacts of the exemption

would be positive. Therefore, the Agency will not prepare a Regulatory Flexibility analysis for this rule.

VII. Public Comments

EPA invites comments on all issues raised in this proposal. Comments should focus on EPA's approach to granting the exemption, the appropriateness of the exemption categories, the Agency's finding of no unreasonable risk, and the information required in the exemption notice. EPA also invites comments on the two technical documents it has prepared in conjunction with this proposal: the Risk Assessment and the Economic Analysis. These documents are available on request from the Office of Toxic Substances' Industry Assistance Office at the address listed above.

Comments must be submitted to EPA within the appropriate time at the address stated above.

VIII. Public Hearings

If requested, EPA will conduct hearings on November 1, 1982 in accordance with the requirements of TSCA sections 6(c)(2) and 6(c)(3). Requests to make an oral presentation must be received by October 4, 1982. The Agency will prepare transcripts or summaries of requested meetings for inclusion in the official public record.

IX. Public Record

Interested persons may submit written comments regarding this proposal to the Document Control Officer (TS–793), Room E–401, Office of Pesticides and Toxic Substances, 401 M St., SW., Washington, D.C. 20460. Each commenter must submit three copies of all comments, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–50033]."

EPA has established a public record of this proposed rulemaking (Docket Number: OPTS–50033) which is available for inspection in the OPTS Reading Room, Room E–105, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, at the above address. Persons who do not have access to the record in the public reading room should contact Douglas A. Bannerman, Director, Industry Assistance Office (TS–799), at the above address for assistance.

The record includes all information considered by the Agency in developing this exemption proposal, except confidential business information contained in premanufacture notices. The Agency will supplement the record with additional information as it is received. The record currently includes the following information:

1. Chemical Manufacturers Association, "Petition of Chemical Manufacturers Association for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated May 21, 1981.

2. Chemical Manufacturers Association, "Letter of Transmittal of the CMA Petition from Robert A. Roland, President of CMA, to Anne M. Gorsuch, Administrator of USEPA," dated may 21, 1981.

3. Kelco, "Letter Requesting Exemption for Certain Polysaccharide Gums from James K. Rocks, Manager, Quality Assurance, Kelco to John Ritch, Jr., Industry Assistance Office, USEPA," dated June 1, 1981.

4. USEPA–OTS, "Agenda for Chemical Control Division's Meeting with Representatives of CMA on CMA's Exemption Petition," held on June 4, 1981.

5. USEPA–OTS, "Summary of the June 4, 1981 Meeting with CMA on CMA's Exemption Petition," dated June 17, 1981.

6. Synthetic Organic Chemical Manufacturers Association, Inc., "Petition of Synthetic Organic Chemical Manufacturers Association, Inc. for the Commencement of Rulemaking Proceedings Under Section 5(h)(4) of the Toxic Substances Control Act," dated June 17, 1981.

7. National Paint and Coatings Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 24, 1981.

8. Chemical Specialties Manufacturers Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 29, 1981.

9. National Association of Printing Ink Manufacturers, "Endorsement of the Chemical Manufacturers Association Petition for the commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated June 30, 1981.

10. National Association of Manufacturers, Endorsement of Chemical Manufacturers Association Petition, letter from D. Cannon to E. Clark, dated July 27, 1981.

11. Ashland Chemical Company, "Application for Exemption from the Requirements of Section 5(a)(1) for a Class of Substances Known as Unsaturated Polyester Resins," dated July 28, 1981.

12. USEPA–OTS, "Agenda for the Office of Toxic Substances Meeting with the Snythetic Organic Chemical Manufacturers Association (SOCMA) on SOCMA's Exemption Petition," held on August 20, 1981.

13. USEPA–OTS,"Letter Acknowledging Receipt of Ashland's Exemption Application from Edward A. Klein, Director, Chemical Control Division, to R. H. Toeniskoetter, Manager, Environmental and Occupational Safety Dept., Ashland Oil Co.," dated August 20, 1981.

14. USEPA–OTS, "Summary of the August 12, 1981 Meeting with Chemical Specialties Manufacturers Association to Discuss Exemptions Under Section 5(h)(4)," dated August 26, 1981.

15. USEPA–OTS, "Proposed Regulatory Program for Development of a Generic Exemption Rule Under Section 5(h)(4) of TSCA," submitted for use during the meeting with CMA on September 2, draft dated August 28, 1981.

16. The Adhesive and Sealant Council, Inc., "Endorsement of the Chemical Manufacturers Association's Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated September 2, 1981.

17. USEPA–OTS, "Polymers," draft dated September 2, 1981.

18. USEPA–OTS, "Summary of the July 22, 1981 Meeting with CMA on CMA's Exemption Petition," dated September 9, 1981.

19. Dry Color Manufacturers' Association, "Endorsement of the Chemical Manufacturers Association Petition for the Commencement of Rulemaking Proceedings under Section 5(h)(4) of TSCA," dated September 10, 1981.

20. USEPA–OTS, "CMA Exemption: Preliminary Review," dated September 15, 1981.

21. USEPA–OTS, "Summary of the September 2, 1981 Meeting with CMA on the CMA Exemption Petition," dated September 16, 1981.

22. Chemical Manufacturers Association, "Preliminary CMA Response to EPA Working Paper on PMN Exemptions," dated September 24, 1981.

23. Chemical Specialties Manufacturers Association, "Letter Containing Comments on Summary of the September 2, 1981 Meeting between EPA and CMA," dated September 28, 1981.

24. USEPA–OTS, "Agenda for OTS–CMA Meeting on CMA Petition on September 30, 1981," dated September 30, 1981.

25. USEPA–OTS, "Summary of the September 30, 1981 Meeting with CMA on the CMA Exemption Petition," dated October 28, 1981.

26. Cargill, Inc., "Petition for Exemption From Premanufacture Notification Requirements for Certain Natural Oil-Based Surface Coating Polymers and Alkyd and Polyester Polymers," dated October 8, 1981.

27. USEPA–OTS, "Working Paper on Polymer Exemption" for October 15, 1981 "Meeting with CMA," dated October 13, 1981.

28. USEPA–OTS, "Letter from Margaret Stasikowski, Acting Director, Chemical Control Division to Jerald A. Jacobs, General Counsel to The Adhesive and Sealant Council, Inc.," dated October 14, 1981.

29. USEPA–OTS, "Working Paper on Polymer Exemption" for October 15, 1981 "Meeting with CMA," dated October 13, 1981.

30. USEPA–OTS, "Agenda for OTS–CMA meeting on Polymer Petition with CMA on October 15, 1981," dated October 15, 1981.

31. USEPA–OTS, "Summary of October 15, 1981 Meeting with CMA to Discuss Polymer Exemptions," dated October, 1981.

32. Ashland Chemcial Company, "Letter from R.H. Toeniskoetter, Manager, Environmental and Occupational Safety Department, Ashland Oil Company to J.A. DeSantis, Chemical Control Division, 'Response to EPA Preliminary Comments,' " dated October 28, 1981.

33. USEPA–OTS, "Summaries of CMA Meeting Exemptions September 30, 1981,".

34. USEPA–OTS, "Meeting Summary CMA Exemption Petition—Polymers, October 15, 1981."

35. USEPA–OTS, "Notice of Receipt of CMA Section 5(h)(4) Exemption Petition," 46 FR 54688, dated November 3, 1981.

36. Comments received in response to the Notice of Receipt of the CMA Petition (46 FR 54688, November 3, 1981), various dates.

37. Chemical Manufacturers Association, "CMA Draft—Proposed Premanufacture Exemption for Polymers," dated December 4, 1981.

38. Chemical Manufacturers Association, Memorandum, "Role of Other Environmental Statutes in Preventing Potentially Harmful Environmental Discharges of Low-Volume Chemicals and Site-Limited Intermediates Exempted from PMN Requirements under Section 5(h)(4) of TSCA," draft dated December 4, 1981.

39. Chemcial Specialities Manufacturers Association, "Impact of the Toxic Substances Control Act on Innovation in the Chemical Specialities Manufacturing Industry," dated December, 1981.

40. USEPA–OTS, "Summary-Polymer Exemption Meeting—Tuesday, December 15, 1981," dated December, 1981.

41. Chemcial Manufacturers Association, "Preserving Innovation under the Toxic Substances Control Act," dated January 10, 1982.

42. USEPA–OTS, Polyacrylic Acid—Metal Ion Complexes," submitted for use during the meeting with CMA on January 29, 1982, dated January 26, 1982.

43. USEPA–OTS, "Polymers from Halogenated Monomers," submitted for use during the meeting with CMA and EPA on January 29, 1982 dated January 28, 1982.

44. USEPA–OTS, "Summary of January 29, 1982 Meeting with CMA to Discuss the CMA Exemption Petition," dated February 15, 1982.

45. Chemical Specialities Manufacturers Association, "Letter Concerning Exemption Issues Related to Small Chemical Manufacturers and Chemical Specialities Manufacturers," dated February 12, 1982.

46. USEPA–OTS, "Economic Analysis of TSCA Section 5(h)(4) Exemptions: Polymers," dated June, 1982.

47. USEPA–OTS, "Risk Assessment in Support of Proposed Exemption for Polymers," dated May, 1982.

48. USEPA–OTS, "Exposure Assessment for Polymer Exemption: Consumer and Environmental Exposure to the Monomers Vinyl Chloride, Styrene, Toluene Diisocyanate, Acrylamide, Acrylic Acid, and Acrylonitrile," dated May 7, 1982.

49. USEPA–OTS, "Exposure Assessment for Polymer Exemption: Consumer and Environmental Exposure to Polymers," dated April 9, 1982.

50. USEPA–OTS, "Processing and Use of Polymers: Worker Exposure and Environmental Release," dated April, 1982.

51. USEPA–OTS, "Analysis of Residual Materials in Polymers."

52. USEPA–OTS, "Analysis of the Polymer Exemption Using PMN Data," dated June, 1982.

53. USEPA–OTS, "Evaluation of Premanufacture Review Regulatory Decisions for Polymers," dated June, 1982.

54. USEPA–OTS, "Supplementary Industrial Chemistry Branch Documents Supporting the Polymer Exemption," dated June, 1982.

55. USEPA–OTS, "Preliminary Review of Polyester Monomers," dated July, 1982.

56. USEPA–OTS, "Summary of Polymer Exemption Meeting, May 6, 1982," dated July, 1982.

57. USEPA–OTS, "Summary of Polymer Exemption Meeting, May 11, 1982," dated July, 1982.

58. USEPA–OTS, "Summary of Meeting to Discuss Consultants Review of Polymer Exemption, May 10, 1982," dated July, 1982.

59. USEPA–OTS, "Summary of Polymer Exemption Meeting, June 15, 1982," dated July, 1982.

60. USEPA–OTS, "Summary of Meeting with American Cyanamid to Discuss Exemption for Water Soluble Polymers, May 28, 1982," dated July, 1982.

61. USEPA–OTS, "Proposed Rule: Exemption of Certain Polymers from Premanufacture Notification Requirements," dated August 4, 1982. (Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604)).

List of Subjects in 40 CFR Part 723

Premanufacture notification, Hazardous materials, Recordkeeping and reporting.

Dated: July 27, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 723—PREMANUFACTURE NOTIFICATION EXEMPTIONS

Subpart A—Specific Exemptions

Therefore, it is proposed that Chapter I of Title 40 of the Code of Federal Regulations be amended by adding a new § 723.250 to proposed Subpart B, Part 723, to read as follows:

§ 723.250 Polymers.

(a) *Purpose and scope.* (1) This section grants an exemption from the premanufacture notice requirements of section 5(a)(1)(A) of the Toxic Substances Control Act (15 U.S.C. 2604(a)(1)(A)) for the manufacture of certain polymers.

(2) To manufacture a new chemical substance under the terms of this exemption, a manufacturer must: (i) determine that the substance meets the definition of polymer in paragraph (b)(12) of this section, (ii) determine that the substance is not specifically excluded by paragraph (d) of this section, (iii) ensure that the substance meets the exemption criteria of paragraph (e) of this section, and (iv) submit a notice as required under paragraph (f)(1) or (2) of this section.

(b) *Definitions.* (1) "Act" means the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(2) The terms "Administrator," "chemical substance," "environment," "manufacture," "new chemical substance," and "process" have the same meanings as in section 3 of the Act (15 U.S.C. 2602).

(3) The term "biopolymer" means a polymer composed of molecules directly produced by living or once-living cells or cellular components.

(4) The term "category of chemical substances" has the same meaning as in section 26(c)(2) of the Act (15 U.S.C. 2625).

(5) "Director of the Office of Toxic Substances" means the Director of the EPA Office of Toxic Substances or any EPA employee designated by the Office Director to carry out the Office Director's functions under this section.

(6) The terms "EPA," "importer," "impurity," and "person" have the same meanings as in § 710.2 of this chapter.

(7) The term "functioning monomer" means a chemical substance that is composed of molecules that are covalently linked to two or more other molecules.

(8) The term "monomer" means a chemical substance that has the capacity to form links between two or more other molecules.

(9) The term "number-average molecular weight" means the arithmetic average (mean) of the molecular weight of each molecule in a polymeric substance. The number-average molecular weight ($\overline{M}_n$) is expressed as

$$M_n = \sum \frac{W}{n_i} = \sum \frac{n_i M_i}{n_i}$$

where W is the total weight of the polymer; M_i is the molecular weight of of a given molecular species, i, in the polymer; and n_i is the number of molecules of each molecular weigth M_i in the polymer (usually expressed in moles).

(10) The term "polydispersity" (P) means the ratio of weight-average molecular weight ($\overline{M}_w$), as defined under paragraph (b)(15) of this section, to number-average molecular weight ($\overline{M}_n$), as defined under paragraph (b)(9) of this section. Polydispersity is expressed as

$$P = \frac{\overline{M}_w}{\overline{M}_n}$$

(11) The term "polyester" means a chemical substance which meets the definition of polymer in paragraph (b)(12) of this section and is characterized by the repetition of at least two carboxylic acid ester linkages holding repeating structural or substructural units together.

(12) The term "polymer" means a chemical substance that is predominantly composed of molecules that contain at least two structural units derived from functioning monomers. Polymers may not be predominantly composed of molecules of a single chemical substance that can be represented by a definite structural diagram. A polymer is predominantly composed of certain molecules if it contains a simple weight majority of such molecules.

(13) The term "residual monomer" means a chemical substance composed of molecules of a monomer which have not covalently bonded with other molecules to form a polymer.

(14) The term "test data" means: (i) Data from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement. (ii) Information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments) and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

(15) The term "weight-average molecular weight" means a weighted arithmetic average of the molecular species in a polymer such that each macromolecule contributes to the average molecular weight ($\overline{M}_w$) in proportion to its molecular weight. The weight fraction of each molecular species is multiplied by its molecular weight to give the weight-average.

$$\overline{M}_w = \sum w_i M_i = \sum \frac{n_i M_i^2}{n_i M_i}$$

where: $w_i = n_i M_i$ = the weight fraction of a given molecular species.

(c) *Applicability.* This exemption applies to manufacturers of new polymers that meet the criteria in paragraphs (e) (1), (2), (3), or (4) of this section which are not excluded from the exemption under paragraph (d) of this section.

(d) *Polymers that cannot be manufactured under this exemption*—(1) *Water-soluble polymers.* A polymer cannot be manufactured under this exemption if the polymer is designed or intended to be water-soluble or reasonably anticipated to be water-soluble.

(2) *Polymers containing less than 32.0 percent elemental carbon.* A polymer cannot be manufactured under this exemption if the polymer contains less than 32.0 weight percent of the atomic element carbon.

(3) *Other elemental limitations.* A polymer cannot be manufactured under this exemption if the polymer contains as an integral part of the polymer structure (i) more than 0.10 weight percent of any atomic element other than hydrogen, carbon, nitrogen, oxygen, sodium, magnesium, aluminum, silicon, phosphorus, sulfur, potassium, calcium, titanium, iron, or tin or (ii) more than a total of 0.20 weight percent of atomic elements not listed in paragraph (d)(3)(i) of this section.

(4) *Biopolymers.* A polymer cannot be manufactured under this exemption if the polymer is a biopolymer, as defined in paragraph (b)(3) of this section, the synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer if the initial biopolymer is substantially intact.

(5) *Polymers containing halogens or cyano groups.* A polymer cannot be manufactured under this exemption if the polymer contains covalently bonded fluorine, chlorine, bromine, or iodine atoms or cyano groups, except when these groups are present inadvertently due to incompleted reactions in which such atoms or groups are normally lost.

(6) *Polymers containing reactive functional groups.* A polymer cannot be manufactured under this exemption if the polymer contains reactive functional groups that are intended to undergo further reaction to produce other polymers unless (i) the total of reactive functional groups is less than one group per 10,000 molecular weight units of polymeric material, or (ii) the reactive functional groups are carboxylic acid groups, aliphatic hydroxyl groups, unconjugated olefinic groups, butendioic acid groups, or conjugated olefinic groups in natural fats, natural oils, and natural carboxylic acids.

(7) *Polymers which are designed to substantially degrade, decompose, or depolymerize.* A polymer cannot be manufactured under this exemption if the polymer is designed to substantially degrade, decompose, or depolymerize.

(e) *Exemption criteria.* A polymer may be manufactured under this exemption if the polymer meets one of the following criteria:

(1) *Polyesters.* (i) The polymer is a polyester as defined in paragraph (b)(11).

(ii) The polyester is manufactured from one or more of the monomers or precursor substances in Table 1 below subject to the residual limits identified.

Table 1—List of Monomers and Precursors From Which Polyesters May be Made

Monomers or precursors which are denoted with an asterisk (*) may not exceed residual levels of 1.0% of the polymer (by weight). Chemical Abstracts Service numbers are indicated in parentheses where available.

Monobasic Acids and Natural Oils

Anchovy Oil
Babassu Oil
Benzoic Acid (65–85–0)
Castor Oil (8001–79–4)
Coconut Oil (8001–31–8) and Fatty Acids (61788–47–4)
Corn Oil (8001–30–7)
Cottonseed Oil (8001–29–4)*
Dehydrated Castor Oil (64147–40–6)* and Fatty Acids (61789–45–5)*
Hempseed Oil
Heptanoic Acid (111–14–8)
Herring Oil (68153–06–0)
Hexanoic Acid (142–62–1)
Isononanoic Acid (3302–10–1)
Lauric Acid (143–07–7)
Linseed Oil (8001–26–1) and Fatty Acids (68424–45–3)
Menhaden Oil (8002–50–4)
Mixed Vegetable Oil Fatty Acids (61788–66–7)
Oiticica Oil (8016–35–1)
Palm Kernel Oil (8023–79–8)
Pelargonic Acid (112–05–0)
Perilla Oil (68132–21–8)
Safflower Oil (8001–23–8) and Fatty Acids
Sardine Oil
Soybean Oil (8001–22–7) and Fatty Acids (68308–53–2)
Sunflower Oil (8001–21–6) and Fatty Acids
Tall Oil Fatty Acids (61790–12–3) and Conjugated Tall Oil Fatty Acids
Tall Oil Rosin (8052–10–6)*
Tung Oil (8001–20–5)
Walnut Oil (8024–09–7)

Dibasic Acids (Anhydrides)

Adipic Acid (124–04–9)
Azelaic Acid (123–99–9)
C_{36} Dimer Acid (61788–89–4)
Fumaric Acid (110–17–8)
Isophthalic Acid (121–91–5)
Maleic Acid (110–16–7)* (Anhydride 108–31–6)*
Phthalic Acid (88–99–3) (Anhydride 85–44–9)*
Pyromellitic Anhydride (89–32–7)*
Sebacic Acid (111–20–6)
Succinic Acid (110–15–6) (Anhydride 108–30–5)
Terephthalic Acid (100–21–0)
Trimellitic Acid (528–44–9)* (Anhydride 552–30–7)*

Polyols

1,3-Butanediol (107–88–0)
1,4-Butanediol (110–63–4)
1,3-Cyclohexane Dimethanol (105–08–8)
Ethylene Glycol (107–21–1)
Glycerol (56–81–5)
Glycidyl esters of alpha, alpha dialkyl monocarboxylic acid (26761–45–5)*
Hexanediol (629–11–8)
Neopentyl glycol (126–30–7)
Pentaerythritol (115–77–5)
Polyglycerol (25618–55–7)
Propylene Glycol (57–55–6)
Styrene-allyl alcohol copolymer (25119–62–4)
Trimethylolethane (77–85–0)
Trimethylolpropane (77–99–6)
2,2,4-Trimethyl-1,3-pentanediol (144–19–4)

Modifiers

Abietol (13393–93–6)
Acrylic Acid (79–10–7)*

Bisphenol A diglycidyl ether-bisphenol A copolymer (25036-25-3)*
n-Butyl Alcohol (71-36-3)[1]
Butyl Carbitol (112-34-5)
Cyclohexanol (108-93-0)
Dicyclopentadiene (77-73-6)*
Diglycolic Acid (110-99-6)
Ethoxyethanol (110-80-5)*
2-Ethylhexyl Acrylate (103-11-7)*
1-Hexanol (111-27-3)
Hydrogenated Bisphenol A (80-04-6)
Methacrylic Acid (79-41-4)*
Methyl Methacrylate (80-62-6)*
Siloxanes
- Silsesquioxanes, phenyl propyl (68037-90-1)
- Siloxanes and silicones, phenyl, hexyl silsesquioxanes, hydroxy-terminated (72318-84-4)
- Siloxanes and silicones, dimethyl, diphenyl, polymers with phenyl silsesquioxanes, methoxy-terminated (68440-65-3)
- Siloxanes and silicones, dimethyl, methoxy phenyl, polymers with phenyl silsesquioxanes, methoxy-terminated (68957-04-0)
- Siloxanes and silicones, methyl phenyl, methoxy phenyl, polymers with phenyl silsesquioxanes, methoxy- and phenyl-terminated (68957-06-2)

Styrene (100-42-5)*
Vinyl Toluene (25013-15-4)*

(iii) An exemption notice as described in paragraph (f)(1) is submitted to EPA on or before the date manufacture begins.

(2) *Polymers over 20,000 number-average molecular weight.* (i) The polymer has a number-average molecular weight of 20,000 or greater.

(ii) An exemption notice, as described in paragraph (f)(1) of this section, is submitted to EPA on or before the date manufacture begins.

(3) *Polymers that meet polydispersity criteria.* (i)(A) The polymer for a given number-average molecular weight has the polydispersity identified in Table 2 below or lower polydispersity or (B) The polymer for a given number-average molecular weight has a polydispersity less than or equal to that determined by the function.

$$\ln P \leq 2.0 \times 10^{-4} \overline{M}_n - 0.60$$

wherein P is the natural logarithm of the polydispersity, and $\overline{M}_n$ is the number-average molecular weight.

TABLE 2.—POLYDISPERSITY VALUES FOR NUMBER-AVERAGE MOLECULAR WEIGHT RANGES

$\overline{M}n$ range	Approximate P
3,000 to 3,499	1.0
3,500 to 3,999	1.1
4,000 to 4,499	2.1
4,500 to 4,999	1.3
5,000 to 5,499	1.5
5,500 to 5,999	1.6
6,000 to 6,499	1.8
6,500 to 6,999	2.0
7,000 to 7,499	2.2
7,500 to 7,999	2.4
8,000 to 8,499	2.7
8,500 to 8,999	3.0
9,000 to 9,499	3.3
9,500 to 9,999	3.7
10,000 to 10,499	4.1
10,500 to 10,999	4.5
11,000 to 11,499	5.0
11,500 to 11,999	5.5
12,000 to 12,499	6.0
12,500 to 12,999	6.7
13,000 to 13,499	7.4
13,500 to 13,999	8.2
14,000 to 14,499	9.0
14,500 to 14,999	10.0
15,000 to 15,499	11.0
15,500 to 15,999	12.2
16,000 to 16,499	13.5
16,500 to 16,999	14.9
17,000 to 17,499	16.4
17,500 to 17,999	18.2
18,000 to 18,499	20.1
18,500 to 18,999	22.2
19,000 to 19,499	24.5
19,500 to 19,999	27.1
>20,000	>30.0

[1] May not be used in a substance also containing fumaric or maleic acid or maleic anhydride because of the potential health risks associated with fumarates which may be formed by reaction of these monomers.

(ii) An exemption notice, as described in paragraph (f)(1) of this section, is submitted to EPA on or before the date manufacture begins.

(4) *Other polymers.* (i) The polymer has a number-average molecular weight greater than 1000.

(ii) A premanufacture notice, as described in paragraph (f)(2) of this section is submitted to the Administrator 14 calendar days prior to the intended date of manufacture.

(f) *Exemption notices*—(1) *Exemption notice for polymers for which no review period is required.* For substances exempt under paragraphs (e) (1), (2) or (3) of this section the notice must include:

(i) *Manufacturer's name.* The name and address of the manufacturer must be provided and the name and phone number of a technical contact.

(ii) *Site of manufacture* (except for chemical substances that are imported). The notice must state the name and address of the site or sites of manufacture.

(iii) *Type of exemption.* The notice must state whether the substance is a polyester, whether the substance has a number-average molecular weight of 20,000 or greater, or whether it meets the number-average molecular weight/polydispersity criteria of paragraph (e)(2) of this section.

(iv) *Chemical identity.* The notice must identify the monomers and other reactants used to manufacture the polymer by chemical name and CAS Registry Number and provide a representative structural diagram.

(v) *Polydispersity criteria.* (A) For substances exempt by meeting the criteria described in paragraph (e)(2) of this section, the notice must provide the number-average molecular weight of the substance and its method of determination.

(B) For polymers exempt by meeting the conditions described in paragraph (e)(3) of this section, the notice must provide the number-average and weight-average molecular weight of the polymer and their method of determination, and the polydispersity of the polymer.

(vi) *Certification.* The manufacturer must certify that: (A) The manufacturer is familiar with the terms of the exemption and will comply with those terms, and (B) the new chemical substance for which the notice is submitted meets the definition of polymer, is not specifically excluded from the exemption, and meets the applicable conditions of the exemption.

(2) *Premanufacture notice for polymers for which 14-day premanufacture notice review is required.* For substances exempt under paragraph (e)(4) of this section, a limited premanufacture notice must include:

(i) *Manufacturer's name.* This must include the name and address of the manufacturer and the name and telephone number of a technical contact.

(ii) *Site of manufacture* (except for chemical substances that are imported). The notice must contain the name and address of the site or sites of manufacture.

(iii) *Chemical identity.* The notice must provide the following information for any composition of the polymer that will be manufactured under the terms of this section: (A) The identity (by chemical name and CAS Registry Number) and the maximum amount (by weight percent) of the monomers and other reactants used to manufacture the polymer and (B) a representative structural diagram.

(iv) *Residual monomer and low molecular weight species content.* The notice must provide the following information for any composition of a polymer that will be manufactured (A) the maximum amount (by weight percent) of residual of each monomer or reactant that will be present in the polymer, (B) the identity (by chemical name and CAS Registry Number) of any impurity reasonably anticipated to be present and (C) the maximum amount of low molecular weight species below 500 molecular weight and below 1000 molecular weight.

(v) *Number-average molecular weight.* The notice must provide the lowest number-average molecular weight, for any composition of a polymer that would be manufactured and a description of the method of its determination.

(vi) *Maximum annual production volume.* The notice must state the maximum anticipated production volume for any 12-month period of manufacture.

(vii) *Description of use.* The notice must contain a description of each use for which the polymer would be manufactured, including function and application (e.g., spray adhesive in the manufacture of laminates).

(viii) *Generic chemical identity and use.* If the chemical identity or use information provided under paragraphs (f)(2)(iii)(A) or (f)(2)(vii) of this section is claimed as confidential under paragraph (o) of this section, the notice must provide a non-confidential description of this information which is only as generic as necessary to protect the confidential business information.

(ix) *Test data.* The notice must include any test data on the polymers health and environmental effects that are in possession or control of the person giving such notice.

(x) *Certification.* The manufacturer must certify that (A) the manufacturer is familiar with the terms of the exemption and will comply with those terms and (B) the new chemical substance meets the definition of polymer, is not specifically excluded from the exemption, and meets the conditions of the exemption.

(xi) If the manufacturer fails to provide complete and unambiguous identification of the information in paragraphs (f)(2) (i) through (x) of this section, the review period will not begin. EPA will notify the submitter by telephone of the information the Agency needs to review the polymer. If the submitter is unable to provide that information, the polymer will not be eligible for exemption.

(g) *Notification of receipt of notice.* EPA will notify the submitter by telephone of the date on which the Agency received the notice. EPA will consider a person to have submitted the notice on the date the notice is received by the EPA Document Control Officer for the Office of Toxic Substances, but in no event more than three working days after receipt of the notice by the EPA Mailroom. The acknowledgment does not constitute a finding by EPA that the notice, as submitted, is in compliance with this section.

(h) *Notice in the "Federal Register".* Following section 5(d)(2) of the Act, EPA will publish in the **Federal Register** a notice of receipt of a premanufacture notice under paragraph (f)(2) of this section. The notice will contain a premanufacture document number and chemical identity and category of use information. If this information is claimed as confidential, EPA will publish generic descriptions of this information.

(i) *Review period.* The notice review period specified in paragraph (e)(4)(11) of this section runs for 14 calendar days from the date the EPA Document Control Officer for the Office of Toxic Substances receives a premanufacture notice submitted according to paragraph (e)(4)(ii) of this section, unless extended under paragraph (j) of this section.

(j) *Extension of the review period.* (1) At any time during the review period specified in paragraph (i) of this section, EPA may extend the review period for an aggregate period not to exceed 90 days if the Agency believes that the chemical should be considered for regulatory action under section 5(e) or 5(f) of the Act or if unresolved issues concerning toxicity and exposure require further review. If the Agency makes this determination, the Director of the EPA Office of Toxic Substances will notify the submitter by telephone, followed by a letter, that the notice review period has been extended. The letter would specify the length of the extension and explain the reason for EPA's determination. If the initial extension is for less than 76 days, EPA may make additional extensions not to exceed an aggregate of 90 days.

(2) At any time during the review period specified in paragraph (j)(1) of this section, EPA may determine that good cause exists to extend the notification period under section 5(c) of the Act. For example, the Agency may make a good cause determination if it believes that the chemical should be considered for regulatory action under sections 5(e) or 5(f) of the Act or if unresolved issues concerning toxicity or exposure remain at the end of the initial 90 days. If EPA makes such a determination, the Agency will:

(i) Notify the submitter by telephone followed by a letter, that EPA is extending the period for a specified length of time. The letter will specify the length of the extension and state the reasons for the extension; and

(ii) Publish a notice in the **Federal Register** which states that EPA is extending the review period and gives the reasons for the extension.

(iii) The initial extension may be for a period of up to 90 days. If the initial extension is for less than 90 days, EPA may make additional extensions. However, the total period of extensions under this paragraph may not exceed 90 days for any notice.

(k) *Notice of expiration of review period.* EPA will notify the submitter by telephone that the review period has expired. The fact that EPA does not initiate regulatory action during the review period does not constitute EPA approval or certification of the substance, and does not mean that EPA may not take regulatory action on the substance in the future. After expiration of the review period, the submitter may manufacture or import the chemical substance if EPA has not taken action on the substance under sections 5(e) and 5(f).

(l) *Notice of commencement of manufacture.* Any person who submits a premanufacture notice under paragraph (e)(4)(ii) of this section must submit a notice to EPA when manufacture or import begins. The notice must include (i) the identity of the chemical substance as provided under paragraph (f)(2)(iii)(A) of this section (ii) the premanufacture document number which the Agency assigned the substance in the **Federal Register** notice published under paragraph (h) of this section and (iii) the date upon which manufacture or import begins. Upon receiving this notice, EPA will add the substance to the Chemical Substance Inventory compiled under section 8(b) of TSCA.

(m) *Actions under sections 5(e) and 5(f) of the Act.* EPA will act under sections 5(e) or 5(f) of the Act on a substance submitted under paragraph (e)(4) of this section if the Agency determines that the statutory criteria for such action are met.

(n) *Notice of ineligibility*—(1) *Notification before manufacture begins.* (i)) The Director of the Office of Toxic Substances may determine prior to manufacture of a substance for which a notice has been submitted under paragraph (f) of this section that the new chemical substance does not meet the terms of this section.

(ii) If the Director of the Office of Toxic Substances determines that the new chemical substance does not meet the terms of this section, he or she will notify the manufacturer by telephone and, subsequently, by certified letter, that the substance is not eligible. The manufacturer may not begin manufacture of the new polymer without complying with the terms of this section or with section 5(a)(1) of the Act. Action under this paragraph does not preclude action under section 15, 16 , of the Act.

(2) *Notification after manufacture begins.* (i) After manufacture of an

exempt substance for which an exemption notice has been submitted under paragraph (f)(1) of this section begins, the Director of the Office of Toxic Substances may determine that the new chemical substance does not meet the terms of this section.

(ii) If the Director determines that the new chemical substance does not meet the terms of this section, he or she will notify the manufacturer by telephone and, subsequently, by certified letter, that the substance is not eligible. The manufacturer may not begin manufacture of the new polymer without complying with paragraph (3) or this section or with section 5(a)(1) of the Act.

(iii) If the Director determines that the new chemical substance does not meet the terms of this section

(A) The director will immediately notify the manufacturer by telephone and, subsequently, by certified letter, that the new polymer is not eligible for exemption.

(B) The manufacturer may submit detailed objections to the determination within 15 days of receipt of the telephone notification. If the manufacturer does not submit such objections, the determination becomes final at the end of the fifteenth (15th) day after receipt of the telephone notification.

(C) If the manufacturer submits timely objections, the Director will consider the objections, make a final determination, and notify the manufacturer of the final determination, by telephone, and subsequently by certified letter within 30 days of receipt of the objections.

(D) If the final determination under paragraph (h)(2)(ii) (B) or (C) of this section is that the manufacturer of the new chemical substance does not meet all the terms of this section and if the Director determines that the manufacturer willfully or negligently failed to comply with the terms of the exemption, the manufacturer would be required to cease manufacture within 24 hours of receiving telephone notification. Otherwise, if the final determination is that the manufacture of the new chemical substance does not meet all the terms of this section, the manufacturer must cease manufacture within 15 days of receiving the telephone notification unless the manufacturer has submitted a premanufacture notice on the new chemical substance under section 5(a)(1) of the Act. If the manufacturer has submitted a timely premanufacture notice for the new chemical substance, manufacturer of the substance may continue during the premanufacture review period unless EPA takes action under section 5 (e) or (f) of the Act.

(E) If the manufacturer is for any reason not manufacturing the new chemical substance when it receives the notice under paragraph (h)(2)(ii)(A) of this section declaring that the substance is ineligible for the exemption, the manufacturer cannot manufacture that substance before a PMN has been submitted and the PMN review period has ended or EPA has notified the manufacturer under paragraph (h)(2)(ii)(C) of this section that continued manufacture of the new chemical substance meets all the terms of this exemption.

(F) Action under this paragraph does not preclude action under sections 15, 16, and 17 of the Act.

(o) *Confidentiality.* If the manufacturer submits information to EPA under this section which it claims to be confidential business information, the manufacturer must clearly identify the information at the time of submission to the Agency by bracketing, circling, or underlining it and stamping it "CONFIDENTIAL" or other appropriate designation. Any information so identified will be treated according to the procedures in 40 CFR Part 2. Any information not claimed confidential at the time of submission may be made available to the public without further notice.

(p) *Recordkeeping.* (1) A manufacturer of a new polymer under paragraphs (e) (1), (2), or (3) of this section must keep the records described in this paragraph for five years from the final date of manufacture.

(2) The records must include the following to demonstrate continuing compliance with the terms of the exemption.

(i) The specific chemical identity of the new polymer including the monomer and reactant content of the polymer and the representative structure.

(ii) For substances manufactured under paragraph (e)(2) of this section, the number-average molecular weight of the polymer and a description of its method of determination.

(iii) For substances manufactured under paragraph (e)(3) of this section, the number-average and weight-average molecular weights of the polymer and a description of their method of determination and the polydispersity of the polymer.

(vi) Information sufficient to demonstrate that the new polymer is not specifically excluded from the exemption.

(vii) Any test data on the new polymer or its analogs, metabolites, or environmental transformation products.

(3) The manufacturer must submit the records listed in paragraph (o)(1) of this section to EPA upon written request by the Director of the Office of Toxic Substances. Manufacturers must provide these records within 15 working days of receipt of this request. In addition, any person who manufactures a new chemical substance under the terms of this exemption must, upon request of any officer or employee of EPA designated by the Administrator, permit such person at all reasonable times to have access to and to copy these records.

(q) *Submission of documents.* Information submitted to EPA under this section must be sent in writing to:

Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–401, 401 M St., SW., Washington, DC 20460.

(r) *Enforcement.* (1) A failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Submitting materially misleading or false information in connection with the requirements of any provision of this exemption is a violation of this regulation and thereby of TSCA section 15 (15 U.S.C. 2614).

(3) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation.

(4) EPA may enjoin the manufacture of a new chemical substance in violation of this exemption or Act to seize any chemical substances manufactured in violation of the exemption under the authority of TSCA section 17 (15 U.S.C. 2616).

[FR Doc. 82–20836 Filed 8–3–82; 8:45 am]

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Wednesday, August 4, 1982

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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