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PART I

January 21, 1975—Pages 3285–3404

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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reminders

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Treasury

Section 213.3305 is amended to show that the position of Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board) is excepted under Schedule C.

Effective January 21, 1975, § 213.3305 (a) (59) is added as set out below.

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.*

* * * * *

(59) Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board).

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-2044 Filed 1-20-75;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart H—Delegations of Authority by the Assistant Secretary for International Affairs and Commodity Programs

MANAGEMENT OF USDA ENERGY RESOURCES

Section 2.65, Title 7, Code of Federal Regulations is amended to revise the delegations of authority to the Administrator, Agricultural Stabilization and Conservation Service regarding energy management activities.

1. Section 2.65 is amended by adding new paragraph (a) (32) to read as follows:

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) * * *

(32) Administer energy management activities related to people and organizations served by the Department. Maintain liaison with other Government agencies in these matters.

Effective Date: This amendment shall become effective January 21, 1975.

Dated: January 16, 1975.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.75-1908 Filed 1-20-75;8:45 am]

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

MANAGEMENT OF USDA ENERGY RESOURCES

Section 2.79, Title 7, Code of Federal Regulations is amended to revise the delegations of authority to the Director, Office of Operations, regarding energy management activities.

1. Section 2.79 is amended by adding new paragraph (a) (1) (xiv) to read as follows:

§ 2.79 Director, Office of Operations.

(a) *Delegations.*

(1) * * *

(xiv) Develop and implement energy management actions related to the internal operations of the Department. Maintain liaison with other Government agencies in these matters.

Effective date: This amendment shall become effective January 21, 1975.

Dated: January 16, 1975.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

[FR Doc.75-1906 Filed 1-20-75;8:45 am]

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Directors

Management of USDA Energy Resources

Part 2, Subtitle A, of Title 7, Code of Federal Regulations, is amended to extend the delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs and to the Assistant Secretary for Administration regarding matters pertaining to the conservation of the Department's energy resources.

1. Section 2.21 is amended by adding new paragraph (a) (32) to read as follows:

§ 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.

* * * * *

(a) * * *

(32) Coordinate the energy management activities of the Department related to people and organizations served by the Department. Maintain liaison with other Government agencies in these matters.

2. Section 2.25 is amended by adding new paragraph (f) (1) (xiv) to read as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(f) *Related to operations.*

(1) * * *

(xiv) Develop and implement energy management actions related to the internal operations of the Department. Maintain liaison with other Government agencies in these matters.

* * * * *

Effective Date: This amendment shall become effective January 21, 1975.

Dated: January 16, 1975.

EARL L. BUTZ,
Secretary.

[FR Doc.75-1907 Filed 1-20-75;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

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

Expenses and Rate of Assessment and Carryover of Unexpended Funds

This document authorizes expenses of $433,850 of the Navel Orange Administrative Committee, under Marketing Order No. 907, for the 1974–75 fiscal year, and fixes a rate of assessment of $0.0125 per carton of oranges handled during such year to be paid to the committee by each first handler as his pro rata share of such expenses.

On December 30, 1974, notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 45019) regarding proposed expenses and related rate of assessment for the period November 1, 1974, through October 31, 1975 and carryover of unexpended funds from the period November 1, 1973, through October 31, 1974, pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California. This notice allowed interested persons 15 days to submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the

Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 907.212 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee, during the period November 1, 1974, through October 31, 1975, will amount to $433,850.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 907.41, is fixed at $0.0125 per carton of Navel oranges.

(c) *Reserve.* Unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1974, in the amount of $50,000 shall be carried over as a reserve in accordance with § 907.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of oranges have already begun, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable oranges handled during the 1974–75 fiscal year; and (3) such year began on November 1, 1974, and the rate of assessment herein fixed will automatically apply to all assessable oranges beginning with such date.

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

Dated: January 16, 1975.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.75-1902 Filed 1-20-75;8:45 am]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Miscellaneous Amendments

Correction

In FR Doc. 74-30188, appearing at page 44736, in the issue for Friday, December 27, 1974, the second word in the ninth line of § 906.120 (b), now reading "is", should read "if".

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1430—DAIRY PRODUCTS

Subpart—Price Support Program for Milk

The United States Department of Agriculture has announced an increase in the price support program for milk, effective January 4, 1975, for the remainder of the 1974–75 marketing year and for the marketing year April 1, 1975, through March 31, 1976, through purchases by Commodity Credit Corporation (CCC) of dairy products as provided herein. Inasmuch as immediate action was required to increase the level of support in order to enable farmers to meet unusualy high production costs and to assure adequate supplies of milk and dairy products next year, compliance with the notice of proposed rule making procedure would be impracticable and contrary to the public interest. Accordingly, § 1430.282 is revised to read as follows:

§ 1430.282 Price support program for milk.

(a) (1) The general levels of prices to producers for milk will be supported from January 4, 1975, through March 31, 1976, at $7.24 per hundredweight for manufacturing milk.

(2) Price support for milk will be through purchases by CCC of butter, nonfat dry milk, and Cheddar cheese, offered subject to the terms and conditions of purchase announcements issued by the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(3) Commodity Credit Corporation may, by special announcements, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from:

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Commodity Operations Division, Washington, D.C. 20250.

or

United States Department of Agriculture, Agricultural Stabilization and Conservation Service, ASCS Commodity Office, 6400 France Avenue South, Minneapolis, Minnesota 55435.

(b) (1) CCC will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

Commodity and location	Produced before Jan. 4, 1975	Produced on or after Jan. 4, 1975
	Cents per pound	*Cents per pound*
Cheddar cheese—U.S. Grade A or higher (standard moisture basis, 37.8 to 39.0 percent) [1]	70.75	77.25
Nonfat dry milk, spray process—U.S. Extra Grade [2]	56.6	60.6
Butter—U.S. Grade A or higher:		
New York, N.Y., and Jersey City, Newark, and Secaucus, N.J.	62.00	69.50
Alaska, Hawaii, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and South Carolina	61.00	68.50
Seattle, Wash.; San Francisco, Calif.; California, Idaho, Oregon, Washington	59.00	66.50

[1] For cheese which is offered on a "dry" basis (less than 37.8 percent moisture) the price per pound shall be as indicated in form ASCS-150. Copies are available in offices listed in (a)(4).

[2] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of 0.25 cent (¼ cent) per pound of nonfat dry milk.

(2) Offers to sell butter at any location not specifically provided for in this section will be considered at the price set forth in this section for the designated market (New York, San Francisco, or Seattle) named by the seller, less 80 percent of the lowest published domestic railroad carlot freight rate per pound gross weight for a 60,000 pound carlot, in effect at the beginning of each marketing year (April 1), from such other point to the designated market named by the seller. In the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, CCC will purchase only bulk butter produced in that area; butter produced in other areas is ineligible for offering to CCC in these States. Butter produced in the area of California, Idaho, Oregon and Washington is ineligible for offering to CCC outside that four-state area.

(c) The butter shall be U.S. Grade A or higher. The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent. The Cheddar cheese shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grades and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Sec. 201, 401, 63 Stat. 1052, 1054, as amended; Sec. 4(d), 62 Stat. 1070, as amended; 7 U.S.C. 1446, 1421, 15 U.S.C. 714b(d))

Signed at Washington, D.C., on January 15, 1975.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-1904 Filed 1-20-75;8:45 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Change in Units

The Administrator of the National Credit Union Administration considers it necessary to amend Part 745 (12 CFR 745) in order to implement the provisions of Pub. L. 93-495 relating to changes in insurance coverage. Therefore, effective immediately, the Administrator amends §§ 745.2, 745.3, 745.4, 745.5, 745.6, 745.7, 745.8, and 745.9 by deleting "$20,000" each place it appears therein and inserting in lieu thereof "$40,000."

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789.)

HERMAN NICKERSON, Jr.,
Administrator.

JANUARY 13, 1975.

[FR Doc.75-1814 Filed 1-20-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-EA-86; Amdt. 39-2077]

PART 39—AIRWORTHINESS DIRECTIVE

Bendix Corp.

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 65-21-1 applicable to Bendix 756 and Garwin G-760 starters installed on Lycoming engines.

This amendment will delete Bendix Eclipse 397 and certain series of Bendix 756 starters from the requirements of the airworthiness directive and revise the applicable service bulletin number.

Since the foregoing is less restrictive, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 65-21-1 as follows:

a. In the applicability paragraph delete "-9C, -9E, -21C, -21E, Bendix Eclipse 397 series".

b. In paragraphs (c) and (d) delete the numbers "93" and insert in lieu thereof "93a".

This amendment is effective January 28, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 14, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-1839 Filed 1-20-75;8:45 am]

[Docket No. 74-EA-97; 39-2078]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend and revise AD 73-12-5 applicable to Fairchild F-27 and FH-227 type airplanes.

There have been reports of corrosion on the vertical stabilizer fittings of a Fairchild F-27 which had been inactive for a number of years. AD 73-12-5 as published required inspections corollated only to service time. Since the foregoing can exist or develop in aircraft of similar type design, particularly those in storage, the airworthiness directive is being amended to include a calendar time requirement and is being revised for clarification purposes. Aircraft in storage need not be inspected until they are ready for return to operational status.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending and revising AD 73-12-5 as follows:

FAIRCHILD. Applies to all Fairchild F-27 and FH-227 Type Aircraft Certificated in all categories.

Compliance required as indicated:

1. Affects the vertical stabilizer fittings P/N's 27-233000-11, -12, -31, -32, -41 and -42 which have accumulated 2500 hours or more in service.

a. Within the next 30 days unless accomplished within the last 11 months, inspect stabilizer spar fittings for cracks using a dye penetrant method or a 10-power glass or an approved equivalent inspection.

b. Within the next 60 days unless accomplished within the last 10 months, inspect the fittings around the flanges and inner cavity for corrosion in accordance with Section 2 of Fairchild Service Bulletins F 27-55-20 and FH 227-55-11 dated December 4, 1974, or inspect in accordance with an approved equivalent procedure.

c. The inspection specified in "a" above shall be repeated at intervals not to exceed 12 calendar months or 2500 hours in service from the last inspection, whichever occurs first.

d. The inspection specified in "b" above shall be repeated at intervals not to exceed 12 calendar months from the last inspection.

2. Cracked parts shall be replaced and corroded parts shall be replaced or repaired prior to further flight.

a. Parts replacement shall be in accordance with Section 2 of Fairchild Service Bulletins F 27-55-20 and FH 227-55-11 dated December 4, 1974, and shall be the same part number or approved equivalent parts.

b. Parts repair shall be in accordance with Section 2 and Figures 2 and 3 of Fairchild Service Bulletin F 27-55-20 and FH 227-55-11 dated December 4, 1974, or approved equivalent rework.

3. The aircraft may be flown in accordance with FAR 21.197 to a base where the inspection or repairs can be performed.

4. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection interval specified in this AD. Equivalent inspections, parts or repair must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective January 28, 1975.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on January 14, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-1840 Filed 1-20-75;8:45 am]

[Docket No. 75-NW-1-AD; Amendment 39-2074]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300, -300B, -300C, and -400 Series Airplanes

Amendment 39-1829 (39 FR 15027), AD 74-09-07, as amended by Amendment 39-2002, requires X-Ray inspection of the upper wing skin, splice plate and rib cap at wing station 360 on Boeing 707-300, -300B, -300C, and -400 series airplanes. After issuing Amendment 39-2002, a 39 inch crack was reported in a 707-300C airplane. Six hundred seventy-three (673) landings had been made since the last X-Ray inspection was conducted which showed no cracks. Since significant cracks in the splice plate which seriously jeopardize the structural integrity of the airplane can occur earlier than the repetitive inspection interval of AD 74-09-07, the AD is being superseded by a new AD that reduces the repetitive inspection interval to each 400 flights.

Since a situation exists that requires immediate adoption of this regualtion, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applicable to all Boeing 707-300, -300B/C, and -400 series airplanes listed in Boeing Service Bulletin No. 3157, Revision 2 or later FAA approved revisions, upon accumulation of the following number of landings since new, or since hole oversizing in accordance with Part IV of Boeing Service Bulletin No. 2510, Revision 3, or later FAA approved revisions:

Models:	*Since new or oversizing*
707-300, -400	13,000 or more landings.
707-300B	11,000 or more landings.
707-300C	8,000 or more landings.

Compliance required as indicated.

To detect cracks in the upper wing skin, upper wing skin splice plate and upper rib cap at wing station 360, accomplish the following:

(A) Unless X-Ray inspected within the last 350 landings, X-Ray inspect the upper wing surface, splice plate and rib cap at wing station 360 within the next 50 landings from the effective date of this AD and at intervals thereafter not to exceed 400 landings, in accordance with the instructions in Boeing Alert Service Bulletin No. 3157 dated April 10, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If cracks are found, repair as necessary prior to further flight in accordance with Paragraph (B) below.

(B) If cracks are found, repair prior to further flight in accordance with Boeing Service Bulletin No. 2510, Revision 3, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. The repetitive inspections of Paragraph (A) must be accomplished in areas not covered by repairs per Part VII of Boeing Service Bulletin No. 2510, Revision 3, or later FAA approved revisions. Airplanes which have accomplished repairs per Part VII and the oversizing per Part IV in areas not covered by the repair, need not be reinspected until the thresholds called out in the applicability statement hereof have been reached.

(C) The inspections required by this AD may be terminated when the following is accomplished:

(1) Splice plate, skin and rib cap fastener holes are oversized to remove fatigued material per Part IV of Boeing Service Bulletin No. 2510, Revision 3, or later FAA approved revisions, and complete external doublers are installed in accordance with Part VIII of Boeing Service Bulletin No. 2510, Revision 3, or later FAA approved revisions, or

(2) Other modifications are made in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(D) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

(E) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the change for that operator.

This supersedes Amendment 39-1829 (39 FR 15027), AD 74-09-07, as amended by Amendment 39-2002.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective January 27, 1975.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Issued in Seattle, Washington, January 13, 1975.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.75-1837 Filed 1-20-75;8:45 am]

[Docket No. 74-NW-08-AD; Amendment 39-2073]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

A proposal to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1836 (39 FR 16875), AD 74-10-08, to require a nut torque check inspection of the P/N 69-67076-2 rod installations or any other rod installations utilizing a rod with a Class 2 thread on Boeing 727 Series airplanes was published in 39 FR 40036.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1836 (39 FR 16875), AD 74-10-08, is amended by adding the following new paragraph at the end thereof:

(D) If a threaded rod, P/N 69-67076-2, or an equivalent fabricated rod made from threaded rod NAS 1454-()-(), or any other rod with a Class 2 thread has been installed, unless already accomplished, conduct, before September 6, 1975, the hinge pin retainer nut torque inspection in accordance with Paragraph III, Part II of Boeing Alert Service Bulletin No. 727-55-59, Revision 2, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If the torque required to rotate the self-locking nut is less than 30 inch-pounds, replace the rod in accordance with Boeing Alert Service Bulletin No. 727-55-59, Revision 3, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Effective on February 27, 1975.

Issued in Seattle, Washington, January 13, 1975.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.75-1836 Filed 1-20-75;8:45 am]

[Docket No. 74-EA-88; 39-2071]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Fairchild Hiller 1100 and FH1100 type helicopters.

There have been reports of fractures in the tail fin spar surface of the subject helicopters. Since this is a deficiency which can exist or develop in helicopters of similar type design, an airworthiness directive is being issued which will require a repetitive inspection and repair where necessary of the affected area.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] section 39.13 of Part 39 of the Federal Aviation Regulations is amended by issuing a new Airworthiness Directive as follows:

FAIRCHILD (Hiller). Applies to models 1100 and FH1100 type helicopters certificated in all categories including military type OH-5A

To detect cracks in the tail fin spar channel, P/N 24-62030-7 or P/N 24-62030-43 in the area of the tail rotor gear box mount, P/N 24-62006-3, accomplish the following inspection or an equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, within the next five hours in service after receipt of this message unless already accomplished within the last 45 hours in service and at every 50 hours in service thereafter:

1. Remove tail rotor gear box in accordance with paragraph 25-1-10 of Fairchild FH1100 Service Manual.

2. Clean the aft ten inches of tail fin spar (channel to which the tail rotor gear box mount is attached by ten huck bolts) with metachlor or equivalent grease and oil remover by light scrubbing with a stiff bristle brush.

3. Inspect the aft ten inches of the tail fin spar channel section for cracks with at least a ten power magnifying glass. This inspection includes the area around the ten tail rotor gear box mount attachment bolts, five on each side. The inspection should be accomplished by looking down through the tail rotor gear box mount fitting opening and through the front end of the tail rotor gear box mount fitting.

4. If a crack is found, remove fin assembly and replace with an uncracked fin assembly that has been inspected in accordance with the above procedure before further flight.

5. If the spar is not cracked, reinstall tail rotor gear box in accordance with paragraph 25-1-11 of Fairchild FH1100 Service Manual.

6. Report the results of the above inspection to Chief, Engineering and Manufactur-

ing Branch, FAA, Eastern Region. (Reporting approved by the Bureau of Budget under BOB NO. C4.R0174.)

This amendment is effective January 27, 1975, and was effective for all recipients of the telegram of December 6, 1974, upon receipt.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 13, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-1835 Filed 1-20-75;8:45 am]

[Airspace Docket No. 74-RM-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Establish Transition Area

On December 12, 1974, a notice of proposed rulemaking was published in the Federal Register (39 FR 43315) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would establish a transition area at Forsyth, Montana.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., March 27, 1975.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Aurora, Colorado, on January 13, 1975.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In § 71.181 (40 FR 441) the following transition area is added:

FORSYTH, MONT.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Forsyth Airport (latitude 46°16'14" N., longitude 106°37'00" W.); within 4 miles north and 5 miles south of the 075° bearing from the Forsyth NDB (latitude 46°16'10" N., longitude 106°31'01" W., extending from the NDB to 10 miles east of the NDB; and that airspace extending upward from 1200 feet above the surface within 9.5 miles north and 5 miles south of 089° bearing from the Forsyth NDB, extending from the NDB to 18.5 miles east of the NDB, excluding that portion which overlies the Miles City, Mont. transition area.

[FR Doc.75-1841 Filed 1-20-75;8:45 am]

[Airspace Docket 74-EA-72]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Amendment to Docket

The Federal Aviation Administration issued the subject docket so as to alter the Westminster, Md. Transition Area and designate a Westminster, Md. (Clearview Airpark) Transition Area effective January 30, 1975. Due to a change of one degree in the instrument approach procedure to Clearview Airpark, a similar change is required in the overlying transition area.

Since the amendment is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Docket 74-EA-72 is amended effective upon publication in the Federal Register as follows:

1. In the description of the Westminster, Md. (Clearview Airpark) Transition Area delete the figures "048°" where they appear and insert in lieu thereof "047°".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1346), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on January 9, 1975.

JAMES BISPO,
Acting Director,
Eastern Region.

[FR Doc.75-1842 Filed 1-20-75;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SEMIRIGID AND RIGID ACRYLIC AND MODIFIED ACRYLIC PLASTICS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 4B2952) filed by American Cyanamid Co., Wayne, NJ 07470, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for safe use of di(2-ethlyhexyl) phthalate as a flow promoter in semirigid and rigid acrylic and modified acrylic plastics intended for contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2591(a)(8) is amended by alphabetically inserting a new item as follows:

§ 121.2591 Semirigid and rigid acrylic and modified acrylic plastics.

* * * * * *

(a) * * *

(8) Miscellaneous materials:

* * * * * *

Di(2-ethylhexyl) phthalate, for use only as a flow promoter at a level not to exceed 3 weight-percent based on the monomers.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before February 20, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective January 21, 1975.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: January 15, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc.75-1862 Filed 1-20-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7344]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Carryover of Inventories and Accounting Methods in Certain Corporate Acquisitions

Correction

In FR Doc. 75-1068, appearing at page 2683 in the issue of Wednesday, January 15, 1975, insert a PARAGRAPH 2. between PARAGRAPHS 1. and 3., to read as follows:

PAR. 2. Section 1.381(c)(5)-1 as set forth in paragraph 2 of the notice of proposed rulemaking is further changed by deleting the last sentence of paragraph (b)(2)(i), by deleting the last

sentence of paragraph (b)(3)(i) and by revising paragraphs (c)(1) and (c)(2) to read as set forth below.

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-215]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bayou Little (Petit) Caillou, La.

This amendment changes the regulations for the drawbridges across Bayou Little Caillou at mile 26.6 and mile 29.9 to require that the draw open on signal from 9 p.m. to 5 a.m. if at least 12 hours notice is given. From 5 a.m. to 9 p.m. the draw will open on signal. This amendment was circulated as a public notice dated 25 September 1974 by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 74-215) on September 19, 1974 (39 FR 33710). The three responses received had no objection to the proposal.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

In § 117.540(b)(2), insert the words "Bayou Little (Petit) Caillou, mile 26.6, S-56 highway (Smith River) drawbridge near Montegut" and "Bayou Little (Petit) Caillou, mile 29.9, S-56 highway (Duplantis) drawbridge near Bourg" immediately after the words "Bayou Little (Petit) Caillou, mile 25.7, S-58 highway drawbridge at Sarah" in the listing.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655 (g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on February 21, 1975.

Dated: January 14, 1975.

R. L. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75-1885 Filed 1-20-75;8:45 am]

Title 34—Government Management

CHAPTER II—OFFICE OF FEDERAL MANAGEMENT POLICY, GENERAL SERVICES ADMINISTRATION

SUBCHAPTER C—PROPERTY MANAGEMENT

[FMC 74-1, Supp. 2]

PART 232—FEDERAL ENERGY CONSERVATION

Amendments to Federal Energy Conservation Policies

This regulation provides additional information related to the background and policy intent of Part 232 and references other related energy issuances.

The table of contents for Part 232 is amended by the addition of the following new entry:

Sec.
232.8-1 Related energy issuances.

1. Section 232.4 is revised to read as follows:

§ 232.4 Background.

This part is issued in recognition of the need to bring about immediate and long-term savings in Federal energy consumption through formal conservation programs. It is prepared pursuant to a Federal Energy Office memorandum dated January 17, 1974; and pursuant to Executive Order 11717 of May 9, 1973, subject: Transferring Certain Functions from the Office of Management and Budget to the General Services Administration and the Department of Commerce; under authority vested in the Administrator of General Services by the Federal Property and Administrative Services Act of 1949, as amended; and OMB letter of August 24, 1973, which assigned to the General Services Administration the management responsibility for the development, coordination, and implementation of policy concerning the provision of parking facilities by executive agencies for their employees. This part is also prepared in accordance with the President's memorandum of October 18, 1974, in which he asked the Administrator of the Federal Energy Administration and the Administrator of General Services to develop a multiyear program for increasing energy efficiency in all Federal facilities and operations.

2. Section 232.5 is revised to read as follows:

§ 232.5 Policy intent.

a. The intent of this part is to bring about more efficient use of energy resources through revised Federal motor vehicle management policies; Federal employee carpooling; more judicious lighting, heating, and cooling of Federal buildings; and procurement policies governing acquisition of air-conditioners.

b. This part is also intended to establish the overall goal for energy reduction by Federal departments and establishments for fiscal year 1975 as 15 percent below energy consumed in fiscal year 1973. This part reflects certain adjustments to the details of the energy conservation program announced by the Federal Energy Administration on April 5, 1974. These detail adjustments were implemented by changes to the appropriate Federal Property Management Regulations. It should be noted that implementation of the provisions of this part may require consultation, as appropriate, with recognized labor organizations.

3. Section 232.8-1 is added as follows:

§ 232.8-1 Related energy issuances.

The details of the Federal energy conservation program are reflected in the following Federal Property Management Regulations and other issuances:

FPMR 101-20.116, Conservation of energy by executive agencies (39 FR 39266, Nov. 6, 1974)
FPMR Temporary Regulation D-47, Federal employee parking, and Supplement 1 thereto
FPMR Temporary Regulation G-17, Reduction in motor vehicle fuel consumption
GSA Bulletin FPMR G-99, Conservation of motor vehicle fuels
FPMR 101-26.5, GSA Procurement Programs (39 FR 37379, Oct. 21, 1974)
FPMR 101-39.6, Official use of Government Motor Vehicles and Related Motor Pool Services (39 FR 37380, Oct. 21, 1974)

(Federal Energy Office memorandum dated January 17, 1974; Executive Order 11717 (38 FR 12315, May 11, 1973); and Presidential memorandum dated October 18, 1974)

Effective date. This regulation is effective November 15, 1974.

Dated: January 13, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-1807 Filed 1-20-75;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 231—GRAZING

The average fee for grazing livestock on the National Forests in the western States in 1975 will be $1.11 per animal unit month, the same as in 1974, instead of the scheduled $1.60. The adjustment is in recognition of the difficult economic and drought conditions which exist for much of the livestock industry throughout the western States.

Effective Date. This revision takes effect January 20, 1975.

In accordance with exception to rulemaking procedures in 5 U.S.C. 553 and USDA policy (36 FR 13804), it has been found and determined that advance notice and request for comments would be impracticable. Delay in making a decision and request for comments would delay timely issuance of grazing permits and delay the billing of affected livestock operators until late February or early March 1975, and thereby fail to meet the requirement for payment of fees in advance of livestock entering the public lands.

(Sec. 1, 30 Stat. 35, as amended, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472); sec. 32, 50 Stat. 525, as amended (7 U.S.C. 1011); sec. 501, 65 Stat. 290 (31 U.S.C. 483a))

In consideration of the foregoing, subparagraph (a)(4), § 231.5, Part 231 of Chapter II of Title 36 of the Code of Federal Regulations is revised to read as follows:

§ 231.5 Fees, Payments, and Refunds or Credits.

(a) *Fees.* * * *

(4) Adjustment between the 1966 average fair market value (base rate) of $1.23 and fees paid in 1966 will be made in annual installments and will be completed by 1980. An average installment of 7.2 cents was added in 1969, 1971, 1973, and 1974, and the installments will be completed by 1980. In addition, increases or decreases in the base rate because of changes in fair market value as determined by the index of private land grazing lease rates will be made each year. Changes in fair market value between 1966 and 1974 increased the base rate by 73 cents to $1.96 per animal unit month for the 1975 fee year. Where competitive bidding is used to establish

a fee structure representing fair market value, the fee established shall remain unchanged during the period specified in the bid. For 1975, fees on the National Grasslands and the Land Utilization Projects in the six western Forest Service Regions will also be limited to their 1974 levels.

* * * * *

(Sec. 501, 65 Stat. 290 (31 U.S.C. 483a))

ROBERT W. LONG,
Assistant Secretary for Conservation, Research, and Education.

JANUARY 16, 1975.

[FR Doc.75-1905 Filed 1-20-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

CANCELLATION OF CHAPTER

CROSS REFERENCE.—For a document cancelling Chapter 5 of Title 41 of the Code of Federal Regulations, see FR Doc. 75-1703, *infra*.

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[ADM 2806.4]

PART 5A-60—CONTRACT APPEALS

Rules of GSA Board of Contract Appeals

1. *Purpose.* This order sets forth revised rules to be followed by the GSA Board of Contract Appeals in processing contract appeals. The internal operating procedures of the Board are set forth in GSA Order ADM 2806.2A.

2. *Cancellation.* Chapter 5 of Title 41 of the Code of Federal Regulations is canceled.

3. *Background.* The Public Contract Section of the American Bar Association and the Government Contract Committee of the Federal Bar Association have frequently urged the adoption of uniform Contract Appeals Boards' rules of procedure for the handling of appeals. Our Board and the Armed Services Board are the largest, both in size and in number of appeals handled, and are thus taking the lead in this effort.

4. *Publication in Federal Register.* The rules of the GSA Board of Contract Appeals are set forth below.

5. *Effective date.* The revised rules prescribed by this order shall take effect December 31, 1974. They shall not apply to appeals which have been docketed prior to this date, except as otherwise directed by the Board and agreed to by both parties.

ARTHUR F. SAMPSON,
Administrator of General Services.

JANUARY 9, 1975.

Section 5A-60.000 and Subpart 5A-60.1 consisting of § 5A-60.101 are added to 41 CFR Part 5A-60 as follows.

§ 5A-60.000 Scope of part.

This part sets forth the rules of the GSA Board of Contract Appeals and establishes policies and procedures regarding matters to be considered by the Board.

Subpart 5A-60.1—Rules of the GSA Board of Contract Appeals.

§ 5A-60.101 Rules of the GSA Board of Contract Appeals (GSBCA)

The rules of the GSBCA prescribed by the Administrator of General Services in GSA Order ADM2806.4 dated January 9, 1975, are as follows:

PREFACE TO RULES

1. *Jurisdiction for considering appeals.* (1) Except as stated in (2) below, the General Services Administration Board of Contract Appeals (referred to herein as "the Board") shall consider and determine appeals from decisions of contracting officers arising under contracts which contain provisions requiring the determination of appeals by the head of an agency or his duly authorized representative or board. In addition the Board shall have jurisdiction over other matters assigned to it by the Administrator. The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Administrator himself.

(2) The authority of the Board does not apply to any matters arising from complaints originating under the Equal Opportunity clause in contracts.

2. *Organization and location of the Board.* (1) The Board is located in Washington, D.C., and is part of the staff of the Administrator.

(2) The Board consists of a Chairman and six other members, all of whom shall be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia, in addition to clerical personnel. In general, the appeals are assigned to a panel of at least three members of the Board. The decision of a majority of the panel constitutes the decision of the Board. Board members are designated as Administrative Judges and the Chairman is designated as Chief Administrative Judge.

3. *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion, hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

4. *Board of Contract Appeals procedure*—(1) *Rules.* Appeals referred to the Board are handled in accordance with the rules of the Board.

(2) *Administration and interpretation of rules.* Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(3) *Preliminary procedures.* Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(4) *Time, computation, and extensions.* (a) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitation are similarly eligible for extension in appropriate circumstances, on good cause shown.

(b) Except as otherwise provided by law, in computing any period of time prescribed by these rules or by any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

(c) Requests for extensions of time from either party shall be made in writing and stating good cause therefor.

(5) *Representation of parties.* An appellant may appear before the Board in person or may be represented by counsel or by any other duly authorized representative. Whenever reference is made to contractor, appellant, contracting officer, respondent and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

PRELIMINARY PROCEDURES

1. *Appeals, how taken.* Notice of an appeal must be in writing, and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

2. *Notice of appeal, contents of.* A notice appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the department and agency or bureau cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

3. *Forwarding of appeals.* When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor will be furnished a copy of these rules.

4. *Preparation, contents, organization, forwarding, and status of appeal file*—(a) *Duties of Contracting Officer.* Within 30 days of receipt of an appeal, or advice that an appeal has been filed, the contracting officer shall assemble and transmit to the Board, through the Assistant General Counsel, Claims and Litigation Division, an appeal file consisting of all documents pertinent to the appeal, including:

(1) the decision and findings of fact from which appeal is taken;

(2) the contract, including specifications, plans and drawings and pertinent amendments;

(3) all correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which decision was issued;

(4) transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any Government witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) any additional information considered pertinent.

Within the same time above specified, the Assistant General Counsel, Claims and Litigation Division shall furnish the appellant a copy of each document he transmits to the Board, except those stated in subparagraph (a)(2) and (a)(3) above, as to which a list furnished appellant indicating specific contractual documents transmitted will suffice, and those stated in subparagraph (d), below.

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file assembled by the contracting officer, the appellant shall supplement the same by transmitting to the Board any documents not contained therein which he considers pertinent to the appeal, and furnishing two copies of such documents to the Government trial attorney.

(c) *Organization of appeal file.* Documents in the appeal file may be originals or legible facsimile or authenticated copies thereof, and shall be arranged in chronological order where practicable, numbered sequentially, tabbed, and indexed to identify the contents of the file.

(d) *Lengthy documents.* The Board may waive the requirement of furnishing to the other party copies of bulky, lengthy, or out-of-size documents in the appeal file when a party has shown that doing so would impose an undue burden. At the time a party files with the Board a document as to which such a waiver has been granted, he shall notify the other party that the same or a copy is available for inspection at the offices of the Board or of the party filing same.

(e) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of settling the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon its admissibility into the record and/or the weight to be attached to it as evidence in accordance with Rules 13 and 20, hereof.

5. *Dismissal for lack of jurisdiction.* Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

6. *Pleadings.* (a) Within 30 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board an original and two copies of a complaint setting forth simple, concise and direct statements of each of his claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Clerk of the Board shall serve a copy upon the respondent. Should the complaint not be received within 30 days, appellant's claim and appeal, if in the opinion of the Board the issues before the Board are sufficiently defined, may be deemed to set forth his complaint and the respondent shall be so notified.

(b) Within 30 days from receipt of said complaint, or the aforesaid notice from the Clerk of the Board, respondent shall prepare and file with the Board an original and two copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counter-claims as appropriate. Upon receipt thereof, the Clerk shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified.

7. *Amendments of pleadings or record.* The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in Rule 4, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the Rule 4 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

8. *Hearing election.* Upon receipt of respondent's answer or the notice referred to in the last sentence of Rule 6(b), above, appellant shall advise whether he desires a hearing, as prescribed in Rules 17 through 25, or whether in the alternative he elects to submit his case on the record without a hearing, as prescribed in Rule 11. In appropriate cases, the appellant shall also elect whether he desires the optional accelerated procedure prescribed in Rule 12.

9. *Prehearing briefs.* Based on an examination of the documentation described in Rule 4, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may in its discretion require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to Rule 8. In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 15 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

10. *Prehearing or presubmission conference.* Whether the case is to be submitted pursuant to Rule 11, or heard pursuant to Rules 17 through 25, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before a member or examiner of the Board for a conference to consider:

(a) the simplification or clarification of the issues;

(b) the possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(c) the limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;

(d) the possibility of agreement disposing of all or any of the issues in dispute; and

(e) such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the Board member or examiner in the presence of the parties, and this writing shall thereafter constitute part of the record.

11. *Submission without a hearing.* Either party may elect to waive a hearing and to submit his case upon the record before the Board, as settled pursuant to Rule 13. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories, and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral argument (transcribed if requested), and/or by briefs, arranged in accordance with Rule 23.

12. *Optional accelerated procedure.* In appeals involving $25,000 or less, either party may elect, in his notice of appeal, complaint, answer, or by separate correspondence or statement prior to commencement of hearing or settlement of the record, to have the appeal processed under a shortened and accelerated procedure. For application of this rule the amount in controversy will be determined by the sum of the amounts claimed by either party against the other in the appeal proceeding. If no specific amount of claim is stated, a case will be considered to fall within this rule if the sum of the amounts which each party represents in writing that it could recover as a result of a Board decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the other party objects and shows good cause why the substantive nature of the dispute requires processing under the Board's regular procedures and the Board, acting through the Chairman, sustains such objection. In cases proceeding under this rule, parties are encouraged, to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery, and briefs.

Written decision by the Board in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The Board will endeavor to render such decisions within 30 days after the appeal is ready for decision. Such decisions will be rendered for the Board by a single Board member with the concurrence of the Chairman; except that in cases involving $5,000 or less where there has been a hearing, the single Board member presiding at the hearing may, in his discretion, at the conclusion of the hearing and after entertaining such oral arguments as he deems appropriate, render on the record oral summary findings of fact, conclusions and decision of the appeal. In the latter instance, the Board will subsequently furnish the parties a typed copy of such oral decision for record and payment purposes and to establish the date from which the period for filing a motion for reconsideration under Rule 29 commences.

Except as herein modified, these rules otherwise apply in all respects.

13. *Settling the record.* (a) The record upon which the Board's decision will be rendered consists of the appeal file described in Rule 4, and, to the extent the following items have been filed, pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs, and documents which the Board has specifically designated be made a part of the record. The record will

at all reasonable times be available for inspection by the parties at the office of the Board.

(b) Except as the Board may otherwise order in its discretion, no proof shall be received in evidence after completion of an oral hearing or, in cases submitted on the record, after notification by the Board that the case is ready for decision.

(c) The weight to be attached to any evidence of record will rest within the sound discretion of the Board. The Board may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

14. *Discovery—depositions*—(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the Board may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and those orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the Board may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the Board.

(d) *Use as evidence.* No testimony taken by depositions shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the Board may in its discretion receive depositions as evidence in supplementation of that record.

(e) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

15. *Interrogatories to parties, production and inspection of documents*—(a) *Interrogatories to parties.* After an appeal has been filed with the Board, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 15 days. Upon timely objection by the party, the Board will determine the extent to which the interrogatories will be permitted. The scope and use of interrogatories will be controlled by Rule 14.

(b) *Production and inspection of documents.* Upon motion of any party showing good cause therefor, and upon notice, the Board may order the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the Board shall specify just terms and conditions in making the inspection and taking the copies and photographs.

16. *Service of papers.* Papers shall be served personally or by mailing the same, addressed to the party upon whom service is to be made. All copies of complaints, answers and simultaneous briefs shall be filed directly with the Board. The party filing any other paper with the Board shall send a copy thereof to the opposing party, noting on the paper filed with the Board, or on the letter transmitting the same, that a copy has been so furnished.

HEARINGS

17. *Where and when held.* Hearings will ordinarily be held in Washington, D.C., except that upon request seasonably made and upon good cause shown, the Board may in its discretion set the hearing at another location. Hearings will be scheduled at the discretion of the Board with due consideration to the regular order of appeals and other pertinent factors. On request or motion by either party and upon good cause shown, the Board may in its discretion advance a hearing.

18. *Notice of hearings.* The parties shall be given at least 15 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have submitted his case upon the Board record as provided in Rule 11.

19. *Unexcused absence of a party.* The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

20. *Nature of hearings.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in non-jury trials, subject, however, to the sound discretion of the presiding member or examiner in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member or examiner. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

21. *Examination of witnesses.* Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board member or examiner shall otherwise order. If the testimony of a witness is not given under oath, the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of Title 18, United States Code, Sections 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

22. *Copies of papers.* When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

23. *Posthearing briefs.* Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the presiding member or examiner at the conclusion of the hearing. Ordinarily, they will be simultaneous briefs, exchanged within 30 days after receipt of transcript.

24. *Transcript of proceedings.* Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by General Services Administration .

25. *Withdrawal of exhibits.* After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

REPRESENTATION

26. *The appellant.* An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed in any state, commonwealth, territory, or in the District of Columbia.

27. *The respondent.* Government counsel may, in accordance with their authority, represent the interest of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time. Whenever at any time it appears that appellant and Government counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar without loss of position.

DECISIONS

28. Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made solely upon the record, as described in Rule 13.

MOTION FOR RECONSIDERATION

29. A motion for reconsideration, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion, and shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion.

DISMISSALS

30. *Dismissal without prejudice.* In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may in its discretion dismiss such appeals from its docket without

prejudice to their restoration when the cause of suspension has been removed. Unless either party or the Board acts within three years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

31. *Dismissal for failure to prosecute.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the Board, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the Board may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the Board may take such action as it deems reasonable and proper under the circumstances.

EX PARTE COMMUNICATIONS

32. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communications concerning the Board's administrative functions or procedures.

SANCTIONS

33. If any party fails or refuses to obey an order issued by the Board, the Board may make such order in regard to the failure as it considers necessary to the just and expeditious conduct of the appeal.

[FR Doc.75-1703 Filed 1-20-75;8:45 am]

CHAPTER 9—ATOMIC ENERGY COMMISSION

PART 9-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 9-5.52—Procurement of Special Items

AEC FORMS

This revision to AECPR 9-5.5206-3 is being made in order to delete paragraph (b) thereof and to change paragraph (c) to (b). This action is being taken since it is not considered appropriate to cite in the AECPRs the material set forth in paragraph (b).

In Subpart 9-5.52, Procurement of Special Items, § 9-5.5206-3, paragraph (b) is deleted and paragraph (c) is redesignated as (b) to read as follows:

§ 9-5.5206-3 AEC forms.

* * * * *

(b) Cost-type contractors shall obtain their requirements for AEC forms through the AEC.

AUTHORITY: Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; Sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Effective Date: This amendment is effective January 21, 1975.

Dated at Germantown, Maryland this 9th day of January, 1975.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[FR Doc.75-1824 Filed 1-20-75;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

Second Round of Chest Roentgenographic Examinations; Further Extension of Time for Submission of X-rays

On September 18, 1974, the regulations governing the second round of medical examinations of underground coal miners, which were promulgated in 1973 (38 FR 20076), were amended to extend the examination period to December 30, 1974 (39 FR 33518).

During a work stoppage in the coal mining industry which began on November 12, 1974, and continued for some time, it has not been possible to afford miners an adequate opportunity to obtain their second round examination.

In view of the foregoing and to permit the second round examination of all underground miners in accordance with section 203 of the Federal Coal Mine Health and Safety Act (30 U.S.C. 843), (1) it is necessary to extend the date for the completion of the second round examinations to March 31, 1975 and (2) it is found, pursuant to section 553 of Title 5, United States Code, that it would be impracticable and contrary to the public interest to give notice of proposed rulemaking and opportunity for public participation in the rulemaking which extends the date.

Therefore, § 37.3(a) is amended as set forth below, effective on December 30, 1975."

(Sec. 203, 83 Stat. 763 (30 U.S.C. 843))

Dated: January 13, 1975.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: January 15, 1975.

CASPAR W. WEINBERGER,
Secretary.

§ 37.3 [Amended]

In the first sentence of paragraph (a) of § 37.3, the date reading "December 30, 1974" is changed to read "March 31, 1975."

[FR Doc.75-1897 Filed 1-20-75;8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A—GENERAL MANAGEMENT (1000)

[Circular No. 2366]

PART 1780—COOPERATIVE RELATIONS

Subpart 1784—Advisory Boards

PROCEDURES FOR THE OPERATION OF ADVISORY BOARDS

On pages 35800 and 35801 of the FEDERAL REGISTER of October 4, 1974, there was published a notice and text of proposed rules amending Subchapter A of Chapter II, Title 43, Code of Federal Regulations. The purpose of this amendment is to provide regulations to implement requirements of the Federal Advisory Committee Act (86 Stat. 770; 5 App. I U.S.C.). The regulations provide procedures for the establishment, operation, control and termination of advisory boards created to advise the Secretary of the Interior and the Director, State Directors, and District Managers of the Bureau of Land Management on matters pertaining to the use and management of lands under the administration of the Bureau of Land Management.

Separate regulations dealing specifically with structuring of district, state and national advisory boards are being published in the FEDERAL REGISTER for public review and comment.

Interested persons were given until November 8, 1974, to submit comments, suggestions, or objections to the proposed amendment. Thirty-five comments were received. Most commentors objected to any change in the present structure and operation of grazing district advisory boards. As indicated above, separate regulations that would provide for district boards are being published. This suggestion must therefore be considered premature.

One commentor suggested that one-year terms for board members are too short to allow an individual to contribute to the program. The one-year appointment provision is intended to provide the appointing officer an opportunity to review the appointment and determine if an individual is performing the functions required by the board charter. The provision does not preclude reappointment of an individual who continues to meet the requirements of the position.

Several commentors questioned the meaning of the language in § 1784.2(a) which states that a person will not be qualified as an advisor with respect to an industry, service, or discipline if he has a substantial relationship to a conflicting or competing interest. The intent of this provision is to secure the most objective advice possible and to avoid questions that could arise if an individual, chosen to represent an industry, service, or discipline were to be employed by or

have a substantial relationship to an interest that could be considered conflicting. This provision has been clarified by incorporating new language, including some from the Federal Advisory Committee Act into the regulations.

Other comments dealt with composition and methods of selecting representatives on the boards, and most particularly the district boards. These comments anticipate other regulations, noted above, which are being prepared separately and will deal with composition of the boards, how the members will be selected, and who will select the members. The suggestions therefore were not considered pertinent to this amendment.

Other changes from the proposed rulemaking have been made to clarify the regulations and to make the organization of the regulations consistent through-out. A new paragraph (d) has been added to § 1784.2 to assure that appointment of advisory board members is conducted in a non-discriminatory manner.

The proposed amendment is hereby adopted as set forth below and will become effective February 24, 1975.

Group 1700 of Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

1. The heading of Part 1780 and a Subpart 1784 are added to read as follows:

Group 1700—Program Management

PART 1780—COOPERATIVE RELATIONS

Subpart 1784—Advisory Boards

Sec.

AUTHORITY: The act of Oct. 6, 1972 (86 Stat. 770; 5 App. I U.S.C.).

Subpart 1784—Advisory Boards

§ 1784.0–1 Purpose.

This subpart contains guidelines and procedures for advisory boards created to advise the Secretary of the Interior and Director, State Directors, and district Managers of the Bureau of Land Management on matters relating to the use and management of lands and resources under the administrative jurisdiction of the Bureau of Land Management.

§ 1784.0–2 Objectives.

The objective of advisory boards under these regulations is to make available to the Department of the Interior and the Bureau of Land Management expert counsel by concerned people who are knowledgeable by experience, training, or education about the use and management of lands and their natural resources and the environment.

§ 1784.0–3 Authority.

The Act of October 6, 1972 (86 Stat. 770; 5 App. I U.S.C.) authorizes the establishment of a system governing the creation, operation, and termination of advisory boards in the executive branch of the Federal Government and specifies responsibilities, policies, and procedures in the creation, management, and termination of those boards.

§ 1784.0–4 Definitions.

An "advisory board" has the same meaning as an "advisory committee" which is defined in section 3 of the Federal Advisory Committee Act.

§ 1784.1 Establishment, termination, and renewal.

(a) An advisory board not specifically authorized by statute or by the President shall become established if and when the Secretary of the Interior determines, as a matter of formal record, after consultation with the Director, Office of Management and Budget, with timely notice published in the FEDERAL REGISTER, that establishment of the board is in the public interest in connection with duties imposed on the Department of the Interior by law. No advisory board shall meet or take any action until an advisory committee charter is filed as required by the Act.

(b) (1) Each nonstatutory advisory board (i.e. not established by statute or reorganization plan) which is in existence on January 5, 1973, shall terminate no later than January 5, 1975, unless it is renewed by the Secretary of the Interior prior to January 5, 1975, in accordance with the regulations of the Office of Management and Budget. Any advisory board which is renewed shall continue for not more than two years unless, prior to the expiration of that period, it is renewed. Each such advisory board established by the Secretary of the Interior after January 5, 1973, shall terminate not later than two years after its establishment unless prior to that time it is renewed.

(2) Each advisory board established by statute or reorganization plan which is in existence on January 5, 1973, shall terminate by January 5, 1975, unless its duration is otherwise provided for by law.

(i) Each such advisory board established by statute or reorganization plan which is established after January 5, 1973, shall terminate not later than two years after its establishment unless its duration is otherwise provided for by law.

(ii) Any such statutory advisory board shall file a new charter upon the expiration of each successive two-year period following the date of enactment of the statute establishing the board.

§ 1784.2 Appointment of members.

(a) The membership of the advisory board shall be fairly balanced in terms of points of view represented and the functions to be performed by the advisory board. To be qualified for appointment to an advisory board, a person must be capable, through education, training, or experience, to give informed advice as to a specified industry, service, or discipline. To assure that the advice and recommendations of the advisory board will not be inappropriately influenced, a person will not be qualified as an advisor with respect to an industry, service, or discipline if, in the judgment of the appointing officer, he has substantial relationship to a conflicting or competing industry, service, or discipline.

(b) Appointments to an advisory board will terminate 365 days from and after the beginning of appointment, unless a shorter period is specified in the appointing document. An individual may serve on any one advisory board for not more than a total of 10 years. Exceptions will be made only on demonstration to the Secretary or his delegate that longer service will yield substantially more benefits to the public interest than appointment of another individual.

(c) For purposes of compensation, members of advisory boards are considered nonsalaried employees of the Bureau of Land Management. While on advisory board business, they will receive reimbursement for travel costs and per diem as authorized by section 5703 of Title 5, United States Code.

(d) Minorities and women are to be given every opportunity and consideration for appointment to an advisory board. No person is to be denied an opportunity to serve on any board or committee because of race, sex, religion, national origin or age.

§ 1784.3 Termination of appointments.

(a) The Secretary or his authorized representative may, after due notice, terminate the services of an advisor if the person: (1) no longer meets the criteria or requirements under which appointed, or (2) fails to or is unable to serve, or (3) in the opinion of the Secretary or his authorized representative should be removed in the public interest.

§ 1784.4 Operating procedures.

(a) Unless otherwise provided for by statute, all activities of advisory boards chartered under the regulations of this subpart shall conform to the committee management requirements set forth in Part 308 of the Department of the Interior Manual which incorporates the requirements of relevant statutes, executive orders, and executive agency directives.

(b) The function of advisory boards is solely advisory to the official or officials to whom they report. Members of advisory boards may not act individually or collectively as advisory board members in any other capacity. Additionally, no board member may offer advice or make recommendations on any matter before a board if he has a financial or other interest in such matter. Membership on advisory boards, however, shall not diminish the exercise of rights of members as private individuals or members of other organizations or offices. Determinations of action to be taken on advisory board reports and recommendations shall be made solely by the Secretary of the Interior or his delegate.

(c) Advisory board meetings shall be held only at the call of the Secretary of the Interior or his authorized representative after at least 15-day published notice in the FEDERAL REGISTER. The authorized representative of the Secretary shall give such advance notice of time, place, and general subject matter of scheduled meetings as, in his judgment, will provide interested parties adequate opportunity to participate in or attend the meeting. The time and place of meetings shall be scheduled with the objective of permitting such participation or attendance. The authorized representative may adjourn a meeting at any time if he determines it to be in the public interest for any reason including, but not limited to, any instance where continuance of the meeting would be inconsistent (1) with governing laws, rules, or regulations, or (2) with the purpose for which the board convened. All meetings shall be held in the presence of an authorized representative of the Secretary. Each meeting shall be conducted in accordance with an agenda approved by the Secretary or his authorized representative prior to the meeting. All meetings of advisory boards shall be open to the public. Interested persons may attend, appear before, or file statements with any advisory board. The number of observers or participants at any advisory board meeting may be limited to the extent that available accommodations and time require limitation.

(d) Detailed minutes shall be kept of each advisory board meeting. The minutes shall include: the time and place of the meeting; a list of advisory board members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory board; a description of the extent to which the meeting was open to the public; and a description of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting. The chairman of the advisory board shall certify to the accuracy of the minutes.

(e) Subject to section 552 of Title 5, U.S.C., the records, reports, studies, working papers, or other documents which were made available to or prepared for or by an advisory board shall be available for public inspection and copying in the office of the authorized officer responsible for support services for that board under the regulations in this subpart until the advisory board ceases to exist. Departmental rules issued pursuant to the Freedom of Information Act (5 U.S.C. 552) and contained in Part 2 of this title apply to such documents.

JACK O. HORTON,
Assistant Secretary of the Interior.

JANUARY 14, 1975.

[FR Doc.75-1809 Filed 1-20-75;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 76—CABLE TELEVISION SERVICE

Technical Standards; Terminology

Correction

In FR Doc. 75-1293, appearing at page 2690, in the issue for Wednesday, January 15, 1975, in the third line of § 76.605 (a)(4), the radical sign should be extended to encompass the symbol "Z".

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; DEPARTMENT OF TRANSPORTATION

[Docket No. 74-28; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars; Procedures for Adding New Tire Size Designations; Correction

In FR Doc. 74-18526, appearing on page 28980 in the issue of August 13, 1974, the reference to the Japan Automobile Manufacturers Association in paragraph (4) of the Appendix should read, "the Japan Automobile Tire Manufacturers' Association".

(Secs. 103, 119, 201, 202; Pub. L. 89-563, 88 Stat. 718 (15 U.S.C. 1392, 1407, 1421, 1422); delegation of authority at 49 CFR 1.51)

Issued on January 15, 1975.

NOEL C. BUFE,
Acting Administrator.

[FR Doc.75-1864 Filed 1-20-75;8:45 am]

[Docket No. 74-31; Notice 04]

PART 576—RECORD RETENTION

Response to Petition for Reconsideration

This notice responds to a petition for reconsideration of Record Retention regulations published August 20, 1974 (39 FR 30045), that require manufacturers of motor vehicles to retain records regarding vehicle malfunctions that may be related to motor vehicle safety. The regulation was established as a temporary requirement until final requirements, based upon a proposal published concurrently (39 FR 30048), are issued.

One petition for reconsideration, from American Motors Corporation, was received. The petitioner requests that the regulation be revoked and that the agency refrain from issuing any similar final rule until comments received in response to the proposed rule are evaluated. American Motors Corporation lists the following reasons for its request: (1) the regulation was made effective without prior notice and before its publication in the FEDERAL REGISTER, (2) the classification of materials required to be retained is too broad, (3) the definition of "malfunctions that may be related to motor vehicle safety" is ambiguous, and (4) certain materials required to be retained may be privileged and confidential. American Motors' petition is hereby denied. The NHTSA has concluded for the following reasons that each of the petitioner's objections is invalid.

The decision by the NHTSA not to provide prior notice, and to impose an effective date prior to publication (in this case, the day the document was "posted" at the FEDERAL REGISTER) was within the agency's authority under relevant provisions of the Administrative Procedures Act. An agency need not publish prior notice when it finds that such notice would be "contrary to the public interest" (5 U.S.C. § 553(b)) and a rule may be made effective less than 30 days from publication "for good cause found and published with the rule" (5 U.S.C. § 553(d)). The NHTSA found and published its reasons for finding that prior notice of these requirements would be contrary to the public interest. The purpose of the requirements is to prevent the destruction of certain manufacturer records relating to motor vehicle malfunctions that are safety related. Both prior notice of the requirements and an effective date following initial public release of the requirements could induce the destruction of the records. In either case, their destruction would very likely be detrimental to the discovery and remedy of motor vehicle safety defects which would clearly be contrary to the public interest. This justification was published with the regulation in accordance with the statutory requirements, and the agency's action was therefore fully authorized by law.

The petitioner also complains that the classification of records is too broad and that the burden of retaining this number of documents outweighs the safety benefits that may be achieved. This argument is unpersuasive, especially in light of the temporary nature of the rule in question. The purpose of the interim rule is to keep a broad range of records from being destroyed while the agency decides on the proper outlines of a permanent rule. To serve this purpose the interim rule must be at least as broad as any permanent rule that is likely to be issued after consideration of all comments. Since this rule is to serve a temporary situation, the cost of maintaining any excess records will be small and transient. The NHTSA does not concede, however, that the scope of records covered in the interim rule is overly broad. The basic fund of historical materials concerning vehicle problems, of which the manufacturer is necessarily the custodian, muts be maintained intact in order for later retrospective determinations concerning vehicle defects to be made. Manufacturer allegations that certain types of records are unnecessary, unprobative, or unreliable indicators of true problems, are manifestly self-serving. Since a determination that particular records may be destroyed is unsupervised and irreversible, as well as self-serving, the rules concerning their retention must be comprehensive.

Much the same response applies to AMC's argument that the definition of "malfunctions that may be related to

motor vehicle safety" is insufficiently precise. The agency is concerned here with broad categories of future problems. The problems cannot be defined in advance. Any suggestions that may be received in the comments that would help to clarify the rule will be welcomed. But at this stage the NHTSA does not agree that the terms attacked by AMC—"normal deterioration," "unintended deviation," "injury to a person," "flaw," and "accident"—are too ambiguous to serve the purpose of the rule. In any case of doubt as to a particular type of record, a manufacturer has two viable choices: keep the record, or ask the NHTSA for an interpretation as to whether the rule covers it.

The petitioners final argument, that some of the material covered by the regulation is confidential, misconstrues the purpose of the rule. The rule does not determine what shall be revealed—it only relates to what shall not be destroyed. It does not prevent the manufacturer from questioning the propriety or legality of an agency request in a particular case, nor from requesting under appropriate statutory provisions that certain information be kept confidential. The NHTSA does not agree that the concepts of confidentiality or privilege include the right to destroy records that may contain information relevant to the public's safety.

For the reasons stated above the petition of American Motors Corporation is denied.

(Secs. 108, 112, 113, 119, Pub. L. 89-563, 80 Stat. 718; (15 U.S.C. 1397, 1401, 1402, 1407); delegation of authority at 49 CFR 1.51)

Issued on January 15, 1975.

NOEL C. BUFE,
Acting Administrator.

[FR. Doc.75-1863 Filed 1-20-75;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE AND RECREATION

Park River National Wildlife Refuge, Mass.

The following special regulations are issued and are effective during the period January 15, 1975 through December 31, 1975.

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

MASSACHUSETTS

PARKER RIVER NATIONAL WILDLIFE REFUGE

Entrance into those portions of the refuge not posted as closed is permitted for certain uses specified herein during the hours that are designated at the entrance gate (generally dawn to dusk). Sightseeing, nature study, photography, hiking, snowshoeing, and cross-country skiing are encouraged.

Boating is permitted on navigable tidal waters which lie within the refuge. Boats may be landed only at the refuge boat launching site near the entrance gate.

The entire refuge beach has no lifeguards. Swimming will be at the visitor's own risk.

A limit of one-half bushel of plums and cranberries per family per year may be picked from August 25 through October 31. Cranberry rakes or scoops are not permitted.

Access to clam flats for clamming is permitted across refuge marshes. Permits are required and may be obtained at the refuge.

Small cooking fires are permitted only on the ocean beach. No other fires are permitted at other locations on the refuge.

Alcoholic beverages, camping, tents, camping trailers, floating devices, and nudity in any form, are not permitted on the refuge.

Pets under full control on a leash not exceeding 10 feet in length are permitted on the refuge from November 1 to March 31 and on weekdays only from April 1 through May 23 and September 3 through October 31. Pets are not permitted on the refuge at any other time.

Organized group activities must be confined to the northern one-quarter mile of beach east of Lot 1. Advance reservations are required and there must be at least one adult supervisor for every 10 children.

The possession of any drugs or substances, or immediate precursors, identified in schedules I, II, III, IV, or V of Part B of the Controlled Substances Act, 21 U.S.C. 812, or any drugs or substances added to these schedules pursuant to the terms of the Act is prohibited on the refuge, unless such drugs or substances were obtained in accordance with the law. Presence in the refuge when under the influence of a controlled substance to a degree that may endanger oneself, or another person, or property, or may cause interference with another person's enjoyment of the refuge is prohibited.

Bicycles and registered motor vehicles are permitted on the main refuge road and in numbered parking areas only. Snowmobiles, air-cushion, all-terrain, or other similar vehicles deemed improper by refuge agents are not permitted on the refuge.

SURF FISHING (WALK-IN FISHERMAN)

Entire year, day only, no permit required. May 1 through October 15, day and night, night permit required.

SURF FISHING (OVER-THE-SAND SURF FISHING VEHICLES)

May 1 through October 15 only, permit required.

May 1 through May 23, day and night.

May 24 through September 1, night (6 p.m. to 8 a.m.) only: No vehicle shall be operated on the beach between the hours of 8 a.m. to 6 p.m. During these hours all vehicles shall remain in the designated surf fishing vehicle parking area at the east end of Beach Access Trail #2 or exit from the beach area. This same designated daytime parking area must, however, be vacated by 8 p.m. each evening not to be reoccupied before 6 a.m. the next morning.

September 2 through October 15, day and night.

No fishing is permitted on the northern one-quarter mile of beach east of Lot 1 from 8 a.m. to 6 p.m.

Permit requirements are as follows:

Night permittees may enter the refuge only until dusk except they may enter until 10 p.m. from May 24 through September 1. Night permittees may remain on the refuge, or may exit through a one-way gate at any time.

Vehicles with the special permit may be on the ocean beach only when the occupants are actively engaged in surf fishing.

All vehicle permits must be affixed to the vehicles as instructed at the time of issuance.

Motocycles, or any vehicle deemed improper by refuge agents, may not receive the permit.

Over-the-sand surf fishing vehicles must be equipped with spare tire, shovel, jack, tow rope or chain, board or similar support for jack, and low-pressure tire gauge.

Vehicles, under the terms of an over-the-sand surf fishing permit, may drive only on designated beach access routes and on the beach east of the line formed by the eastern base of the dunes.

No vehicle is permitted on the northern one-quarter mile of beach east of Lot 1 at any time.

Ruts or holes resulting from freeing a stuck vehicle shall be promptly filled by the operator.

Riding on fenders, tailgates, roof, or any other position outside of the vehicle is prohibited.

Failure to comply with any regulation shall be grounds for immediate cancellation of all permits.

A map of the refuge is available from the Refuge Manager, Parker River National Wildlife Refuge, Northern Boulevard, Plum Island, Newburyport, Massachusetts 01950, or from the Regional Director, U.S. Fish and Wildlife Service, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations governing recreation on wildlife refuge areas generally, which are set forth in 50 CFR Part 28, and are effective through December 31, 1975.

RICHARD E. GRIFFITH,
Regional Director,
U.S. Fish and Wildlife Service.

JANUARY 7, 1975.

[FR Doc.75-1812 Filed 1-20-75;8:45 am]

PART 33—SPORT FISHING

Wildlife Refuges in Oklahoma and Texas

The following special regulations are issued and are effective January 21, 1975.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

OKLAHOMA

SEQUOYAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Sequoyah National Wildlife Refuge, Oklahoma, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 10,100 acres, are delineated on maps available at refuge headquarters, Sallisaw, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New

Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through December 31, 1975, inclusive, except for an area of approximately 2,200 acres south of Vian Creek, as posted, to be closed during the period October 1, 1975 through March 31, 1976, inclusive.

(2) Some refuge roads leading to waters open to fishing may be closed during the period October 1, 1975 through March 31, 1976, inclusive, as posted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

WASHITA NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on all waters of the Washita National Wildlife Refuge, Oklahoma, during open season in areas designated by signs as open to fishing. These open areas, comprising 3,367 acres, are delineated on maps available at refuge headquarters, Butler, Oklahoma, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from April 1 through October 14, 1975, inclusive.

(2) Seining is prohibited in all refuge waters.

(3) All trotlines must be removed from refuge waters on or before October 14, 1975.

(4) From State Highway 33 south to Big Panther Creek, a "no visible wake zone" is in effect for all boats.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 14, 1975.

TEXAS

ANAHUAC NATIONAL WILDLIFE REFUGE

Sport fishing and crabbing on the Anahuac National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2¾ miles of roadside drain and pond edge and 7 miles of East Bay and Oyster Bayou shoreline, are delineated on maps available at refuge headquarters, Anahuac, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) Boats and floating devices may not be used for fishing on inland waters.

(2) In inland waters, fishing is permitted only by ordinary pole and line, rod and reel, or hand-held line. Trotlines, throw lines, set lines, bows and arrows, gigs, and spears may not be used in inland waters.

The provisions of this special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

BRAZORIA NATIONAL WILDLIFE REFUGE

Sport fishing on the Brazoria National Wildlife Refuge, Texas, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 900 acres of inland salt lakes and 18 miles of shoreline, are delineated on maps available at refuge headquarters, Angleton, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) Fishing is not permitted on interior waters except Nicks Lake, Salt Lake and Lost Lake.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Due to the lack of water in Buffalo Lake, the Buffalo Lake National Wildlife Refuge, Texas, is closed to fishing for Calendar Year 1975.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

Sport fishing on the Laguna Atascosa National Wildlife Refuge, Texas, is permitted from January 1 through December 31, 1975, inclusive, but only on the area designated by signs as open to fishing. This open area, comprising 140 acres, is limited to the Arroyo Colorado Navigation District (Harlingen) Ship Channel and the banks of the channel as it extends through the refuge. Maps, delineating the area, are available at refuge headquarters, Harlingen, Texas, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Fishing shall be in accordance with all applicable State regulations governing sport fishing subject to the following special conditions:

(1) Fishing with trotlines is not permitted.

(2) The refuge officer in charge may at his discretion close the fishing area for public safety, to protect wildlife, or to protect government property.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1975.

MULESHOE NATIONAL WILDLIFE REFUGE

Due to the lack of water in fishing lakes, Muleshoe National Wildlife Refuge, Texas is closed to fishing for Calendar Year 1975.

JERRY L. STEGMAN,
Acting Regional Director, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

JANUARY 14, 1975.

[FR Doc.75-1811 Filed 1-20-75;8:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 111]

CUSTOMHOUSE BROKERS

Application Fee for License To Transact Business in Additional District

Notice is hereby given that under the authority of 5 U.S.C. 301, R.S. 251, as amended (19 U.S.C. 66), sections 624, 641, 46 Stat. 759, as amended (19 U.S.C. 1624, 1641), and section 501, 65 Stat. 290 (31 U.S.C. 483(a)), it is proposed to amend § 111.19(b) of the Customs Regulations (19 CFR 111.19(b)) to increase the Customs fee required to accompany an application by a customhouse broker for a license to transact Customs business in an additional Customs district.

On July 25, 1974, Treasury Decision 74-200 (39 FR 27127) amended § 111.12 (a) of the Customs Regulations, increasing the fee required to accompany the application for a customhouse broker's license from $150 to $200. This increase was necessary in order to more nearly recover the actual costs incurred by the United States Customs Service in rendering this service to the public. Section 111.19(b) currently specifies that a fee of $150 is required to accompany an application by a customhouse broker for a license to transact Customs business in an additional Customs district. However, no significant difference exists in the costs incurred by the United States Customs Service in processing an initial application for a customhouse broker's license and those incurred in processing an application for a license to transact business in an additional Customs district. Therefore, in order to more nearly recover the actual costs incurred in processing applications for licenses to transact business in additional Customs districts and to again conform the fee specified in § 111.19(b) with that specified in § 111.12(a), it is necessary to amend § 111.19(b) to increase the amount of the specified fee from $150 to $200.

Accordingly, it is proposed to amend § 111.19(b) of the Customs Regulations (19 CFR 111.19(b)) to read as follows:

§ 111.19 Licenses for additional districts.

* * * * *

(b) Submitting the fee of $200 with the application; and

* * * * *

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such Communications, they must be received on or before February 5, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: January 9, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[FR Doc.75-1895 Filed 1-20-75;8:45 am]

Internal Revenue Service

[26 CFR Parts 31, 301]

EMPLOYMENT TAX, PROCEDURE AND ADMINISTRATION REGULATIONS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by February 20, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by February 20, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) in order to conform such regulations to the provisions of sections 123(b), 502 (a) and (c), and 504 (a) and (b) of the Social Security Amendments of 1967 (81 Stat. 845, 934, 935), sections 203(b) and 204 of the Act of March 17, 1971 (Pub. L. 92-5, 85 Stat. 11), sections 203(b) and 204 (a) and (b) of the Act of July 1, 1972 (Pub. L. 92-336, 86 Stat. 419, 421), sections 135 (a) and (b), 144(c), and 293 of the Social Security Amendments of 1972 (86 Stat. 1362, 1370, 1459), section 203 (b) and (d) of the Act of July 9, 1973 (Pub. L. 93-66, 87 Stat. 153), and sections 5 (b), (d), and (f) and 6 (a) and (b) of the Act of December 31, 1973 (Pub. L. 93-233, 87 Stat. 954, 955).

Several of the above statutory amendments revised the tax rates under the Federal Insurance Contributions Act, and several of the amendments revised the amount of the earnings base which is subject to the tax. For taxable years beginning after 1974, the taxable earnings base may be increased by the Secretary of the Department of Health, Education, and Welfare under section 230 of the Social Security Act if he provides a cost-of-living increase in benefits under section 215(i) of that Act.

The Social Security Amendments of 1967 added an exclusion from "wages" for purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act for certain deferred compensation payments. This provision provides that the term "wages" does not include any payment or series of payments by an employer to an employee or any of his dependents which is paid (1) upon or after the termination of an employee's employment relationship because of the retirement or death of the employee, and (2) under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees, or for such employees or class or classes of such employees and their dependents. In the case of payments made upon or after termination of employment because of retirement, the exclusion applies only if the retirement is for disability or after

attaining an age specified in the plan. Furthermore, payments which would have been paid if the employment relationship had not been so terminated are not excluded.

The 1967 Amendments amended the Internal Revenue Code of 1954 to extend Federal Insurance Contributions Act coverage to domestic employment performed in an employer-employee relationship by a parent for his son or daughter where there is a need for the parent to perform such work. Such employment is covered if the employer has living in his home a son or daughter (including an adopted child or stepchild) who is under age 18 or whose mental or physical condition requires the personal care and supervision of an adult for at least 4 continuous weeks in the quarter, and the employer either is widowed or divorced (and has not remarried) or has a spouse living in the home who, because of a mental or physical condition, is incapable of caring for the child for a least 4 continuous weeks in the quarter.

The 1967 Amendments also provided a credit or refund, under certain circumstances, in respect of the hospital insurance tax in the case of a railroad employee or employee representative subject to tax under the Railroad Retirement Tax Act who has other employment or is self-employed and is therefore also subject to tax under the Federal Insurance Contributions Act. The purpose of this change was to prevent the imposition of a double tax burden on an individual with respect to hospital insurance.

The 1967 Amendments also amended the Internal Revenue Code of 1954 to require railroad employers to furnish employees with statements showing the total amount of compensation on which railroad retirement employee tax was deducted and the amount of tax so deducted. This legislative change was intended to provide employees subject to both railroad retirement and social security taxes with information upon which to base a claim for credit or refund of excess hospital tax.

The Social Security Amendments of 1972 deleted this requirement. Instead, the 1972 Amendments require such employers to notify employees that they may be eligible for a credit or refund of any excess hospital tax. Also, such employers are to provide certain tax information to an employee with dual coverage upon his request.

The proposed regulations provide that the use of railroad employee's wage and tax statements (Form W–2 (RR)) is optional for 1968 and 1969. They require the use of that form for 1970 and 1971 unless the employer has been authorized by the Internal Revenue Service to use Form W–2 in lieu of Form W–2 (RR). This relaxation of the statutory rule is proposed because employers had difficulty including the data required by the 1967 Amendments on timely statements.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to conform the Employment Tax Regulations (26 CFR Part 31) and the Regulations on Procedure and Administration (26 CFR Part 301) to the amendments made to the Internal Revenue Code of 1954 by sections 123(b), 502 (a) and (c), and 504 (a) and (b) of the Social Security Amendments of 1967 (81 Stat. 845, 934, 935), sections 203(b) and 204 of the Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 11), sections 203(b) and 204 (a) and (b) of the Act of July 1, 1972 (Pub. L. 92–336, 86 Stat. 419, 421), sections 135 (a) and (b), 144(c), and 293 of the Social Security Amendments of 1972 (86 Stat. 1362, 1370, 1459), sections 203 (b) and (d) of the Act of July 9, 1973 (Pub. L. 93–66, 87 Stat. 153), and sections 5 (b), (d), and (f) and 6 (a) and (b) of the Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954, 955), such regulations are amended as follows:

PARAGRAPH 1. Section 31.3101 is amended to read as follows:

§ 31.3101 Statutory provisions; rate of tax.

Sec. 3101. *Rate of tax*—(a) *Old-age, survivors, and disability insurance.* In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) With respect to wages received during the calendar year 1968, the rate shall be 3.8 percent;

(2) With respect to wages received during the calendar years 1969 and 1970, the rate shall be 4.2 percent;

(3) With respect to wages received during the calendar years 1971 and 1972, the rate shall be 4.6 percent;

(4) With respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

(5) With respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

(6) With respect to wages received after December 31, 2010, the rate shall be 5.95 percent.

(b) *Hospital insurance.* In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to the following percentages of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

(1) With respect to wages received during the calendar years 1968, 1969, 1970, 1971, and 1972, the rate shall be 0.60 percent;

(2) With respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

(3) With respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(4) With respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

(5) With respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

(6) With respect to wages received after December 31, 1985, the rate shall be 1.50 percent.

[Sec. 3101 as amended by sec. 208(b), Social Security Amendments 1954; sec. 202(b), Social Security Amendments 1956; sec. 401(b), Social Security Amendments 1958; sec. 201 (b), Social Security Amendments 1961; secs. 111(c)(5) and 321(b), Social Security Amendments 1965; sec. 109 (a)(2) and (b)(2), Social Security Amendments 1967; sec. 204(a)(1), Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 11); sec. 204 (a)(2) and (b)(2), Act of July 1, 1972 (Pub. L. 92–336, 86 Stat. 421); sec. 135 (a)(2) and (b)(2), Social Security Amendments 1972; sec. 6 (a)(1) and (b)(2), Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954, 955)]

PAR. 2. Section 31.3101–2 is amended to read as follows:

§ 31.3101–2 Rates and computation of employee tax.

(a) *Old-age, survivors, and disability insurance.* The rates of employee tax for old-age, survivors, and disability insurance with respect to wages received in calendar years after 1954 are as follows:

Calendar years:	Percent
1955 and 1956	2
1957 and 1958	2.25
1959	2.5
1960 and 1961	3
1962	3.125
1963 to 1965, both inclusive	3.625
1966	3.85
1967	3.9
1968	3.8
1969 and 1970	4.2
1971 and 1972	4.6
1973	4.85
1974 to 2010, both inclusive	4.95
2011 and subsequent calendar years	5.95

(b) *Hospital insurance.* The rates of employee tax for hospital insurance with respect to wages received in calendar years after 1965 are as follows:

Calendar years:	Percent
1966	0.35
1967	.50
1968 to 1972, both inclusive	.60
1973	1.0
1974 to 1977, both inclusive	0.90
1978 to 1980, both inclusive	1.10
1981 to 1985, both inclusive	1.35
1986 and subsequent calendar years	1.50

(c) *Computation of employee tax.* The employee tax is computed by applying to the wages received by the employee the rate in effect at the time such wages are received.

Example. In 1972, employee A performed for employer X services which constituted employment (see § 31.3121(b)–2). In 1973 A receives from X $1,000 as remuneration for such services. The tax is payable at the 5.85 percent rate (4.85 percent plus 1.0 percent) in effect for the calendar year 1973 (the year in which the wages are received) and not at the 5.2 percent rate which was in effect for the calendar year 1972 (the year in which the services were performed).

PAR. 3. Section 31.3111 is amended to read as follows:

§ 31.3111 Statutory provisions; rate of tax.

Sec. 3111. *Rate of tax*—(a) *Old-age, survivors, and disability insurance.* In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in sec-

tion 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) With respect to wages paid during the calendar year 1968, the rate shall be 3.8 percent;

(2) With respect to wages paid during calendar years 1969 and 1970, the rate shall be 4.2 percent;

(3) With respect to wages paid during the calendar years 1971 and 1972, the rate shall be 4.6 percent;

(4) With respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

(5) With respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

(6) With respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.

(b) *Hospital insurance.* In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

(1) With respect to wages paid during the calendar years 1968, 1969, 1970, 1971, and 1972, the rate shall be 0.60 percent;

(2) With respect to wages paid during the calendar year 1973, the rate shall be 1.0 percent;

(3) With respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

(4) With respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

(5) With respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

(6) With respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.

[Sec. 3111 as amended by sec. 208(c), Social Security Amendments 1954; sec. 202(c), Social Security Amendments 1956; sec. 401 (c), Social Security Amendments 1958; sec. 201(c), Social Security Amendments 1961; secs. 111(c)(6) and 321(c), Social Security Amendments 1965; sec. 109 (a)(3) and (b)(3), Social Security Amendments 1967; sec. 204(a)(2), Act of March 17, 1971 (Pub. L. 92-5, 85 Stat. 11); sec. 204 (a)(3) and (b)(3), Act of July 1, 1972 (Pub. L. 92-336, 86 Stat. 421); sec. 135 (a)(3) and (b)(3), Social Security Amendments 1972; sec. 6 (a)(2) and (b)(3), Act of December 31, 1973 (Pub. L. 93-233, 87 Stat. 954, 955)]

PAR. 4. Paragraphs (a) and (b) of § 31.3111-2 are amended to read as follows:

§ 31.3111-2 Rates and computation of employer tax.

(a) *Old-age, survivors, and disability insurance.* The rates of employer tax for old-age, survivors, and disability insurance with respect to wages paid in calendar years after 1954 are as follows:

Calendar years:	Percent
1955 and 1956	2
1957 and 1958	2.25
1959	2.5
1960 and 1961	3
1962	3.125
1963 to 1965, both inclusive	3.625
1966	3.85
1967	3.9
1968	3.8
1969 and 1970	4.2
1971 and 1972	4.6
1973	4.85
1974 to 2010, both inclusive	4.95
2011 and subsequent calendar years	5.95

(b) *Hospital insurance.* The rates of employer tax for hospital insurance with respect to wages paid in calendar years after 1965 are as follows:

Calendar years:	Percent
1966	0.35
1967	.50
1968 to 1972, both inclusive	.60
1973	1.0
1974 to 1977, both inclusive	0.90
1978 to 1980, both inclusive	1.10
1981 to 1985, both inclusive	1.35
1986 and subsequent calendar years	1.50

* * * * *

PAR. 5. Section 31.3121(a)-1 is amended by revising paragraphs (a), (b), and the portion of paragraph (j) which precedes subparagraph (1), to read as follows:

§ 31.3121(a)-1 Wages.

(a) Whether remuneration paid after 1954 for employment performed after 1936 constitutes wages is determined under section 3121(a). This section and §§ 31.3121(a)(1)-1 to 31.3121(a)(15)-1, inclusive (relating to the statutory exclusions from wages), apply with respect only to remuneration paid after 1954 for employment performed after 1936. Whether remuneration paid after 1936 and before 1940 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 401 (Regulations 91). Whether remuneration paid after 1939 and before 1951 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 402 (Regulations 106). Whether remuneration paid after 1950 and before 1955 for employment performed after 1936 constitutes wages shall be determined in accordance with the applicable provisions of law and of 26 CFR (1939) Part 408 (Regulations 128).

(b) The term "wages" means all remuneration for employment unless specifically excepted under section 3121(a) (see §§ 31.3121(a)(1)-1 to 31.3121(a)(15)-1, inclusive) or paragraph (j) of this section.

* * * * *

(j) In addition to the exclusions specified in §§ 31.3121(a)(1)-1 to 31.3121(a)(15)-1, inclusive, the following types of payments are excluded from wages:

* * * * *

PAR. 6. Section 31.3121(a)(1) is amended to read as follows:

§ 31.3121(a)(1) Statutory provisions; definitions; wages; annual wage limitation.

Sec. 3121. *Definitions*—(a) *Wages.* * * *

(1) That part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) with respect to employment has been paid to an individual by an employer during any calendar year, is paid to such individual by such employer during such calendar year. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether the successor employer has paid remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this subsection) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by such predecessor during such calendar year prior to such acquisition shall be considered as having been paid by such successor employer;

(Sec. 3121(a)(1) as amended by sec. 204(a), Social Security Amendments 1954; sec. 402 (b), Social Security Amendments 1958; sec. 320(b)(2), Social Security Amendments 1965; sec. 108(b)(2), Social Security Amendments 1967; sec. 203(b)(2), Act of March 17, 1971 (Pub. L. 92-5, 85 Stat. 11); sec. 203 (b)(2), Act of July 1, 1972 (Pub. L. 92-336, 86 Stat. 419); sec. 203(b)(2) and (d), Act of July 9, 1973 (Pub. L. 93-66, 87 Stat. 153); sec. 5(b)(2), (d), and (f), Act of December 31, 1973 (Pub. L. 93-233, 87 Stat. 954))

PAR. 7. Section 31.3121(a)(1)-1 is amended by revising paragraph (a)(1), by revising so much of paragraph (a)(3) as precedes example (1), and by revising paragraph (b)(1), to read as follows:

§ 31.3121(a)(1)-1 Annual wage limitation.

(a) *In general.* (1) The term "wages" does not include that part of the remuneration paid by an employer to an employee within any calendar year—

(i) After 1954 and before 1959 which exceeds the first $4,200 of remuneration,

(ii) After 1958 and before 1966 which exceeds the first $4,800 of remuneration,
(iii) After 1965 and before 1968 which exceeds the first $6,600 of remuneration,
(iv) After 1967 and before 1972 which exceeds the first $7,800 of remuneration,
(v) After 1971 and before 1973 which exceeds the first $9,000 of remuneration,
(vi) After 1972 and before 1974 which exceeds the first $10,800 of remuneration,
(vii) After 1973 and before 1975 which exceeds the first $13,200 of remuneration, or
(viii) After 1974 which exceeds the amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for such calendar year

(exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121 (a)(2)–1 to 31.3121(a)(15)–1, inclusive) paid within the calendar year by an employer to the employee for employment performed for him at any time after 1936. For provisions relating to the treatment of tips for purposes of the annual wage limitation see § 31.3121(q)–1.

* * * * *

(3) If during a calendar year the employee receives remuneration from more than one employer, the annual wage limitation does not apply to the aggregate remuneration received from all of such employers, but instead applies to the remuneration received during such calendar year from each employer with respect to employment after 1936. In such case the first remuneration received in any calendar year after 1974 up to the amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) (the first $13,200 received in 1974, the first $10,800 received in 1973, the first $9,000 received in 1972, the first $7,800 received in any calendar year after 1967 and before 1972, the first $6,600 received in any calendar year after 1965 and before 1968, the first $4,800 received in any calendar year after 1958 and before 1966, or the first $4,200 received in any calendar year after 1954 and before 1959) from each employer constitutes wages and is subject to the taxes, even though, under section 6413(c), the employee may be entitled to a special credit or refund of a portion of the employee tax deducted from his wages received during the calendar year. In this connection and in connection with the two examples immediatey following, see § 31.6413(c)–1, relating to special credits or refunds of employee tax. In connection with the annual wage limitation in the case of remuneration paid for services performed in the employ of the United States or a wholly owned instrumentality thereof, see § 31.3122. In connection with the annual wage limitation in the case of remuneration paid for services performed in the employ of the Government of Guam, the Government of American Samoa, the District of Columbia, a political subdivision of the Government of Guam, or the Government of American Samoa, or any instrumentality of any of the foregoing which is wholly owned thereby, see § 31.3125. In connection with the application of the annual wage limitation, see also paragraph (b) of this section, relating to the circumstances under which wages paid by a predecessor employer are deemed to be paid by his successor.

* * * * *

(b) *Wages paid by predecessor attributed to successor.* (1) If an employer (hereinafter referred to as a successor) during any calendar year acquires substantially all the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and if immediately after the acquisition the successor employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for purposes of the application of the annual wage limitation set forth in paragraph (a) of this section, any remuneration (exclusive of remuneration excepted from wages in accordance with paragraph (j) of § 31.3121(a)–1 or §§ 31.3121 (a)(2)–1 to 31.3121(a)(15)–1, inclusive) with respect to employment paid (or considered under this paragraph as having been paid) to such individual by the predecessor during such calendar year and prior to the acquisition shall be considered as having been paid by the successor.

* * * * *

PAR. 8. Section 31.3121(a)(12) is amended to read as follows:

§ 31.3121(a)(12) Statutory provisions; definitions; wages; tips.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(12) (A) Tips paid in any medium other than cash;
(B) Cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is $20 or more;

(Sec. 3121(a)(12) as added by sec. 313(c)(3), Social Security Amendments 1965; as amended by sec. 504(a), Social Security Amendments 1967; sec. 122(b), Social Security Amendments 1972)

PAR. 9. The following sections are inserted immediately following § 31.3121(a)(12)–1:

§ 31.3121(a)(13) Statutory provisions; definitions; wages; payments under certain employers' plans after retirement, disability, or death.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(13) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—
(A) Upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and
(B) Under a plan established by the employer which makes provision for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents), other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated;

(Sec. 3121(a)(13) as added by sec. 504(a), Social Security Amendments 1967; as amended by sec. 122(b) and 138(b), Social Security Amendments 1972)

§ 31.3121(a)(13)–1 Payments under certain employers' plans after retirement, disability, or death.

(a) *In general.* The term "wages" does not include the amount of any payment or series of payments made after January 2, 1968, by an employer to, or on behalf of, an employee or any of his dependents under a plan established by the employer which makes provisions for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), which is paid or commences to be paid upon or within a reasonable time after the termination of an employee's employment relationship because of the employee's—
(1) Death,
(2) Retirement for disability, or
(3) Retirement after attaining an age specified in the plan established by the employer or in a pension plan of the employer at the age at which a person in the employee's circumstances is eligible for retirement.

A payment or series of payments made under the circumstances described in the preceding sentence is excluded from "wages" even if made pursuant to an incentive compensation plan which also provides for the making of other types of payments. However, any payment or series of payments which would have been paid if the employee's relationship had not been terminated is not excluded from "wages" under this section and section 3121(a)(13). For example, lump-sum payments for unused vacation time or a final paycheck received after retirement are payments which the employee would have received whether or not he retired and therefore are not excluded from "wages" under this section. Further, if any payment is made upon or after termination of employment for any reason other than those set out in subparagraphs (1), (2), and (3) of this paragraph such payment is not excludable from "wages" by this section. For example, if a pension plan provides for retirement upon disability, completion of 30 years of service, or attainment of age 65, and if an employee who is not

disabled retires at age 61 after 30 years of service, none of the retirement payments made to the employee under the pension plan (including any made after he is 65) is excludable from "wages" under this section. However, if the pension plan had conditioned retirement after 30 years of service upon attainment of age 60, all of the retirement payments would have been excludable.

(b) *Plan.* The plan or system established by an employer need not provide for payments because of termination of employment for all the reasons set out in subparagraphs (1), (2), and (3) of paragraph (a), but such plan or system may provide for payments because of termination for any one or more of such reasons. Payments because of termination of employment for any one or more of such reasons under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(c) *Dependents.* Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(d) *Benefit payment.* It is immaterial for purposes of this exclusion whether the amount or possibility of benefit payments is paid on account of services rendered or taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required, expressly or impliedly, by the contract of service.

(e) *Example.* The application of this section may be illustrated by the following example:

Example. A, an employee, receives a salary of $1,500 a month, payable on the 5th day of the month following the month for which the salary is earned. A's employer has established an incentive compensation plan for a class of his employees, including A, providing for the payment of deferred compensation on termination of employment, including termination upon an employee's death, retirement at age 65 (the retirement age specified in the plan), or retirement for disability. On March 1, 1973, A attains the age of 65 and retires. On March 5, 1973, A receives $5,500 from his employer of which $1,500 represents A's salary for services he performed in February 1973, and $4,000 represents incentive compensation paid under the employer's plan.

The amount of $4,000 is excluded from "wages" under this section. The amount of $1,500 is not excluded from "wages" under this section.

PAR. 10. The following sections are inserted immediately following § 31.3121(a)(13)-1:

§ 31.3121(a)(14) Statutory provisions; definitions; wages; payments by employer to survivor or estate of former employee.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(14) Any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died; or

(Sec. 3121(a)(14) as added by sec. 122(b), Social Security Amendments 1972)

§ 31.3121(a)(14)-1 Payments by employer to survivor or estate of former employee. [Reserved]

§ 31.3121(a)(15) Statutory provisions; definitions; wages; payments by employer to disabled former employee.

Sec. 3121. *Definitions*—(a) *Wages.* For purposes of this chapter, the term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(15) Any payment made by an employer to an employee, if at the time such payment is made such employee is entitled to disability insurance benefits under section 223(a) of the Social Security Act and such entitlement commenced prior to the calendar year in which such payment is made, and if such employee did not perform any services for such employer during the period during which such payment is made.

(Sec. 3121(a)(15) as added by sec. 138(b), Social Security Amendments 1972)

§ 31.3121(a)(15)-1 Payments by employer to disabled former employee. [Reserved]

PAR. 11. Section 31.3121(b)(3) is amended by revising section 3121(b)(3)(B) and the historical note. These amended provisions read as follows:

§ 31.3121(b)(3) Statutory provisions; definitions; employment; family employment.

Sec. 3121. *Definitions.* * * *

(b) *Employment.* For purposes of this chapter, the term "employment" means * * * any service, of whatever nature, performed after 1954 * * *; except that * * * such term shall not include—

* * * * *

(3)(A) Service performed by an individual in the employ of his spouse, and service performed by a child under the age of 21 in the employ of his father or mother;

(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service if—

(i) The employer is a surviving spouse or a divorced individual and has not remarried, or has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for a son, daughter, stepson, or stepdaughter (referred to in clause (ii) for at least 4 continuous weeks in the calendar quarter in which the service is rendered, and

(ii) A son, daughter, stepson, or stepdaughter of such employer is living in the home, and

(iii) The son, daughter, stepson, or stepdaughter (referred to in clause (ii)) has not attained age 18 or has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the service is rendered;

(Sec. 3121(b)(4) redesignated paragraph (3) by sec. 205(b), Social Security Amendments 1954; as amended by sec. 104(b), Social Security Amendments 1960; sec. 123(b), Social Security Amendments 1967)

PAR. 12. Paragraphs (a) and (b) of § 31.3121(b)(3)-1 are revised to read as follows:

§ 31.3121(b)(3)-1 Family employment.

(a) Certain services are excepted from employment because of the existence of a family relationship between the employee and the individual employing him. The exceptions are as follows:

(1) Services performed by an individual in the employ of his or her spouse;

(2)(i) Services performed before 1961 by a father or mother in the employ of his of her son or daughter;

(ii) Services not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed after 1960 but prior to 1968 by a father or mother in the employ of his or her son or daughter;

(iii) Services not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed after 1967 by a father or mother in the employ of his or her son or daughter unless (*a*) the employer has a child (including an adopted child or stepchild) living in his or her home who is under age 18 or who has a mental or physical condition which requires the personal care and supervision of an adult for at least 4 continuous weeks in the calendar quarter in which the services are rendered; and (*b*) the employer is during the calendar quarter in which the services are rendered:

(*1*) A widow or widower;

(*2*) A divorced person who has not remarried; or

(*3*) A married person who has a spouse living in the home who has a mental or physical condition which results in such spouse's being incapable of caring for such child for at least 4 continuous weeks in the calendar quarter in which the services are rendered; and

(3) Services performed by a son or daughter under the age of 21 in the employ of his or her father or mother.

(b) Under paragraph (a)(1) and (2)(i) of this section, the exception is conditioned solely upon the family relationship between the employee and the individual employing him. Under paragraph (a)(2)(ii) and (iii) of this section, in addition to the family relationship, there is a further requirement that

the services performed after 1960 and before 1968 for purposes of paragraph (a)(2)(ii) and after 1967 for purposes of paragraph (a)(2)(iii) shall be services not in the course of the employer's trade or business or shall be domestic service in a private home of the employer. The terms "services not in the course of the employer's trade or business" and "domestic service in a private home of the employer" have the same meaning as when used in § 31.3121(a)(7)–1, except that it is immaterial under paragraphs (a)(2)(ii) and (iii) of this section whether or not such services are performed on a farm operated for profit. The mere fact that a mental or physical disability, whether temporary or permanent, renders a child or spouse incapable of self-support does not necessarily mean that the child requires the personal care and supervision of an adult or that the spouse is incapable of caring for a child within the meaning of paragraph (a)(2)(iii) of this section. A written statement by a doctor of the existence of the mental or physical condition of the child or spouse which states that the child requires the personal care and supervision of an adult or that the spouse is incapable of caring for a child and which sets forth the period of time during which the condition has existed and is likely to exist will usually be sufficient evidence to establish the existence and duration of the condition at the time of the statement. Under paragraph (a)(3) of this section, in addition to the family relationship, there is a further requirement that the son or daughter shall be under the age of 21, and the exception continues only during the time that the son or daughter is under the age of 21.

* * * * *

PAR. 13. Section 31.3122 is amended to read as follows:

§ 31.3122 Statutory provisions; Federal service.

Sec. 3122. *Federal service.* In the case of the taxes imposed by this chapter with respect to service performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act, to which the provisions of section 3121(p) are applicable, the determination whether an individual has performed service which constitutes employment as defined in section 3121(b), the determination of the amount of remuneration for such service which constitutes wages as defined in section 3121(a), and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1), and he shall not be required to obtain a refund of the tax paid under section 3111 on that part of the remuneration not included in wages by reason of section 3121(a)(1). Payments of the tax imposed under section 3111 with respect to service, performed by an individual as a member of a uniformed service, to which the provisions of section 3121(m)(1) are applicable, shall be made from appropriations available for the pay of members of such uniformed service. The provisions of this section shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of this section the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of this section shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of this section the Secretary shall be deemed to be the head of such instrumentality.

[Sec. 3122 as amended by secs. 202(c) and 203(a), Social Security Amendments 1954; sec. 411(b), Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879); sec. 402(c), Social Security Amendments 1958; sec. 70, Technical Amendments Act 1958 (72 Stat. 1660); sec. 202(a)(3), Peace Corps Act (75 Stat. 626); sec. 320(b)(3), Social Security Amendments 1965; sec. 108(b)(3), Social Security Amendment 1967; sec. 203(b)(3), Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 11); sec. 203(b)(3), Act of July 1, 1972 (Pub. Law 92–336, 86 Stat. 419); sec. 203(b)(3) and (d), Act of July 9, 1973 (Pub. Law 93–66, 87 Stat. 153); sec. 5(b)(3), (d), and (f), Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954)]

PAR. 14. Section 31.3125 is amended to read as follows:

§ 31.3125 Statutory provisions; returns in the case of Government employees in Guam, American Samoa, and the District of Columbia.

Sec. 3125. *Returns in the case of Government employees in Guam, American Samoa, and the District of Columbia—*

(a) *Guam.* The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of Guam or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of Guam or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1).

(b) *American Samoa.* The return and payment of the taxes imposed by this chapter on the income of individuals who are officers or employees of the Government of American Samoa or any political subdivision thereof or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, and those imposed on such Government or political subdivision or instrumentality with respect to having such individuals in its employ, may be made by the Governor of American Samoa or by such agents as he may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1).

(c) *District of Columbia.* In the case of the taxes imposed by this chapter with respect to service performed in the employ of the District of Columbia or in the employ of any instrumentality which is wholly owned thereby, the return and payment of the taxes may be made by the Commissioners of the District of Columbia or by such agents as they may designate. The person making such return may, for convenience of administration, make payments of the tax imposed by section 3111 with respect to such service without regard to the contribution and benefit base limitation in section 3121(a)(1).

(Sec. 3125 as added by sec. 103(q)(1), Social Security Amendments 1960; amended by secs. 317(c)(1), (2), 320(b)(4), Social Security Amendments 1965; sec. 108(b)(4), Social Security Amendments 1967; sec. 203(b)(4), Act of March 17, 1971 (Pub. L. 92–5, 85 Stat. 11); sec. 203(b)(4), Act of July 1, 1972 (Pub. L. 92–336, 86 Stat. 419); sec. 203 (b)(4) and (d), Act of July 9, 1973 (Pub. L. 93–66, 87 Stat. 153); sec. 5 (b)(4), (d), and (f), Act of December 31, 1973 (Pub. L. 93–233, 87 Stat. 954))

PAR. 15. The following sections are inserted immediately following § 33.3306(b)(9)–1:

§ 31.3306(b)(10) Statutory provisions; definitions; wages; payments under certain employers' plans after retirement, disability, or death.

Sec. 3306. *Definitions.* * * *

(b) *Wages.* For purposes of this chapter, the term "wages" means all remuner-

ation for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include—

* * * * *

(10) Any payment or series of payments by an employer to an employee or any of his dependents which is paid—

(A) Upon or after the termination of an employee's employment relationship because of (i) death, (ii) retirement for disability, or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer, and

(B) Under a plan established by the employer which makes provisions for his employees generally or a class or classes of his employees (or for such employees or class or classes of employees and their dependents),

other than any such payment or series of payments which would have been paid if the employee's employment relationship had not been so terminated.

(Sec. 3306(b)(10) as added by sec. 504(b), Social Security Amendments 1967 (81 Stat. 935))

§ 31.3306(b)(10)–1 Payments under certain employers' plans after retirement, disability, or death.

(a) *In general.* The term "wages" does not include the amount of any payment or series of payments made after January 2, 1968, by an employer to, or on behalf of, an employee or any of his dependents under a plan established by the employer which makes provisions for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), which is paid or commences to be paid upon or within a reasonable time after the termination of an employee's employment relationship because of the employee's—

(1) Death,

(2) Retirement for disability, or

(3) Retirement after attaining an age specified in the plan established by the employer or in a pension plan of the employer as the age at which a person in the employee's circumstances is eligible for retirement.

A payment or series of payments made under the circumstances described in the preceding sentence is excluded from "wages" even if made pursuant to an incentive compensation plan which also provides for the making of other types of payments. However, any payment or series of payments which would have been paid if the employee's relationship had not been terminated is not excluded from "wages" under this section and section 3306(b)(10). For example, lump-sum payments for unused vacation time or a final paycheck received after retirement are payments which the employee would have received whether or not he retired and therefore are not excluded from "wages." Further, if any payment is made upon or after termination of employment for any reason other than those set out in subparagraphs (1), (2), and (3) of this paragraph such payment is not excludable from "wages" by this section. For example, if a pension plan provides for retirement upon disability, completion of 30 years of service, or attainment of age 65, and if an employee who is not disabled retires at age 61 after 30 years of service, none of the retirement payments made to the employee under the pension plan (including any made after he is 65) is excludable from "wages" under this section. However, if the pension plan had conditioned retirement after 30 years of service upon attainment of age 60, all of the retirement payments would have been excludable.

(b) *Plan.* The plan or system established by an employer need not provide for payments because of termination of employment for all the reasons set out in subparagraphs (1), (2), and (3) of paragraph (a), but such plan or system may provide for payments because of termination for any one or more of such reasons. Payments because of termination of employment for any one or more of such reasons under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from wages.

(c) *Dependents.* Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family.

(d) *Benefit payments.* It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is paid on account of services rendered or taken into consideration in fixing the amount of an employee's remuneration or whether such payments are required expressly or impliedly, by the contract of service.

(e) *Example.* The application of this section may be illustrated by the following example:

Example. A, an employee, receives a salary of $1,500 a month, payable on the 5th day of the month following the month for which the salary is earned. A's employer has established an incentive compensation plan for a class of his employees, including A, providing for the payment of deferred compensation on termination of employment, including termination upon an employee's death, retirement at age 65 (the retirement age specified in the plan), or retirement for disability. On March 1, 1973, A attains the age of 65 and retires. On March 5, 1973, A receives $5,500 from his employer of which $1,500 represents A's salary for services he performed in February 1973, and $4,000 represents incentive compensation paid under the employer's plan. The amount of $4,000 is excluded from "wages" under this section. The amount of $1,500 is not excluded from "wages" under this section.

PAR. 16. Section 31.6051 is amended by revising subsection (a) of section 6051, by adding new subsection (e) at the end of section 6051, and by revising the historical note. These amended and added provisions read as follows:

§ 31.6051 Statutory provisions; receipts for employees.

Sec. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) The name of such person,

(2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) The total amount of wages as defined in section 3401(a),

(4) The total amount deducted and withheld as tax under section 3402,

(5) The total amount of wages as defined in section 3121(a), and

(6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a).

* * * * *

(e) *Railroad employees*—(1) *Additional requirement.* Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

(2) *Information to be supplied to employees.* Each person required to deduct and withhold tax under section 3201 during any year from an employee who has also received wages during such year subject to the tax imposed by section 3101(b) shall, upon request of such employee, furnish to him a written statement showing—

(A) The total amount of compensation with respect to which the tax imposed by section 3201 was deducted,

(B) The total amount deducted as tax under section 3201, and

(C) The portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.

(Sec. 6051 as amended by sec. 412, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879); sec. 202(a)(4), Peace Corps Act (75 Stat. 626); secs. 107 and 313(e)(1), Social Security Amendments 1965 (79 Stat. 337, 384); sec. 502(c), Social Security Amendments 1967; sec. 805(f)(2), Tax Reform Act 1969 (83 Stat. 708); sec. 293, Social Security Amendments 1972)

PAR. 17. Section 31.6051-1 is amended by redesignating paragraph (f) thereof as paragraph (g), and by inserting a new paragraph (f) immediately after paragraph (e), to read as follows:

§ 31.6051-1 Statements for employees.

* * * * *

(f) *Statements with respect to compensation, as defined in the Railroad Retirement Tax Act, paid after December 31, 1967*—(1) *Required information relating to excess medicare tax on compensation paid after December 31, 1971*—(i) *Notification of possible credit or refund.* With respect to compensation (as defined in section 3231(e)) paid after December 31, 1971, every employer (as defined in section 3231(a)) who is required to deduct and withhold from an employee (as defined in section 3231(b)) a tax under section 3201, shall include on or with the statement required to be furnished such employee under section 6051(a), a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101 (b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b). Such notice shall inform such employee of the eligibility of persons having a second employment, in addition to railroad employment, for a credit or refund of any excess hospital insurance tax which such persons have paid because of employment under both social security (including employee and self-employment coverage) and railroad retirement. See section 6413(c)(3) and paragraph (c) of § 31.6413(c)-1, relating to special refunds with respect to compensation as defined in the Railroad Retirement Tax Act.

(ii) *Information to be supplied to employees upon request.* With respect to compensation (as defined in section 3231 (e)) paid after December 31, 1971, every employer (as defined in section 3231(a)) who is required to deduct and withhold tax under section 3201 from an employee (as defined in section 3231(b)) who has also received wages during such year subject to the tax imposed by section 3101 (b), shall upon request of such employee furnish to him a written statement showing—

(a) The total amount of compensation with respect to which the tax imposed by section 3101(b) was deducted.

(b) The total amount of employee tax under section 3201 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year), and

(c) The proportion thereof (expressed either as a dollar amount, or a percentage of the total amount of compensation as defined in section 3231(e), or as a percentage of the total amount of employee tax under section 3201) withheld as tax under section 3201 for financing the cost of hospital insurance benefits.

(2) *Statements on Form W-2 (RR).* (i) *Compensation paid during 1970 or 1971.* With respect to compensation (as defined in section 3231(e)) paid during 1970 or 1971, every employer (as defined in section 3231(a)) who is required to deduct and withhold from an employee (as defined in section 3231(b)) a tax under section 3402 with respect to compensation, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to section 3402(n)) if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of such compensation the tax return copy and the employee's copy of a statement on Form W-2 (RR) instead of Form W-2, unless such employers are permitted by the Internal Revenue Service to continue to use Form W-2 in lieu of Form W-2 (RR). If the wage bracket method of withholding provided in section 3402(c)(1) is used in respect of such compensation, a statement on Form W-2 (RR) must be furnished to each employee whose wages during any payroll period are equal to or in excess of the smallest wage from which tax must be withheld in the case of an employee claiming one exemption. If the percentage method is used, a statement on Form W-2 (RR) must be furnished to each employee whose wages during any payroll period are in excess of one withholding exemption for such payroll period as shown in the percentage method withholding table contained in section 3402(b)(1). Each statement on Form W-2 (RR) shall show the following:

(a) The name, address, and identification number of the employer,

(b) The name and address of the employee and his social security account number,

(c) The total amount of wages as defined in section 3401(a),

(d) The total amount deducted and withheld as tax under section 3402,

(e) The total amount of compensation as defined in section 3231(e), and

(f) The total amount of employee tax under section 3201 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year) and the proportion thereof (expressed either as a dollar amount, as a percentage of the total amount of compensation as defined in section 3231(e), or as a percentage of the total amount of employee tax under section 3201) withheld as tax under section 3201 for financing the cost of hospital insurance benefits.

The provisions of this chapter applicable to Form W-2, other than those relating solely to the Federal Insurance Contributions Act, are hereby made applicable to Form W-2 (RR). See paragraph (d) of this section for provisions relating to the time and place for furnishing the statement required by this subparagraph.

(ii) *Compensation paid during 1968 or 1969.* At the option of the employer, the provisions of subdivision (i) of this subparagraph may apply with respect to compensation paid during 1968 or 1969.

(iii) Every employer who, pursuant to subdivision (i) or (ii) of this subparagraph, does not provide Form W-2 (RR) with respect to compensation must furnish the additional information required by Form W-2 (RR) upon request by the employee.

(g) *Cross references.* * * *

PAR. 18. Section 31.6413 (c) is amended by revising paragraphs (1) and (2) (A) of section 6413 (c), by adding a new paragraph (3) at the end of section 6413 (c) and by revising the historical note. These amended and added provisions read as follows:

§ 31.6413(c) Statutory provisions; special rules applicable to certain employment taxes; special refunds.

Sec. 6413. *Special rules applicable to certain employment taxes.* * * *

(c) *Special refunds*—(1) *In general.* If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed $3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed $4,200, or (B) during any calendar year after the calendar year 1958 and prior to the calendar year 1966, the wages received by him during such year exceed $4,800, or (C) during any calendar year after the calendar year 1965 and prior to the calendar year 1968, the wages received by him during such year exceed $6,600, or (D) during any calendar year after the calendar year 1967 and prior to the calendar year 1972, the wages received by him during such year exceed $7,800, or (E) during any calendar year

after the calendar year 1971 and prior to the calendar year 1973, the wages received by him during such year exceed $9,000, or (F) during any calendar year after the calendar year 1972 and prior to the calendar year 1974, the wages received by him during such year exceed $10,800, or (G) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed $13,200, or (H) during any calendar year after 1974, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year; and the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first $4,800 of such wages received in such calendar year after 1958 and before 1966, or which exceeds the tax with respect to the first $6,600 of such wages received in such calendar year after 1965 and before 1968, or which exceeds the tax with respect to the first $7,800 of such wages received in such calendar year after 1967 and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971 and before 1973, or which exceeds the tax with respect to the first $10,800 of such wages received in such calendar year after 1972 and before 1974, or which exceeds the tax with respect to the first $13,200 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1974 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year.

(2) *Applicability in case of Federal and State employees, employees of certain foreign corporations, and Governmental employees in Guam, American Samoa, and the District of Columbia*—(A) *Federal employees.* In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, $4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, $6,600 for the calendar year 1966 or 1967, $7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for the calendar year 1972, $10,800 for the calendar year 1973, $13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974 with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

* * * * *

(3) *Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act.* In the case of any individual who, during any calendar year after 1967, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 or 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.

(Sec. 6413(c) as amended by sec. 202(a)(1), Social Security Amendments 1954; sec. 402(d), Social Security Amendments 1958; sec. 103(r)(3), (4), Social Security Amendments 1960; sec. 317(f)(1), (2), sec. 320(b)(5), (6), Social Security Amendments 1965; sec. 108(b)(5), (6), sec. 502(a), Social Security Amendments 1967; sec. 203(b)(5), (6), Act of March 17, 1971 (Pub. Law 92-5, 85 Stat. 11); sec. 203(b)(5), (6), Act of July 1, 1972 (Pub. Law 92-336, 86 Stat. 419); sec. 144(c), Social Security Amendments 1972; sec. 203(b)(5), (6), Act of July 9, 1973 (Pub. Law 93-66, 87 Stat. 153); sec. 5(b)(5), (6) and (f), Act of December 31, 1973 (Pub. Law 93-233, 87 Stat. 954). The provisions of section 6413(c)(2)(D) are not applicable, for the reason that a certification by the Governor of Guam, for which there is provision in sec. 103(v)(1), Social Security Amendments 1960, has not been received by the Secretary of the Treasury. Such a certification was made by the Governor of American Samoa and was received by the Secretary of the Treasury on December 29, 1960. Such a certification was made by the Commissioners of the District of Columbia and was received by the Secretary of the Treasury on August 12, 1965)

PAR. 19. Section 31.6413(c)-1 is amended by revising subparagraphs (1)(i), (2), (5) and (6) of paragraph (a) and by adding a new paragraph (c) at the end thereof. These amended and added provisions read as follows:

§ 31.6413(c)-1 Special refunds.

(a) *Who may make claims*—(1) *In general.* (i) If an employee receives wages, as defined in section 3121(a), from two or more employers in any calendar year:

(*a*) After 1954 and before 1959 in excess of $4,200,

(*b*) After 1958 and before 1966 in excess of $4,800,

(*c*) After 1965 and before 1968 in excess of $6,600,

(*d*) After 1967 and before 1972 in excess of $7,800,

(*e*) After 1971 and before 1973 in excess of $9,000,

(*f*) After 1972 and before 1974 in excess of $10,800,

(*g*) After 1973 and before 1975 in excess of $13,200, or

(*h*) After 1974 in excess of the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year,

the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed by section 3101 with respect to such wages and deducted therefrom (whether or not paid) exceeds the employee tax with respect to the amount specified in (*a*) through (*h*) of this subdivision for the calendar year in question. Employee tax imposed by section 3101 with respect to tips reported by an employee to his employer and collected by the employer from funds turned over by the employee to the employer (see section 3102(c)) shall be treated, for purposes of this paragraph, as employee tax deducted from wages received by the employee. If the employee is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year) he may obtain the benefit of the special refund only by claiming credit as provided in § 1.21-2 of this chapter (Income Tax Regulations).

* * * * *

(2) *Federal employees.* For purposes of special refunds of employee tax, each head of a Federal agency or of a wholly-owned instrumentality of the United States who makes a return pursuant to section 3122 (and each agent designated by a head of a Federal agency or instrumentality who makes a return pursuant to such section) is considered a separate employer. For such purposes, the term "wages" includes the amount which each such head (or agent) determines to constitute wages paid an employee, but not in excess of the amount specified in subparagraph (1)(i) (*a*) through (*h*) of this paragraph for the calendar year in question. For example, if wages received by an employee during calendar year 1974 are reportable by two or more agents of one or more Federal agencies and the amount of such wages is in excess of $13,200 the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax with respect to the first $13,200 of such wages. Moreover, if an employee receives wages during any calendar year from an agency or wholly-owned instrumentality of the United States and from one or more other employers, either private or governmental, the total amount of such wages shall be taken into account for purposes of the special refund provisions.

* * * * *

(5) *Governmental employees in American Samoa.* For purposes of special refunds of employee tax, the Governor of American Samoa and each agent desig-

nated by him who makes a return pursuant to section 3125(b) (see § 31.3125) is considered a separate employer. For such purposes, the term "wages" includes the amount which the Governor (or any agent) determines to constitute wages paid an employee, but not in excess of the amount specified in subparagraph (1)(i) (*a*) through (*h*) of this paragraph for the calendar year in question. For example, if wages received by an employee during calendar year 1974 are reportable by two or more agents pursuant to section 3125(b) and the total amount of such wages is in excess of $13,200, the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax with respect to the first $13,200 of such wages. Moreover, if an employee receives wages during any calendar year from the Government of American Samoa, from a political subdivision thereof, or from any wholly-owned instrumentality of such government or political subdivision and from one or more other employers, either private or governmental, the total amount of such wages shall be taken into account for purposes of the special refund provisions.

(6) *Governmental employees in the District of Columbia.* For purposes of special refunds of employee tax, the Commissioner of the District of Columbia (or, prior to the transfer of functions pursuant to Reorganization Plan No. 3 of 1967 (81 Stat. 948), the Commissioners of the District of Columbia) and each agent designated by him who makes a return pursuant to section 3125(c) (see § 31.3125) is considered a separate employer. For such purposes, the term "wages" includes the amount which the Commissioner (or any agent) determines to constitute wages paid an employee, but not in excess of the amount specified in subparagraph (1)(i) (*a*) through (*h*) of this paragraph for the calendar year in question. For example, if wages received by an employee during calendar year 1974 are reportable by two or more agents pursuant to section 3125(c) and the total amount of such wages is in excess of $13,200 the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax with respect to the first $13,200 of such wages. Moreover, if an employee receives wages during any calendar year from the Government of the District of Columbia or from a wholly-owned instrumentality thereof and from one or more other employers, either private or governmental, the total amount of such wages shall be taken into account for purposes of the special refund provisions.

* * * * *

(c) *Special refunds with respect to compensation as defined in the Railroad Retirement Tax Act*—(1) *In general.* In the case of any individual who, during any calendar year after 1967, receives wages (as defined by section 3121(a)) from one or more employers and also receives compensation (as defined by section 3231(e)) which is subject to the tax imposed on employees by section 3201 or the tax imposed on employee representatives by section 3211 such compensation shall, solely for purposes of applying section 6413(c)(1) and this section with respect to the hospital insurance tax imposed by section 3101(b), be treated as wages (as defined by section 3121(a)) received from an employer with respect to which the hospital insurance tax imposed by section 3101(b) was deducted. For purposes of this section, compensation received shall be determined under the principles provided in chapter 22 of the Code and the regulations thereunder (see section 3231(e) and § 31.3231(e)-1). Therefore, compensation paid for time lost shall be deemed earned and received for purposes of this section in the month in which such time is lost, and compensation which is earned during the period for which a return of taxes under chapter 22 is required to be made and which is payable during the calendar month following such period shall be deemed to have been received for purposes of this section during such period only. Further, compensation is deemed to have been earned and received when an employee or employee representative performs services for which he is paid, or for which there is a present or future obligation to pay, regardless of the time at which payment is made or deemed to be made.

(2) *Example.* The application of this paragraph may be illustrated by the following example.

Example. Employee A rendered services to X during 1973 for which he was paid compensation at the monthly rate of $650 which was taxable under the Railroad Retirement Tax Act. A was paid $550 by X in January 1973 which was earned and deemed received in December 1972 and $650 in January of 1974 which was earned and deemed received in December of 1973. A also earned and received wages in 1973 from employer Y, which were subject to the employee tax under the Federal Insurance Contributions Act, in the amount of $6,000. A paid hospital insurance tax on $13,800 ($7,800 compensation from X including $650 earned and deemed received in December 1973 but paid in January 1974 and not including $550 paid in January 1973 but earned and deemed received in December 1972, $6,000 compensation from Y) received or deemed received or earned in 1973. For purposes of the hospital insurance tax imposed by section 3101(b), these amounts are all wages received from an employer in 1973. Therefore, A is entitled to a special refund for 1973 under section 6413(c) and this section of $30 (1.0% x $13,800—1.0% x $10,800).

PAR. 20. Section 301.6051 is amended by revising subsection (a) of section 6051, by adding new subsection (e) at the end of section 6051, and by revising the historical note. These amended and added provisions read as follows:

§ 301.6051 Statutory provisions; receipts for employees.

Sec. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 (determined without regard to subsection (n)) if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, or or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) The name of such person,

(2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) The total amount of wages as defined in section 3401(a),

(4) The total amount deducted and withheld as tax under section 3402,

(5) The total amount of wages as defined in section 3121(a), and

(6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2). In the case of compensation paid for service as a volunteer or volunteer leader within the meaning of the Peace Corps Act, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(3). In the case of tips received by an employee in the course of his employment, the amounts required to be shown by paragraphs (3) and (5) shall include only such tips as are included in statements furnished to the employer pursuant to section 6053(a).

* * * * *

(e) *Railroad employees*—(1) *Additional requirement.* Every person required to deduct and withhold tax under section 3201 from an employee shall include on or with the statement required to be furnished such employee under subsection (a) a notice concerning the provisions of this title with respect to the allowance of a credit or refund of the tax on wages imposed by section 3101(b) and the tax on compensation imposed by section 3201 or 3211 which is treated as a tax on wages imposed by section 3101(b).

(2) *Information to be supplied to employees.* Each person required to deduct and withhold tax under section 3201 during any year from an employee who

has also received wages during such year subject to the tax imposed by section 3101(b) shall, upon request of such employee, furnish to him a written statement showing—

(A) The total amount of compensation with respect to which the tax imposed by section 3201 was deducted,

(B) The total amount deducted as tax under section 3201, and

(C) The portion of the total amount deducted as tax under section 3201 which is for financing the cost of hospital insurance under part A of title XVIII of the Social Security Act.

(Sec. 6051 as amended by sec. 412, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879); sec. 202(a)(4), Peace Corps Act (75 Stat. 626); secs. 107 and 313(e)(1), Social Security Amendments 1965 (79 Stat. 337, 384); sec. 502(c), Social Security Amendments 1967 (81 Stat. 934); sec. 805(f)(2), Tax Reform Act 1969 (83 Stat. 708); sec. 293, Social Security Amendments 1972 (86 Stat. 1459))

PAR. 21. Section 301.6413 is amended by revising paragraphs (1) and (2)(A) of section 6413(c), by adding a new paragraph (3) at the end of section 6413 (c) and by revising the historical note. These amended and added provisions read as follows:

§ 301.6413 Statutory provisions; special rules applicable to certain employment taxes.

Sec. 6413. *Special rules applicable to certain employment taxes.* * * *

(c) *Special refunds*—(1) *In general.* If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed $3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed $4,200, or (B) during any calendar year after the calendar year 1958 and prior to the calendar year 1966, the wages received by him during such year exceed $4,800, or (C) during any calendar year after the calendar year 1965 and prior to the calendar year 1968, the wages received by him during such year exceed $6,660, or (D) during any calendar year after the calendar year 1967 and prior to the calendar year 1972, the wages received by him during such year exceed $7,800, or (E) during any calendar year after the calendar year 1971 and prior to the calendar year 1973, the wages received by him during such year exceed $9,000, or (F) during any calendar year after the calendar year 1972 and prior to the calendar year 1974, the wages received by him during such year exceed $10,800, or (G) during any calendar year after the calendar year 1973 and prior to the calendar year 1975, the wages received by him during such year exceed $13,200, or (H) during any calendar year after 1974, the wages received by him during such year exceed the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year; and the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first $4,800 of such wages received in such calendar year after 1958 and before 1966, or which exceeds the tax with respect to the first $6,600 of such wages received in such calendar year after 1965 and before 1968, or which exceeds the tax with respect to the first $7,800 of such wages received in such calendar year after 1967 and before 1972, or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971 and before 1973, or which exceeds the tax with respect to the first $10,800 of such wages received in such calendar year after 1972 and before 1974, or which exceeds the tax with respect to the first $13,200 of such wages received in such calendar year after 1973 and before 1975, or which exceeds the tax with respect to an amount of such wages received in such calendar year after 1974 equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective with respect to such year.

(2) *Applicability in case of Federal and State employees, employees of certain foreign corporations, and Governmental employees in Guam, American Samoa, and the District of Columbia*—(A) *Federal employees.* In the case of remuneration received from the United States or a wholly owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, $4,800 for the calendar year 1959, 1960, 1961, 1962, 1963, 1964, or 1965, $6,600 for the calendar year 1966 or 1967, $7,800 for the calendar year 1968, 1969, 1970, or 1971, $9,000 for the calendar year 1972, $10,800 for the calendar year 1973, $13,200 for the calendar year 1974, or an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) for any calendar year after 1974 with respect to which such contribution and benefit base is effective, determined by each such head or agent as constituting wages paid to an employee.

* * * * *

(3) *Applicability with respect to compensation of employees subject to the Railroad Retirement Tax Act.* In the case of any individual who, during any calendar year after 1967, receives wages from one or more employers and also receives compensation which is subject to the tax imposed by section 3201 and 3211, such compensation shall, solely for purposes of applying paragraph (1) with respect to the tax imposed by section 3101(b), be treated as wages received from an employer with respect to which the tax imposed by section 3101(b) was deducted.

* * * * *

[Sec. 6413 as amended by sec. 202(a)(1), Social Security Amendments 1954 (68 Stat. 1080); sec. 402(d), Social Security Amendments 1958 (72 Stat. 1043); sec. 103(r)(2), (3), and (4), Social Security Amendments 1960 (74 Stat. 940); sec. 317(e) and (f)(1) and (2), sec. 320(b)(5) and (6), Social Security Amendments 1965 (79 Stat. 389); sec. 108(b)(5) and (b), Social Security Amendments 1967 (81 Stat. 835); sec. 203(b)(5), (6), Act of March 17, 1971 (Pub. L. 92-5, 85 Stat. 11); sec. 203(b)(5), (6), Act of July 1, 1972 (Pub. L. 92-336, 86 Stat. 419); sec. 144(c), Social Security Amendments 1972 (86 Stat. 1370); sec. 203(b)(5), (6), Act of July 9, 1973 (Pub. L. 93-66, 87 Stat. 153); sec. 5(b)(5), (6) and (f), Act of December 31, 1973 (Pub. L. 93-233, 87 Stat. 954). The provisions of section 6413(c)(2)(D) are not applicable, for the reason that a certification by the Governor of Guam, for which there is a provision in sec. 103(v)(1), Social Security Amendments 1960, has not been received by the Secretary of the Treasury. Such a certification was made by the Governor of American Samoa and was received by the Secretary of the Treasury on Dec. 29, 1960. Such a certification was made by the Commissioners of the District of Columbia and was received by the Secretary of the Treasury on Aug. 12, 1965]

[FR Doc.75-1830 Filed 1-20-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 41]

PREPARATION OF ROLLS OF INDIANS

Proposed Enrollment of Northern Paiute Indians

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to amend § 41.3, Part 41, Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations by the addition of a new paragraph (t). These regulations are proposed pursuant to the authority contained in the Northern Paiute plan for use and distribution of judgment funds which was prepared pursuant to the Act of October 19, 1973 (87

Stat. 466), and which became effective October 10, 1974. The Northern Paiute plan was published on page 43412 of the December 13, 1974, FEDERAL REGISTER (39 FR 43412). The proposed regulations will govern the preparation of a roll of Northern Paiute Indians as provided in the October 10, 1974, plan to be used for the per capita distribution of the award of the Indian Claims Commission in Docket 87.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed regulations to the Director, Office of Indian Services, Bureau of Indian Affairs, Washington, D.C. 20245, on or before February 20, 1975.

It is proposed to amend § 41.3, Part 41, Subchapter F, Chapter I, Title 25 of the Code of Federal Regulations by the addition of a new paragraph (t) to read as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

(t) *Northern Paiute Indians.* (1) All persons who meet the following requirements shall be entitled to be enrolled to share in the distribution of judgment funds awarded the Northern Paiute Indians in Indian Claims Commission Docket 87:

(i) Persons who were born on or prior to and living on October 10, 1974, and

(ii) who are lineal descendants of Northern Paiute Indians and

(iii) whose name or whose lineal ancestor's name appears on any available census roll or other record or evidence acceptable to the Secretary, and who is identified as being of Northern Paiute ancestry.

(2) Any person who has shared in the awards granted by the Indian Claims Commission in Dockets 88, 330 and 330–A, to the Southern Paiute Indian Nation; or in Dockets 31, 37, 80, 80–D, 176, 215, 333, and 347, to "Certain Indians of California"; or in Dockets 351 and 351–A to the Chemehuevis; or in Docket 17, to the Malheur Paiutes; or whose Indian ancestry is derived solely from the Walpapi Paiutes, Yahooskin Snakes, Bannocks, or Western Monos; or who is a member of the Quechan Tribe or of the Washoe Tribe of Nevada and California shall not be eligible to be enrolled to share in the Northern Paiute judgment funds.

(3) Applications for enrollment must be filed with the Superintendent, Bureau of Indian Affairs, Nevada Agency, Stewart, Nevada 89437, on the form provided for that purpose, and must be received by the Superintendent by close of business no later than 180 days from the date final regulations are published in the Federal Register.

No further amendments are made to the text of Part 41.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-1808 Filed 1-20-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1434]

HONEY

Notice of Determination Regarding 1973 Crop

Correction

NOTE: FR Doc. 75-1267, which appeared at page 2726 in the issue for Wednesday, January 15, 1975, was a notice of proposed rulemaking. It was published in error in the "Notices" section of the FEDERAL REGISTER. This correction is made to show that this document should have appeared in the "Proposed Rules" section of the issue.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Parts 1909, 1911]

[Docket No. R-75-315]

NATIONAL FLOOD INSURANCE PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in 82 Stat. 574, 42 U.S.C. 4012, the Federal Insurance Administrator is considering the addition of a new § 1911.12 to Part 1911 of Title 24 of the Code of Federal Regulations, and two new definitions in Part 1909 in conformity with the new section, as set forth below.

The Housing and Community Development Act of 1974, Pub. L. 93-383; 88 Stat. 739, added a new section 1307(e) of Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448; 82 Stat. 587; 42 U.S.C. SS 4001-4127), as amended, necessitating this revision of the regulations governing the National Flood Insurance Program.

The proposed new section implements section 1307(e), and provides a procedure by which communities that have made adequate progress towards completion of a flood protection system may obtain flood insurance at rates applicable as if that system was complete. The proposed amendment to Part 1909 adds definitions for "flood protection system" and "project cost", terms which are used in the new section.

Interested persons are invited to participate in the making of the proposed rule by submitting such written comments or suggestions as they may desire. Communications should identify the above Docket No. and should be submitted in triplicate to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410. All communications received on or before Feb. 19, 1975, will be considered by the Administrator before taking action on the proposals. The proposals contained in this notice may be changed in light of comments received. A copy of each submission will be available for public inspection during business hours of the above address.

Accordingly, Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1909—GENERAL PROVISIONS

1. Section 1909.1 is amended by adding new definitions in alphabetical order to read as follows:

§ 1909.1 Definitions.

* * * * *

"Flood protection system" means those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and of the depths of associated flooding for which public funds have been authorized, appropriated and expended. Such a system typically includes hurricane tidal barriers and levees or dikes. These specialized flood modifying works are those constructed in conformance with sound federal engineering standards, and must involve federal funds for construction of the system.

* * * * *

"Project cost" means the total financial cost of a flood protection system (including design, land acquisition, construction, fees, overhead, and profits) unless the Federal Insurance Administrator determines a given "cost" not to be a part of such project cost because not within the meaning of section 1307 (e) of the National Flood Insurance Act of 1968, as amended.

* * * * *

PART 1911—INSURANCE COVERAGE AND RATES

2. A new § 1911.12 is amended to read as follows:

§ 1911.12 Rates based on flood protection system.

(a) Pursuant to Section 1307 of the Act, where the Federal Insurance Administrator (Administrator) determines that a community has made adequate progress on the construction of a flood protection system involving federal funds which will significantly limit the area with "special flood hazard" (area with one percent chance of annual flood), the applicable rates for any property, located within any area within the community having a "special flood hazard", intended to be protected directly by such system's local effect will be those rates which would be applicable when the system is complete.

(b) Adequate progress in paragraph (a) of this section means that the community has provided information to the Administrator sufficient to determine that substantial completion of the flood control system has been effected because:

(1) 100 percent of the total financial project cost of the completed flood protection system has been authorized;

(2) At least 60 percent of the total financial project cost of the completed flood protection system has been appropriated;

(3) At least 50 percent of the total financial project cost of the completed flood protection system has been expended;

(4) The flood protection system's physical features are under construction and 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

(5) The community has not been responsible for any delay in the completion of the system.

(c) Each request by a community for a determination must be submitted in writing to the Division of Engineering and Hydrology of the Federal Insurance Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, and contain a complete statement of all relevant facts relating to the flood protection system, including, but not limited to, supporting technical data (e.g., U.S. Army Corps of Engineers flood protection project data), cost schedules, budget appropriation data and the extent of federal funding of the system's construction. Such facts shall include information sufficient to identify all persons affected by such flood protection system or by such request; a full and precise statement of intended purposes of the flood protection system; and a carefully detailed description of such project, including construction completion target dates. In addition, true copies of all contracts, agreements, leases, instruments, and other documents involved must be submitted with the request. Relevant facts reflected in documents, however, must be included in the statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the requirements of paragraph (b) of this section, specifying the pertinent provisions. The request must contain a statement whether, to the best of the knowledge of the person responsible for preparing the application for the community, the flood protection system is currently the subject matter of litigation before any Federal, state, or local court or administrative agency, and the purpose of that litigation. The request must also contain a statement as to whether the community has previously requested a determination with respect to the same subject matter from the Federal Insurance Administrator, detailing the disposition of such previous request. As documents become part of the file and cannot be returned, the original documents should not be submitted.

(d) The effective date for any premium rates established under this section shall be the date of final determination by the Administrator that adequate progress toward completion of a flood protection system has been made in a community.

(e) A responsible official of a community which received a determination that adequate progress has been made towards completion of a flood protection system must certify annually on the anniversary date of receipt of such determination to the Administrator that no present delay in completion of the system is attributable to local sponsors of the system, and that a good faith effort is being made to complete the project.

(f) To the extent that partial completion of the flood protection system modifies flooding in the area of "special flood hazard", the Administrator will make appropriate adjustments in actuarial rates only after sufficient scientific and technical data have been supplied by the community to justify such an adjustment.

(g) A community with respect to which actuarial rates have been made available under section 1307(e) of the National Flood Insurance Act of 1968, as Amended, shall notify the Federal Insurance Administrator if, at any time, all progress on the completion of the flood control system has been halted or if the project for the completion of the flood control system has been canceled.

(Sec. 1304(a), 82 Stat. 574 (42 U.S.C. 4012); sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)))

Issued in Washington, D.C. on January 14, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-1866 Filed 1-20-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 75 013]

NORTH MIAMI BEACH, FLA.

Proposed Drawbridge Operation Regulations

At the request of Metropolitan Dade County, Florida, the Coast Guard is considering revising the regulations for the N.E. 163rd Street drawbridge across the Atlantic Intracoastal Waterway, mile 361.0 to permit closed periods from 7 a.m. to 6 p.m., Monday through Friday and from 10 a.m. to 6 p.m. Saturdays and Sundays. This change is being considered because of an increase in vehicular traffic.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Seventh Coast District, Room 1018, Federal Building, 51 SW. 1st Avenue, Miami, Florida 33130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before February 21, 1975, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.446g immediately after § 117.446f to read as follows:

§ 117.446g N.E. 163rd Street, A.I.W.W., North Miami Beach, Florida.

(a) From 7 a.m. to 6 p.m., Monday through Friday, and 10 a.m. to 6 p.m., Saturdays, Sundays, and holidays, the draw need not open for the passage of vessels except that on the quarter hour and three quarter hour the draw shall open to pass any waiting vessels. At all other times the draw shall open on signal.

(b) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, cruise boats on a regular schedule, and vessels in distress. The opening signal from these vessels is four blasts of a whistle or horn or by shouting.

(c) The owner of or agency controlling the bridge shall conspicuously post notice containing the substance of these regulations, both upstream and downstream, in such a manner that they can easily be read at all times from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: January 14, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75-1884 Filed 1-20-75;8:45 am]

[46 CFR Part 167]

[CGD 74-201]

MANNING OF NAUTICAL SCHOOL SHIPS

Notice of Proposed Rulemaking

The Coast Guard is considering amending the nautical school ship regulations to provide that manning requirements be stated in the Certificate of Inspection.

This change is being considered in order to assure continuity and adequate manning for all Coast Guard certificated vessels. It is felt that whether or not the vessel is documented, the minimum number of officers and crew necessary for the safe navigation of all manned vessels should be stated in the Certificate of Inspection.

The amendment also permits students on school ships to perform required watchstanding duties when they are considered qualified to do so by the Master of the vessel.

On February 7, 1969, the Coast Guard issued a notice of a public hearing (34 FR 1835) on this subject. The proposed rule was contained in the Merchant Marine Council Public Hearing Agenda (CG-249) dated March 24, 1969. Because of the length of time that has elapsed since the amendment was originally proposed, a new proposal is being published in this document.

Interested persons are invited to participate in this rulemaking by submitting written comments, data, views, or arguments to the Executive Secretary,

Marine Safety Council (G–CMC/82), 400 Seventh Street SW., Washington, D.C. 20590 (Phone 202–426–1477). Written comments should include the docket number of this notice, the name and address of the person submitting the comments, the specific section of the proposal to which each comment is addressed, and the reasons for each suggested change.

All relevant communications received before March 6, 1975 will be fully considered in the drafting of the final rule. Copies of comments received will be available for examination in Room 8234, Coast Guard Headquarters. This proposal may be changed in the light of the comments received.

In consideration of the foregoing, it is proposed that Part 167 of Title 46 be amended as follows:

By revising § 167.60–15 to read as follows:

§ 167.60–15 Manning and Persons Allowed to be Carried.

(a) The Officer in Charge, Marine Inspection, shall specify in the Certificate of Inspection the minimum complement of officers and crew necessary for the safe navigation of the vessel and shall specify the total number of persons allowed to be carried.

(b) Students who are specifically accepted by the Master of the vessel as being qualified to perform the appropriate duties may fill the unlicensed crew requirements.

(R.S. 4405, as amended, R.S. 4462, as amended, Sec. 6(b)(1), 80 Stat. 937; (46 U.S.C. 375, 416, 49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: January 12, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.75–1882 Filed 1–20–75;8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 74–NW–24–AD]

BOEING MODEL 727 SERIES AIRPLANES

Proposed Airworthiness Directives

Stress corrosion cracking has been discovered in the horizontal stabilizer rear spar center section fittings on Boeing Model 727 series airplanes. The fittings which were found cracked were made from 7079–T6 aluminum which has a high susceptibility to this failure mechanism. Even though the rear spar stabilizer assembly is failsafe, cracking could initiate and grow to the point of fitting failure unless inspections are made; failure results in an understrength stabilizer. Flight time of the airplanes on which the cracks were discovered ranged from 5,500 hours to 30,000 hours.

Therefore, since this condition is likely to exist or develop in other airplanes of the same type design, the Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive requiring inspections, repair, and/or replacements, as necessary, of the 7079–T6 aluminum horizontal stabilizer rear spar center section fittings on Boeing Model 727 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: The Regional Counsel, Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Washington 98108. All communications received on or before March 18, 1975 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BOEING: Applies to Boeing Model 727 series airplanes, certificated in all categories, line numbers 1 through 641 inclusive. Compliance required as indicated.

To detect cracking in the horizontal stabilizer rear spar center section fitting, accomplish the following:

A. Within the next 750 flight hours after the effective date of this AD, unless accomplished within the last 2250 flight hours, inspect the horizontal stabilizer rear spar center section fitting in accordance with Paragraph II.A of Boeing Service Bulletin 727–55–34, Revision 1, or later FAA approved revisions, or superseding service bulletins, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

1. If no cracks are found in the fitting, repeat the inspections at intervals not to exceed 3000 flight hours, until replaced per Paragraph (B).

2. If crack(s) are found in the fitting, repair in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, prior to further flight, and inspect thereafter at intervals not to exceed 1500 flight hours.

3. Fittings with cracks exceeding the limits specified in Boeing Service Bulletin No. 727–55–34, Revision 1, or later FAA approved revisions, or superseding service bulletins, must be replaced with a new improved fitting per Paragraph (B) before further flight.

B. As terminating action for this AD, replace the horizontal stabilizer rear spar center section fitting with a new improved 7075–T73 aluminum fitting.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

C. B. WALK, Jr.,
Director, Northwest Region.

Issued in Seattle, Washington, JANUARY 13, 1975.

[FR Doc.75–1844 Filed 1–20–75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74–SW–53]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Van Horn, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 20, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

VAN HORN, TEX.

That airspac extending upward from 700 feet above the surface within an 8.5-mile radius of the Culberson County Airport (latitude 31°03'42" N., longitude 104°47'09" W.) and extending 6.0 miles north and 9.5 miles south of the 054°T (043°M) bearing from the airport coordinates to a point 19 miles northeast of the airport coordinates.

The proposed transition area will provide controlled airspace for aircraft executing the proposed NDB runway 21 instrument approach procedure.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of sec.

6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, TX., on January 10, 1975.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.75-1845 Filed 1-20-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-56]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sturgis, Michigan.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before Feburary 20, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new instrument approach has been developed for the Kirsch Airport, Sturgis, Michigan, and the original procedure revised. The controlled airspace is revised to protect the procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (39 F.R. 440), the following transition area is amended to read:

STURGIS, MICHIGAN

That airspace extending upward from 700 feet above the surface within a 5.5 mile radius of Kirsch Airport, Sturgis, Michigan (Latitude 41°48'35" N., Longitude 85°26'10" W.); within 3½ miles either side of the 059° bearing from the airport, extending from the 5.5 mile radius area to 13 miles northeast of the airport and within 3 miles either side of the 341° bearing from the airport, extending from the 5.5 mile radius area to 8 miles north of the airport.

This amendment is proposed under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Des Plaines, Illinois, on January 2, 1975.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc.75-1843 Filed 1-20-75;8:45 am]

CIVIL SERVICE COMMISSION

[5 CFR Part 294]

AVAILABILITY OF OFFICIAL INFORMATION

Proposed Uniform Schedule of Fees for Information Furnished Under Freedom of Information Act

Notice is hereby given that, under authority of section 552, title 5, United States Code, it is proposed to amend Part 294 of title 5, Code of Federal Regulations, by adding § 294.104(e) to establish a uniform schedule of fees for searching and duplicating information requested under the provisions of the Freedom of Information Act, as amended.

Interested parties may submit comments, objections, or suggestions on this proposed amendment to the Director, Bureau of Management Services, U.S. Civil Service Commission, Washington, D.C. 20415, on or before before February 13, 1975.

Section 294.104(e) is proposed to read as follows:

§ 294.104 Service charges for information.

* * * * *

(e) When a request is made for information under the Freedom of Information Act, the Commission will charge a fee for searching and duplicating such information. The fees charged shall be as follows:

Photocopies, per page	$.10
Printed material, per 25 pages or fraction thereof	.25
Manual records search, per hour	5.00
Automated records search:	
Programming, per hour	14.00
Key punching, per hour	8.75
Computer time, per hour	65.00
Duplication, per hour	47.00

Unless the request specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit that covers anticipated costs, a request that is expected to involve assessed fees in excess of $5.00 will not be deemed to have been received until the requester is advised promptly on physical receipt of the request of the anticipated cost and agrees to bear it.

When the anticipated fees exceed $50.00, a deposit of 20 percent of the amount must be made within 5 days after the requester has been advised that the anticipated fees exceed this amount.

Charges will be assessed in cases of unproductive or unsuccessful searches unless waived by the appropriate Commission official. Services performed that are not required under the Freedom of Information Act such as formal certification of records as true copies may be subject to charges under the Federal User Charge Statute (31 U.S.C. 483a) or other applicable statute depending upon the services performed.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.75-2043 Filed 1-20-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

[45 CFR Part 612]

FREEDOM OF INFORMATION ACT

Proposed Regulations

Proposed regulations of the National Science Foundation implementing the Freedom of Information Act are published herewith for comment.

Interested persons may comment in writing upon these proposed regulations by submitting written data, views and arguments to the Assistant Director for Administrative Operations, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550, on or before February 20, 1975.

The proposed regulations are set forth below.

Dated: January 16, 1975.

H. GUYFORD STEVER,
Director.

PART 612—PUBLIC INFORMATION

Sec.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

§ 612.1 Scope.

This part establishes procedures for the National Science Foundation (NSF) to implement the provisions of the Administrative Procedure Act (5 U.S.C. 552(a)) relating to the availability to the public of records of NSF.

§ 612.2 Information policy.

(a) It is the policy of NSF to make the fullest possible disclosure of information to any person who requests information, without unjustifiable expense or delay. The Deputy Director, NSF, may, in particular instances except where prohibited by law, order disclosure in the public interest of records exempt from mandatory disclosure under § 612.9.

(b) A collection of NSF policy documents, staff instructions, and of agency opinions and orders in the adjudication of cases, with respective indices, shall be physically located in the National Science Foundation library at 1800 G Street,

NW., Washington, D.C. where they will be available for inspection by the public during regular working hours on Monday through Friday. Copies of such documents shall be furnished in accordance with these regulations.

(c) The Assistant Director for Administrative Operations (AD/AO) shall be responsible for maintaining, publishing, distributing and making available for inspection and copying the current indexes and supplements thereto which are required by 5 U.S.C. 552(a)(2). Such indexes, shall promptly be published, quarterly or more frequently, unless the ADAO determines by order published in the FEDERAL REGISTER that the publication would be unnecessary. The fee for furnishing copies of indexes and supplements shall not exceed the direct cost of duplication.

§ 612.3 Procedures applicable to the public—requests and appeals.

(a) *Publications excluded.* For the purpose of public requests for records the term "record" does not include publications which are available to the public in the FEDERAL REGISTER, or by sale or free distribution. Such publications may be obtained from the Government Printing Office, the National Technical Information Service, the NSF Distribution Section or NSF grantees or contractors. Requests for such publications will be referred to or the requester informed of the appropriate source.

(b) *Form of request.* A request need not be in any particular format, but it (1) must be in writing, (2) must be clearly identified both on the envelope and in the letter as a Freedom of Information Act or FOIA request, (3) must describe the records sought with sufficient specificity to permit identification, and (4) must state that the requester promptly will pay the fees chargeable under this regulation. In appropriate instances, such as when the requester places an inadequate limit on the amount he will pay or the requester has failed to make payment for previous requests, the notice of determination whether or not to comply with the request will be furnish within ten days as provided it § 612.7 but no copies will be furnished until appropriate payment is received.

(c) *Place of request.* Any request for a record under FOIA shall be addressed to the National Science Foundation, Public Information Office, 1800 G Street, NW., Washington, D.C. 20550. A request which meets the requirements of subsection (a) above and is properly addressed shall be deemed received on the date of arrival in the NSF mailroom. Since NSF liaison offices located outside of Washington, D.C. maintain no permanent records, any request received by such offices will be returned to the requester with instructions for submission as provided herein.

(d) *Time for appeal.* A person whose request has been denied or partially denied may initiate an appeal by filing a request for review within ten days of the receipt of the denial, Saturdays, Sundays, and legal public holidays excluded.

(e) *Form of appeal.* The appeal shall include a copy of the written request and the denial together with any written argument the requester wishes to submit, and shall be signed by the requester.

(f) *To whom appeal is made.* An appeal shall be addressed to the Deputy Director, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

(g) *Decisions on appeal.* Decisions on appeal shall be made by the Deputy Director in writing within 20 days (excepting Saturdays, Sundays, and legal public holidays) from receipt of the appeal. If the decision is in favor of the requester it shall order the record made available promptly to the requester. If adverse to the requester in whole or in part it shall briefly state the reasons for the decision and shall notify the requester that he may seek judicial review of the decision pursuant to paragraph (4) of section 552(a), Title 5, United States Code. Before final denial the Deputy Director, acting through the Office of General Counsel, shall consult the Department of Justice concerning the proposed denial.

§ 612.4 Copies of records.

If it is determined that a requested record may be disclosed, copies will be furnished the requester as promptly as possible provided payment of fees has been arranged for pursuant to § 612.6(a) of this regulation. Copying service shall be limited to not more than two copies of any page, except that additional copies may be made where administrative considerations permit. Records shall not be released for copying by non-NSF personnel. When a determination not to disclose a portion of a record has been made, those exempt portions shall be masked and copies made only of the non-exempt portions. Records which are published or are otherwise available for sale need not be copied. The booklet "Publications of the National Science Foundation" which is available without charge from the Central Processing Section, National Science Foundation, Washington, D.C. 20550, identifies Annual Reports, Descriptive Brochures, Program Announcements, Science Resources Studies, Special Studies, and Periodicals descriptive of Foundation activities, policies, and procedures, sets forth the cost of each, and tells how copies may be obtained.

§ 612.5 Creation of records.

A record will not be created by compiling selected items from other documents at the request of a member of the public nor will a record be created by analysis, computation or other processing specifically for the requesting party. If such analysis or computation is available in the form of a record, copies shall be made available as provided in this regulation.

§ 612.6 Fees.

(a) *General.* User fees shall be charged according to the schedule contained in paragraph (b) of this section for services rendered in responding to requests for NSF records under this regulation. Copies shall be furnished without charge or at a reduced charge where it is determined that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public. Fees shall be charged only where they amount to more than $3.00 in the aggregate for a request or series of related requests. Ordinarily, fees shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt.

(b) *Services charged for, and amounts charged.* For the services listed below expended in locating or making available records or copies thereof, the following charges will be assessed:

(1) Copies. For photocopies of documents $0.10 per copy of each page. Where records are not susceptible to photocopying, e.g., punchcards, magnetic tapes, or oversize materials, the amount charged will be actual cost as determined on a case-by-case basis.

(2) Clerical searches. For each one quarter hour spent by clerical personnel after the first quarter hour, in searching for producing a requested record, $1.25.

(3) Certification or authentication of true copies—each: $3.00.

(4) Nonroutine, nonclerical searches. Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent in excess of the first quarter hour by such higher level personnel in searching for a requested record, $3.75.

(5) Examination and related tasks in screening records. No charge shall be made for the time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge shall ordinarily be made for the time involved in examining records in connection with determining whether they are exempt from mandatory disclosure and should be withheld as a matter of sound policy. However, where a broad request requires NSF personnel to devote a substantial amount of time to examining records for the purpose of screening out certain records or portions thereof in accordance with determinations that material of such a nature is exempt and should be withheld as a matter of sound policy, a fee may be assessed for the time consumed in such examination. Where such examination can be performed by clerical personnel, time will be charged for at the rate of $1.25 per quarter hour, and where higher level personnel are required, time will be charged for at the rate of $3.75 per quarter hour.

(6) Computerized Records. Fees for services in processing requests maintained in whole or in part in computerized form shall be in accordance with this section so far as practicable. Services of personnel in the nature of a search shall be charged for at rates prescribed in paragraph (c)(4) of this section unless the level of personnel involved permits rates in accordance with paragraph (c)(2) of this section. A charge shall be made for the direct cost of the computer time involved, based upon the prevailing level of costs to governmental organizations and upon the particular types of computer and associated equipments and the amounts of time on such equipments that are utilized. A charge shall also be made for the direct costs of special supplies or materials used to contain, present, or make available the output of the computers. Nothing in this paragraph shall be construed to entitle any person as of right, to any special processing of computerized records such as a reordered listing of or special summaries of file contents.

(c) *Notice of anticipated fees in excess of $25.00.* Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be notified of the amount of the anticipated charges. In appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable NSF personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

(d) *Form of payment.* Payment should be made by check or money order payable to the Treasury of the United States.

§ 612.7 Agency actions on receipt of a properly presented request for record.

(a) *Monitoring of requests.* The NSF Public Information Office (PIO) will serve as central office for internal administration of these regulations. PIO will control incoming requests, assign them to appropriate action offices, monitor compliance, consult with action offices on disclosure, approve unavoidable extensions, dispatch denial letters, maintain administrative records and prepare annual reports to Congress required under these regulations.

(b) *Action offices.* Upon assignment of a particular request, the head of the action office shall be responsible to obtain the requested record so that appropriate agency action can be completed within 10 days (excepting Saturdays, Sundays, and legal public holidays). In a situation where the record may exist only in a retired file which has been placed in storage, the head of the action office shall immediately notify the requester by letter that the record has been ordered from storage and that the time limit for acting on the request is extended by the length of time required to obtain the record, setting forth the date on which a determination is expected to be dispatched. If the request seeks a voluminous amount of separate and distinct records requiring an unusual length of time for search, collection, and appropriate examination, and determination on the request cannot be made within 10 working days after agency receipt, the office head shall within such ten-day period furnish to the requester written notice extending the period for not more than ten working days. This notice shall set forth the reasons for such extension and the date on which a determination is expected to be dispatched. If the record has not been obtained and examined and notice of the determination whether to comply with the request has not been given by the last day of the period as extended, the requester shall be notified on that last day that the request is denied because the record has not yet been found and examined. Such denial shall state that NSF will reconsider the denial as soon as the search and examination is complete, which should be within a specifically stated number of days, but that the requester may, if he wishes, file an administrative appeal with the Deputy Director of NSF within 10 days from receipt of the denial. This same procedure for extending the period shall be followed if the nature of the record requires consultation with another agency having a substantial interest in the determination of the request or requires consultation among two or more components of NSF having substantial subject-matter interest therein.

(c) *Denial of request.* No written request for record shall be denied except by the Director of the Office of Government and Public Programs. Notice of the denial of a request shall briefly set forth the reasons therefor which shall be based solely upon one or more of the exemptions specified in § 612.9 of this regulation. Each notice of denial also shall set forth the names and title or positions of each person responsible for the denial and shall inform the requester of the right to appeal as provided in § 612.3 of this regulation.

Nothing in these regulations shall be deemed to preclude NSF from honoring oral requests for information where feasible, but if the requester is dissatisfied with the disposition of such a request, he shall be asked to put the request in writing.

§ 612.8 Records available.

The following categories of records shall, unless exempted under the provisions of § 612.9, be made available in addition to the policy documents and final opinions and orders in adjudicated cases specified in 5 U.S.C. 552(a)(1) and (2):

(a) *Correspondence.* Correspondence between NSF or any official of NSF and individuals or organizations outside the executive branch of the Federal Government relating to or resulting from the conduct of the official business of the agency.

(b) *Records pertaining to grants and fellowships.* (1) Portions of funded grant applications and other supporting documents submitted by applicants which are not exempt from disclosure under this regulation; (2) Grant award documents; (3) Portions of funded fellowship applications and other supporting documents submitted by applicants, the disclosure of which would not constitute a clearly unwarranted invasion of personal privacy.

(c) *Contracts.* (1) Contract instruments, (2) Portions of offers reflecting final prices submitted in negotiated procurements.

(d) *Reports on grantee or contractor performance.* Final reports of audits, surveys, reviews, or evaluations by, for, or on behalf of NSF or performance by any grantee or contractor under any NSF financed or supported program or activity, which reports have been transmitted to the grantee or contractor.

(e) *Reports and other items prepared by grantees and contractors.* The final report of a grantee or contractor of the performance under any grant or contract. To the extent that NSF has taken delivery of other items produced in connection with grants and contracts, such as films, computer software, other copyrightable materials and reports of inventions, such materials will be made available except that considerations relating to obtaining copyright and patent protection may require delay in disclosure for such period as necessary to accomplish such protection. Release of records which are copyrightable or which disclose patentable inventions shall not confer upon the requester any license or other interest in the subject matter or the expression thereof.

§ 612.9 Records not available.

(a) *Exemptions.* The following types of records are not normally available for inspection and copying:

(1) Records specifically authorized and in fact properly classified pursuant to Executive Order to be kept secret in the interest of national defense or foreign policy.

(2) Records related solely to the internal personnel rules and practices of NSF. This exemption does not apply to rules relating to the work hours, leave, and working conditions of NSF personnel, or similar matters, to the extent that they can be disclosed without harm to the functions to which they pertain. Examples of exempt records of the type specified in the first sentence of this paragraph include, but are not limited to:

(i) Operating rules, guidelines, manuals on internal procedure, schedules and methods utilized by NSF auditors and examiners;

(ii) Negotiating positions and limitations involved in a negotiation prior to the execution of a contract or the completion of the action to which the negotiating positions or limitations were applicable except as they may be exempt pursuant to other provisions of this section.

(iii) Personnel policies, procedures and instructions, internal staffing plans, requirements, authorizations, controls, and supporting data relating to position

management and manpower utilization and information involved in the determination of the qualifications of candidates for employment or advancement.

(3) Records specifically exempted from disclosure by statute such as 18 U.S.C. 1905 which prohibits disclosure of information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation or association.

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. Matter subject to this exemption is that which is customarily held in confidence by the originator without regard to whether or not the originator is, or is not employed by, a nonprofit organization. It includes, but is not limited to:

(i) Information received in confidence, such as grant applications, fellowship applications and research proposals prior to award;

(ii) Statistical data or information if received in confidence from a contractor or potential contractor concerning contract performance, income, profits, losses, and expenditures.

(5) Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with NSF. To the extent not so available by law, examples include, but are not limited to:

(i) Reports, memoranda, correspondence, workpapers, minutes of meetings (other than those governed by the Federal Advisory Committee Act), and staff papers prepared for use within NSF or within the Executive Branch of the Government by personnel and consultants of NSF, or any Government agency.

(ii) Advance information on proposed NSF plans to procure, lease, or otherwise acquire, or dispose of materials, real estate, facilities, services or functions, when such information would provide undue or unfair competitive advantage to any person;

(iii) Records prepared for use in proceedings before any Federal or State court or administrative body;

(iv) Evaluations of and comments on specific grant applications, research proposals, or potential contractors, whether made by NSF personnel or by external reviewers acting either individually or in committees;

(v) Preliminary, draft unapproved recommendations, evaluations, and opinions, such as evaluations of invention disclosures, of research projects, and of incomplete studies conducted or supported by NSF;

(vi) Proposed budget requests and supporting projections used or arising in the preparation and/or execution of a budget; proposed annual and multi-year policy, priorities, program and financial plans and supporting papers.

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Information in such files which is not otherwise exempt from disclosure pursuant to other provisions of this section will be released to the subject or to his designated legal representative, and it may be disclosed to others with his written consent. Examples of personnel files exempt from disclosure include, but are not limited to, files containing reports, records, and other materials pertaining to individual cases in which disciplinary or other administrative action has been or may be taken, including records of proceedings pertaining to the conduct of or performance of duties by NSF personnel. Opinions and orders resulting from those proceedings shall be disclosed without identifying details if used, cited, or relied upon as precedent.

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel.

(8) Matters contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of any government agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data (including maps) concerning wells.

(10) Records belonging to another government agency or dealing with subject matter as to which government agency, other than NSF, has exclusive or primary responsibility. Requests for such records shall be promptly forwarded to the appropriate government agency.

(b) *Deletion of exempt portion and identifying details.* Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt. Whenever any final opinion, order, or other materials required to be made available relates to a private party or parties and the release of the name or names of other identifying details will constitute a clearly unwarranted invasion of personal privacy, the record shall be published or made available with such identifying details left blank, or shall be published or made available with obviously fictitious substitutes and with a notification such as the following as a preamble:

Names of parties and certain other identifying details have been removed (and fictitious names substituted) in order to prevent a clearly unwarranted invasion of the personal privacy of the individuals involved.

(c) *Records of other agencies.* If a requested record is one of another government agency or deals with subject matters as to which a government agency other than NSF has exclusive or primary responsibility, the request for such a record shall be promptly referred by NSF to that government agency for disposition or for guidance with respect to disposition.

§ 612.10 Records and reports on requests for information.

The Director of the Office of Government and Public Programs will be responsible for maintaining a record of denials of written requests for information. On or before March 1 of each year, OGPP shall prepare and submit it to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress a report concerning requests received during the preceding calendar year. The report shall include: (a) The number of determinations made not to comply with requests for records and the reasons for each such determination; (b) the number of appeals made, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information; (c) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each; (d) the results of each court order which requires the production of a record, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken; (e) a copy of every rule made by NSF regarding this section; (f) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and (g) such other information as indicates efforts to administer fully the provisions of 5 U.S.C. 502.

[FR Doc.75-1865 Filed 1-20-75;8:45 am]

PANAMA CANAL CO.

[35 CFR Part 9]

AVAILABILITY OF INFORMATION

Proposed Schedule of Fees

Notice is hereby given that, in accordance with the requirement of section 552 (a) (4) (A) of Title 5, United States Code, as added by Pub. L. 93-502, the Panama Canal Company proposes to amend Part 9 of Title 35, Code of Federal Regulations to add thereto a schedule of fees which will be assessed against persons requesting information and copies of records under the Freedom of Information Act, 5 U.S.C. § 552. It is proposed to make the amendment effective on February 19, 1975.

Inquiries may be addressed, and data, views and arguments concerning the proposed amendment may be submitted to the Secretary, Panama Canal Company, 425 13th Street NW (Room 312), Wash-

ington, DC 20004 or to the Comptroller, Panama Canal Company, Box M, Balboa Heights, Canal Zone. All material received on or before February 12, 1975 will be considered. All comments in response to this notice will be available for public inspection during normal business hours at the foregoing addresses.

It is therefore proposed to amend Part 9 by adding thereto a new section 9.5 reading as follows:

§ 9.5 Uniform schedule of fees.

(a) Except as provided in paragraph (d) of this section, persons requesting information or copies of records from the Panama Canal Company under the Freedom of Information Act, 5 U.S.C. § 552, and this Part shall be charged for the direct search and duplication costs incurred by the Company in accordance with the following schedule:

(1) The fee for copies shall be $.07 per page.

(2) The search fee shall be $5.00 per hour for services performed by clerical personnel and $12.50 per hour for services performed by supervisory and professional personnel.

(3) The fee for searches requiring the use of computers shall be $100.00 for the first two hours or fraction thereof and $50.00 for each additional hour.

(b) A request that is expected to involve fees in excess of $50.00 will not be deemed to have been received until the requester has been advised of the anticipated costs and agrees to bear it.

(c) Except as provided in paragraph (d) of this section, search fees are assessable against a requester even when no records responsive to the request, or no records exempt from duplication under the Freedom of Information Act, 5 U.S.C. § 552, are found.

(d) Information and documents shall be furnished without charge, or at a reduced charge, when the Administrative Assistant to the President, Panama Canal Company, or, if the request is on appeal, the Vice President, Panama Canal Company, determines that waiver or a reduction of the fees provided for in paragraph (a) of this section is in the public interest because furnishing the information can be considered as primarily benefiting the public. In the case of a reduced charge, the Administrative Assistant, or the Vice President if the request is on appeal, shall determine the amount of the reduction.

(5 U.S.C. 552(a)(4)(A))

Dated: January 8, 1975.

RICHARD L. HUNT,
Vice President,
Panama Canal Company.

[FR Doc.75-1891 Filed 1-20-75;8:45 am]

RAILROAD RETIREMENT BOARD

[20 CFR Part 200]

EMPLOYEES' BENEFITS

Proposed Procedures and Forms

Proposed amendments to the Board's regulations to implement the 1974 Freedom of Information Act amendments are in process of preparation. The amendments will include a fee schedule for search and duplication of Board records. The proposed schedule is set forth below. Interested persons may comment upon the proposed fee schedule by submitting written data, views, and arguments to the Chief Executive Officer, Room 536, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, not later than February 15, 1975.

As amended, paragraph (g) of § 200.3 would read as follows:

§ 200.3 Availability of information to public.

* * * * *

(g) The Chief Executive Officer may charge the person or persons making a request for records under paragraph (f) of this section a fee in an amount not to exceed the costs actually incurred in complying with the request. Any such fees charged by the Chief Executive Officer shall be in accordance with the following schedule.

(1) The fee for copies shall be $.10 per copy per page.

(2) The charge for making a manual search for records shall be $6.00 per man hour.

(3) The maximum computer search charge shall be $268.00 per hour ($4.50 per minute).

(4) Any or all fees may be waived or reduced by the Chief Executive Officer whenever he or she determines that it is in the public interest to do so.

(5) All fees shall be paid to the Board's Director of Budget and Fiscal Operations.

Dated: January 13, 1975.

By Authority of the Board.

[SEAL] R. F. BUTLER,
Secretary of the Board.

[FR Doc.75-1818 Filed 1-20-75;8:45 am]

UNITED STATES INFORMATION AGENCY

[22 CFR Part 503]

FREEDOM OF INFORMATION ACT

Notice of Proposed Rule Making

The United States Information Agency (USIA) is considering an amendment to Chapter V, Part 503 of Title 22 of the Code of Federal Regulations, that would establish a uniform schedule of fees for search and duplication of documents requested pursuant to the Freedom of Information Act, as amended (5 USC 552).

Interested persons may participate in the proposed rulemaking by submitting written data, views, and arguments to the Assistant Director, Office of Public Information (I/R), USIA, 1750 Pennsylvania Ave., NW., Washington, D.C. 20547. No public hearing will be held.

Section 503.6(c)(2)–(9) of Title 22 of the Code of Federal Regulations is proposed to be revised as follows:

§ 503.6 [Amended]

* * * * *

(c) * * *

(2) *Schedule of fees.* The following specific fees shall apply with respect to services rendered to the public:

(i) Making of copies (Xerox or comparable) per page—$0.20.

(ii) Searching for records, per hour or fraction thereof—$5.

(iii) Duplication of architectural photographs and drawings—$2.

(iv) For signed statement of non-availability of record—No fee.

(3) When no specific fee has been established for a service, for example, when the search involves computer time of special travel, transportation, or communications cost, the Assistant Director, Office of Public Information, is authorized to determine the direct costs of the service and include such costs in the fees chargeable under this section.

(4) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, and the requestor has not indicated in advance his willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requestor to confer with knowledgeable Agency personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requestor. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requestor.

(5) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts or if the Agency determines that a record which has been requested but which is exempt from disclosure under this part is to be withheld.

(6) Fees must be paid in full prior to issuance of requested copies.

(7) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittances shall be made payable to the order of the Treasurer of the United States and mailed to the Assistant Director, Office of Public Information, USIA, 1750 Pennsylvania Ave., NW., Washington, D.C., 20547. The Agency will assume no responsibility for cash which is lost in the mail.

(8) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(9) The Assistant Director, Office of Public Information, or an officer designated by the Assistant Director, may waive all or part of any fee provided for in this section when the Assistant Director or the designated officer deems it to be in either the Agency's interest or in the general public's interest.

This revision is proposed under the authority of 5 USC 552 as amended by Public Law 93-502.

GORDON W. MURCHIE,
Deputy Assistant Director,
Office of Public Information.

[FR Doc.75-2054 Filed 1-20-75;8:45 am]

notices

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 THE TREASURY

Customs Service

[T.D. 75-23]

FOREIGN CURRENCIES

Certification of Rates

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 74-264 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Austria schilling:	
Dec. 23, 1974	$0.0574
Dec. 24, 1974	.0576
Dec. 25, 1974	Holiday
Dec. 26, 1974	.0576
Dec. 27, 1974	.0580
Dec. 30, 1974	.0587
Dec. 31, 1974	.0584
Belgium franc:	
Dec. 23, 1974	$0.027398
Dec. 24, 1974	.027400
Dec. 25, 1974	Holiday
Dec. 26, 1974	.027250
Dec. 27, 1974	.027300
Dec. 30, 1974	.027650
Dec. 31, 1974	.027690
Denmark krone:	
Dec. 23, 1974	$0.1740
Dec. 24, 1974	.1733
Dec. 25, 1974	Holiday
Dec. 26, 1974	.1740
Dec. 27, 1974	.1750
Dec. 30, 1974	.1778
Dec. 31, 1974	.1773
Finland markka:	
Dec. 23, 1974	$0.2767
Dec. 24, 1974	.2767
Dec. 25, 1974	Holiday
Dec. 26, 1974	.2765
Dec. 27, 1974	.2850
Dec. 30, 1974	(1)
Dec. 31, 1974	.2799
France franc:	
Dec. 23, 1974	$0.2239
Dec. 24, 1974	.2245
Dec. 25, 1974	Holiday
Dec. 26, 1974	.2241
Dec. 27, 1974	.2247
Dec. 30, 1974	.2248
Dec. 31, 1974	.2252
Germany deutsche mark:	
Dec. 23, 1974	$0.4095
Dec. 24, 1974	.4113
Dec. 25, 1974	Holiday
Dec. 26, 1974	.4116
Dec. 27, 1974	.4136
Dec. 30, 1974	.4169
Dec. 31, 1974	.4150
Netherlands guilder:	
Dec. 23, 1974	$0.3930
Dec. 24, 1974	.3937
Dec. 25, 1974	Holiday
Dec. 26, 1974	.3938
Dec. 27, 1974	.3987
Dec. 30, 1974	.4001
Dec. 31, 1974	.3996
Norway krone:	
Dec. 26, 1974	$0.1908
Dec. 27, 1974	.1912
Dec. 30, 1974	.1931
Dec. 31, 1974	.1917
Portugal escudo:	
Dec. 30, 1974	$0.0408
Sweden krona:	
Dec. 23, 1974	$0.2413
Dec. 24, 1974	.2418
Dec. 25, 1974	Holiday
Dec. 26, 1974	.2420
Dec. 27, 1974	.2240
Dec. 30, 1974	.2462
Dec. 31, 1974	.2453
Switzerland franc:	
Dec. 23, 1974	$0.3895
Dec. 24, 1974	.3940
Dec. 25, 1974	Holiday
Dec. 26, 1974	.3955
Dec. 27, 1974	.3980
Dec. 30, 1974	.3965
Dec. 31, 1974	.3930

[1] Use quarterly rate.

[SEAL] JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-1896 Filed 1-20-75;8:45 am]

Internal Revenue Service

[Order No. 47 (Rev. 9)]

ASSISTANT COMMISSIONERS, ET AL.

Authorizing Delegation

Authority to Authorize or Approve Attendance at Meetings at Government Expense.

1. There is hereby delegated to the following officials the authority vested in the Commissioner of Internal Revenue to authorize or approve attendance of employees performing functions under their general supervision, at Government expense, within the geographic limits authorized by the Consolidated Travel Authorization, at meetings of scientific or professional societies, municipal, state, federal, or international organizations, congresses and law enforcement or other groups for the purpose of transmitting or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service:

Assistant Commissioners
Chief Counsel
Assistant to the Commisisoner (Public Affairs)
Regional Commissioners
Regional Counsel
Regional Inspectors

2. The authority delegated herein to Regional Commisisoners, Regional Counsel, and Regional Inspectors does not include attendance at meetings which are national in scope. The authorization or approval of the Assistant Commissioner (Administration), Assistant Commissioner (Compliance), Assistant Commissioner (ACTS), Assistant Commissioner (Employee Plans and Exempt Organizations), Assistant Commissioner (Inspection), Assistant to the Commissioner (Public Affair), or the Chief Counsel, in their respective areas of operation, must be obtained for employees under the general supervision of Regional Commissioners, Regional Counsel, or Regional Inspectors to attend meetings which are national in scope.

3. The authority herein delegated may not be redelegated except by Regional Commissioners to (1) Assistant Regional Commissioners and District Directors to authorize or approve attendance of employees under their supervision at meetings not national in scope held within their respective regions; and (2) Service Center Directors to authorize or approve attendance of service center employees at meetings not national in scope held within the geographical area serviced.

4. The authorization or approval of the Regional Commissioner must be obtained for attendance of employees under the general supervision of Assistant Regional Commissioners and District Directors at meetings held outside their respective regions. Attendance of district or service center employees at meetings national in scope requires approval of the Assistant Commissioner (Administration), Assistant Commissioner (Compliance), Assistant to the Commissioner (Public Affairs), Assistant Commissioner (Employee Plans and Exempt Organizations) or Assistant Commissioner (ACTS) in their respective areas of operation.

5. The restrictions (other than on redelegation) set forth in Sections 2, 3 and 4, above, do not apply to meetings or conventions held by recognized employee groups, organizations, or associations. Assistant Commissioners, the Assistant to the Commissioner (Public Affairs), the Chief Counsel, and Regional Commissioners are authorized to approve attendance of employees under their general supervision at meetings held by such employee groups, organizations, or associations when attendance is for the purpose of transmitting

or receiving information or knowledge relating to the substantive or administrative activities of the Internal Revenue Service.

6. This Order supersedes Delegation Order No. 47 (Rev. 8), issued July 19, 1972.

Date of issue: January 13, 1975.

Effective Date: January 13, 1975.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-1827 Filed 1-20-75;8:45 am]

[Order No. 35 (Rev. 6)]

ASSISTANT REGIONAL COMMISSIONERS, ET AL.

Authority Delegation; Agreements Treated as Determinations

1. Pursuant to the authority granted to the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 26 CFR 1.1313(a)-4, the authority to enter into agreements pursuant to section 1313(a)(4), Internal Revenue Code of 1954, relating to agreements treated as determinations, is hereby delegated to the following officials:

a. Assistant Regional Commissioners (Employee Plans and Exempt Organizations),

b. Assistant Regional Commissioners (Appellate),

c. Chiefs and Assistant Chiefs of Appellate Branch Offices,

d. Director of International Operations,

e. Assistant District Directors,

f. Chiefs of Audit Divisions, and

g. Chiefs of Employee Plans and Exempt Organizations Divisions.

2. This authority may be redelegated only by District Directors and the Director of International Operations, who may redelegate to the Chief of Review Staff (or to the Chief of Technical Branch where that position has been established); Chief of Conference Staff; to Revenue Agents and Tax Law Specialists (Reviewers or Conferees) not lower than GS-11 for field audit cases; and to Revenue Agents and Tax Technicians (Reviewers or Conferees) not lower than GS-9 for office audit cases.

3. This Order supersedes Delegation Order No. 35 (Rev. 5), issued November 23, 1970.

Effective date: January 13, 1975.

Dated: January 13, 1975.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-1828 Filed 1-20-75;8:45 am]

[Order No. 42 (Rev. 6)]

ASSISTANT REGIONAL COMMISSIONERS, ET AL.

Authority Delegation

Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120, dated July 31, 1950; Order No. 150-2, dated May 15, 1972; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; I hereby delegate authority to sign all consents fixing the period of limitations on assessment or collection to the following officials:

a. Assistant Regional Commissioners (Appellate).

b. Assistant Regional Commissioners (Employee Plans and Exempt Organizations).

c. Service Center Directors.

d. District Directors.

e. Director of International Operations.

2. This authority may be redelegated but not below the following level for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Audit Branch.

b. Collection—Revenue Officer.

c. Audit—Conferees and Reviewers, Grade GS-11; Group Managers; Case Managers; and Returns Program Managers.

d. Intelligence — Chief, Intelligence Division.

e. Appellate—Appellate Conferee.

f. Office of International Operations—Conferees and Reviewers, Grade GS-11; Group Managers, Case Managers and Returns Program Managers; Representatives at foreign posts; and Revenue Agents, Tax Auditors and Special Agents on foreign assignments; and Revenue Officers.

g. Employee Plans and Exempt Organizations—Conferees and Reviewers, Grade GS-11; Group Managers.

3. This Order supersedes Delegation Order No. 42 (Rev. 5), issued September 24, 1974.

Date of issue: January 13, 1975.

Effective Date: January 13, 1975.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-1829 Filed 1-20-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE PANEL ON INTELLIGENCE

Establishment, Organization and Functions

In accordance with provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Defense Panel on Intelligence has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its extension.

The panel has reviewed the Department of Defense Intelligence Organization and activities with a view toward recommending actions which should be undertaken to achieve improvements in management and general effectiveness. Reports have been received from all Defense Intelligence Organizations and studies have been undertaken on a number of issues in more detail. A draft report of the Panel is now under preparation and will be reviewed by Panel members prior to submission to the Deputy Secretary of Defense.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

JANUARY 16, 1975.

[FR Doc.75-1894 Filed 1-20-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

CROW INDIAN RESERVATION DRAFT ENVIRONMENTAL STATEMENT

Public Hearing on Projected Coal Development

A public hearing will be held at 10:00 a.m. February 26, 1975 at the Crow Tribal Headquarters, Crow Agency, Montana, to receive public comments regarding the Department of the Interior's Draft Programmatic Environmental Impact Statement which presents the anticipated environmental impacts of various levels of coal development on the Crow Indian Reservation and ceded area.

Oral and written statements by interested parties are invited. Oral statements by any party will be limited to no more than ten minutes. Written statements can be entered into the record by filing a copy with the presiding officer.

Additional information on the hearings and copies of the Draft Statement may be obtained from the Office of the Billings Area Director, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101, Telephone (406) 245-6711, extension 6315.

Dated: January 16, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-1900 Filed 1-20-75;8:45 am]

[INT DES 75-2]

CROW INDIAN RESERVATION AND CEDED AREA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an environmental programmatic statement which projects the anticipated environmental impacts of coal development on the Crow Reservation and Ceded Area. Written comments are invited before March 10, 1975.

Copies are available for inspection at the following locations:

Bureau of Indian Affairs
Division of Environmental Quality
Room 3429—Department of Interior Bldg.
Washington, D.C. 20245
Telephone (202) 343-2139

Bureau of Indian Affairs
Billings Area Office
316 North 26th Street
Billings, Montana 59101
Telephone (406) 245-6315

Copies of the draft statement may be obtained without cost by writing to the Billings Area Director, Bureau of Indian Affairs, 316 North 26th Street, Billings, Montana 59101.

Dated: JANUARY 16, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-1901 Filed 1-20-75;8:45 am]

Bureau of Land Management

[Serial No. I-7435]

IDAHO

Partial Termination of Proposed Withdrawal and Reservation of Lands

JANUARY 14, 1975.

Notice of an application, Serial No. I-7435, for withdrawal and reservation of lands was published as FR Doc. 74-2518 on page 3977 of the issue for January 31, 1974. The Atomic Energy Commission has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Part 2300, such lands will be at 10 a.m. on February 14, 1975 relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN, IDAHO

T. 14 S., R. 25 E.,
Secs. 23, 24, 25, 26, 27, 34 and 35.
T. 15 S., R. 25 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15 and 22.

The areas described aggregate 10,017.62 acres.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.75-1810 Filed 1-20-75;8:45 am]

Geological Survey

PLATFORMS, STRUCTURES, AND ASSOCIATED EQUIPMENT

Revision of OCS Order No. 8, Gulf of Mexico Area

By Notice in the FEDERAL REGISTER dated June 3, 1974, (39 FR 19513) comments were solicited on a proposed revision of OCS Order No. 8, Platforms and Structures, for the Gulf of Mexico Area. As a result of these comments and additional input from field office personnel of the Geological Survey, a modified revision of this Order is now proposed and included herein.

A meeting to discuss the technical aspects of this Order will be held with the Offshore Operators Committee commencing at 9 a.m., February 25, 1975, at the Ramada Inn, Terrace Room, 2261 North Causeway Boulevard, Metairie, Louisiana. This meeting will be open to the public and all interested parties are invited to attend.

W. A. RADLINSKI,
Acting Director.

OCS ORDER NO. 8

PLATFORMS, STRUCTURES, AND ASSOCIATED EQUIPMENT

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.19(a). Section 250.19(a) provides as follows:

(a) The supervisor is authorized to approve the design, other features, and plan of installation of all platforms, fixed structures, and artificial islands as a condition of the granting of a right of use or easement under Paragraphs (a) and (b) of § 250.18 or authorized under any lease issued or maintained under the Act.

The operator shall be responsible for compliance with the requirements of this Order in the installation and operation of all platforms and structures, including all facilities installed on a platform or structure, whether or not operated or owned by the operator. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b). All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor. References in this Order to approvals, determinations, or requirements are to those given or made by the Area Oil and Gas Supervisor or his delegated representative.

1. *Design, application and certification.* The following requirements are applicable to all platforms and structures approved and installed subsequent to the effective date of this Order. When structural or equipment modifications to existing platforms and structures are proposed, only requirements relevant to the modifications shall be applicable.

A. *Platform design.* (1) *General design.* A platform or structure shall be designed for safe installation and operation for its intended use and service-life at a specific site. Steel structures shall be designed in accordance with those provisions of API RP 2A, January 1974, Planning Designing and Constructing Fixed Offshore Platforms, that are not in conflict with this Order. The design of structures other than steel shall be evaluated on an individual basis. Consideration shall be given to conditions which may contribute to structural damage such as:

(a) Wind, wave and current forces and other environmental loading forces.

(b) Functional loading conditions including the weight of the structure and all permanently fixed equipment, and the effects of static and dynamic functional load conditions during installation and the designed operational service period.

(c) Water depth, topography, surface and subsurface soil conditions, slope stability, scour conditions and other pertinent geologic conditions based on information from on-site investigations.

B. *Application.* Prior to construction of a fixed platform or structure, the operator shall submit for approval, in duplicate, an application showing all essential features of the platform or structure and supporting design information including the following:

(1) *General information.* (a) Identification data, which shall include the platform or structure designation, lease number, area name, block number, and operator.

(b) Location data including plat showing the distance from the nearest two block lines.

(c) Primary use and other intended functions including planned drilling and production operations, storage, etc.

(d) Personnel facilities, personnel access to living quarters, boat landings, heliports.

(e) Procedures for installation of the platform or structure and its foundation.

(f) Operational plans including a description of each phase of operation and planned simultaneous operations for the service life of the platform or structure.

(g) The application should include design drawings and plats to clearly illustrate all essential parts including number and location of well slots, dimensions, and specifications of the platform or structure and the foundation.

(2) *Environmental information.* (a) Description of all pertinent environmental data which may have a bearing on the installation, operation or design of the platform or structure including the source of the data.

(b) Information on the type and magnitude of the design environmental loading conditions.

(3) *Foundations.* (a) Information on methods and extent of on-site investigations and tests including the results and supporting data.

(b) A description of foundation loads and loading conditions.

(4) *Design features.* (a) A description of the critical design loading and design criteria taking into consideration maximum environmental and operational loading conditions expected over the service life of the platform or structure. This shall include those conditions considered under paragraph 1.A.(1) (a), (b), and (c) above.

(b) For steel structures, a description of the materials, specification, strength analyses, and allowable stresses over the design service life.

(c) For concrete structures, a description of the materials, specification, strength and serviceability requirements and analysis of the reinforcing systems.

(d) An analysis of slope and soil stability in relation to the foundation and the foundation design loads.

(e) Method of corrosion protection.

C. *Certification.* (1) Detailed structural plans certified by a registered professional engineer shall be on file and maintained by the operator or his designee.

(2) The following certifications, signed and dated by a company representative shall accompany the application.

(a) Operator certifies that this platform has been certified by a registered professional engineer and the structure will be constructed, operated and maintained as described in the application, and any approved modification thereto. Certified Plans are on file at _____.

(b) Certification that the mechanical and electrical systems of the facility will be designed and installed under the supervision of a registered professional engineer. Maintenance of these systems will be by qualified personnel.

D. *Design features of production facilities.* Information relative to design features, as follows, shall be submitted in duplicate prior to installation:

(1) A flow schematic showing size, capacity, and design working pressure of separators, treaters, storage tanks, compressors, pipeline pumps, and metering devices.

(2) A schematic diagram showing pollution and safety control equipment identified according to nomenclature (Definition, Symbols and Identification) contained in API RP 14C, June 1974, Analysis, Design, Installation and Testing of Basic Surface Safety Systems on Offshore Production Platforms, accompanied by an explanation as to the function and sequence of operation. The basic platform surface safety systems shall be in accordance with the guidelines

set forth in API RP 14C when not in conflict with the provisions of this Order.

(3) A schematic piping diagram showing the size and design working pressure with reference to welding specification(s) or code(s) used.

(4) A diagram of the fire-fighting system.

(5) Electrical system information shall include the following:

(a) Plan view of each platform deck outlining any nonhazardous area—areas which are unclassified with respect to electrical equipment installations, and areas in which potential ignition sources, other than electrical are to be installed. The area outline should include the following:

(i) Any surrounding production or other hydrocarbon source and a description of deck, overhead and firewall.

(ii) Location of generators, control rooms, panel boards, major cabling—conduit routes and identification of wiring method.

(b) One line electrical schematic which includes the following information:

(i) Type, rating and the operating and safety controls of generators and prime movers.

(ii) Main generator switchboard including interlocks, controls and indicators.

(iii) Feeder and branch circuits, including circuit load, wire type and size, motor running protection and circuit breaker setting.

(c) Elementary electrical schematic of any platform safety-shutdown system with functional legend.

2. *Operations on platforms and structures.*

A. *Safety and Pollution Control Equipment and Procedures.* Operators of platforms and structures installed prior to the effective date of this Order shall comply with the requirements of the following subparagraphs (1)(g), (2)(e), (4)(e), and (4)(f) within six months and with the requirements of the following sub-paragraphs (1)(e), (1)(h), (1)(i), (3)(a), (3)(c) and (3)(d) within one year from the effective date of this Order. Any device on wells, vessels, or flowlines temporarily out of service shall be flagged. Safety devices and systems on wells which are capable of producing shall not be bypassed or locked out of service unless necessary during start-up or maintenance operations, and then only with personnel on duty aboard the platform.

(1) *Shut-in devices.* The following shut-in devices shall be installed and maintained in an operating condition on all vessels and water separation facilities when such vessels and separation facilities are in service:

(a) Separators shall be equipped with high and low pressure shut-in sensors and a relief valve. Vessels connected together by a system of adequate piping not containing valves which can isolate any vessel may be considered as one unit having an effective working pressure equal to the lowest rated working pressure of any compenent. All separators shall be equipped with low liquid level shut-in controls. High liquid level shut-in control devices shall be installed when the vessel can discharge to a flare.

(b) Pressure surge tanks shall be equipped with high and low pressure shut-in sensors, a high liquid level shut-in control, flare line, and relief valve.

(c) Atmospheric tanks that may contain possible pollutants, including oil production tanks, surge tanks, etc., shall be equipped with a high liquid level shut-in control. When two or more tanks are connected in series or parallel and the operating levels are equalized, only one high liquid level shut-in control is required, providing it is located so that it cannot be isolated from any tank and will provide adequate high-level protection for all tanks.

(d) Other hydrocarbon-handling pressure vessels shall be equipped with high and low pressure shut-in sensors and relief valves. Vessels connected together by a system of adequate piping not containing valves which can isolate any vessel may be considered as one unit having an effective working pressure equal to the lowest rated working pressure of any component. In addition, such pressure vessels shall be equipped with high and low liquid level shut-in controls.

(e) The following requirements shall apply to all gas-fired production vessels:

(i) Fuel supply lines to the main and pilot burners shall be equipped with manually operated shut-off valves.

(ii) A flame detector or heat sensor to determine if the pilot is adequate to light the main burner shall be installed; and, on vessels in which the pilot is not continuously lighted, shall indicate a main burner flame failure.

(iii) The exhaust stack of natural draft heaters shall be equipped with spark arrestors.

(iv) Natural draft air intakes shall be equipped with a flame arrestor.

(v) Forced draft burners shall be equipped with a low pressure or low flow rate shut-in sensor.

(vi) Vessels in which the media in contact with the fire tubes is not the primary product to be heated shall be protected by high temperature and low level shut-in sensors in the heat exchange media stream.

(vii) Pressure relief valves shall be designed, installed, and maintained in accordance with applicable provisions of Sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, July 1, 1974. All relief valves and vents shall be piped in such a way as to minimize the possibility of fluid striking personnel or ignition sources.

(viii) Required sensors and monitors shall respond to an abnormal condition in the vessel by automatically: 1) shutting off fuel supply and 2) shutting off combustible media inflow to the vessel. However, in closed heat-transfer systems where the heated media is temperature degradable and flows through tubes located in the fired chamber, circulation of the media shall continue until the heat exchange area has cooled below the temperature at which the media degrades.

(ix) Steam generators shall be equipped with low water level controls in accordance with applicable provisions of Sections I and IV of the ASME Boiler and Pressure Vessel Code, July 1, 1974.

(x) An operating procedure shall be posted in a prominent location near the controls of the unit, and personnel responsible for the unit's operation shall be properly trained.

(f) All relief valves shall be set to start relieving at the design working pressure of the vessel and shall be sized to prevent the pressure from rising more than 10 percent above the design working pressure of the vessel or as otherwise provided by Section VIII of the ASME Boiler and Pressure Vessel Code, July 1, 1974. The high pressure shut-in sensor shall activate sufficiently below the design working pressure to positively insure operation before the relief valve starts relieving. The low pressure shut-in sensor shall activate no lower than 15 percent or 5 psi, whichever is greater, below the lowest pressure in the operating range.

(g) Pressure sensors may be of the automatic or nonautomatic reset type, but where the automatic reset types are used, a nonautomatic reset relay must be installed. All pressure sensors shall be equipped to permit testing with an external pressure source.

(h) All flare lines shall be equipped with a scrubber with a high liquid level shut-in control.

(i) Surge tanks and all hydrocarbon storage tanks shall be equipped with an automatic fail-close shut-in valve located in the pump suction line as close to the tank as practical. Such valve is to be activated by pump shutdown controls and the platform emergency shutdown system.

(2) *Wellhead and Flowline Safety Devices.* The following safety devices shall be installed and maintained in an operating condition at all times. When wells are disconnected from producing facilities and blind-flanged or equipped with a tubing plug, compliance with subparagraphs (a), (b), and (c) below is not required.

(a) All wellhead assemblies shall be equipped with an automatic fail-close surface safety valve. All new wells drilled and completed after the effective date of this Order shall be equipped with a surface safety valve installed in the vertical run of the Christmas tree.

(b) All flowlines from wells shall be equipped with high and low pressure shut-in sensors located downstream of the well choke. If there is more than 10 feet of line between the wellhead wing valve and the primary choke, an additional low pressure shut-in sensor shall be installed in this section. The high pressure shut-in sensor shall be set no higher than 10 percent above the highest operating pressure of the line, but in no case shall it exceed 90 percent of the shut-in pressure of the well or the gas lift supply pressure. The low pressure shut-in sensor shall be set no lower than 10 percent or 5 psi, whichever is greater, below the lowest operating pressure of the section of the line in which it is installed.

(c) All headers shall be equipped with check valves on the individual flowlines.

(d) The flowline and valve from each well located upstream of and including the header valves, shall be able to withstand the shut-in pressure of that well unless protected by a relief valve bypass system with connections to rejoin the main production stream at the separator or at a point upstream of the separator. If there is an inlet valve to a separator, the valve, flowline, and all equipment upstream of the valve shall also be able to withstand shut-in wellhead pressure, unless protected by a relief valve bypass system with connections to rejoin the main production stream at the separator, or at a point upstream of the separator. In the event a well flows directly to pipeline before separation, the flowline and valves from the well located upstream of, and including the header inlet valve shall be able to withstand the maximum shut-in pressure of the well unless protected by a relief valve connected to either the platform flare scrubber or some other approved location other than into the departing pipeline.

(e) On all gas lift wells, a check valve shall be installed on the gas input line to the casing.

(f) All pneumatic shut-in systems shall be equipped with fusible material at strategic points.

(g) Remote shut-in controls shall be located on the helicopter deck and on all exit stairway landings, including at least one on each boat landing. These controls shall be quick-opening valves, except that those on the boat landing may be a plastic loop.

(3) *Other equipment.*

(a) All engine exhausts with temperatures greater than 400° F. (205°C.) shall be insulated and piped away from fuel sources. Exhaust piping from diesel engines shall be equipped with spark arrestors.

(b) All pressure or fired vessels used in the production of oil or gas installed after the effective date of this Order shall conform to the requirements stipulated in the edition of the ASME Boiler and Pressure Vessel Code, Sections I, IV, and VIII, as appropriate, in effect at the time the vessel is installed. Uncoded vessels now in use shall be hydrostatically tested to a pressure 1.5

times their normal working pressure. The test date, test pressure, and working pressure shall, within six months after the effective date of this Order, be marked on the vessel in a prominent place. A record of the test shall be maintained by the operator.

(c) A hydrocarbon separator shall be installed in the glycol return line on all glycol dehydration units.

(d) The following requirements shall apply to hydrocarbon gas compressors:

(i) Each compressor suction line and associated suction scrubber vessel shall be protected by high and low pressure shut-in sensors, high and low liquid level shut-in controls in the suction scrubber, and a pressure relief valve.

(ii) Each compressor discharge line shall be protected by a pressure relief valve and high and low pressure shut-in sensors.

(iii) Each compressor interstage scrubber shall be protected by high and low pressure and high and low liquid level shut-in controls and a pressure relief valve.

(iv) High and low pressure shut-in sensors and low liquid level shut-in controls protecting compressor suction and discharge piping and associated suction and interstage scrubbers shall be designed to actuate automatic isolation valves located in each compressor suction and fuel gas line so that the compressor unit and associated vessels can be isolated from all input sources. If the compressor unit is installed in a building, the isolation valves shall be located outside the building. Each suction and interstage high liquid level shut-in control shall, as a minimum, be designed to shutdown the compressor prime mover. As an alternative, low liquid level shut-in control(s) installed in suction and interstage scrubber(s) may be designed to actuate automatic shutoff valve(s) installed in the scrubber dump line(s).

(v) Each compressor discharge line shall be equipped with a check valve to prevent back flow. If the compressor unit is installed in a building, the check valve shall be located outside the buildings.

(vi) Compressor units installed in inadequately ventilated buildings or enclosures shall be protected by a gas detector designed to actuate automatic isolation valves installed in the compressor suction and fuel gas lines.

(vii) Automatic isolation valves installed in compressor suction and fuel gas piping shall be actuated by the platform remote manual shut-in system and fire loop, as well as by any abnormal pressure or level condition sensed in the compressor piping or associated scrubber vessels.

(viii) Each compressor discharge line shall be equipped with an automatic blowdown valve actuated by the platform fire loop and remote manual shut-in system and by the compressor's gas detection system. The blowdown system must be piped to vent at a nonhazardous location away from all possible sources of ignition.

(4) *Safety device testing.* The safety devices required in sub-paragraphs 2A (1) and (2) above shall be tested by the operator as follows or at more frequent intervals. Records shall be maintained at the field headquarters for a period of one year, showing the present status and past history of each device, including dates and details of inspection, testing, repairing, adjustment, and reinstallation. Such records shall be available to any authorized representative of the Geological Survey.

(a) All pressure relief valves shall be tested for operation annually. Pressure relief valves shall either be bench-tested or equipped to permit testing with an external pressure source. Bench tests not witnessed by Geological Survey personnel must be certified by a third party.

(b) All pressure sensors shall be tested at least once each calendar month, but at no time shall more than six weeks elapse between tests. Any sensor which consistently varies more than ±5 percent from its set pressure shall be repaired or replaced.

(c) All automatic wellhead safety valves and check valves on all flowlines shall be checked for operation and holding pressure once each calendar month, but at no time shall more than six weeks elapse between tests. For any valve which these monthly tests indicate a shorter time interval is needed, such shorter interval shall be instituted. If any wellhead safety valve indicates leakage, it shall be repaired or replaced. A check valve sustaining a liquid flow in excess of 400 cc./min. or gas flow exceeding 15 cubic ft./min. shall be repaired or replaced.

(d) All liquid level shut-in controls shall be tested at least once within each calendar month, but at no time shall more than six weeks elapse between tests. These tests shall be conducted by raising or lowering the liquid level across the level-control detector.

(e) All automatic inlet shut-off valves actuated by a sensor on a vessel or a compressor shall be tested for operation at least once within each calendar month, but at no time shall more than six weeks elapse between tests.

(f) All automatic shut-off valves located in liquid discharge lines and actuated by vessel low-level sensors shall be tested for operation once within each calendar month, but at no time shall more than six weeks elapse between tests.

(5) *Curbs, gutters, and drains.* Curbs, gutters, and drains shall be constructed in all deck areas in a manner necessary to collect all contaminants, unless drip pans or equivalent are placed under equipment and piped to a sump which will automatically maintain the oil at a level sufficient to prevent discharge of oil into Gulf waters. Sump piles or open-ended sumps shall be used to collect only produced water and liquids from drip pans and deck drains. Closed sumps or sump transfer tanks shall be equipped with a high liquid level shut-in device.

(6) *Fire-fighting system.* A fire-fighting system shall be installed and maintained in an operating condition in accordance with the following:

(a) A fire water system of rigid pipe with fire hose stations shall be installed and may include a fixed water spray system. Such a system shall be installed in a manner necessary to provide needed protection in areas where production-handling equipment is located. A fire-fighting system using chemicals may be used in lieu of a fire water system if determined to provide equivalent fire protection control.

(b) Pumps for the fire water systems shall be inspected and test operated weekly. A record of the tests shall be maintained at the field headquarters for a period of one year. An alternate fuel or power source shall be installed to provide continued pump operation during platform shutdown, unless an alternate fire-fighting system is provided.

(c) Portable fire extinguishers shall be located in the living quarters and in other strategic areas.

(d) A diagram of the fire-fighting system showing the location of all equipment shall be posted in a prominent place on the platform or structure.

(7) *Automatic Gas Detectors.* An automatic gas detector and alarm system shall be installed and maintained in an operating condition in accordance with the following:

(a) Gas detection systems shall be installed in all enclosed areas containing production facilities or equipment. Gas detectors shall be installed in all enclosed areas where fuel gas is used; however, the use of fuel gas odorant is an acceptable alternate. In partially open buildings, enclosures or meter houses where adequate ventilation is provided in lieu of a gas detector installation, ventilation shall, as a minimum, be by natural draft at a rate not less than one enclosure air change per five minutes.

(b) All gas detection systems shall be capable of continuously monitoring for the presence of combustible gas in the areas in which the detection devices are located. The gas detector power supply must be from a continually energized power source.

(c) The central control shall be capable of giving an alarm at a point not greater than 25 percent of the lower explosive limit of the gas or vapor being monitored.

(d) A high-level setting of not more than 75 percent of the lower explosive limit of the gas or vapor being monitored shall be used for platform shut-in sequences and the operation of emergency equipment.

(e) Records of maintenance and calibration shall be maintained in the field headquarters for a period of one year and made available to any authorized representative of the Geological Survey. The system shall be tested for operation and recalibrated semi-annually.

(f) An application for the installation and maintenance of any gas detection system shall be filed with the appropriate District office for approval. The application shall include the following:

(i) Type, location, and number of detection heads.

(ii) Type and kind of alarm, including emergency equipment to be activated.

(iii) Method used for detection of combustible gases.

(iv) Method and frequency of calibration.

(v) A functional block diagram of the gas detection system, including the electric power supply.

(vi) Other pertinent information.

(g) A diagram of the gas detection system showing the location of all gas detection points shall be posted in a prominent place on the platform or structure.

(8) *Electrical Equipment.* The following requirements shall be applicable to all electrical equipment and systems installed:

(a) All engines shall be equipped with a low-tension ignition system of a low fire hazard-type and shall be designed and maintained to minimize release of sufficient electrical energy to cause ignition of an external combustible mixture.

1. Description of operations.

2. Schematic plans showing areas of activities.

3. Identification of critical areas of simultaneous activities.

4. Plan for mitigation of potential undesirable events including provisions for coordination and supervision of activities such that all persons involved will be informed as to all activities and be aware of critical areas.

C. *Welding practices and procedures.* The following requirements shall apply to all platforms and structures, including mobile drilling and workover structures. The period of time during which these requirements are considered applicable to mobile drilling structures is the interval from the drilling out of the drive conductor or shoe of the casing until the BOP stack and riser are pulled in the final abandonment, suspension, or completion. These requirements shall apply to workover rigs when such rigs are performing remedial work on any wells open to hydrocarbon bearing zones.

For the purpose of this Order, the term "burning and welding" is defined to include arc or acetylene cutting and arc or acetylene welding.

Each operator shall prepare and submit to the District Supervisor for approval a Weld-

ing and Burning Safe Practices and Procedures Plan, which includes company qualification standards or requirements for welders. Any person designated as a welding supervisor must be thoroughly familiar with this plan.

Prior to burning or welding operations, the operator shall establish approved welding areas. Such areas shall be constructed of noncombustible or fire-resistant materials free of combustible or flammable contents and be suitably segregated from adjacent areas. NFPA Bulletin No. 51B, Cutting and Welding Processes, 1971, shall be used as a guide to designate these areas.

(b) All electrical generators, motors, and lighting systems shall be installed, protected, and maintained in accordance with the edition of the National Electrical Code and API RP 500 B in effect at the time of installation.

(c) Wiring methods which conform to the National Electrical Code or IEEE 45 in effect at the time of installation are acceptable.

(d) An auxiliary power supply shall be installed to provide emergency power capable of operating all electrical equipment required to maintain safety of operations in the event of a failure in the primary electrical power supply.

(9) *Erosion.* A program of erosion control shall be in effect for wells having a history of sand production. The erosion control program may include sand probes, X-ray, ultrasonic, or other satisfactory monitoring methods. A report on the results of the program shall be submitted annually to the District Supervisor.

B. *Simultaneous facility operation.* Prior to conducting activities on a facility simultaneously with production operations, which could increase the possibility of undesirable events occurring such as damage to equipment, harm to personnel or the environment, a plan shall be filed and approved by the District Supervisor which will provide for the mitigation of such events. Activities requiring a plan are drilling, workover, wireline, and major construction operations. Such plans submitted for approval may cover sequential or individual operations. The plan shall include:

All welding which cannot be done in the approved welding area shall be performed in compliance with the procedures outlined below:

(1) All welding and burning shall be minimized.

(2) Such welding and burning as are necessary on a structure shall adhere to the following practices:

(a) Prior to the commencement of any burning or welding operations on a structure, the operator's designated welding supervisor at the installation shall personally inspect the qualifications of the welder or welders to insure that they are properly qualified in accordance with the approved company qualification standards or requirements for welders. The designated welding supervisor and the welders shall personally inspect the area in which the work is to be performed for potential fire and explosion hazards. After it has been determined that it is safe to proceed with the welding or burning operation, the welding supervisor shall issue a written authorization for the work.

(b) All welding equipment shall be inspected prior to beginning any burning or welding. Welding machines located on production or process platforms shall be equipped with spark arresters and drip pans. Welding leads shall be completely insulated and in good condition; oxygen and acetylene bottles secured in a safe place; and hoses leak-free and equipped with proper fittings, gauges, and regulators.

(c) During all welding and burning operations, one or more persons as necessary shall be designated as a Fire Watch. Persons assigned as a Fire Watch shall have no other duties while actual burning or welding operations are in progress.

(d) Prior to any welding or burning, the Fire Watch shall have in his possession fire-fighting equipment in a condition ready to use.

(e) No welding shall be done on containers, tanks, or other vessels which have contained a flammable substance unless the contents of the vessels have been rendered inert and determined to be safe for welding or burning by the designated welding supervisor.

(f) No welding shall be permitted during wireline operations.

(g) All production shall be shut in at the surface safety valves while welding or burning in the wellhead or production area.

D. *Requirements for drilling rigs.* The requirements of subparagraphs 2.A.(5), 2.A.(8), and 2.C. above shall apply to all drilling rigs used to conduct drilling or workover operations on Federal leases in the Gulf of Mexico.

E. *Employee orientation, qualification, and motivation programs for personnel working offshore.* The following API documents should be utilized as appropriate for personnel working offshore:

(1) API RP T-1, January 1974, Orientation Program for Personnel Going Offshore for the First Time.

(2) API RP T-2, September 1974, Qualification Programs for Offshore Production Personnel Who Work with Anti-Pollution Safety Devices.

(3) API Bulletin T-5, September 1974, Employee Motivation Programs for Safety and Prevention of Pollution in Offshore Operations.

[FR Doc.75-1792 Filed 1-20-75;8:45 am]

MONTANA

Definition of Known Geologic Structure of Producing Oil and Gas Field

Pursuant to 43 CFR 3100.7 and delegations of authority in 220 Departmental Manual 41. G, Geological Survey Manual 220.2.2B(2), and Conservation Division Supplement (Geological Survey Manual) 220.2.1F(2), notice is hereby given that the known geologic structure of a producing oil and gas field has been defined as follows:

(26) MONTANA

Bell Creek field (Montana) Known Geologic Structure; May 25, 1974; 27,289 acres.

Map and diagram showing the boundary of the defined structure has been filed with the appropriate land office of the Bureau of Land Management. Copy of the diagram and the land description may be obtained from the Regional Conservation Manager, U.S. Geological Survey, Building 25, Federal Center, Denver, Colorado 80225.

GEORGE H. HORN,
Conservation Manager,
Central Region.

DECEMBER 18, 1974.

[FR Doc.75-1813 Filed 1-20-75;8:45 am]

Office of the Secretary

[INT FES 75-5]

PROPOSED ILIAMNA NATIONAL RESOURCE RANGE; ALASKA

Availability of Final Environmental Statement

Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Iliamna National Resource Range in Alaska. The proposal is made in accordance with the Alaska Native Claims Settlement Act of 1971. The environmental statement considers the legislative establishment of the Iliamna National Resource Range and its management by the agencies indicated below.

Proposal recommends that: Approximately 3.0 million acres of public lands and waters west of Cook Inlet, Alaska, be designated by Congress as the Iliamna National Resource Range and that a 47-mile segment of the Alagnak River be designated as a Wild River in accordance with the National Wild and Scenic Rivers Act of 1968.

Management by: Fish and Wildlife Service and Bureau of Land Management.

The final environmental statement is available for inspection at the following locations.

North Atlantic Regional Office
National Park Service
150 Causeway Street
Boston, Massachusetts 02114

Southeast Regional Office
National Park Service
3401 Whipple Avenue
Atlanta, Georgia 30344

Rocky Mountain Regional Office
National Park Service
645-655 Parfet Avenue
Denver, Colorado 80215

Western Regional Office
National Park Service
450 Golden Gate Avenue
Box 36063
San Francisco, California 94102

Fish and Wildlife Service
1500 Plaza Building, Room 288
1500 NE. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Fish and Wildlife Service
Federal Building—Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Fish and Wildlife Service
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

U.S. Forest Service
Federal Building
Missoula, Montana 59801

U.S. Forest Service
Federal Building
517 Gold Avenue, SW.
Albuquerque, New Mexico 87101

U.S. Forest Service
630 Sansome Street
San Francisco, California 94111

Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, New Mexico 87501

Pacific Northwest Regional Office
National Park Service
Room 931, 4th and Pike Building
1424 Fourth Avenue
Seattle, Washington 98101

Fish and Wildlife Service
500 Gold Avenue, SW.
Room 9018
P.O. Box 1306
Albuquerque, New Mexico 87103

Fish anw Wildlife Service
17 Executive Park Drive, NE.
Room 411
Atlanta, Georgia 30329

Fish and Wildlife Service
10597 West Sixth Avenue
Denver, Colorado 80215

U.S. Forest Service
Denver Federal Building
Denver, Colorado 80225

U.S. Forest Service
Federal Building
324 25th Street
Ogden, Utah 84401

U.S. Forest Service
319 SW. Pine Street
P.O. Box 3623
Portland, Oregon 97208

U.S. Forest Service
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

Bureau of Land Management
1600 Broadway
Room 700
Denver, Colorado 80202

Bureau of Land Management
Federal Building
300 Booth Street
Reno, Nevada 89502

Bureau of Land Management
Federal Building, Room 398
550 W. Fort Street
Boise, Idaho 83702

Bureau of Land Management
2120 Capitol Avenue
P.O. Box 1828
Cheyenne, Wyoming 82001

Bureau of Land Management
Federal Building
316 North 26th Street
Billings, Montana 92301

Bureau of Land Management
Robin Building
7981 Eastern Avenue
Silver Spring, Maryland 20910

Southeast Regional Office
Bureau of Outdoor Recreation
148 Cain Street
Atlanta, Georgia 30303

Mid-Continent Regional Office
Bureau of Outdoor Recreation
Denver Federal Center
Building 41, P.O. Box 25387
Denver, Colorado 80225

Northwest Regional Office
Bureau of Outdoor Recreation
1000 2nd Avenue
Seattle, Washington 98104

U.S. Forest Service
633 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

Bureau of Land Management
Federal Building
125 South State Street
Salt Lake City, Utah 84111

Bureau of Land Management
Federal Building
Room 3022
Phoenix, Arizona 85025

Bureau of Land Management
Federal Building
P.O. Box 1449
Santa Fe, New Mexico 87501

Bureau of Land Management
2800 Cottage Way
Room E-2841
Sacramento, California 95825

Bureau of Land Management
729 Northeast Oregon Street
P.O. Box 2965
Portland, Oregon 97208

Northeast Regional Office
Bureau of Outdoor Recreation
Federal Office Building
600 Arch Street
Philadelphia, Pennsylvania 19106

Lake Central Regional Office
Bureau of Outdoor Recreation
3853 Research Park Drive
Ann Arbor, Michigan 48104

South Central Regional Office
Bureau of Outdoor Recreation
5000 Marble Avenue, NE.
Albuquerque, New Mexico 87110

Pacific Southwest Regional Office
Bureau of Outdoor Recreation
450 Golden Gate Avenue
San Francisco, California 94102

A limited number of single copies of the final environmental statement is available from the following:

Department of the Interior
Alaska Planning Group
Washington, D.C. 20240

Department of the Interior
National Park Service
524 W. Sixth Avenue
Room 201
Anchorage, Alaska 99501

Department of the Interior
Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Dated: January 14, 1975.

STANLEY D. DOREMUS,
Deputy Assistant,
Secretary of the Interior.

[FR Doc.75-1898 Filed 1-20-75;8:45 am]

[INT FES 75-6]

PROPOSED YUKON-CHARLEY NATIONAL RIVERS; ALASKA

Availability of Final Environmental Statement

Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed Yukon-Charley National Rivers in Alaska. The proposal is made in accordance with the Alaska Native Claims Settlement Act of 1971. The environmental statement considers the legislative establishment of the Yukon-Charley National Rivers and their management by the agency indicated below.

Proposal recommends that: Approximately 2.0 million acres of public lands and waters along the upper Yukon River be designated by Congress as the Yukon-Charley National Rivers.

Management by: National Park Service.

The final environmental statement is available for inspection at the following locations.

North Atlantic Regional Office
National Park Service
150 Causeway Street
Boston, Massachusetts 02114

Southeast Regional Office
National Park Service
3401 Whipple Avenue
Atlanta, Georgia 30344

Rocky Mountain Regional Office
National Park Service
645-655 Parfet Avenue
Denver, Colorado 80215

Western Regional Office
National Park Service
450 Golden Gate Avenue
Box 36063
San Francisco, California 94102

Fish and Wildlife Service
1500 Plaza Building, Room 288
1500 NE. Irving Street
P.O. Box 3737
Portland, Oregon 97208

Fish and Wildlife Service
Federal Building—Fort Snelling
Room 630
Twin Cities, Minnesota 55111

Fish and Wildlife Service
John W. McCormack P.O. and Courthouse
Boston, Massachusetts 02109

U.S. Forest Service
Federal Building
Missoula, Montana 59801

U.S. Forest Service
Federal Building
517 Gold Avenue, SW.
Albuquerque, New Mexico 87101

U.S. Forest Service
630 Sansome Street
San Francisco, California 94111

Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, Pennsylvania 19106

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, Nebraska 68102

Southwest Regional Office
National Park Service
P.O. Box 728
Santa Fe, New Mexico 87501

Pacific Northwest Regional Office
National Park Service
Room 931, 4th and Pike Building
1424 Fourth Avenue
Seattle, Washington 98101

Fish and Wildlife Service
500 Gold Avenue, SW.
Room 9018
P.O. Box 1306
Albuquerque, New Mexico 87103

Fish and Wildlife Service
17 Executive Park Drive, NE.
Room 411
Atlanta, Georgia 30329

Fish and Wildlife Service
10597 West Sixth Avenue
Denver, Colorado 80215

U.S. Forest Service
Denver Federal Building
Denver, Colorado 80225

U.S. Forest Service
Federal Building
324 25th Street
Ogden, Utah 84401

U.S. Forest Service
319 SW. Pine Street
P.O. Box 3623
Portland, Oregon 97208

U.S. Forest Service
1720 Peachtree Road, NW.
Atlanta, Georgia 30309

Bureau of Land Management
1600 Broadway
Room 700
Denver, Colorado 80202

Bureau of Land Managment
Federal Building
300 Booth Street
Reno, Nevada 89502

Bureau of Land Management
Federal Building, Room 398
550 W. Fort Street
Boise, Idaho 83702

Bureau of Land Management
2120 Capitol Avenue
P.O. Box 1828
Cheyenne, Wyoming 82001

Bureau of Land Management
Federal Building
316 North 26th Street
Billings, Montana 92301

Bureau of Land Management
Robin Building
7981 Eastern Avenue
Silver Spring, Maryland 20910

Southeast Regional Office
Bureau of Outdoor Recreation
148 Cain Street
Atlanta, Georgia 30303

Mid-Continent Regional Office
Bureau of Outdoor Recreation
Denver Federal Center
Building 41, P.O. Box 25387
Denver, Colorado 80225

Northwest Regional Office
Bureau of Outdoor Recreation
1000 2nd Avenue
Seattle, Washington 98104

U.S. Forest Service
633 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

Bureau of Land Management
Federal Building
125 South State Street
Salt Lake City, Utah 84111

Bureau of Land Managment
Federal Building
Room 3022
Phoenix, Arizona 85025

Bureau of Land Management
Federal Building
P.O. Box 1449
Santa Fe, New Mexico 87501

Bureau of Land Management
2800 Cottage Way
Room E-2841
Sacramento, California 95825

Bureau of Land Management
729 Northeast Oregon Street
P.O. Box 2965
Portland, Oregon 97208

Northeast Regional Office
Bureau of Outdoor Recreation
Federal Office Building
600 Arch Street
Philadelphia, Pennsylvania 19106

Lake Central Regional Office
Bureau of Outdoor Recreation
3853 Research Park Drive
Ann Arbor, Michigan 48104

South Central Regional Office
Bureau of Outdoor Recreation
5000 Marble Avenue, NE.
Albuquerque, New Mexico 87110

Pacific Southwest Regional Office
Bureau of Outdoor Recreation
450 Golden Gate Avenue
San Francisco, California 94102

A limited number of single copies of the final environmental statement is available from the following:

Department of the Interior
Alaska Planning Group
Washington, D.C. 20240

Department of the Interior
National Park Service
524 W. Sixth Avenue
Room 201
Anchorage, Alaska 99501

Department of the Interior
Fish and Wildlife Service
813 D Street
Anchorage, Alaska 99501

Dated: January 16, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-1899 Filed 1-20-75;8:45 am]

[INT FES 75-4]

PROPOSED CAPE ROMAIN WILDERNESS AREA

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a final environmental statement for the proposed Cape Romain Wilderness Area, Charleston County, South Carolina.

The proposal recommends that approximately 28,000 acres of Cape Romain National Wildlife Refuge in Charleston County, South Carolina be designated as wilderness within the National Wilderness Preservation System.

Copies of the final statement are available for inspection at the following locations:

Regional Director
U.S. Fish and Wildlife Service
17 Executive Park Drive, NE.
Atlanta, Georgia 30329

Refuge Manager
Cape Romain National Wildlife Refuge
Route 1, Box 191
Awendaw, South Carolina 29429

U.S. Fish and Wildlife Service
Office of Environmental Coordination
Department of the Interior
Room 2252
18th and C Streets, NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Coordination, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Dated: January 14, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-1890 Filed 1-20-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

TONGASS NATIONAL FOREST LAND USE PLAN AND DRAFT ENVIRONMENTAL STATEMENT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the land use plan for the Tongass National Forest, USDA-FS-R10-75-05.

This environmental statement concerns a land use plan for the 16 million acre Tongass National Forest in Alaska.

This draft environmental statement was transmitted to the CEQ on January 13, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
126th St. & Independence Ave., SW
Washington, D.C. 20230

USDA Forest Service
Alaska Region
Federal Office Building
Juneau, Alaska 99802

Forest Supervisor, Chatham Area
Tongass National Forest
Federal Building
Sitka, Alaska 99835

Forest Supervisor, Ketchikan Area
Tongass National Forest
Federal Building, Room 313
Ketchikan, Alaska 99901

Forest Supervisor, Stikine Area
Tongass National Forest
Federal Building
Petersburg, Alaska 99833

Forest Supervisor
Chugach National Forest
121 W. Fireweed Lane, Suite 205
Anchorage, Alaska 99503

A limited number of single copies are available upon request to Regional Forester C. A. Yates, U.S. Forest Service, Federal Office Building, Juneau, Alaska 99802.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Regional Forester C. A. Yates, U.S. Forest Service, Federal Office Building, Juneau, Alaska 99802. Comments must be received by March 24, 1975 in order to be considered in the preparation of the final environmental statement.

C. A. YATES,
Regional Forester, Alaska Region.

JANUARY 13, 1975.

[FR Doc.75-1806 Filed 1-20-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COLGATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00466-33-46500. Applicant: Colgate University, Hamilton, New York 13346. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used in the course Biology 412-Ultrastructural Cytology designed to familiarize the students with modern concepts of plant and animal cellular ultrastructure through electron microscopy. The main objective of the laboratory portion of the course is to provide training in the use of the electron mircoscope and the techniques employed in preparing tissue for examination with this instrument.

Comments: Comments with respect to this application were received on July 19, 1974, from DuPont Instruments (DuPont) who alleges inter alia, that its Sorvall Model MT2-B is scientifically equivalent to the foreign article for the applicant's intended purposes. DuPont noted further that the applicant concedes the Sorvall microtome can cut the desired sections and that the request for free entry of the article is based on personal preferences which are not a basis for duty-free entry under § 701.9(4)(iii).

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used, is being manufactured in the United States.

Reasons: In reply to question 7 the applicant indicates the article is intended to be used in a course in Ultrastructural Cytology (Biology 412). The applicant states that the course is designed to familiarize the student with modern concepts of plant and animal ultrastructure through electron microscopy and includes laboratory sessions which stress training in the use of the ultramicrotome and both transmitting and scanning electron microscopes.

The applicant states in reply to question 8C(3) that "The only reason for purshasing the OmU3 is to allow us to provide our students with training in the use of a microtome with a thermal advance mechanism in addition to the training they currently receive on microtomes with mechanical advance (we are currently using Sorvall Porter Blum MT-2B's)." The applicant indicates further that since both types of microtomes are used in laboratories around the world, the "extra training" the foreign article would provide would better prepare the students for the job market. The Department of Commerce considers the Sorvall Model MT2-B manufactured by DuPont Instruments as the domestic instrument most closely comparable to foreign article.

The basic purpose of the course in Ultracellular Cytology is to familiarize the students with the concepts of plant and animal cellular ultrastructure. The use of the ultramicrotome in this connection, is as a tool to prepare sections of plant and animal tissue for viewing through both scanning and transmission electron microscopes. The applicant concedes that the domestic MT2-B's presently used in the University's laboratories are capable of performing the tissue sectioning needed in connection with this course. In fact, the applicant states the only reasons for purchasing the foreign article is to provide the added training which would result from exposure to an instrument with a design feature (thermal advance) which differs from the design feature (mechanical advance) of the presently utilized domestic article. The applicant does not allege that the domestic article is not scientifically equivalent to the foreign article for the purposes for which it is intended to be used in this course, but only that the foreign article is different from the domestic instrument and that exposure to both types would be desirable from an educational viewpoint.

The Department of Commerce recognizes that there may be collateral educational benefits accuring to students who are given exposure to the widest range of instruments possible in their courses. However, the Department does not consider such collateral benefits to present an adequate justification for duty-free entry under the Act. The scientific equivalency test contained in the Act would be effectively circumvented if the desirability of exposure to instruments with differing design features or handling characteristics were to serve as a justification for duty-free entry.

Thus, the Department of Commerce finds that the Model MT-2B ultramicrotome is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-1876 Filed 1-20-75;8:45 am]

COLORADO STATE UNIV.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00127-98-74600. Applicant: Colorado State University, Department of Physics, College Avenue, Ft. Collins, Colorado 80521. Article: "Malvern" High Speed Correlator, Type K7023 with Photon Detection System, High Speed Punch Output, TTY Serial Interface. Manufacturer: Precision Devices and Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine and analyze the correlation spectrum of the laser light scattered from the turbulent flow (either laboratory flow or the real atmospheric flow) of either clear air or disturbed air under investigation.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a time resolution of 50 nanoseconds and the ability to correlate every photon with every previous photon. The National Bureau of Standards (NBS) advises in its memorandum dated December 17, 1974 that the capabilities described above are pertinent to the applicant's intended purposes. NBS also advises that the most closely comparable domestic instrument, the Saicor SA1-42 digital correlator, does not provide either of the capabilities of the article found to be pertinent. In addition, NBS advises that it knows of no domestically available digital correlator or other combination of [domestic] instruments which is of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75-1877 Filed 1-20-75;8:45 am]

MEHARRY MEDICAL COLLEGE ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before February 10, 1975.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER,

prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75–00286–33–46500. Applicant: Meharry Medical College, 1005 18th Avenue North, Nashville, Tennessee 37208. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study a wide variety of biological materials, mostly from mammalian sources, which exhibit both normal and pathologic structure. These materials will come from experimental animals as well as from human surgical and cadaveric sources. The article will also be used in a training program in microscopic anatomy and in research techniques. Application received by Commissioner of Customs: December 19, 1974.

Docket Number: 75–00287–63–46500. Applicant: Department of Plant Pathology and Weed Science, P.O. Drawer PG, Mississippi State, MS 39762. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to provide ultra-thin microtomy in carrying out the following projects:

(1) Ultrastructural and morphological investigations of resistance mechanisms in Southern Pines to *Cronartium fusiforme*.

(2) Investigations of Loblolly Pine selected for resistance to *Scirrhia acicola*—Mechanisms of Resistance and Disease impact.

(3) Investigations of Sycamore Anthracnose.

(4) Cultural, physiological and pathological studies of certain greenhouse florist crops.

(5) Develop and evaluate technologies for the production and processing of tomatoes.

(6) Virus diseases of certain horticultural plants and their control.

The article will also be used in the courses PW 8123: Virology and PW 8513: Methods in Plant Pathology and Weed Science for educational purposes. Application received by Commissioner of Customs: December 19, 1974.

Docket Number: 75–00288–33–46500. Applicant: VA Hospital 3900 Loch Raven Blvd., Baltimore, Md. 21218. Article: Ultramicrotome, Model LKB 8800A and Cryokit. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for diagnostic electron microscopy and preparation of ultrathin sections of human biopsy and autopsy tissues for determination of tissue electrolyte distributions. The article will also be used in a residency training program to familiarize students with electron microscopy and its application in the early diagnosis of pathological conditions. Application received by Commissioner of Customs: December 19, 1974.

Docket Number: 75–00289–33–46500. Applicant: Veterans Administration Hospital, Middleville Road, Northport, N.Y. 11768. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare sections of a variety of diseased human and animal tissues including tumors, inflammatory lesions, skeletal muscle, renal, skin, lung, liver, brain and gastrointestinal mucosal biopsies for electron microscopic examination. Among the studies to be done is the establishment of cell of origin of poorly differentiated tumors. identification of infectious agents, recognition of antigen-antibody complexes in various tissues and identification of ultrastructural abnormalities in muscle cells as well as in the epithelial cells of intestine and skin. Specimens from animal experiments related to immune complex diseases are also examined. Application received by commissioner of customs: December 19, 1974.

Docket Number: 75–00290–33–46500. Applicant: University of Michigan, Great Lakes Research Division, Institute of Science & Tech. Bldg., Ann Arbor, Michigan. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for thick and thin sectioning of biological tissues and cells, which, in turn, will be examined in transmission electron microscope for polyphosphate deposition as well as be analyzed by X-ray energy dispersive analysis. Application received by commissioner of customs: December 19, 1974.

Docket Number: 75–00291–33–46500. Applicant: Meharry Medical College, 1005 18th Avenue North, Nashville, Tennessee 37208. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study a wide variety of biological materials, mostly from mammalian sources, which exhibit both normal and pathologic structure. These materials will come from experimental animals as well as from human surgical and cadaveric sources. The article will also be used in a training program in microscopic anatomy and in research techniques. Application received by Commissioner of Customs: December 19, 1974.

Docket Number: 75–00295–65–77045. Applicant: University of Wisconsin, 750 University Avenue, Madison, WI 53706. Article: Combined X-ray Diffractometer/Spectrometer. Manufacturer: Rigaku Denki Co. Ltd., Japan. Intended use of article: The article is intended to be used to determine the chemical composition of plant and animal tissue, soils, rocks, ores, aerosolic dust, suspended particulate matter and the mineral species of the crystalline fraction of the above materials. This information will be used to study soil-plant-animal relationships and to determine the sources, sinks, and modes of transport of nutrients, contaminants, and elements in the environment. The article will also be used in the courses: Soil Chemistry, Soil Science and Plant Nutrition and Properties and Weathering of Soil Minerals, which provide the basic information and techniques to the above research. Application received by Commissioner of Customs: December 23, 1974.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.75–1878 Filed 1–20–75;8:45 am]

NATIONAL INDUSTRIAL ENERGY CONSERVATION COUNCIL

Rescheduled Meeting

On December 31, 1974, a notice appeared in the FEDERAL REGISTER (39 FR 45348) announcing a meeting of the National Industrial Energy Conservation Council for January 29, 1975, in Room 4830 of the Main Commerce Building, 14th & Constitution Avenue, NW, Washington, D.C. 20230, from 10 a.m. to 12 noon.

This advisory committee meeting has been rescheduled for February 6, 1975, in Room 4830, Main Commerce Building, 14th & Constitution Avenue, NW, Washington, D.C. 20230, from 10 a.m. to 12 noon.

HERBERT K. SCHMITZ,
Executive Director, National Industrial Energy Conservation Council.

[FR Doc.75–2059 Filed 1–20–75;9:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 13 WORKLOAD DEFINITION AND BENCHMARKING

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the Federal Information Processing Standards Task Group 13 (FIPS TG–13), "Workload Definition and Benchmarking," will hold a meeting from 10:00 a.m. to 4:00 p.m. on Thursday, March 6, 1975, in Room B–255, Building 225, of the National Bureau of Standards at Gaithersburg, Maryland.

The purpose of this meeting is to review the progress of four workgroups which are addressing the areas of Problem Definition, Benchmark Program Transferability, Preliminary Benchmarking Guidelines, and Workload Definition.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Executive Secretary, Mr. John F. Wood, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C., 20234 (Phone—301–921–3485).

ERNEST AMBLER,
Acting Director.

JANUARY 15, 1975.

[FR Doc.75–1846 Filed 1–20–75;8:45 am]

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of 5 U.S.C. App. I (Supp. II, 1972), notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Thursday and Friday, March 6 and 7, 1975. The meeting will commence at 9 a.m. on each day at the Bourbon Orleans Ramada, 717 Orleans Street, New Orleans, Louisiana.

Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 11:25 a.m. until 12 noon on March 6, interested persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. Depending on the level of interest expressed in making oral statements, the number of persons permitted to make oral statements that day may be limited to five, the length of oral statements may be limited to no more than five minutes, and preference may be given based upon the relevance of statements to items on the agenda; such decisions will be made by the Chairman in consultation with the Committee. Interested persons wishing to make oral statements must register on March 6 with the Executive Secretary between 8:30 a.m. and 9 a.m. in the meeting room and must provide their name, legal address, a list of any affiliations relevant to their intended topic(s). A written version of an oral statement or a written statement may be submitted to the Executive Secretary before or after the meeting, or may be mailed within five days to: Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 6001 Executive Blvd., Rockville, Maryland 20852; (Attn: Executive Secretary, CZM Advisory Committee). All statements received in typewritten form will be distributed to the Committee for consideration with the minutes of the meeting.

The items for Committee discussion at the meeting will include the following:

March 6

9 am	Call to Order and Announcements.
9:15 am	Consideration of Possible Changes in Committee's "Operating Procedures."
9:45 am	*Substantive Topic #1:* Consideration of the Accelerated Outer Continental Shelf Oil and Gas Exploration Program and its Relationship to States' Coastal Zone Management Programs.
10:30 am	Brief Recess.
10:45 am	Continuation of Substantiv Topic #1.
11:25 am	Oral Statements (if any) by Interested Persons.
12 noon	Recess for Lunch.
1:30 pm	Continuation of Substantive Topic #1.
3:15 pm	Brief Recess.
3:30 pm	Committee Consideration of Possible Actions on Substantive Topic #1.
4:30 pm	Adjourn.

March 7

9 am	Call to Order.
9:15 am	*Substantive Topic #2:* Staff Presentation of Federal Consistency Study.
10:20 am	Brief Recess.
10:30 am	*Substantive Topic #3:* Staff Presentation on Options for Segmented Management Program Approval (Functional and Geographic).
12:15 pm	Recess for Lunch.
1:30 pm	Reserved for Additional Discussion on Matters Related to Items 2 and 3.
3:15 pm	Brief Recess.
3:30 pm	Consideration of Agenda and Time and Place of Next Meeting.
4:30 pm	Adjourn.

Dated: January 13, 1975.

ROBERT L. CARNAHAN,
Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.75-1794 Filed 1-20-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

INDIAN HEALTH ADVISORY COMMITTEE

Meeting

Correction

In FR Doc. 75-1274, appearing on page 2738 in the issue of Wednesday, January 15, 1975, the heading should read as set forth above.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74 302]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from October 31, 1974 to November 14, 1974 (List No. 25-74). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46 (b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LADDERS, EMBARKATION-DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/36/4, Model 11 PL-S, Type II embarkation-debarkation ladder, chain suspension, steel ears, dwg. dated June 15, 1965 and revised November 18, 1968, approval limited to ladders 65 feet or less in length, superseding Nos. 1 and 2 passed over as requested by Mfg. and to agree with lot 1, manufactured by H. K. Metalcraft Manufacturing Corporation, 35 Industrial Road, P.O. Box 275, Lodi, New Jersey 07644, effective November 8, 1974. (It is an extension of Approval No. 160.017/36/4 dated January 30, 1970.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/199/0, Type SS 1404 small survival capsule launching system (winch-type); approved as an alternate to a lifeboat davit for a maximum working load of 6,000 lbs. on a single fall; identified by general arrangement drawing SS 1404, dated August 1, 1974, electrical system acceptable in Class I, Group D hazardous locations as defined by 46 CFR 111.80-5, approved for installation with Lake Shore, Inc. Model LS-555-DS lifeboat winch (Approval #160.015/106/0) for use on artificial islands, fixed structures, and drilling rigs, both self-propelled and nonself-propelled, manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, California 92041, effective October 31, 1974.

HAND PROPELLING GEAR, LIFEBOATS, FOR MERCHANT VESSELS

Approval No. 160.034/18/0, Type M, hand-propelling gear identified by dwg. list Type M dated August 16, 1974, manufactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective November 7, 1974.

LIFEBOATS

Approval No. 160.035/474/1, Model 1401 survival capsule, 11.2' diameter x 3.33' depth, fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed model, 14-person capacity, alternate for lifeboat, inflatable life raft or life float, identified by general arrangement dwg. No. 1401-101 dated October 5, 1974, and drawing list No. Model 1401 dated October 5, 1974, approved for use only on artificial islands, fixed structures, and drilling rigs, both self-propelled semi-submersible and nonself-propelled,

Marking, Weights: Condition "A"=2,310 pounds; Condition "B"=5,483 pounds, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, California 92041, effective November 5, 1974. (It supersedes Approval No. 160.035/474/0 dated April 24, 1974.)

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

Approval No. 160.048/1/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048–4(c)(1)(i), Type IV PFD, manufactured by Atlantic-Pacific Manufacturing Corporation, 124 Atlantic Avenue, Brooklyn, New York 11201, effective November 8, 1974. (It is an extension of Approval No. 160.048/1/0 dated January 19, 1970.)

Approval No. 160.048/238/0, special approval for 13" x 18" x 2" rectangular ribbed-type kapok buoyant cushion, 21-oz. kapok, Ero dwgs. Nos. 1 and 2 dated February 1, 1965, and Bill of Materials dated February 10, 1965, Type IV PFD, manufactured by Ero Manufacturing Company, 308 William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 South Homan Avenue, Chicago, Illinois 60607, effective November 8, 1974. (It is an extension of Approval No. 160.048/238/0 dated January 14, 1970.)

LIGHT (WATER); ELECTRIC FLOATING, (WITH BRACKET FOR MOUNTING) FOR MERCHANT VESSELS

Approval No. 161.010/5/0, Model S1307 Seastar Distress Marker, floating electric water light, manufactured by Soderberg Manufacturing Company, Inc., 20821 Currier Road, Walnut, California 91789, effective November 4, 1974.

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/220/0, Type 1910Fc, consolidated safety valve, steel body, 300 p.s.i., 450° F., dwg. No. 1905F–1908F, Rev. July 1, 1957, approved for 1½", manufactured by DRESSER, Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective November 8, 1974. (It is an extension of Approval No. 162.001/220/0 dated January 29, 1970.)

BROMOTRIFLUOROMETHANE-TYPE FIRE EXTINGUISHING SYSTEMS

Approval No. 162.035/1/1, Kidde Bromotrifluoromethane ($CBrF_3$) Fire Extinguishing Systems for Hydrofoil Craft, Typical Installation dwg. No. L–98754–C dated February 28, 1962, Rev. C dated October 10, 1974, manufactured by Walter Kidde & Company, Inc., Belleville, New Jersey 07109, effective November 12, 1974. (It supersedes Approval No. 162.035/1/0 dated June 5, 1972 to show modified and updated dwg.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTER; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/113/0, Volvo-Penta flame control device, stainless steel cover, brass elements 0.016" thick, Model No. 886601, show on Volvo-Penta drawings 886600, 886601, 824663, 824699, and 827004, this approval is for flame arresting elements and housing only, carburetor assembly is not included, identical to U.S.C.G. Approval No. 162.041/107/0, manufactured by Volvo Penta of America, Inc., P.O. Box 12758, Norfolk, Virginia 23502, formerly Volvo, Inc., effective November 12, 1974. (It is an extension of Approval No. 162.041/113/0 dated December 12, 1969, and change of name and address of manufacturer.)

DECK COVERINGS FOR MERCHANT VESSELS

Approval No. 164.006/50/0, "O'Neill's Insulating Underlayment" perlite aggregate oxychloride cement deck covering, identical to that described in E. H. O'Neill Floors Company letter dated October 29, 1963, approved for use without other insulating material as meeting Class A–60 requirements in a 1-inch thickness, manufactured by E. H. O'Neill Company, Inc., 5515 Belair Road, Baltimore, Maryland 21206, formerly E. H. O'Neill Floors Company, effective November 4, 1974. (It supersedes Approval No. 164.006/50/0 dated September 10, 1973, to show change of name and address of manufacturer.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/64/1, E. F. Hauserman's "Double Wall" marine bulkhead panel system identical to that described in National Bureau of Standards Test Report No. FR 3815 dated August 29, 1972, and as shown on Hauserman's drawing 27063 dated February 16, 1972; approved as meeting Class B–15 requirements, finishes shall be UL listed/labeled materials or materials tested to prove compliance with Paragraph 164.012–10(a) and as accepted by the U.S. Coast Guard, manufactured by the E. F. Hauserman Company, 5711 Grant Avenue, Cleveland, Ohio 44105, effective November 14, 1974. (It supersedes Approval No. 164.008/64/0 dated September 29, 1972, to show revised remarks; limitation removed.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/16/1, "No. 100 Ultralite MC Insulation", glass wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG3610–1519: FR 2622 dated May 19, 1948, approved in a one-pound per cubic foot density, product manufactured by Certain-Teed Products Corporation at Plant #5, 3000 Fairfax Road, Kansas City, Kansas for Certain-Teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, effective November 5, 1974. (It supersedes Approval No. 164.009/16/1 dated May 7, 1974 to show change of name and address of company.)

Approval No. 164.009/23/0, "No. 75 Ultralite MC Insulation", glass wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–1656: FP2855 (Test No. 122822) dated December 13, 1949, approved in a density of 0.75 pound per cubic foot, product manufactured by Certain-Teed Products Corporation at Plant #5, 3000 Fairfax Road, Kansas City, Kansas for Certain-Teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, effective November 5, 1974. (It supersedes Approval No. 164.009/23/0 dated May 7, 1974 to show change of name and address of company.)

Approval No. 164.009/24/0, "No. 150 Ultralite MC Insulation", glass wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–1656:FP2855 (Test No. 122822) dated December 13, 1949, approved in a density of 1.48 pounds per cubic foot, product manufactured by Certain-Teed Products Corporation at Plant #5, 3000 Fairfax Road, Kansas City, Kansas for Certain-Teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, effective November 5, 1974. (It supersedes Approval No. 164.009/24/0 dated May 7, 1974 to show change of name and address of company.)

Approval No. 164.009/82/1, "Ultrafine CG #1 through CG #7", fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report Nos. TG10210–2120:FR3651 dated June 7, 1965, and TG10210–2122:FR3653 dated September 17, 1965, approved in a range from ½ through 3 pounds per cubic foot density, product manufactured at Plant #7, 3031 Fiberglas Road, Kansas City, Kansas 66115, Mountaintop, Pennsylvania Plant, Crestwood Industrial Park, Mountaintop, Pennsylvania 18707 & Berlin, New Jersey Plant, New Booklyn & New Freedom Roads, Williamstown Junction, New Jersey 08009, for Certain-Teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, effective November 5, 1974. (It supersedes approval No. 164.009/82/1 dated April 30, 1970 to show change of name and address of company.)

Dated: January 12, 1975.

D. H. CLIFTON,
Captain U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.75–1883 Filed 1–20–75;8:45 am]

Federal Highway Administration

TRUCKS ON INTERSTATE SYSTEM HIGHWAYS

Maximum Weight; Interpretation

The purpose of this notice is to advise interested persons of the contents of a significant new interpretation issued by the Federal Highway Administration, pertaining to the construction of 23 U.S.C. 127, as amended by section 106 (b) of the Federal-Aid Highway Amendments of 1974. Those provisions of law pertain to maximum weight of motor

vehicles that may lawfully be permitted to use Interstate System highways.

Since this interpretation is of general interest, the Federal Highway Administrator is publishing it for the information of all persons concerned. The text of the interpretation is set forth below.

This notice is issued under the authority of 23 U.S.C. 127, 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.

Issued on January 13, 1975.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Construction of the "Grandfather Clause" in 23 U.S.C. 127 As Amended by Section 106(b) of the Federal-Aid Highway Amendments of 1974. It has come to the attention of the Federal Highway Administrator that there may be some confusion as to the correct meaning of the amendments made to the "grandfather clause" of 23 U.S.C. 127 by section 106(b) of the Federal-Aid Highway Amendments of 1974, P.L. 93-643. As amended, the statute provides, in pertinent part, as follows (language added by the 1974 amendments is italicized):

No [Interstate] funds * * * shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of [single axle, 20,000 lbs.; tandem axle, 34,000 lbs.; gross weight, by formula up to 80,000 lbs.] * * * or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater.

* * * * *

This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956 except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974.

Since, on January 4, 1975, the date of enactment of the 1974 amendments, 13 western States had laws which provided for weights of over 80,000 pounds for vehicles using highways off the Interstate System, and lower weights for vehicles using the Interstate System, the question arises whether the revised grandfather language quoted above refers to the lower or the higher limits. The Federal Highway Administrator interprets the revised section 127 as referring to the lower State limits for Interstate System use.

In the 13 States concerned, the "corresponding maximum weights * * * permitted * * * under laws or regulations established by appropriate authority in effect on * * * [January 4, 1975]" were of a dual nature, and geographically restrictive. Specifically, a vehicle weighing over 80,000 pounds was restricted to operation on highways off the Interstate System. Likewise, while such a vehicle "could be lawfully operated within such State," the operation would not have been lawful on the Interstate System. The primary purpose of 23 U.S.C. 127 is to protect the Interstate System highways from premature damage. This purpose can best be achieved by construing the "grandfather clause" so as to permit use of Interstate highways by only those vehicles having gross weights that would have allowed their lawful operation on the Interstate System on the "grandfather" date.

Further, it is necessary to read subsections (a) and (b) together. With respect to gross weight, subsection (a) introduces the new concept of "group of axles" weight determined by a formula which permits gross weight to rise in increments with increasing vehicle lengths and increasing number of axles, up to a fixed ceiling of 80,000 pounds. This language, providing for incremental gross weight increases, replaces the non-incremental, single-figure limit of 73,280 pounds in prior law which was applicable without regard to how short or long a vehicle was, or the number of axles it had.

Subsection (b) changes the grandfather date for vehicle gross weights, as determined by the formula, to the date of enactment of the Act. One clear result is that States which had single-figure Interstate gross weight limits on the date of enactment are not required to roll them back to the more restrictive incremental limits of the Federal formula. Another is that States which employed Interstate gross weight formulas different than the Federal formula may retain them. Still a third is to permit two States, Hawaii and New Mexico, to continue in effect their laws providing for Interstate System limits in excess of 80,000 pounds.

Reading subsections (a) and (b) together in this manner results in a harmonious construction of the section as a whole. It is also consistent with the intent of Congress as expressed in the legislative history of the section. The conference report, H. Rept. No. 93-1622 (at p. 19), for example, indicates the one purpose of the amended "grandfather clause" was to permit certain vehicles "to continue to operate on the Interstate System," a result which could not be achieved if those vehicles had not lawfully operated there before. Conversely, the legislative history provides no support for the view that Congress intended to confer a special status, by making a broad special exemption from the 80,000-pound gross weight ceiling, upon 13 States concentrated in one corner of the Nation.

Therefore, the Federal Highway Administrator advises all interested persons that, in reviewing State actions for conformity with 23 U.S.C. 127, he will do so in the light of the foregoing interpretation of 23 U.S.C. 127.

[FR Doc.75-1820 Filed 1-20-75;8:45 am]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON COMPLIANCE AND ENFORCEMENT PROCEEDINGS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Compliance and Enforcement Proceedings of the Administrative Conference of the United States to be held at 10 a.m., February 7, 1975 in the Library of the Administrative Conference of the United States, 2120 L Street, NW, Suite 500, Washington, D.C. 20037.

The Committee will meet to consider:

1. Professor Jan Vetter's revised report and recommendations concerning affirmative action regulations in university faculty employment;
2. Professor Jerry Mashaw's final report and recommendation concerning citizens suit provisions in federal regulatory statutes;
3. William R. Shaw's report and recommendation concerning procedures to ensure federal facility compliance with environmental quality standards; and
4. Any other matters.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact William R. Shaw, (phone 202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

JANUARY 15, 1975.

[FR Doc.75-1833 Filed 1-20-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26494, Order 75-1-67]

JOINT TRAFFIC CONFERENCES OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to South Pacific Air Fares Agreement

JANUARY 14, 1975.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's Economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, proposed to be effective April 1, 1975 through March 31, 1976 would establish fares over the South Pacific.

The agreement would increase, with certain exceptions, all fares for U.S. originating travel over the South Pacific

by 13 percent;[1] and impose stopover restrictions on various promotional fares not heretofore so restricted. Free stopovers in connection with the 28 day excursion and 35 day individual inclusive tour fare would be limited to a total of five with additional stopovers available at a charge of $25 each.

The purpose of this order is to establish dates for the submission of carrier justifications in support of the subject agreements, and comments from other interested persons. The carriers' justifications should include historical data, as reported to the Board in form 41 reports by functional account, for total Pacific services for the year ended September 30, 1974, adjusted to exclude all charter and cargo operations so as to establish the present economic status of passenger services in the areas covered by the subject agreement.[2] The carriers will also be expected to include a forecast for the year ending March 31, 1976, both including and excluding the increased fares for which they seek approval.

In addition to the above information, we request that the South Pacific carriers also address the question of fare structure on this route; including proposed continuation of a number of promotional fares at discounts in excess of 50 percent, the relatively high yields from west coast-Papeete and Honolulu-Sydney fares compared with fares between west coast-Sydney and Honolulu-Papeete and the rationale for the same dollar fares for affinity group, individual inclusive tour and group inclusive tour fares between Honolulu and Papeete.

Accordingly, It is ordered That:

1. All United States air carrier members of the International Air Transport Association shall file within twenty days after the date of service of this order, full documentation and economic justification (as described above) in support of the subject agreement;

2. Comments and/or objections from interested persons shall be submitted within thirty days after the date of service of this order; and

3. Tariffs implementing the subject agreements shall not be filed in advance of Board action on the agreements.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, *Chief, Passenger and Cargo Rates Division, Bureau of Economics.*

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[1] The agreement would increase the Honolulu-Papeete and west coast-Papeete normal economy fares by 20 and 15 percent respectively. The Honolulu-Papeete first class fare would be increased by 18 percent.

[2] A suggested format is shown in the Appendix, which should also be used to set forth historical and forecast information relating to traffic and capacity.

Operating Revenues and Expenses International—Pacific Area

	Year ended Sept. 30, 1974 [1]	Exclusions [2]		South Pacific scheduled Passenger		Forecasts year ended Mar. 31, 1976, South Pacific scheduled passenger operations	
		Military and commercial charter services	Cargo services [3]	As reported	Accounting adjustments	At present fares	At proposed fares
Revenues:							
Total passenger revenues (scheduled)							
Express (scheduled)							
Freight (scheduled)							
Mail (scheduled)							
Charter, passenger							
Charter, freight							
Other transport							
Overall transport revenues							
Nontransport revenues							
Overall operating revenues							
Expenses:							
Flying Operations—fuel							
Maintenance—direct							
Maintenance—indirect							
Passenger service							
Aircraft and traffic servicing							
Promotion and sales							
General and administration—transport related							
Amortization of development and Preop. Exp. etc							
Depreciation, flight equipment							
Depreciation, other than flight equipment							
Overall operating expenses							
Operating profit (loss)							
Other nonoperating income and expense, net							
Net income before tax							
Income tax at 48 percent							
Special items—net							
Income after tax and special items							
Additional interest expense							
Return element							
Investment							
ROI							

[1] As reported in form 41.
[2] Pan American is required to exclude separately its total North/Central Pacific and intra-Pacific operations.
[3] Belly and all cargo services, including mail.
[4] Balance.
[5] To include but not limited to an annualization of present revenues and expenses explain fully.

[FR Doc.75-1769 Filed 1-20-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

SWIMMING POOL SLIDES

Acceptance of Offer To Develop Safety Standard; Summary of Terms of Acceptance

By notice in the FEDERAL REGISTER of October 24, 1974 (39 FR 37804) the Consumer Product Safety Commission commenced a proceeding pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) for the development of a consumer product safety standard applicable to swimming pool water slides. The notice invited any person to submit to the Commission, on or before November 25, 1974, either of the following:

1. One or more existing standards as a proposed consumer product safety standard in this proceeding; or,

2. An offer to develop one or more proposed consumer product safety standards applicable to swimming pool slides to reduce or eliminate any or all of the unreasonable risks of injury associated with swimming pool slides identified in this notice.

In response to the October 24 FEDERAL REGISTER notice, the Commission received two offers to develop a recommended standard applicable to swimming pool water slides. The purpose of this notice is to announce the acceptance of one of these offers.

The Commission has accepted the offer of the National Swimming Pool Institute, 2000 K Street, NW, Washington, D.C. 20006 to develop a recommended consumer product safety standard applicable to swimming pool water slides. The Commission has determined that the NSPI (1) is technically competent, (2) is likely to develop an appropriate standard within the 120 day period provided by the Commission and (3) will comply with the regulations issued by the Commission under section 7 of the Consumer Product Safety Act (16 CFR 1105; 39 FR 16206) applicable to the development of the standard.

Method of development. The National Swimming Pool Institute (NSPI) intends to develop the standard with the help of a management committee consisting of technical and use-oriented consumers. Experts from industry, medicine, and human factors, water safety organizations, and safety engineering and standard writing firms will participate in the activities of the management committee. This committee will solicit information from the public, consumer groups, and individual consumers and experts about swimming pool water slide problems.

A development committee, utilizing experts of different disciplines as well as technical and use-oriented consumers, will gather information affecting the standard through technical research, personal experience and public hearings. The committee will be supported by a project engineer and technical support working groups. Consumer input will be provided to the committee through participation of use-oriented and technically-oriented consumer volunteers. The committee will be responsible for drafting the recommended standard.

Meetings of the management committee, the development committee and other subcommittees which will be set up will be open to attendance and participation by all interested persons.

In its technical program, NSPI will compile available accident data on swimming pool water slides. Accidents will be categorized into: (1) product or installation caused accidents and (2) product misuse accidents. Existing engineering analysis from studies by Utah and Nova Universities will be analyzed. Medical and human factor input will be incorporated in the standards development process.

Test programs to augment the committee's work which might become necessary to verify or extend earlier testing will be carried out at facilities arranged by NSPI and its members. Additionally, swimming pool water slide test programs will be carried out at facilities of Aqua Slide 'N' Dive, Brownsville, Texas or Los Angeles.

Participation by consumers and other interested persons. In accordance with the Commission's regulations and the terms of NSIP's offer, all persons are invited to participate in the standard development process. In order to ensure this participation, the NSPI will distribute a detailed questionnaire about swimming pool water slides to persons and organizations which can be identified as accident and safety sources for data. Additional public participation will be accomplished using technically and use-oriented consumers from the American Red Cross and the National Safety Council. Furthermore, four technically and use-oriented consumers have been invited to serve on the NSPI development committee to make a direct input to the standard.

Offer acceptance agreement. NSPI has agreed to develop a recommended standard applicable to swimming pool water slides in accordance with the terms of the October 24 notice of proceedings (39 FR 37804), the Commission's regulations for developing Consumer Product Safety Standards (16 CFR 1105; 39 FR 16206) and the terms of the agreement entered into with the Commission on January 14, 1975.

The Commission has agreed to contribute $14,000 toward the cost of developing the recommended standard. These funds will be used to defray consumer travel and per diem expenses as specified in the agreement.

The Consumer Product Safety Act specifies in section 7(b) (15 U.S.C. 2056 (b)) that the period in which a recommended standard is to be developed shall end on June 20, 1975 after publication in the FEDERAL REGISTER of a notice inviting any person to submit an offer to develop a proposed standard which in this case is March 23, 1975. The Commission, however, in accepting the offer of NSPI specified that NSPI shall have a period of 120 days beginning January 6, 1975, in which to develop a standard, with this period to end on May 6, 1975.

The Commission finds that the additional period is appropriate due to the complex nature of the swimming pool water slide problem and the need by the offeror to conduct various human factor studies. The extended development period will also ensure the opportunity for adequate participation by all interested parties, and provide the offeror with sufficient opportunity to evaluate all comments on the standard it drafts. The Commission may, by notice in the FEDERAL REGISTER, extend the period for development if it finds for good cause that a different period of time is appropriate.

Copies of NSPI's offer and a copy of the formal agreement entered into between the Commission and NSPI are available for inspection in the Office of the Secretary, Room 1025, 1750 K Street, NW., Washington, D.C.

All persons interested in participating in the development of the standard applicable to swimming pool slides should contact Mr. Larry Paulick, NSPI Program Coordinator, National Swimming Pool Institute, 2000 K Street, NW., Washington, D.C. 20006, telephone (202) 331-8844.

Dated: January 15, 1975.

SADYE E. DUNN,
Secretary,
Consumer Product Safety Commission.

[FR Doc.75-1881 Filed 1-20-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL323-1]

AREAWIDE WASTE TREATMENT

Management Planning Approvals; Area and Agency Designations

Pursuant to section 208 of the Federal Water Pollution Control Act Amendments of 1972, notice is hereby given of approvals and disapprovals of designation of areawide waste treatment management planning areas and agencies for the period December 3, 1974, through January 7, 1975.

The following area and agency designations have been approved by the Environmental Protection Agency:

Augusta-Cobbossee, Maine (Southern Kennebec Valley Regional Planning Commission, 154 State Street, Augusta, Maine 04330).

Lewiston-Auburn, Maine (Androscoggin Valley Regional Planning Commission, 34 Court Street, Auburn, Maine 04210).

Southeast Wisconsin (Southeastern Wisconsin Regional Planning Commission, 916 N. East Avenue, Waukesha, Wisconsin 53186).

Fredericksburg, Virginia (Rappahannock Area Development Commission, Planning District 16, P.O. Box 863, Fredericksburg, Virginia 22401).

In addition, the designation of Bonneville County, Idaho and of the Bonneville Council of Governments as a 208 area and agency, respectively, was disapproved. The area does not appear to have sufficiently complex water quality problems to warrant an intensive areawide planning and management program for water quality at the local level. The surface water quality problems seem to be minor and readily correctable through effective use of discharge permits for municipal and industrial pollutants. Furthermore, the groundwater problems appear to be localized and can be solved by traditional control measures such as tighter zoning controls.

G. M. DIETRICH,
Acting Assistant Administrator for Water and Hazardous Materials.

JANUARY 15, 1975.

[FR Doc.75-1873 Filed 1-20-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP75-50]

PENNSYLVANIA GAS AND WATER CO. AND TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO INC.

Notice of Complaint

Take notice that on January 3, 1975, Pennsylvania Gas and Water Company (Complainant), 30 North Franklin Street, Wilkes-Barre, Pennsylvania 18701, filed in Docket No. RP75-50 a complaint against Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Defendant), P.O. Box 2511, Houston, Texas 77001, alleging violation of section 4 of the Natural Gas Act as a result of Defendant's unreasonable, preferential, discriminatory and unlawful implementation of its curtailment plan

for sales of natural gas made pursuant to authorizations issued under the Natural Gas Act and requesting that the Commission issue an order providing for an immediate formal hearing on the issues raised in the instant complaint and to provide interim relief from Defendant's curtailment implementation pending consideration of said complaint, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

The complaint asserts that Defendant notified Complainant on December 13, 1974, that on the basis of certain recently collected customer end-use data Defendant's system curtailment rate during the period December 16, 1974, through March 31, 1975, would be raised from 5.1 percent to 14 percent and that curtailment of Complainant's requirements would be increased from 5.1 percent to 45 percent. The complaint alleges that by establishing such revised curtailment rates on the basis of this recently collected but untested and unverified data Defendant is acting in an unreasonable, preferential and unduly discriminatory manner in violation of section 4(b) of the Natural Gas Act. The complaint cites as further violation of the Act Defendant's refusal to allow Complainant an opportunity to correct a patent discrepancy in the end-use data it furnished Defendant and which forms a part of the unverified and untested data relied on by Defendant in establishing revised curtailment rates for its customers. The complaint asserts that a 45 percent curtailment of Complainant's winter requirements would wreak havoc on the economy of its market areas and that Complainant is processing data in contemplation of filing a petition for extraordinary relief from the implementation of Defendant's curtailment plan. Complainant argues, however, that such extraordinary relief would not be required if Defendant were curtailing on the basis of meaningful end-use data.

Complainant is a public utility corporation engaged in the supply and distribution of water and natural gas within the Commonwealth of Pennsylvania. Natural Gas service is said to be provided by Complainant to the public in parts of the following Pennsylvania counties: Lackawanna, Wyoming, Luzerne, Columbia, Northumberland, Snyder, Montour, Union and Lycoming. Complainant states that its market is mostly residential, commercial and small process-use industrial and that it does not meet the needs of large interruptible or boiler fuel consumers. Complainant states that it is imperative that the recently collected data of Defendant be made subject to evidentiary scrutiny, particularly in comparison with the data submitted by these same customers in 1973 (as estimated customer end-use requirements for 1974) which Defendant offered into the record at the hearing in Docket No. RP74–24 as Exhibit 2. Complaint alleges that Defendant stated at that time that its capacity entitlement during 1974 would be implemented on the basis of the end-use data reflected in Exhibit 2, which data were evaluated to ascertain whether such customer projections were in line with past experience and the customer contacted where projections were not in line, that Defendant is now-basing curtailments on recently collected unverified data. Complaint states that after notification of the new curtailment level by Defendant it sought an explanation of the massive disparity in curtailments between Defendant's system curtailment of 14 percent and Complainant's curtailment of 45 percent of requirements. The complaint alleges that on reviewing the end-use data report submitted by Complainant to Defendent early in December 1974, Complainant first noticed a blatent discrepency in which Priority 3 requirements had been listed as increasing from 5.3 percent of total requirements to 39.7 percent of total requirements with a corresponding reduction in reported Priority 2 requirements. Complainant states that on further investigation it discovered that this discrepancy resulted from an improper priority categorization in its preparation of the December 1974 submittal.[1] The complaint states that whereas in the data submittal reflected in Exhibit 2, Complainant properly included firm process gas requirements in Priority 2, in the December 1974 submittal all firm process gas was erroneously categorized as Priority 3 load.

The complaint states that Defendant refused to allow Complainant to correct the erroneous December 1974 data and that Defendant took the position that time did not permit its customary review of this recently collected end-use data. Moreover Defendant's position is stated to be that such review by it would not necessarily support the accuracy of the data reported by its customers and that the current implementation of its curtailment plan is being based on raw untested end-use data as furnished by all customers. Complainant alleges that Defendant, while recognizing the patent nature of the discrepancy, informed Complainant that the data it submitted could not be revised or corrected and that Complainant would have to seek relief from the Commission which Defendant would not oppose.

Complainant argues that in view of the fact that Defendant is relying on unverified data developed unilaterally by its customers and that Defendant does not purport to support the accuracy of such data it is clearly an unreasonable and unduly discriminatory practice on the part of Defendant to refuse to accede to Complainant's request to be permitted to revise data with data that Defendant previously reviewed and supported at the hearing in Docket No. RP74–24. The complaint states that a curtailment by Defendant of 45 percent of Complainant's winter requirement could have an adverse impact on the economies of its market areas particularly in and around Scranton and Wilkes-Barre. The economy of these areas is said to be already severely depressed due, in large measure, to the disastrous flooding in the spring of 1972. Complainant states that a 45 percent curtailment would severely reduce the gas supply for its firm industrial consumers, which have almost no alternate fuel capabilities, and that said consumers would have to cease their operations in the event Complainant could not supply their gas needs. Complainant alleges that this would result in an irreparable impact on the economy of these areas.

In light of the impact of Defendant's curtailment on Complainant and other customers, and the availability of more reliable end-use data Complainant requests that the Commission provide for interim relief pending resolution of the instant complaint. Specifically, Complainant requests that Defendant be ordered to implement its curtailment plan on the basis of end-use data underlying Exhibit 2 in Docket No. RP74–24 or that Defendant be directed to base Complainant's curtailment requirements on the corrected end-use data reflected in the instant complaint. In addition, Complainant requests that all customers of Defendant be put on immediate notice that deliveries by Defendant during its present period of curtailment will be made subject to later pay-back in the event that a final order in this proceeding shall disclose that as a result of incorrect end-use data reporting some customers have received an unfair portion of Defendant's gas.

It appears reasonable and consistent with the public interest in this case to provide a shortened period for the filing of petitions to intervene and protests. Therefore, any person desiring to be heard or to make any protest with reference to said complaint should on or before January 30, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a pro-

[1] See the following table:

End-use data submittals by Penn Gas

	Per exhibit 2, docket No. RP74-24		December 1974	
	Million cubic feet	*Percent*	*Million cubic feet*	*Percent*
Company use and unaccounted	176	1.4	124	1.0
Priority 1	3,273	26.5	3,160	25.6
Priority 2	7,932	64.2	4,143	33.5
Priority 3	652	5.3	4,902	39.7
Priority 6	326	2.6	31	0.3
Total	12,360		12,360	

test in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

A copy of the instant complaint was served upon Defendant on January 10, 1975. It appears reasonable and consistent with the public interest in this case to call upon Defendant to satisfy the complaint or answer the same in writing by January 30, 1975.

KENNETH F. PLUMB,
Secretary.

JANUARY 14, 1975.

[FR Doc.75-1848 Filed 1-20-75;8:45 am]

[Docket No. CP75-32]

ARKANSAS LOUISIANA GAS COMPANY

Notice of Petition To Amend

Take notice that on January 3, 1975, Arkansas Louisiana Gas Company (Applicant), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP75-32 a petition to amend the order issuing a budget-type certificate of public convenience and necessity in said docket on October 31, 1974, pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7 of the Regulations thereunder (18 CFR 157.7), by authorizing an increase in the maximum single project cost from $1 million to $1.5 million and by authorizing Petitioner to use its budget certificate to implement exchanges of gas with other pipeline companies, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioner's certificate in the instant docket authorizes Petitioner to construct during the calendar year 1975 and operate natural gas facilities to enable Petitioner to take into its certificated main pipeline system natural gas which would be purchased from producers in the general vicinity thereof. Total expenditures for facilities is limited, pursuant to § 157.7(b) of the regulations under the Natural Gas Act, to $7 million with no single project to exceed a cost of $1 million.

Petitioner states that it could arrange exchange agreements with other pipeline companies more expeditiously if it were authorized to use its budget-type certificate in lieu of having to apply for separate authorization. Petitioner further states inflation has greatly increased construction, material and installation costs in recent years as justification for the increase in the single project cost maximum to $1.5 million.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 4, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

JANUARY 14, 1975.

[FR Doc.75-1847 Filed 1-20-75;8:45 am]

[Docket No. RI73-227]

AUSTRAL OIL CO.

Extension of Time

JANUARY 7, 1975.

On January 6, 1975, Austral Oil Company Incorporated filed a motion to extend the time for filing briefs on exceptions to the decision of the Presiding Administrative Law Judge issued November 6, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the time for filing briefs on exceptions is extended to January 13, 1975 and the date for filing briefs opposing exceptions is extended to February 3, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1856 Filed 1-20-75;8:45 am]

[Docket No. E-9109]

CONSUMERS POWER CO. AND THE DETROIT EDISON CO.

Tariff Change

JANUARY 14, 1975.

Take notice that Consumers Power Company (Consumers Power) on November 13, 1974 tendered for filing proposed changes in data supporting the Electric Coordination Agreement between Consumers Power Company and The Detroit Edison Company (Detroit Edison), designated Consumers Power Company Rate Schedule FPC No. 33. The proposed changes would increase the charges under the Agreement for seasonal, weekly and daily capacity reservations by approximately five percent (5%).

The increased rates are necessitated by changes in the generating facilities designated to provide the capacity and by the addition of several new transmission lines.

Copies of the filing were mailed to Detroit Edison and to the Michigan Public Service Commission.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE, Washington, DC. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection. (Order No. 487, 38 FR 19967, July 26, 1973)

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1855 Filed 1-20-75;8:45 am]

[Docket No. E-8843]

HOLYOKE WATER POWER CO., HOLYOKE POWER AND ELECTRIC CO.

Extension of Procedural Dates

JANUARY 14, 1975.

On January 10, 1975, Chicopee, Massachusetts Electric Light Department filed a motion to extend the procedural dates fixed by order issued August 9, 1974, as most recently modified by notice issued December 31, 1974 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor's Testimony, February 18, 1975.
Service of Company Rebuttal, February 28, 1975.
Hearing, March 11, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-1858 Filed 1-20-75;45 am]

[Docket No. R175-76]

EXXON CORP.

Order Setting Date for Hearing and Consolidating Proceedings

JANUARY 8, 1975.

On November 18, 1974, Exxon filed with the Commission a contract amendment dated October 28, 1974, designated as Supplement No. 42 to its Rate Schedule No. 357 and a notice of change in rate designated as Supplement No. 43 to its Rate Schedule No. 357, for gas sold to Columbia Gas Transmission Corporation (Columbia) from acreage in the Louisiana and offshore Louisiana areas. The amendment to Exxon's June 28, 1963 basic contract adds an area rate clause, excess royalty reimbursement clause and a deregulation clause as consideration for Exxon to undertake a work program involving the drilling of additional wells on acreage presently committed to Columbia and for making other investments to increase deliverability. The October

28, 1974, amendment and resulting notice of change in rate will increase the prices Exxon receives for the sale of gas up to the applicable area rates established by the Commission in Opinion No. 598 [1] and Opinion No. 699 [2]. The proposed increase were suspended for one day from the dates they would otherwise become effective by order issued December 18, 1974, in the above-entitled proceeding.

The proposed rates do not exceed the applicable ceiling rates established by this Commission. There is a question, however, as to whether Exxon is entitled to amend its basic contract, as it has done in its October 28, 1974 agreement, in light of the permanent certificate issued to it on November 15, 1963, in Docket No. CI64–5, 30 FPC 1297. Therefore, we deem it necessary that a hearing be held in this matter to decide the issues raised by Exxon's filings herein.

There is currently set for hearing on January 7, 1975, in Docket No. RI75–46 a closely related contractual issue raised by Exxon's notice of change in rate designated as Supplement No. 41 to its Rate Schedule No. 357 for gas sold to Columbia from the same acreage. Consolidation of Docket Nos. RI75–46 and RI75–76 will permit a complete and comprehensive hearing on all related matters and reduce the administrative burden on the parties.

The Commission permitted Columbia to intervene in Docket No. RI75–46 by order dated December 20, 1974. Columbia need not file a further petition to intervene in the consolidated proceeding we hereby set for hearing.

The Commission finds:

It is in the public interest and convenience that Docket Nos. RI75–46 and RI75–76 be consolidated and set for hearing.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14 and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulation under the Natural Gas Act (18 CFR, Chapter I), Docket Nos. RI75–46 and RI75–76 are consolidated and set for hearing and disposition.

(B) A public hearing on the contractual and certificate issues presented by the filings herein shall be held commencing on March 12, 1975, 10:00 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Exxon Corporation and parties in support shall file their direct testimony and evidence on or before February 18, 1975. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, shall file their direct testimony and evidence on or before February 28, 1975. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before March 7, 1975. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to the proceeding.

(G) Notice of intervention or petitions seeking leave to intervene in this proceeding shall be filed with the Federal Power Commission, Washington, D.C., 18 CFR 1.8 and 1.37(f), on or before January 15, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75–1850 Filed 1–20–75;8:45 am]

[1] *Southern Louisiana Area Rate Proceeding*, 46 FPC 86 (1971), affirmed, *sub nom. Placid Oil Co.* v. *F.P.C.*, 5th Cir. 483 F.2d 880 (1973), affirmed, *sub nom. Mobil Oil Corp.* v. *F.P.C.*, ____ U.S. ____ 42 U.S.L. Week 4842 (June 10, 1974).

[2] ____ FPC ____ (1974). Rehearing of Opinion No. 699 for purposes of further consideration was granted by the Commission's order of August 2, 1974. ____ FPC ____, amended, ____ FPC ____ (August 12, 1974).

[Docket No. RI75–21]

INDEPENDENT OIL AND GAS ASSOCIATION OF WEST VIRGINIA

Extension of Procedural Dates

JANUARY 14, 1975.

On January 8, 1975, Independent Oil and Gas Association of West Virginia (IOGA) filed a motion to extend the procedural dates fixed by order issued December 2, 1974 in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of IOGA's Direct Testimony, January 17, 1975.
Pre-Hearing Conference, January 28, 1975 10:00 a.m. e.s.t.

Any further proceedings necessary shall be fixed by the Presiding Administrative Law Judge.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–1852 Filed 1–20–75;8:45 am]

[Docket No. RP73–43; PGA75–2]

MID LOUISIANA GAS CO.

Proposed Change in Rates

JANUARY 14, 1975.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on Decemebr 20, 1974, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Eleventh Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G–1, SG–1, 101 and E–1; that the revised tariff sheet is proposed to be effective February 1, 1975, and that the filing is being made in accordanace with section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452–A; and that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–1857 Filed 1–20–75;8:45 am]

[Docket No. E–8547]

MISSOURI EDISON CO.

Further Extension of Procedural Dates

JANUARY 14, 1975.

On January 8, 1975, Staff Counsel filed a motion to indefinitely suspend the procedural dates fixed by order issued February 15, 1974, as most recently modified by notice issued December 16, 1974, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, February 7, 1975.
Service of Company Rebuttal, February 21, 1975.
Prehearing Conference, February 25, 1975 (10:00 a.m. e.s.t.).
Hearing, March 4, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–1853 Filed 1–20–75;8:45 am]

[Docket No. CP75–202]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Application

JANUARY 14, 1975.

Take notice that on January 7, 1975, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75–202 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) and the construction

and operation of the facilities required to implement such exchange, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that Applicant and Michigan Wisconsin have entered into a long-term contract dated November 13, 1974, to exchange gas in Wheeler and Hansford Counties, Texas. Pursuant to such agreement, Applicant will receive up to 10,000 Mcf of gas per day, or whatever quantity is otherwise mutually agreed upon, from Michigan Wisconsin through a proposed tap connection on Applicant's existing 26-inch pipeline in Section 2, AB & M Survey, Wheeler County, Texas; Michigan Wisconsin will deliver gas to Applicant from reserves committed to Michigan Wisconsin in the vicinity of Applicant's Wheeler County facilities.

Applicant proposes to deliver concurrently exchange volumes to Michigan Wisconsin at an existing point of interconnection between the systems of Applicant and Michigan Wisconsin in Hansford County, Texas, which is presently used for the exchange of gas between Applicant and Michigan Wisconsin under an existing exchange agreement.

Applicant further states that all volumes of gas exchanged will be adjusted for Btu content and all gas balances will be calculated on a volume weighted average Btu basis. Aside from a 1.25 percent adjustment for fuel gas used by Applicant, no compensation is provided for in the exchange agreement, it being understood that the transaction is to be a gas-for-gas exchange, according to Applicant.

Applicant further proposes to construct and operate a 4-inch tap connection on its existing 26-inch pipeline in Wheeler County at an estimated cost of $5,350, which cost will be reimbursed to Applicant by Michigan Wisconsin.

Applicant asserts that the proposed exchange is mutually beneficial to Applicant and Michigan Wisconsin in that it provides a means for each party to connect remote sources of gas supply into their respective systems while obviating the necessity to construct and operate duplicate facilities otherwise required if they were to proceed independently. Applicant states the exchange will have no effect on any of the other sales or services now rendered by Applicant nor will there be any change in Applicant's operations occasioned thereby.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1861 Filed 1-20-75;8:45 am]

[Docket No. RP73-8; PGA75-5]

NORTH PENN GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

JANUARY 14, 1975.

Take notice that North Penn Gas Company (North Penn) on January 2, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective February 1, 1975. The proposed rate increase would generate $222.9 thousand annually in additional jurisdictional revenues based on the twelve-month period ending November 30, 1974.

North Penn states that the PGA filing was triggered by a PGA rate increase filed by Consolidated Gas Supply Corporation on December 26, 1974, to become effective February 1, 1975, and a general rate increase filed by Transcontinental Gas Pipe Line Corporation at Docket No. RP75-3 to become effective February 1, 1975.

North Penn is requesting a waiver of the 45-day notice requirement contained in its PGA clause since it did not receive the suppliers' revised rates in sufficient time to make a timely filing and further asks for a waiver of any other of the Commission's rules and regulations in order to permit the proposed rates to go into effect on February 1, 1975.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 27, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1860 Filed 1-20-75;8:45 am]

[Docket No. RP71-119; Docket No. RP74-31-25]

PANHANDLE EASTERN PIPE LINE CO. (OKIE PIPE LINE CO.)

Petition for Extraordinary Relief

JANUARY 16, 1975.

By Order issued November 6, 1973, in Docket No. RP71-119, we accepted and made effective as of November 1, 1973, certain revised tariff sheets tendered by Panhandle Eastern Pipe Line Company (Panhandle). Those revised tariff sheets contain a curtailment plan filed by Panhandle which conformed to the curtailment procedures contained in the Commission's Statement of Policy, issued in Docket No. R-469, Order 467-B.

Numerous petitions for extraordinary relief from this curtailment plan have been filed by Panhandle's customers. The Commission by order issued on December 13, 1973, in Docket Nos. RP74-31-1, *et al.* set numerous petitions for formal hearing and assigned the various petitions for extraordinary relief filed thereafter by customers of Panhandle an appropriate docket number in this series.

Take notice that on January 8, 1973, Okie Pipe Line Company filed a petition pursuant to § 1.7(b) of the Commission's Rules of Practice and Procedure requesting extraordinary relief from the natural gas curtailments imposed under the provision of the presently effective 467-B interim plan which was filed by Panhandle on November 6, 1973.

Okie Pipe Line owns and operates a gas liquids pumping station located at Liberal, Kansas. The station operates a stand-by natural gas powered engine used to pump gas liquids in the event of failure of primary electric pumps. Okie Pipe Line also owns homes at Liberal Station used by company employees, each of which relies upon natural gas for heating and cooking. Panhandle is the source of supply of Liberal Station.

In its petition Okie Pipe Line alleges that it was advised by Panhandle that pursuant to its effective curtailment plan that deliveries to the Liberal Station would be completely curtailed during the course of the winter months.

Okie Pipe Line asserts in its petition that the projected curtailment creates an emergency at its Liberal Station. If auxiliary power is needed, there would

be no alternative source to turn to at this station. In addition, Okie Pipe Line's employees will have no source of heating during the winter.

Okie Pipe Line notes in its petition that Panhandle has granted it temporary emergency relief for a period of 60 days, commencing December 1, 1974. However, it contends that it has no prospect for supply in February or in the remaining winter months. It thus contends that permanent emergency relief is warranted.

In its petition it further reflects that it requires varying volumes during the course of the different months with a maximum monthly volume of 3,530 Mcf in January and a minimum volume of 1200 Mcf in the month of August.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before January 31, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75-1880 Filed 1-16-75;2:36 pm]

[Docket No. RP75-45]

TENNESSEE GAS PIPELINE CO.

Investigation of Revised Curtailment Level on System; Order Amending Order To Include Additional Parties

JANUARY 14, 1975.

Pursuant to Section 16 of the Natural Gas Act, the Commission herewith amends its order issued December 24, 1974, that initiated the investigation into the level of curtailment on Tennessee Gas Pipeline Company's (Tennessee) system to include as parties therein persons selling and delivering gas to Tennessee under Commission certificate authority in excess of 5,000 Mcf per day. This amendment is necessary to accomplish a full and complete evidentiary record upon which the Commission can obtain all of the relevant and necessary facts and data required in ascertaining the reasons for and determining the remedies underlying the instant investigation.

The Commission finds: Good cause exists to amend our order of December 24, 1974, as hereinafter ordered.

The Commission orders: (A) Our order of December 24, 1974, in this proceeding is hereby amended to include therein a new ordering paragraph (F) that will read as follows:

(F) All parties selling and delivering gas to Tennessee under FPC certificate authority in excess of 5,000 Mcf per day are deemed to be parties to this proceeding and may be required to present testimony and evidence as circumstances dictate and as may be determined by the Administrative Law Judge.

(B) In all other respects, our order of December 24, 1974, remains in full force and effect.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1851 Filed 1-20-75;8:45 am]

[Docket No. RI74-240]

TERRA RESOURCES, INC.

Final Decision

JANUARY 14, 1975.

On December 2, 1974, the Presiding Administrative Law Judge in the above-designated matter issued an initial decision on petition for special relief from area rates.

No exceptions having been filed by the parties or Staff Counsel and no review having been initiated by the Commission, the decision is final, effective January 13, 1975, pursuant to § 1.30(d)(3) of the Commission's rules of practice and procedure.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1849 Filed 1-20-75;8:45 am]

[Docket No. E-8997]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Extension of Procedural Dates

JANUARY 14, 1975.

On January 8, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 27, 1974 in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, February 13, 1975.
Service of Intervenor's Testimony, February 27, 1975.
Service of Company Rebuttal, March 13, 1975.
Hearing, March 25, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1854 Filed 1-20-75;8:45 am]

[Docket No. CI75-406]

PHILLIPS PETROLEUM CO.

Application

JANUARY 14, 1975.

Take notice that on December 30, 1974, Phillips Petroleum Company (Applicant), Bartlesville, Oklahoma 74004, filed in Docket No. CI75-406 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of Natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) from the Read "B" No. 1 Well in Evangeline Parish, Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it commenced an emergency sale from the subject acreage to Transco on December 17, 1974, for sixty days within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 175.29) and proposes to continue said sale after the end of the emergency period for one year at 85.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, within the contemplating of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant estimates monthly deliveries at 10,850 Mcf.

Applicant states that it and Transco have entered into a one-year contract in order to test the subject well, drilled as an exploratory well, under producing conditions at pipeline pressure and that during this period Applicant will evaluate reserves underlying the well and determine whether additional development is justified on acreage held by Applicant in the area. Applicant, therefore, asserts that the supply of gas will be available only for the limited period for which certification is sought until the well can be tested and reserves evaluated. Applicant further states that the subject gas is available to it in excess of its present requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 4, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-1859 Filed 1-20-75;8:45 am]

[Docket No. RI75-100]

SOUTHERN UNION PRODUCTION CO.

Order Relating to Proposed Rate Change

JANUARY 14, 1975.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf[1]		Rate in effect subject to refund in dockets No.
									Rate in effect	Proposed increased rate	
RI75-100...	Southern Union Production Co.	10	12	El Paso Natural Gas Co. (Rocky Mountain area).	$15,860	12-19-74	.....	6-19-75	[2][3] 24.98	[2][3] 25.48	RI74-134
.....do.....				.....do.....	334	12-19-74	.....	6-19-75	[2][4] 28.5	[2][4] 29.0	RI74-134

[1] Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[2] Plus applicable tax and Btu adjustment.
[3] Applicable to production from wells completed prior to June 1, 1970.
[4] Applicable to production from wells completed on or after June 1, 1970.

The proposed rate increase of Southern Union exceeds the applicable area ceiling in Opinion No. 658 and is suspended for five months.

In regard to any sale of natural gas for which the proposed increased rate is filed under the provisions of Opinion No. 699-H, issued December 4, 1974, in Docket No. R-389-B, no part of the proposed rate increase above the prior applicable area ceiling rate may be made effective until the seller submits a statement in writing demonstrating that Opinion No. 699-H is applicable to the particular increased rate filing, in whole or in part. The proposed increased rates for which such support shall have been satisfactorily demonstrated on or before January 31, 1975, will be made effective as of June 21, 1974.

[FR Doc.75-1741 Filed 1-20-75;8:45 am]

[Docket No. RP74-85]

WESTERN GAS INTERSTATE CO.

Order Approving Settlement Agreement

JANUARY 13, 1975.

On October 16, 1974, Western Gas Interstate Company (Western) tendered for filing a Stipulation and Agreement of Settlement in this proceeding and a motion for Commission approval thereof. The Presiding Administrative Law Judge in the above referenced docket certified the proposed agreement to the Commission on November 8, 1974. If approved, this settlement would resolve all issues in this proceeding.

This case involves a proposed increase in Western's rates filed April 24, 1974, which would have resulted in annual increased jurisdictional revenues of $1,702,147. The increased rates were suspended for one day until June 16, 1974, by order issued June 14, 1974.

A hearing was held in this proceeding on October 16, 1974, at which Western's prepared testimony was adopted by attestation. The Stipulation and Agreement along with the agreed upon settlement cost of service were also copied into the record. During the hearing on October 16, 1974, all parties stated on the record their support of the settlement agreement. The agreement was certified to the Commission on November 8, 1974, by the Presiding Administrative Law Judge with comments due on or before November 27, 1974. To date, no comments have been received.

The principal provisions of the settlement agreement may be summarized as follows:

Article I. This Article provides for the filing of revised tariff sheets within ten days after Commission approval of the agreement that will reduce Western's effective rates by 0.7¢ per Mcf (See Appendix A). It also provides for Western to refund the difference from the period June 16, 1974, to the effective date of the tariff sheets filed to make such reductions.

Article II. This Article states that none of the provisions of this Agreement shall become effective until the Commission has entered an order unconditionally accepting this Agreement as final and non-appealable.

In addition, nothing in this Agreement shall limit the right of Western to file a rate increase application. This Agreement shall not be terminated by any changes filed by Western applicable to purchased gas adjustment provisions of its tariff.

Article III. This Article states that the provisions of this Agreement constitute a negotiated dollar settlement of this proceeding, and neither Western, the Commission Staff, nor any other party shall be deemed to have approved, accepted, agreed to, or consented to any rate of return, rate making principle, or any method of cost of service or other determination, or any other allocation underlying or supposed to underlie the settlement.

Rate base and rate of return. These appendices to the Agreement reflect a rate base of $841,207, and an 8.7 percent rate of return yielding a 10.25 percent return on common equity. (See Appendix A for settlement cost of service)

Based on our review of the record in this proceeding, including the filing by Western and the proposed settlement agreement, we find that the proposed settlement is reasonable and in the public interest, and accordingly should be approved subject to the terms and conditions of this order. Pursuant to Article I of the Agreement, Western shall file within 10 days of the issuance of this order new rates to be effective on or before June 16, 1974, which reflect a reduction of 0.7¢ per Mcf from the presently effective rates. Western shall refund the difference, including interest of 7 percent per annum, from the period June 16, 1974 to the effective date of the tariff sheets filed to make such reductions.

The Commission finds: The settlement of this proceeding on the basis of the settlement agreement filed herein by Western on October 16, 1974, and certified to the Commission on November 8, 1974, is reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act, and such agreement should be approved as hereinafter ordered.

The Commission orders: (A) The settlement agreement filed by Western Gas Interstate Company on October 16, 1974, and certified to the Commission on November 8, 1974, is incorporated herein by reference, approved and made effective as of June 16, 1974, subject to the terms and conditions of this order.

(B) Western shall file, within 10 days of the issuance of this order, new rates to be effective immediately which reflect a reduction of 0.7¢ per Mcf from the presently effective rates to Western's jurisdictional customers.

(C) Western shall refund the difference, including interest of 7 percent per annum, from the period June 16, 1974 to the effective date of the tariff sheets filed to make the reductions provided for in paragraph (A).

(D) This order is without prejudice to any findings or orders which have been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Western, or by any other party or person affected by this order in any proceedings now pending or hereafter instituted by or against Western or any other person or party.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Line No.	Description (a)	Southern division (b)	Northern division (c)	Total (d)
1	Gas purchases—Transmission	$115,263	$1,056,456	$1,171,719
2	Transferred—Field system		292,380	292,380
3	Operating and maintenance expense		30,389	30,389
4	Administrative and general expense		34,613	34,613
5	Depreciation expense	1,929	36,378	38,307
6	Amortization expense		60	60
7	Taxes other than income	1,448	17,619	19,067
8	Income taxes	1,713	22,839	24,552
9	Return per Settlement 8.7 percent	3,262	49,555	52,817
10	Total cost of service	123,615	1,540,298	1,672,913
11	Jurisdictional sales—Mcf	179,428	3,922,044	4,101,472
12	Settlement rates (cents)	68.9	39.5	
13	Proposed rates (cents)	69.6	40.2	
14	Rate reduction (cents)	.7	.7	

APPENDIX B

In arriving at an overall rate of return of 8.70 percent, the capitalization of Southern Union Gas, the parent company, was used as of September 30, 1974, adjusted to reflect actual and anticipated changes.

Class of capital	Amounts	Capital ratio (percent)	Cost (percent)	Weighted return (percent)
Long-term debt [1]	$108,185,000	46.83	7.63	3.57
Preferred stock	13,839,000	6.00	5.06	.30
Common equity [2]	108,063,458	47.17	10.25	4.83
Total	231,007,458	100.00		
Recommended return of total capital				8.70

[1] Includes future financing in 1974 of $25,000,000 debt issue at 10¼ percent.
[2] Includes retained earnings of $9,000,000 for 9 month period ending Sept. 30, 1974.

[FR Doc.75-1749 Filed 1-20-75;8:45 am]

FEDERAL RESERVE SYSTEM

FIRN-CO., INC.

Formation of Bank Holding Company

Firn-Co., Inc., North Platte, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of First National Bank & Trust Company of North Platte, North Platte, Nebraska. 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 office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 14, 1975.

Board of Governors of the Federal Reserve System, January 15, 1975.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.75-1893 Filed 1-20-75;8:45 am]

[Reg. Y]

ALFRED I. DUPONT TESTAMENTARY TRUST

Approval of Divestiture Plan

Correction

FR Doc. 75-1255, appearing at page 2677 in the issue of Wednesday, January 15, 1975, was incorrectly published as a rule. This document, which is a notice, should have appeared in the "Notices" section of the FEDERAL REGISTER, with headings as set forth above.

ARCHER-DANIELS-MIDLAND CO. AND NATIONAL CITY BANCORPORATION

Order Denying Acquisition of Bank

Archer-Daniels-Midland Company, Decatur, Illinois ("ADM"), and its wholly-owned subsidiary National City Bancorporation, Minneapolis, Minnesota ("NCB"), bank holding companies within the meaning of the Bank Holding Company Act, have applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of National City Bank of Ridgedale, Minnetonka, Minnesota ("Bank"), a proposed new bank. The proposed acquisition would be made directly by NCB and, as a result, ADM would indirectly acquire voting shares of the Bank.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the general purposes of the Act and the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicants control one bank with aggregate deposits of approximately $131 million, representing about 1 percent of the commercial bank deposits in Minnesota.[1] Since Bank is a proposed new bank, its acquisition by Applicants would not significantly increase their share of deposits in any relevant area.

NCB is the fifth largest commercial banking organization in the relevant banking market, which is approximated by the Minneapolis-St. Paul RMA. Its present subsidiary bank, National City Bank, controls about 2 percent of deposits in that market and is located approximately 12 miles east of Bank. Because Bank is a proposed de novo bank, no existing competition would be eliminated. In addition, it does not appear that any significant potential competition would be foreclosed as a result of consummation of the proposal. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicants, their subsidiary bank and Bank are satisfactory and consistent with approval of the applications. Considerations relating to convenience and needs lend some weight for approval of the applications, since the area to be served by Bank has undergone considerable growth and there are currently no banks in the immediate vicinity.

While the considerations discussed above indicate that approval of the applications would be consistent with the factors set forth in section 3 of the Bank Holding Company Act, other considera-

[1] Banking data are as of December 31, 1973, and reflect holding company acquisitions approved through July 31, 1974.

tions in the record indicate that approval of the proposal would be contrary to the general purposes of the Act and, therefore, the applications should be denied.

ADM is one of the largest domestic soybean processors and operates one of the largest flour mills in the United States. As a result of the 1970 Amendments to the Bank Holding Company Act, ADM became a bank holding company and, pursuant to section 4(c)(12) of the Act and § 225.4(d) of the Board's Regulation Y, has filed with the Board an irrevocable declaration that it will cease to be a bank holding company by 1981. As a result of the filing of this declaration, ADM has available to it expedited procedures and greater latitude in acquiring additional non-banking interests than it would have otherwise. In the Board's view, permitting ADM to expand its banking interests while ADM is relatively free to pursue its non-banking interests without regard to the prohibitions in section 4 of the Act would be clearly contrary to one of the major purposes of the Act, i.e., the separation of banking and commerce, and such action should not be sanctioned.

The Board has, however, approved such an application in the past based upon a commitment from the applicant that it would separate its banking and nonbanking interests at a date earlier than that to which it was already committed under its irrevocable declaration.[2] Although ADM, in its original application to the Board, presented a plan whereby it would "spin off" its shares of NCB to ADM's shareholders, this plan has now been postponed indefinitely and it does not appear that ADM's divestiture of its banking interests will occur at an early date. Accordingly, it is the Board's judgment that approval of the applications would frustrate the purposes of the Act, namely, the separation of banking and commerce, and should therefore be denied.

On the bases of all the facts in the record, it is the Board's judgment that approval of the subject applications would not be in the public interest. Accordingly, the applications are denied for the reasons summarized above.

By order of the Board of Governors,[3] effective January 13, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-1801 Filed 1-20-75;8:45 am]

BANCORPORATION OF MONTANA

Acquisition of Bank

Bancorporation of Montana, Great Falls, Montana, 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 all of the voting shares (less directors' qualifying shares) of Bank of Montana, Helena, Montana. 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 office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 10, 1975.

Board of Governors of the Federal Reserve System, January 9, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-1803 Filed 1-20-75;8:45 am]

BURLINGAME BANKSHARES, INC.

Proposed Acquisition of First State Insurance Agency

Burlingame Bankshares, Inc., Burlingame, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of First State Insurance Agency, Burlingame, Kansas. Notice of the application was published on December 5, 1974 in The Enterprise-Chronicle, a newspaper circulated in Burlingame, Kansas.

Applicant states that the proposed subsidiary would engage in general insurance agency activities, including the sale of joint or single, reducing or level term credit life insurance or credit disability insurance, mortgage redemption, homeowners, life, fire (including extended coverage), liability, theft, and automobile insurance, and surety, fiduciary, and performance bonds. Such activities will be conducted at offices in Burlingame, Kansas, a town of less than 5,000 persons. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1975.

Board of Governors of the Federal Reserve System, January 13, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-1796 Filed 1-20-75;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with § 271.3(a)(4) and (5) of the rules regarding availability of information of the Federal Open Market Committee, there is set forth below paragraph 1(b) of the Committee's Authorization for Domestic Open Market Operations, as amended by action of the Committee effective November 11, 1974:

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, to the extent necessary to carry out the most recent domestic policy directive adopted at a meeting of the Committee:

* * * * *

(b) To buy or sell in the open market, from or to acceptance dealers and foreign accounts maintained at the Federal Reserve Bank of New York, on a cash, regular, or deferred delivery basis, for the account of the Federal Reserve Bank of New York at market discount rates, prime bankers' acceptances with maturities of up to nine months at the time of acceptance that (1) arise out of the current shipment of goods between countries or within the United States, or (2) arise out of the storage within the United States of goods under contract of sale or expected to move into the channels of trade within a reasonable time and that are secured throughout their life by a warehouse receipt or similar document conveying title to the underlying goods; provided that the aggregate amount of bankers' acceptances held at any one time shall not exceed $1 billion.

By order of the Federal Open Market Committee, January 13, 1975.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.75-1795 Filed 1-20-75;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directives of October 14–15, 1974

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on October 14–15, 1974.[1]

[2] See Board Order approving application of Jacobus Company to acquire Heritage Bank-Mayfair, Wauwatosa, Wisconsin, 1972 *Federal Reserve Bulletin* 306.

[3] Voting for this action: Vice Chairman Mitchell, Governors Sheehan, Bucher, Holland, and Coldwell. Absent and not voting: Chairman Burns and Governor Wallich.

[1] The Record of Policy Actions of the Committee for the meeting of October 14–15, 1974, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The information reviewed at this meeting suggests that real output of goods and services declined somewhat further in the third quarter and that price and wage increases continued large. In September industrial production increased somewhat, reflecting settlement of work stoppages that had reduced output in August. An upsurge in the labor force, following several months of relatively slow growth, raised the unemployment rate from 5.4 to 5.8 per cent. The rise in wholesale prices of industrial commodities moderated, although it remained substantial, and prices of farm products and foods declined after having increased sharply in July and August.

On October 8 the President recommended a program to combat inflation and to mitigate the impact of monetary and fiscal restraint on certain sectors of the economy. The tax and expenditure proposals included in the program would, on balance, have approximately a neutral effect on the size of the Federal deficit.

In recent weeks the dollar has declined against leading foreign currencies. The U.S. foreign trade deficit increased substantially in August, as imports of petroleum and industrial materials rose while exports held steady.

The narrowly defined money stock rose slightly in September and grew at an annual rate of about 2 per cent over the third quarter, compared with a rate of 6 per cent in the first half of the year. The money supply measure more broadly defined to include bank time and savings deposits other than money market CD's—as well as the measure that includes deposits at other thrift institutions—also rose only slightly in September. Over-all business credit demands slackened last month, and outstanding business loans at banks leveled off. Since early September interest rates on short-term market instruments have fallen considerably, while yields on Treasury and State and local government bonds have declined modestly. Yields on corporate bonds have risen somewhat further, on balance, reflecting the large volume of offerings in prospect.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to resisting inflationary pressures, supporting a resumption of real economic growth, and achieving equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing and of developments in domestic and international financial markets, the Committee seeks to achieve bank reserve and money market conditions consistent with resumption of moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, January 13, 1975.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.75-1799 Filed 1-20-75;8:45 am]

FIRST COMMUNITY BANCORPORATION

Order Approving Acquisition of Bank

First Community Bancorporation, Joplin, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the Bank of Wheaton, Wheaton, Missouri ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City, pursuant to authority delegated by the Board of Governors of the Federal Reserve System, under the provisions of § 265.2(f)(24) of the Rules regarding delegation of authority.

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the twenty-second largest banking organization in Missouri, controls three operating banks with aggregate deposits of $82.1 million,[1] representing .55 percent of the commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of deposits only slightly, and would not result in a significant increase in the concentration of banking resources in Missouri. Applicant's ranking among banking organizations in the State would remain unchanged.

Consummation of the proposed acquisition would neither eliminate any significant existing competition nor foreclose the development of potential competition between any of Applicant's subsidiary banks and Bank. Bank ($5 million in deposits) is the third largest of seven banking organizations in the Barry County banking market (approximated by Barry County less the northern portion of the County including Monett) and holds 11.57 percent of the deposits in commercial banks in the market. None of Applicant's subsidiary banks are located in Bank's market area. Current population per banking office ratios suggest that de novo entry is unlikely. Although four smaller banks compete in the market, the 76 percent market share of the two largest banks suggest that Bank may be viewed as a foothold acquisition. Competitive considerations are, therefore, consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiaries and Bank appear satisfactory. Affiliation with Applicant should enable Bank to offer expanded banking services, including improved agricultural lending and trust services. These factors, as they relate to the convenience and needs of the community to be served, lend some weight for approval of the application. It is the Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

[SEAL] WILBUR T. BILLINGTON,
Senior Vice President.

JANUARY 8, 1975.

[FR Doc.75-1800 Filed 1-20-75;8:45 am]

[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved by the Board to October 23, 1974.

PAN AMERICAN BANCSHARES, INC.

Acquisition of Bank

Pan American Bancshares, Inc., Miami, Florida, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with General Financial Systems, Inc., Riviera Beach, Florida. General Financial Systems, Inc., is a registered bank holding company owning voting shares in the stated percentages of the following banks in Florida: Marine National Bank of West Jacksonville, Jacksonville, a proposed new bank (100 per cent); First Marine Bank and Trust Company of the Palm Beaches, Riviera Beach, (82.5 per cent); First National Bank and Trust Company of Lake Worth, Lake Worth, (98.8 per cent); First National Bank and Trust Company, Jupiter/Tequesta, Tequesta, (93.7 per cent); Tri City Bank, Palm Beach Gardens, (24.9 per cent); The Peoples Bank, Gainesville (24.9 per cent); Marine National Bank of Jacksonville, Jacksonville, (24.5 per cent); Congress National Bank, Palm Springs, Lake Worth, (20.9 per cent); First Community Bank of Boca Raton, Boca Raton, (17.8 per cent); and First Commercial Bank of Live Oak, Live Oak (15.2 per cent). 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)).

Pan American Bancshares, Inc. is also engaged in the following nonbank activities: mortgage banking, acting as investment advisor to a real estate investment trust and loan servicing. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 11, 1975.

Board of Governors of the Federal Reserve System, January 10, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-1804 Filed 1-20-75;8:45 am]

SYB CORP.

Formation of Bank Holding Company

SYB Corporation, Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Stock Yards Bank, Oklahoma City, Oklahoma. 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 office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than February 13, 1975.

Board of Governors of the Federal Reserve System, January 14, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-1797 Filed 1-20-75;8:45 am]

UNION BOND & MORTGAGE CO.

Order Denying Acquisition of Union Bond Insurance Agency, Inc.

Union Bond & Mortgage Company, Port Angeles, Washington, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire 51 per cent of the shares of Union Bond Insurance Agency, Inc., Port Angeles, Washington ("Agency") and thereafter to engage in the sale as agent or broker in the following types of insurance: credit life and disability insurance, auto insurance covering collision, fire, theft, property damage, bodily injury, uninsured motorist, and medical payments on occupants; commercial and residential fire insurance; marine insurance; trailer and mobile home insurance; cycle insurance; general liability insurance; commercial insurance including blanket bond and registered mail liability, fidelity bonds, and a small percentage of non-credit-related insurance of the types mentioned above as a matter of convenience to the public (excepting credit life and disability insurance). The sale of certain insurance coverages is an activity that has previously been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 21090). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the National Association of Insurance Agents, Inc., the Independent Insurance Agents and Brokers of Washington, and the Clallam County Insurance Agents Association, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls for banks holding aggregate deposits of $86.8 million representing about 1 per cent of the total deposits in commercial banks in Washington. Applicant is the eleventh largest banking organization in the State.

Agency was organized in 1954 to assume the insurance business formerly operated by Applicant's lead bank. Agency presently operates as a general insurance agency in a community with a population in excess of 20,000 persons. Its annual gross premiums represent less than 3 per cent of the total gross premiums accounted for by members of the Clallam County Insurance Agents Association. The operation of a general insurance agency is an activity not previously determined by the Board to be closely related to banking. Moreover, Board authorization permitting a bank holding company to engage in the sale of insurance otherwise sold as a matter of convenience to the purchaser is not designed to permit entry into the general insurance agency business (see 12 CFR 225.128(e)). It appears that Agency's current scope of operations includes the sale of certain insurance coverages which have not previously been determined by the Board to be permissible under § 225.4(a)(9) of Regulation Y. Such insurance coverages currently being offered by Agency include registered mail liability, comprehensive blanket policies for commercial vendors, miscellaneous indemnity bonds, and court bonds.

Applicant has provided a summary of the total insurance premiums obtained by Agency in 1973 which indicates that approximately 60 percent of its insurance premiums were derived through the sale of insurance that was directly related to extensions of credit by its lead bank, First National Bank of Port Angeles. In addition, 4.6 percent of Agency's premiums in 1973 were derived through the sale of insurance covering the First National Bank of Port Angeles and its employees; the remainder of all insurance sold by Agency appears to be noncredit-related. Approximately 4.9 percent of Agency's premium income is classified by Applicant as "walk-in" business representing new business that Agency had not solicited through any business relationship, while the remainder, approximating 30 percent is classified as "renewal" business representing a continuation of insurance policies *originated* through extensions of credit but which are no longer credit related and do not require a loss payee endorsement.

In order to approve the subject application, section 4(c)(8) of the Act requires the Board to determine initially that the activities of Agency are so closely related to banking or managing or controlling banks as to be a proper incident thereto. It appears that many of the insurance coverages sold by Agency protect collateral in which Applicant's lead bank has a security interest as a result of an extension of credit and therefore would qualify as permissible insurance agency activities under § 225.4(a)(9)(ii)(a) of the Board's Insurance Regulation. However, as noted above, approximately 30 per cent of Agency's premium income is derived from renewal business that originally supported the lending transactions of a bank or bank-related firm in the holding company system but is sold now only as a convenience to the purchaser since the credit extension has been repaid. Applicant contends that such renewal business does not constitute a significant portion of the aggregate insurance premium income since it was originally credit related.

The Board has previously indicated through an interpretation to § 225.4(a)(9) of Regulation Y that a renewal of insurance, after the credit extension has been repaid, would be regarded as closely related to banking only to the extent that such renewal is permissible under § 225.4(a)(9)(ii)(c) of Regulation Y (12 CFR 225.128(c)(3)). In the Board's judgment, the nexus between insurance protecting collateral in which a bank or bank-related firm has a security interest and an extension of credit or provision of other financial service by such bank or bank-related firm is severed upon repayment of the credit extension or termination of the financial service. Consequently, the permissibility of such renewal business, and its close relationship to banking, is dependent upon its ability to qualify as "convenience" sales under § 225.4(a)(9)(ii)(c) of the Insurance Regulation, which limits the sale of such insurance to:

> Insurance that is otherwise sold as a matter of convenience to the purchaser, so long as the premium income from sales within . . . subdivision (ii)(c) does not constitute a significant portion of the aggregate insurance premium income of the holding company from insurance sold pursuant to this subdivision (ii).

The Board has previously defined the term "significant portion" as used with regard to premium income attributable to convenience sales of the holding company as income amounting to "less than 5 percent of the aggregate insurance premium income of the holding company system from insurance sold pursuant to § 225.4(a)(9)(ii)." (See 12 CFR 225.128(e)(3).) The Board hereby reaffirms its view that this limitation, or one similar to it, is a necessary and proper means of insuring that the close relationship originally found between banking and certain insurance agency activities deemed permissible under the Insurance Regulation continues to exist.[1] The proposal now before the Board goes well

[1] The Board's view in this respect would not be affected by a proposed revision to clarify the definition of insurance sold as a matter of convenience to borrowers under Regulation Y which would, in effect, limit the amount of convenience insurance sold by each insurance-selling subsidiary office to less than 5 percent of that office's total insurance premium income (see 39 FR 28536 and 39 FR 34682). The Board's decision in the instant Order is based solely on the Insurance Regulation as presently drafted; no determination has been made by the Board on the proposed revision, nor is any implied herein.

beyond the prescribed limitation for "convenience" sales, as Agency's renewal business alone represents 30 percent of its total premium income. Accordingly, the Board is unable to find a close relationship between the activities of Agency and the business of banking or managing or controlling banks.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that the insurance agency activities conducted by Agency are not closely related to banking and that the application should be, and hereby is, denied.

By order of the Board of Governors,[2] effective January 8, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-1805 Filed 1-20-75;8:45 am]

UNION COMMERCE CORP.

Order Approving Acquisition of Union Commerce Life Insurance Co.

Union Commerce Corporation, Cleveland, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Union Commerce Life Insurance Company ("Company"), Phoenix, Arizona, a company to be organized de novo to engage in the underwriting, as reinsurer, of credit life insurance and credit accident and health insurance in connection with extensions of credit by Applicant's subsidiaries. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 39916). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls three banks with aggregate deposits of $1.1 billion representing about 4 per cent of the total deposits in commercial banks in Ohio.[1] Company will be organized under Arizona law as a full reserve life insurance company. Since Company will be qualified to underwrite insurance directly only in Arizona, its activities will be limited to acting as reinsurer of credit life and credit accident and health insurance policies made available in connection with extensions of credit by Applicant's subsidiaries located in Ohio. Such insurance would be directly underwritten by an insurer qualified to underwrite in Ohio and would thereafter be assigned or ceded to Company under a reinsurance agreement.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to insure payment of a loan in the event of death or disability of a borrower. In connection with the addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board has stated:

> To insure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an Applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that it will provide credit life insurance at rates that are about 4 percent below those presently being charged by Applicant's holding company system and credit accident and health insurance at rates 5 percent below its prevailing rates. The Board believes that such a reduction in the price of credit life and credit accident and health insurance is a consideration favorable to the public interest. The Board concludes, therefore, that such public benefits, in the absence of any evidence in the record indicating the presence of any adverse statutory factors, provides support for approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of the holding company or any of its subsidiaries as the Board finds necessary to insure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to authority delegated herein.

By order of the Board of Governors,[2] effective January 13, 1975.

[2] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, and Coldwell. Absent and not voting: Chairman Burns and Governors Sheehan and Wallich.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-1798 Filed 1-20-75;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, Holland, Wallich, and Coldwell.

[1] All deposit data are as of June 30, 1974.

WORCESTER BANCORP, INC.

Order Approving Acquisition of Bank

Worcester Bancorp, Inc., Worcester, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of The Peoples National Bank of Marlborough, Marlborough, Massachusetts.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the seventh largest bank holding company in Masschusetts, controls two banks with aggregate deposits of $466.8 million, representing 3.2 per cent of total deposits in commercial banks in the State.[1] Acquisition of Bank (deposits of $15 million) would increase Applicant's share of State deposits by 0.11 of one per cent and would not result in a significant increase in the concentration of banking resources in Massachusetts.

Bank ranks 48th out of 79 commercial banking organizations in the Boston banking market (approximated by the Boston RMA) and controls less than 1 per cent of the total commercial bank deposits in the market. Applicant's principal subsidiary bank, Worcester County National Bank, Worcester, Massachusetts ("Worcester Bank"), operates primarily in the Worcester banking market (approximated by the Worcester RMA), which is contiguous to the western boundary of the Boston banking market. However, both Bank and Worcester Bank compete to some extent in the same local area in the most western portion of the Boston banking market. Bank operates a total of three offices—two in Marlborough and one in Hudson. Worcester Bank has a branch office approximately three miles from one of Bank's Marlborough offices. The deposit and loan overlap figures do not appear to be significant in relation to the entire Boston market; however, consummation of this proposal would result in the elimination of some existing competition.

Since branching across county lines is prohibited in Massachusetts, neither Worcester Bank nor Bank can branch directly into towns where the other maintains offices. Due to the low population per commercial bank ratio and the proximity of Worcester Bank's offices, it is unlikely that Applicant would enter this portion of the Boston market through de novo expansion. On the other hand, despite the wide geographic area

[1] All banking data are as of June 30, 1974 and reflect bank holding company formations and acquisitions approved through December 31, 1974.

and the large number of competitors in the Boston banking market, the five largest commercial banking organizations control 77 per cent of the total deposits. Thus, entry of Applicant into the Boston banking market through the subject acquisition should have procompetitive effects on the structure of the market by strengthening Bank's competitive position vis a vis the larger banks in the market. Furthermore, as a result of the acquisition, Applicant may be able to exert a further competitive influence by having Bank establish additional branches sometime in the future. Accordingly, although consummation of the proposal would result in the elimination of some existing competition, the Board concludes, based on the record before it, that the overall competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are regarded as generally satisfactory and consistent with approval of the application. Affiliation with Applicant will make available to Bank a number of expanded services including equipment leasing, real estate development, second mortgages, new commercial credit services, expanded trust capabilities, and expanded municipal and international financing. Although it appears that similar services are presently available in the market, the increased and improved services that Bank will be able to offer will provide customers with an additional convenient source of full-service banking. Therefore, convenience and needs considerations lend weight toward approval and outweigh any slightly adverse effect the proposal would have on existing competition. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[1] effective January 13, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-1802 Filed 1-20-75;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on January 15, 1975. See 44 U.S.C. 3512 (c) & (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt. The questionnaire was originally submitted to GAO on December 27, 1974 (see 40 FR 1324), and withdrawn by FTC on January 9, 1975, for further consideration and possible revision (see 40 FR 2767). The questionnaire has been resubmitted without change.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before February 4, 1975, and should be addressed to Mr. Monte Canfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 I Street, NW, Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

FEDERAL TRADE COMMISSION

Request for review and clearance of a new one-time statistical survey or report entitled Special Report Form—Natural Gas Survey. The Federal Trade Commission plans to collect information concerning natural gas reserves, production, and producible shut-in leases. The questionnaire also requests data concerning natural gas contracts and the provisions therein. Responses are mandatory under the FTC Act, 15 U.S.C. 41. Potential respondents are 60 of the largest natural gas producers. The amount of time required to respond to the questionnaire will vary considerably according to the size of the reporting firm. Estimated average burden required per response is 700 man hours.

CARL F. BOGAR,
Assistant Director,
Regulatory Reports Review.

[FR Doc.75-1909 Filed 1-20-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[337-36]

DOXYCYCLINE

Denial of Stay Motion and Continuation of Investigation

Notice is hereby given that the United States International Trade Commission has denied the motion of International Rectifier Corp. and USV Pharmaceutical Corp. that the Commission stay its investigation No. 337-36, Doxycycline, during the pendency of two Federal court actions, namely, International Rectifier Corp. v. American Cyanamid Co., Pfizer, Inc., et al., D. Minn. 4-74-372, and Pfizer, Inc. v. International Rectifier Corp. and USV Pharmaceutical Corp., D. Minn. 4-73 Civ. 188. The Commission is continuing its investigation.

Notice of the institution of the investigation and the ordering of a public hearing for July 9, 1974, was published in the FEDERAL REGISTER on May 29, 1974 (39 FR 18723-24). Notice of the withholding of proceedings and postponement of the public hearing scheduled for July 9, 1974, was published in the FEDERAL REGISTER on June 20, 1974 (39 FR 22196-97). Notice of the public hearing on the above motion held on September 23, 1974, and the further withholding of proceedings pending the hearing and disposition of the motion was published in the FEDERAL REGISTER on September 19, 1974 (39 FR 33751-52).

Statements of reasons by individual Commissioners for denial of the stay motion are on file with the Secretary of the Commission.

Issued: January 15, 1975.

By Order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.75-1793 Filed 1-20-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Regulatory Guides will hold a meeting at 8:30 a.m. on February 5, 1975 in Room 1062 at 1717 H Street, NW., Washington, D.C. This meeting will be closed to the public.

The Subcommittee will meet in closed session with the AEC Regulatory Staff to discuss the following working papers:

(1) Tornado Design Classification;
(2) Revision 1 to Regulatory Guide 1.20, Comprehensive Vibration Assessment Program for Reactor Internals; and
(3) Flood Protection for Nuclear Power Plants.

In connection with this matter, the Subcommittee may hold Executive Sessions, not open to the public, prior to and at the conclusion of the meeting with the AEC Regulatory Staff, to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the closed session will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during this portion of the meeting will be inextricably intertwined with such exempt material and no separation of exempt and non-exempt material is considered practical. It is essential to close this meeting to protect the free inter-

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Wallich and Coldwell. Voting against this action: Governor Holland. Absent and not voting: Governor Bucher.

change of internal views and to avoid undue interference with Subcommittee and agency operation.

ROBERT A. KOHLER,
Advisory Committee Management Officer.

[FR Doc.75-1919 Filed 1-20-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Resolution of Generic Items will hold a meeting on February 5, 1975 in Room 1046 at 1717 H Street NW., Washington, D.C.

The purpose of the meeting will be to discuss generic issues relating to the current generations of light water reactors.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

WEDNESDAY, FEBRUARY 5, 1975,
11:00 A.M.–4:00 P.M.

Discussions with the AEC Regulatory Staff. Representatives of the AEC Regulatory Staff will make presentations regarding actions taken to resolve items identified by the ACRS and the Staff as being generic to the current generations of light water reactors.

In connection with the above agenda, the Subcommittee will hold executive sessions prior to, and at the close of the day's public session, which will involve a discussion of its preliminary views, and an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the executive sessions at the beginning and end of each day's session will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b).

Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than January 29, 1975 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:30 p.m. on February 5, 1975.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on February 3, 1975 to the Advisory Committee on Reactor Safeguards (telephone 202–634–1371) between 8:30 a.m. and 5:15 p.m., Eastern Time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) Persons desiring to attend portions of the meeting where proprietary information is to be discussed may do so by providing to the Executive Secretary, Advisory Committee on Reactor Safeguards, 1717 H Street, NW., Washington, D.C. 20545, 7 days prior to the meeting, a copy of an executed agreement with the owner of the proprietary information to safeguard this material.

(i) A copy of the transcript of the open portions of the meeting will be available for inspection on or after February 6, 1975 at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202–547–6222) upon payment of appropriate charges.

(j) On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after May 5, 1975. Copies may be obtained upon payment of appropriate charges.

ROBERT A. KOHLER,
Acting Advisory Committee Management Officer.

[FR Doc.75-1920 Filed 1-20-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Procedures Subcommittee will hold a closed meeting at 4:00 p.m. on February 5, 1975, in Washington, D.C. to discuss ACRS policy and internal practices with regard to the functioning of the Committee and the conduct of its activities.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463 that the meeting will consist of exchanges of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Any factual material that may be presented during the meeting will be inextricably intertwined with such exempt material, and no separation of this material is considered practical. It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with Subcommittee and agency operation.

ROBERT A. KOHLER,
Acting Advisory Committee Management Officer.

[FR Doc.75-1921 Filed 1-20-75;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Atomic Energy Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 10.1, "Compilation of Reporting Requirements for Persons Subject to AEC Regulations," presents a compilation of all reporting requirements applicable to the various types of AEC licensees and other persons subject to AEC regulations. The guide identifies the proper AEC addressee or addressees for each report and designates the number of copies required.

Since this guide may apply to all persons subject to AEC regulations, it is being sent to recipients of regulatory guides in all divisions.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 10.1 will, however, be particularly useful in evaluating the need for an early revision if received by March 20, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 13th day of January 1975.

For the Atomic Energy Commission.

ROBERT B. MINOGUE,
Acting Director of Regulatory Standards.

[FR Doc.75-1832 Filed 1-20-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE AND ENVIRONMENTAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Architecture and Environmental Arts Advisory Panel to the National Council on the Arts will be held on February 13, 14, 1975 from 9:30 a.m.-5:30 p.m. at the Shoreham Building, 806 15th Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-1817 Filed 1-20-75;8:45 am]

ARCHITECTURE AND ENVIRONMENTAL ARTS ADVISORY PANEL

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Architecture and Environmental Arts Advisory Panel to the National Council on the Arts will be held on March 6, 7, 1975 from 9:30 a.m.-5:30 p.m. at the Shoreham Building, 806 15th Street, NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6110.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-1816 Filed 1-20-75;8:45 am]

BICENTENNIAL COMMITTEE OF THE NATIONAL COUNCIL ON THE ARTS

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Bicentennial Committee of the National Council on the Arts will be held on February 6, 1975 from 12 noon-5:30 p.m. in the 14th floor conference room, 2401 E Street, NW, Washington, D.C.

The purpose of this meeting is for a general policy discussion. The meeting will be open to the public on a space available basis. Accommodations are limited. Further information can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-1815 Filed 1-20-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 15, 1975 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529) or from the reviewer listed.

NEW FORMS

DEPARTMENT OF THE INTERIOR

Departmental: Recruitment and Selection Policy and Report Requirements, Form ____, Occasional, Sunderhauf (395-4911), Planchon (395-3898), Lowry (395-3772), State agencies.

REVISIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Communities: Application for Federal Assistance—Community Development Program—Assurances, Form 7015, 7015.1, 7015.12, Occasional, CVA (395-3532), Lowry (395-3772), Federally assisted New communities.

EXTENSIONS

NATIONAL ENDOWMENT FOR THE ARTS

Project Grant Application, Form NEW-3, Occasional, Evinger (395-3648), Charitable and educational organizations.

Cash Request and Fiscal Report Form, Form NEA-7, Occasional, Evinger (395-3648), Non-profit organizations.

U.S. ATOMIC ENERGY COMMISSION

Isotope and Technical Service Order Form, Form AEC 391, Occasional, Lowry (395-3772), Research laboratories.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-1982 Filed 1-20-75;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 16, 1975 (44 USC 3509). The purpose of publishing

this list in the Federal Register is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census: Survey of Business Uses of Statistical Information, Forms S–199A, S–199B, Single time, Lowry (395–3772), Sample of small and large business firms.

DEPARTMENT OF DEFENSE

Department of the Navy: Community Recreational Opportunities Available to Navy Personnel, Form ____, Single time, Planchon (395–3898), Recreation business (movies, bowling alleys).

FEDERAL RESERVE BOARD

Finance Company Questionnaire 1975, Form ____, Single time, Hulett (395–4730), All finance companies in U.S.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Survey of Foreign Language Enrollments in Public Secondary, Schools, Fall 1974, Form OE 375, Biannual, Planchon (395–3898), Principals of public secondary schools.

DEPARTMENT OF HEALTH, EDUCATION, AND WELEARE

Health Resources Administration: Research in Emergency Medical Services Systems, Northeastern Kentucky, Form HRABHSR 1125, Single time, HRD (395–3532), Lowry (395–3772), Emergency patients hospital personnel, ambulance personnel.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Report on Occupational Employment, Form BLS MA 2877, Single time, Strasser (395–3880), Peterson (395–5631), Nonmanufacturing establishments.

NATIONAL SCIENCE FOUNDATION

Career Planning Inventory, Form ____ Single time, Planchon (395–3898), Students in sample of Calif. High schools.

REVISIONS

None.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Average Daily Attendance of Handicapped Children in Schools Operated or Supported by State Agencies, Form OE 2274, Annual, Planchon (395–3898), State agencies.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–2015 Filed 1–20–75;8:45 am]

SMALL BUSINESS ADMINISTRATION

NORTHERN CALIFORNIA SMALL BUSINESS INVESTMENT CO.

Surrendering of License

Notice is hereby given that Northern California Small Business Investment Company, P.O. Box 242, Los Altos, California 94022, has surrendered its License No. 12/12–0004, issued by the Small Business Administration (SBA) on October 29, 1959.

Northern California Small Business Investment Company has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Northern California Small Business Investment Company is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: January 10, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75–1819 Filed 1–20–75; 8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CONNECTICUT STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Assistant Regional Director for Occupational Safety and Health (hereinafter called the Assistant Regional Director) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 1012) of the approval of the Connecticut plan and the adoption of Subpart X to Part 1952 containing the decision.

The Connecticut plan provides for the adoption of Federal standards as State standards. § 1952.300(c) of Subpart X sets forth the State's schedule for the adoption of Federal standards. By letter dated September 19, 1974 from Jack A. Fusari, Commissioner, Connecticut Department of Labor to Vernon A. Strahm, Assistant Regional Director and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subparts D through S; 29 CFR Part 1915, Subparts A through L; 29 CFR Part 1916, Subparts A through L; 29 CFR Part 1917, Subparts A through I; 29 CFR Part 1918, Subparts A through I; 29 CFR Part 1919, Subparts A through H; and 29 CFR Part 1926, Subparts B through X. These standards, which are contained in three volumes, namely: General Industry Standards, Safety and Health Regulations for Maritime Employment, and Construction Safety and Health Regulations, were promulgated after public comment requested on May 21, 1974, by a resolution adopted by Connecticut Labor Department on September 11, 1974, pursuant to Chapter 571, Section 31–372 of the Connecticut State laws.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Assistant Regional Director, 18 Oliver Street, 5th Floor, Boston, Massachusetts 02110; State of Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Connecticut 06109; and Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Connecticut state plan as a proposed change and making the Assistant Regional Director's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective January 21, 1975.

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

Signed at Boston, Massachusetts this 11th of December 1974.

VERNON A. STRAHM,
Assistant Regional Director.

[FR Doc.75–1875 Filed 1–20–75;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Cancellation of Meeting

The meeting of the National Advisory Committee on Occupational Safety and Health scheduled for January 24 and 25, 1975, in Phoenix, Arizona, is hereby cancelled. Notice of this meeting was published on December 31, 1974 (39 FR 45334). The meeting will be rescheduled at a later date. Details will be published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 17th day of January, 1975.

J. GOODELL,
Executive Secretary.

[FR Doc.75-2056 Filed 1-20-75;9:44 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

ADVISORY COMMITTEE OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Notice of Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice to the Law Enforcement Assistance Administration, will meet February 1, 1975, at the Ramada Inn in Arlington, Virginia.

Topics for discussion will include recommendations for conducting a national evaluation of LEAA's Career Criminal Initiative, proposed methods for implementing the Juvenile Justice and Delinquency Prevention Act of 1974, proposed research initiative on white collar crime and official corruption, and the Institute strategy for testing new technologies.

The meeting will be open to the public.

Failure to give fifteen day notice developed from an administrative error although notice of the meeting was provided in numerous public communications and criminal justice publications. To reschedule would create considerable confusion and mislead prospective attendees.

For further information, please contact Gerald M. Caplan, National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice, 633 Indiana Avenue, NW, Washington, D.C. 20530. (202) 386-3164.

GERALD YAMADA,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.75-2055 Filed 1-20-75;9:27 am]

federal register

TUESDAY, JANUARY 21, 1975
WASHINGTON, D.C.
Volume 40 ■ Number 14

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

ADULT EDUCATION

Proposed State Program Regulations

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 166]

STATE ADULT EDUCATION PROGRAMS

Notice of Proposed Rule Making

In accordance with the requirements of the Education Amendments of 1974 (Pub. L. 93–380) and pursuant to the authority contained in the Adult Education Act, as amended, 20 U.S.C. 1201 et seq., the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45, Part 166 of the Code of Federal Regulations to read as set forth below. The Commissioner also proposes to establish national priorities for the program which are set forth following the text of the proposed regulations.

1. *Program purpose.* The Adult Education Act provides for the encouragement of State-administered programs of adult public education. Section 306 of the Act provides for programs of instruction that will enable all adults to continue their education to at least the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens. Section 309 provides support for special experimental demonstration projects and for training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of the Act. Authority for the administration of section 309 was transferred from the U.S. Commissioner of Education to the State educational agencies by the Education Amendments of 1974.

2. *Procedure for Submitting General Application and Annual Program Plan.* Section 434(b) of the General Education Provisions Act, as added by section 511 of the Education Amendments of 1974 (Pub. L. 93–380), provides a new procedure in lieu of submitting State plans for State administered programs. Section 434(b), which became effective July 1, 1974, requires any State which wishes to participate in an applicable program in which Federal funds are made available to local educational agencies through or under the supervision of the State educational agency (as in Adult Education), to maintain on file with the Commissioner a general application. Such general application must include five assurances stipulated in section 434(b)(1)(A), including an assurance that the State will submit an annual program plan to the Commissioner. The annual program plan must be prepared and administered in a manner consistent with the specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable.

Regulations implementing section 434(b) and instructions will be issued by the Commissioner as soon as possible. Since section 434(b) did not revoke statutory references to State plans, this Notice of Proposed Rule Making retains such references. However, States are advised that the new procedures are effective for fiscal year 1975.

3. *Section 503, Education Amendments of 1972 (Pub. L. 92–318), procedures and effect.* In accordance with section 503 of the Education Amendments of 1972, a Notice of Proposed Rule Making to amend these regulations (45 CFR Part 166) was published in the FEDERAL REGISTER on May 31, 1974, at 39 FR 19223, and a public hearing was held on July 2, 1974 in Washington, D.C. However, following the public hearing and before final regulations could be published in the FEDERAL REGISTER, the Education Amendments of 1974 (Pub. L. 93–380) were enacted. Inasmuch as the Education Amendments of 1974 authorize new provisions under the Adult Education Act, this Notice of Proposed Rule Making contains both the final changes resulting from the section 503 study and the new provisions of Pub. L. 93–380, and it supersedes and replaces the Notice of Proposed Rules published in the FEDERAL REGISTER on May 31, 1974.

The following comments were submitted either in writing or at the July 2 public hearing in response to the proposed rules issued as a result of the section 503 study. After the summary of each comment, a response is set forth stating the changes which have been made in the regulations or the reasons why no change is deemed necessary or appropriate. The comments are grouped based upon the section of the regulations proposed to be affected, with sections affected arranged in sequence.

(a) Section 166.13 *Development of program policies, procedures and criteria. Comment.* A commenter expressed concern that some of the programs listed in this section are no longer in existence.

Response. Some of the programs which no longer exist are listed in section 306(a)(5) of the Act and therefore cannot be changed without an amendment to the legislation. Thus no change is necessary.

(b) Section 166.14(b) *Certification of the State's Attorney General. Comment.* A commenter inquired: Is the Attorney General acting on behalf of the State when he certifies that a State will comply with the ten percent matching requirement?

Response. The Attorney General of a State certifies for only those items contained in § 166.14(b) of the proposed regulations, which does not include a certification of compliance with the ten percent matching requirement. The State official who is authorized to sign the State-Federal Agreement assures that the responsible State Agency (which is designated in the certification of the Attorney General) will comply with applicable regulations and thereby assures that the State agency will comply with the non-Federal share requirement, as specified in § 166.43(b) of these regulations. Thus no change is necessary.

(c) Section 166.15 *Amendment of State Plan. Comment.* A commenter suggested that if a State submits an amendment to its State plan and the Office of Education takes no action on the amendment within 40 working days, that approval of the amendment to the plan is automatic as far as the State is concerned.

Response. The procedure suggested is not in line with departmental policy and would require a change in the legislation which gives the Commissioner authority to approve State plans and amendments thereto. Thus no change is necessary.

(d) Section 166.42 *Limitation on administrative expenses.*

Comment. One commenter was concerned that this section "interprets the Act in such a way as to limit State administrative expenditures for the program to no more than five percent of the amount granted to the State under section 313(a) of the Adult Education Act." This interpretation says that it was the intent of Congress to apply the five percent limitation for administration (as authorized in section 313(b) of the Act) to program funds provided under section 313(a).

Response. After reexamination of the interpretation contained in § 166.42, it is our opinion that Congress intended for one appropriation under section 313 of the Act to provide for all provisions contained therein. The language contained in § 166.42 of the attached proposed rules has been changed to read as follows:

> The U.S. Commissioner of Education shall determine annually (based upon the amounts so appropriated for this purpose or, in the absence of such appropriation, in amounts based upon the funds appropriated pursuant to section 313(a) and the limitation prescribed in section 313(b) of the Act) the maximum allowable amount awarded pursuant to section 313(b) of the Act. The non-Federal share of funds available under the State plan may also be utilized to pay such administrative costs.

Comment. A commenter suggested that without an appropriation for States to pay the cost of administration and the development of plans and other activities that are delineated in the law, the five percent limitation on administrative costs should not be incorporated into the rules and regulations.

Response. The limitation on expenditures for administration of State plan programs is required under section 313(b) of the Act and therefore must be adhered to in the regulations.

(e) Section 166.45 *Tuition and fees. Comment.* A commenter questioned if this section means that persons enrolled in adult education programs at the secondary level can be required to pay tuition and fees for materials.

Response. The absence of provision for adult secondary education in this section was an omission. Section 166.46 has been amended to read as follows:

> Adults enrolled in adult basic education programs and adult secondary programs conducted under this part may not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program.

4. *New provisions enacted by the Education Amendments of 1974.* The Education Amendments of 1974 extend the authority of the Act to July 1, 1978, and provide the following new provisions:

(a) *Clearinghouse on Adult Education.* Section 309A of the Act provides for the establishment of a clearinghouse on adult education within the U.S. Office of Education. The clearinghouse will collect and disseminate information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs;

(b) *Transfer of section 309 authority to the States.* Beginning in fiscal year 1975, authority for the administration of section 309 of the Act was transferred from the U.S. Commissioner of Education to the State educational agencies. Of the funds allotted to any State under the Act for any given fiscal year, not less than 15 percent of such funds shall be used for special experimental demonstration projects and teacher training as prescribed by section 309;

(c) *Institutionalized persons.* Section 306(a)(1) of the Act provides that an amount not to exceed 20 percent of the total funds available for any given fiscal year to carry out the purposes of the Act may be used by the State educational agency for the education of institutionalized persons, as defined by § 166.2 of the proposed rules;

(d) *Program coordination.* Section 306(a)(6) of the Act provides for cooperation with manpower development and training programs and occupational education programs, and for coordination of programs carried out under this part with other programs, including reading improvement programs, designed to provide reading instruction for adults carried out by State and local agencies;

(e) *Adult secondary education.* Section 306(a)(7) of the Act provides that the State educational agency will make available an amount not to exceed 20 percent of the State's allotment for programs of equivalency or a certificate of graduation from a secondary school;

(f) *Bilingual adult education programs.* Section 306(a)(11) of the Act provides that special assistance be given to the needs of persons with limited English-speaking ability by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons;

(g) *State advisory councils.* Section 310A of the Act provides that any State may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council on adult education. In order for such State advisory council to be eligible for support from Federal funds allotted to the State under the Act, the Commissioner must certify that the council is in compliance with the requirements set forth in section 310A of the Act; and

(h) *Community school program.* The term "community school program" is defined as a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community."

5. *Effect of Office of Education General Provisions Regulations.* These proposed regulations differ from the earlier proposed regulations in that they omit provisions relating to general fiscal and administrative matters which are covered under the overall Office of Education General Provisions Regulations, published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. (Reference is made in particular to the provisions of Part 100b of Title 45 Code of Federal Regulations containing general provisions for State-administered programs, including civil rights assurances contained in § 100b.262, which are applicable to the State-administered programs under the Adult Education Act.)

6. *Priorities for programs of national significance.* Based on the findings of surveys and studies conducted by the U.S. Office of Education, recommendations of the National Advisory Council on Adult Education, and on evaluations by State educational agencies, the Commissioner has suggested that the priorities set forth in Appendix B of this part merit special consideration by the States in planning activities to meet the special project and personnel training needs of their adult education programs.

7. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

8. *Technical changes.* Certain minor technical and clarifying changes were also made in the proposed rules.

9. *Written comments.* Interested parties are invited to submit written comments and suggestions to the U.S. Office of Education, 400 Maryland Avenue, SW., Federal Office Building 6, Room 2085, Washington, D.C. 20202, Attention: Chairman, Office of Education Task Force on Rules and Regulations. All relevant materials must be received not later than February 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.400, Adult Education—Grants to States)

Dated: December 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

Approved: January 13, 1975.

CASPER W. WEINBERGER,
Secretary of Health, Education, and Welfare.

PART 166—STATE ADULT EDUCATION PROGRAMS

Subpart A—General

AUTHORITY: Secs. 302–314 of Pub. L. 89–750, as amended; 84 Stat. 159–164 (20 U.S.C. 1201–1211a), unless otherwise noted.

Subpart A—General

§ 166.1 Purpose, scope and other references.

(a) *Purpose.* The regulations in this part implement the provisions of the

Adult Education Act which provides Federal assistance to expand educational opportunity and encourage the establishment of programs of adult public education that will enable all adults to continue their education to at least the level of completion of secondary school thus making available the means to secure training that will enable them to become more employable, productive and responsible citizens.

(20 U.S.C. 1201)

(b) *Scope.* The regulations in this part cover grants to States for adult basic education, adult secondary education, and other adult education programs pursuant to section 304 of the Act.

(20 U.S.C. 1201)

(c) *General Education Provisions Regulations.* Assistance provided under this part is subject to applicable provisions contained in subchapter A of this Chapter (entitled "General Provisions for Office of Education Programs") relating to fiscal, administrative, property management and other matters, hereinafter called "General Education Provisions Regulations" (GEPR).

(20 U.S.C. 1201, 1221)

§ 166.2 Definitions.

The terms "adult," "adult education," "adult basic education," "community school program," "local educational agency," "State," "State educational agency," and "academic education," as used in this part, are defined in section 303 of the Act.

(20 U.S.C. 1202)

"Act," means the Adult Education Act.

(20 U.S.C. 1201 (note on short title))

"GEPR" means the "General Education Provisions Regulations" (entitled "General Provisions for Office of Education Programs"), which may be found in subchapter A of this Chapter.

The term "nonprofit," "private," and "public agency" as used in this part, are defined in § 100.1 of GEPR.

"Institutionalized person" means (1) an adult sixteen years of age or older who does not have a certificate of graduation from a school providing secondary education and is an inmate, patient, or resident of a penal institution, reformatory, residential training school, orphanage, or general or special institution, or hospital; or (2) an adult in a residential school for the physically or mentally handicapped.

The term "limited English-speaking ability," when used with reference to adults, means adults who come from environments where a language other than English is dominant, and, by reason thereof, have difficulty speaking and understanding instruction in the English language.

(20 U.S.C. 880b-1)

"Institution of higher education" means an educational institution in any State which:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized within such State to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(d) Is a public or other nonprofit institution; and

(e) Is accredited by a nationality recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: Provided, however, that in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purpose of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(20 U.S.C. 801; 20 U.S.C. 1202)

Subpart B—State Advisory Councils

§ 166.4 Establishment and certification.

(a) *Establishment.* Each State which receives funds under section 304 of the Act and the regulations in this part for any fiscal year may establish and maintain a State advisory council, or may designate and maintain an existing State advisory council, which shall be, or has been, appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agency are elected (including election by the State legislature), by such board.

(b) *Certification.* The State educational agency shall notify the U.S. Commissioner of Education of the establishment of, and membership of, its State advisory council. The notification shall be attached to the State plan or be submitted as an amendment thereto in such cases where an advisory council is established after the State plan has been approved. Such notification shall include the name, education, experience, and current position of each person serving on the State advisory council and shall specify which interest under § 166.5 each person represents. Forms for the certification of State advisory councils may be obtained from the U.S. Office of Education, Division of Adult Education, Regional Office Building No. 3, 7th and D Streets, SW., Washington, D.C. 20202. Upon receiving such notification, the Commissioner shall, as appropriate, certify that each such council is in compliance with the membership requirements set forth in the Act and in this subpart.

(20 U.S.C. 1208b)

§ 166.5 Membership.

In order to effectively reflect the diverse interests and needs of the general public served by the Act, the membership of the State advisory council should include a significant proportion of women, the elderly, minorities, and educationally disadvantaged. The membership of the council shall also be organized to include:

(a) Persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or of local educational agencies of that State;

(b) Persons who are receiving or have received adult educational services; and

(c) Persons who are representative of the general public.

(20 U.S.C. 1208b)

§ 166.6 Functions and responsibilities.

The State advisory council shall:

(a) Advise the State educational agency on the development and administration of the State plan approved pursuant to the Act and the regulations in this part;

(b) Advise the State educational agency on policy matters arising in the administration of the Act and the regulations in this part;

(c) Advise the State educational agency with respect to long-range planning;

(d) Advise the State educational agency with respect to studies for evaluating adult education programs, services, and activities assisted under the Act; and

(e) Prepare and submit to the State educational agency, the National Advisory Council on Adult Education, established pursuant to section 311 of the Act, and the U.S. Commissioner of Education, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

(20 U.S.C. 1208b)

§ 166.7 Meetings and rules.

Each State advisory council shall meet within 30 days after certification by the Commissioner and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council. Such rules shall provide for not less than four meetings each year, including at least one public meeting at which the public is given the opportunity to express views concerning adult education.

(20 U.S.C. 1208b)

§ 166.8 Staff.

Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under the act.

(20 U.S.C. 1208b)

§ 166.9 Compensation.

Members of the State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and compensation in accordance with State law, regulations, and practices applicable to persons performing comparable duties and services.

(20 U.S.C. 1208b)

§ 166.10 Allowable costs.

Costs incurred by State advisory councils established pursuant to section 310A of the Act are allowable expenditures of Federal funds granted to the States under section 304 of the Act and of the non-Federal share of State and local funds necessary to earn such Federal funds.

(20 U.S.C. 1203; 1208b)

Subpart C—State Plan Provisions

§ 166.11 State plan; general.

(a) *Purpose.* The purpose of the State plan is to provide a framework within which the State will encourage the establishment or expansion of programs to carry out the purpose set forth in § 166.1(a), and to provide the basis on which Federal payments to the State under this part are made. State agencies desiring to participate under the Act must submit a State plan in accordance with the requirements of the Act and the regulations in this part. Such plan shall include a description of the adult education needs of the State, services and activities to meet those needs, a schedule of implementation, and procedures for evaluating program effectiveness.

(b) *Format.* The State plan consists of the cover sheet and the State-Federal agreement (the texts of both are attached as Appendix A of these regulations). The annual program plan must be submitted annually to the U.S. Commissioner of Education through the appropriate Regional Director, Occupational and Adult Education Programs, and received by such Regional Director on or before June 30 of the fiscal year preceding that for which funds are sought.

(20 U.S.C. 1205a; 20 U.S.C. 1232c)

§ 166.12 Annual program plan for use of grants.

(a) *General.* (1) The State agency must develop, an annual program plan for establishing or expanding adult basic education programs, adult secondary education programs, and other adult education programs to be carried out by local educational agencies, and public and private nonprofit agencies in the State. The annual program must meet applicable requirements, including those set forth in the Act, section 434(b)(1)(B) of the General Education Provisions Act, the regulations in this part, the GEPR contained in Subchapter A of this Chapter, and the State-Federal agreement contained in Appendix A of this part, and must be developed and operated in accordance with the policies, procedures and criteria established by the State pursuant to §§ 166.12(b) and 166.13.

(2) The annual program plan must be revised each year to reflect proposed activities for the ensuing fiscal year, and must be submitted to the U.S. Commissioner of Education for approval in accordance with the requirements set forth in section 434(b)(1)(A) of the General Education Provisions Act.

(b) *Content.* (1) The annual program plan must contain a statement of the policies, procedures and criteria to be followed by the State agency in approving local educational agency, and public and private nonprofit agency programs which will assure substantial progress in the establishment or expansion of adult basic education, adult secondary education programs, and other adult education programs.

(2) The annual program plan shall set forth the policies, procedures and criteria to be used by the State educational agency to administer section 309 of the Act. The State plan shall include such criteria and procedures for each of the following functions:

(i) Announcement of the availability of Federal funds for special projects and teacher training to assure free competition in the award of such funds;

(ii) Establishment of statewide priorities in adult education;

(iii) Criteria for the review of special projects and teacher training applications;

(iv) Procedures for submission of applications;

(v) Criteria for the establishment of application review panels, if such panels are to be used;

(vi) Criteria for the selection of participants for teacher training projects;

(vii) Procedures for the disposition of applications;

(viii) Procedures for hearings, as required by section 425 of the General Education Provisions Act;

(ix) Program evaluation procedures;

(x) Allowable costs;

(xi) Provisions for stipends and travel allowances for teacher training participants;

(xii) Report requirements; and

(xiii) Procedures for the dissemination of project results.

(3) The information to be provided in the annual program plan, in accordance with paragraphs (b)(1) and (2) of this section, shall be in sufficient detail that it will be possible for the U.S. Commissioner of Education to determine if the provisions of the Act and these regulations are being administered in an efficient and prudent manner, and to determine whether and to what extent substantial progress (with respect to all appropriate segments of the adult population in need of adult education, including institutionalized persons and persons of limited English-speaking ability) is being made in meeting the educational needs of adults in all areas of the State.

(4) The annual program plan shall describe procedures which will be used for conducting an annual evaluation of the activities which shall be carried out in the year for which funds are sought. Such annual evaluation should be conducted either by the State agency or by other parties. A copy of any reports of such evaluations shall be sent to the U.S. Commissioner of Education. Results of the evaluation must also be reflected, as appropriate, in the performance report which must be submitted annually with the Financial Status Report in accordance with Subpart P of the GEPR.

(20 U.S.C. 1205(a); 45 CFR Part 100b; Subpart P)

(c) *Programs.* Funds available under this part may be used to assist in establishing or carrying out adult basic education programs and programs of high school equivalency or for a certificate of graduation from a secondary school. The total annual expenditure of funds available under this part for adult secondary education shall in no event exceed 20 percent of the total annual allotment of Federal funds granted to the State under section 304 of the Act. No limitation is made on the amount of State and local funds (including those State and local funds that are necessary to earn such Federal funds) that may be used by the State for adult secondary education programs. For example, a State's Federal allotment is $100,000. The State must not use more than $20,000 (20% of $100,000) of this Federal allotment for adult secondary education. The State may add any amount of its own funds to the $20,000 for adult secondary education programs.

(d) *Programs for institutionalized persons.* Each State educational agency may use not more than 20 percent of the total funds available for any fiscal year (including State and local funds necessary to earn Federal funds, and including any funds brought forward from the prior year allotment) under this part for establishing and carrying out adult basic education programs and adult secondary education programs for institutionalized adults. For example, a State's Federal

allotment is $100,000. The State matches with $10,000 for its adult education program. The State must not use more than $22,000 of its total adult education funds (20% of $110,000) for carrying out programs for institutionalized adults.

(e) *Bilingual adult education programs.* The State educational agency shall be responsible for providing bilingual adult education programs for persons of limited English-speaking ability (as defined in § 166.2) of this part by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons.

(20 U.S.C. 1201, 1203(b), 1205(a); Senate Report No. 634, 91st Congress, 2nd Sess., p. 71 (1970); 20 U.S.C. 1232, 1231b-2; 20 U.S.C. 880b-1)

§ 166.13 Development of program policies, procedures and criteria.

In developing the policies, procedures and criteria referred to in § 166.12(b)(1), the State agency must give consideration to such factors as to whether and to what extent a program:

(a) Will serve adults, including institutionalized persons and persons with limited English-speaking ability, in those geographic areas of the State which have high concentrations of adults in need of basic education;

(b) Will serve adults with the greatest basic educational deficiencies which are impairing their ability to obtain employment and become more productive and responsible citizens;

(c) Will provide special assistance for persons of limited English-speaking ability by providing bilingual adult education programs in which instruction is given in English and to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons. The bilingual adult education programs shall be carried out in coordination with programs of bilingual education assisted under Title VII of the Elementary and Secondary Education Act of 1965, as amended, and bilingual vocational education programs under the Vocational Education Act of 1963, as amended;

(d) Will meet the need for adult secondary programs in the State to the fullest extent possible with funds provided by the Act and set forth in § 166.12 (c) of these regulations;

(e) Has been planned and will be conducted in cooperation with Community Action programs, Work Experience programs, VISTA, Work-Study programs, programs designed to provide reading instruction for adults, and other programs relating to the antipoverty effort;

(f) Has been planned and will be conducted in cooperation with manpower development and training programs, including programs under the Comprehensive Employment and Training Act (CETA), and occupational education programs;

(g) Has been planned and will be conducted in cooperation with other State and local community school programs, consumer education programs, career education programs, metrication education programs for adults, equal education programs for women, bilingual instructional programs for persons with limited English-speaking ability, and with agencies responsible for institutionalized persons;

(h) Will provide health information and services, to the extent available, through cooperative arrangements with State health authorities and will further the cooperative arrangements between the State educational agency and the State health authority for the use of such information and services;

(i) Incorporates the results of research or techniques which have proven to be effective;

(j) Incorporates innovative or imaginative instructional methods; and

(k) Is desirable in light of the findings and recommendations of recent independent evaluation reports available to or sponsored by the State agency.

(20 U.S.C. 1205(a); 20 U.S.C. 880b-1)

§ 166.14 Certification of State plan.

(a) *Certification by State Education Agency.* The annual State plan and any amendments thereto, as required by §§ 166.12 and 166.15, shall include an attachment, executed by the authorized official of the State educational agency to submit the State plan, which certifies to the effect that: (1) The plan or amendment has been adopted by the State educational agency, and (2) the plan, or plan as amended, will constitute the basis for operation and administration of the adult education program in which Federal financial participation will be made. The State educational agency shall provide for a review of the State plan by the State advisory council, if such council exists, and for a review at a scheduled public meeting.

(20 U.S.C. 1205(a))

(b) *Certification by the State's Attorney General.* The State plan and all amendments thereto shall include a certification by the State's Attorney General, or other official designated in accordance with State law to advise the State agency on legal matters, that all plan provisions and amendments thereto are consistent with State law. The Attorney General must further certify (a) the official title of the officers authorized to submit the State plan; (b) that the State agency named in the plan has authority under State law to submit the State plan; and (c) that the State Treasurer (or, if there should be no State Treasurer, the officer identified by title exercising similar functions for the State) has authority under State law to receive, hold, and disburse Federal funds under the State plan.

(20 U.S.C. 1205(a))

§ 166.15 Amendment of State plan.

(a) Budget revisions must be made in accordance with GEPR § 100b.29.

(b) The State plan must also be amended as necessary to reflect any change in organization or operation which results from an amendment of State or Federal laws and policies, and to show any other changes in the designation or organization of operations, policies, and methods of administration to be followed by the State. Notification of such amendments will be submitted and certified in the same manner as the State plan.

(20 U.S.C. 1205(a); 20 U.S.C. 1232c(b))

§ 166.16 Approval of State plan.

(a) *Governor's comments.* The State educational agency must afford the Governor of such State an opportunity to comment upon the State plan or any amendment thereto in accordance with GEPR § 100b.15 and assurance (13) of the State-Federal agreement contained in Appendix A to the regulations in this part.

(20 U.S.C. 1205(a))

(b) *Approval by the Commissioner.* The Commissioner will not approve a State plan or amendment thereto unless he determines that the plan or amendment complies with all applicable requirements. The Commissioner will not finally disapprove a State plan or any modification thereof without first affording the State reasonable notice and opportunity for a hearing.

(20 U.S.C. 1205(a) and (b))

Subpart D—Special Experimental Demonstration Projects and Teacher Training

§ 166.21 Applicability.

(a) The regulations in this subpart apply to Federal assistance provided by the State educational agency for special projects in adult education under subsection (1) and adult education personnel training under subsection (2) of section 309 of the Act.

(b) Assistance provided under this subpart is subject to applicable provisions contained in the Act, the regulations in this part, and the GEPR.

(20 U.S.C. 1208)

§ 166.22 Eligible projects.

The State educational agency shall establish and set forth in its annual program plan the policies and procedures under which it will use not less than 15 percent of the funds allotted to it for any given fiscal year under section 305 of the Act for special projects and teacher training, as prescribed by section 309 of the Act. The State educational agency shall use the 15 percent of each annual Federal allotment which is reserved for the purposes of section 309 of the Act to provide support for both special projects and teacher training programs. The distribution of such funds among special projects and teacher training shall be determined by the State educational agency in light of the overall objectives of its annual program plan.

(a) *Special projects.* From each annual Federal allotment to the State educational agency for the purposes of the Act, funds will be available under section 309(1) for special projects which:

(1) Involve the use of innovative methods, systems, materials, or programs which:

(i) may have national significance, or

(ii) may be of special value in promoting effective programs under the Act; or

(2) Involve programs of adult education which are part of a community school program, carried out in cooperation with other Federal, or federally assisted State or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies.

(b) *Teacher training.* From each annual Federal allotment to the State educational agency, funds will be available under section 309(2) of the Act to train persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this Act.

(20 U.S.C. 1208)

§ 166.23 Eligible applicants.

(a) *Special projects and teacher training.* Federal funds authorized for the purposes of section 309 of the Act may be used for grants, contracts, or other arrangements, if appropriate under applicable State laws, to provide support for special projects and teacher training. Eligible recipients include the following:

(1) State educational agencies;

(2) Local educational agencies;

(3) Public and private agencies, institutions, and organizations; and

(4) Individuals.

(20 U.S.C. 1208)

(b) *Ineligible applicants.* No funds may be used from the State's allotment under this part for programs conducted by any school or department of divinity, as defined in section 312 of the Act.

(20 U.S.C. 1210)

§ 166.24 Project applications.

(a) Funds to support special projects and teacher training under section 309 of the Act will be available from the appropriate State educational agency. Information on policies and procedures for applying for such support may be obtained from the State educational agency.

(b) In its use of section 309 funds, the State educational agency may not assign any part of its responsibility to another agency. This does not, however, prevent a State agency from exercising its authority under the Act to coordinate activities with other Federal, or federally assisted, State and local programs, nor prevent two or more applicants in one or more States from conducting a joint program or project (including a planning project) through a combined use of funds made available to them.

(c) A State educational agency may award funds under section 309 of the Act to eligible applicants outside the boundaries of the State if such an award is deemed to be in the best interest of the State in meeting the purposes of the Act.

(20 U.S.C. 1208)

§ 166.25 Establishment of national priorities in adult education.

Based on the findings of surveys and studies conducted by the U.S. Office of Education, recommendations of the National Advisory Council on Adult Education, and on evaluations by State educational agencies, and State advisory councils, if such councils exist, the U.S. Office of Education will review and identify, for the guidance of the State educational agencies, national priorities annually in the field of adult education and, as necessary, will publish current priorities in the FEDERAL REGISTER. The State educational agency may take these priorities into consideration for its guidance in the development of its annual program of priorities and objectives under the State plan. Each State is requested in its annual program plan to indicate how the priorities established by the State agency related to the published national priorities. Such national priorities are contained in these regulations as Appendix B.

(20 U.S.C. 1208)

§ 166.26 Program evaluation procedures.

(a) The State educational agency shall set forth in its annual program plan the procedures that it will follow for obtaining an independent third party evaluation of each program or project funded under section 309 of the Act.

(b) Each program or project supported under section 309 of the Act shall be evaluated annually, if appropriate, by an independent third party, and a report of each such evaluation shall be submitted to the U.S. Commissioner of Education within 60 days after the end of the fiscal year.

(20 U.S.C. 1208)

§ 166.27 Allowable costs.

(a) Allowable costs of programs and projects funded under section 309 of the Act shall be in accordance with § 100b, Subpart G, and Appendix B, C, or D (as appropriate) of GEPR.

(b) With respect to teacher training programs under section 309(2) of the Act, only those allowances which are provided for in applicable State law, policies and procedures, and under the provisions of Subpart G and Appendix B, C, or D (as appropriate) of GEPR may be included as direct costs of the project.

(20 U.S.C. 1208; 45 CFR 100b)

§ 166.28 Stipends and travel allowances for teacher training participants.

Participants in teacher training programs funded under section 309 of the Act and these regulations may receive support and travel allowances. Such support and travel allowances, if paid, shall be in accordance with State law, policies and procedures.

(20 U.S.C. 1208)

§ 166.29 Reporting requirements for special projects and teacher training.

In order for the State educational agency to comply with Federal reporting requirements, as set forth in § 166.52 of these regulations, and Subparts P and Q of 45 CFR 100b, recipients of funds administered under section 309 of the Act shall submit, as a condition of funding, such reports as the State educational agency deems necessary.

(20 U.S.C. 1205(a)(8))

§ 166.30 Dissemination of results of projects.

(a) The State educational agency shall develop and set forth in its annual program plan procedures for providing a copy of final reports and evaluation reports of special projects and teacher training programs supported under section 309 of the Act to:

(1) The U.S. Commissioner of Education; and

(2) The U.S. Office of Education, Clearinghouse on Adult Education.

(b) Except for the requirements contained in paragraphs (a) (1) and (2) of this section, it shall be the responsibility of the State educational agency to distribute (as the State agency deems appropriate) the results of projects supported under section 309 of the Act.

(20 U.S.C. 1208–1)

Subpart E—Federal Financial Participation

§ 166.41 Use of Federal funds.

All Federal funds (and State or local funds necessary to earn such Federal funds) must be expended in accordance with applicable requirements and only for programs, services, and activities related to adult education. The annual program plan shall set forth a program for the use of grant funds which affords assurance that in all areas of the State, special emphasis will be given to adult basic education needs in accordance with the policies, procedures, criteria and considerations established in accordance with §§ 166.12(b) and 166.13.

(20 U.S.C. 1205(a))

§ 166.42 Limitation on administrative expenses.

The U.S. Commissioner of Education shall determine annually (based upon the amounts so appropriated for this purpose or, in the absence of such appropriation, in amounts based upon the funds appropriated pursuant to section 313(a) and the limitation prescribed in section 313(b) of the Act) the maximum allowable amount awarded pursuant to section 313(b) of the Act. The non-Federal share of funds available under the State plan may also be utilized to pay such administrative costs.

(20 U.S.C. 1211)

§ 166.43 Federal and non-Federal share of expenditures.

(a) *Federal share.* The Federal share of expenditures incurred under the State plan and payable to a State from its allotment shall not exceed 90 per centum, except that with respect to the Trust Territory of the Pacific Islands such Federal share shall be 100 per centum.

(20 U.S.C. 1206(a))

(b) *Non-Federal share.* The non-Federal share of expenditures under the State plan shall be the difference between the Federal share meeting the requirements of paragraph (a) of this section and the total expenditures for the purposes for which the Federal share is paid. The non-Federal share of expenditures under the State plan may be computed on a statewide basis and may come from any source other than Federal assistance for a specific purpose so long as such expenditures are made in furtherance of the purposes of the State plan approved under this part and do not inure to the personal benefit of any donor. The criteria and procedures for determining the allowability and valuation of inkind contributions applicable to State agencies for the purpose of meeting the non-Federal share are included in Subpart H of Part 100b of the GEPR.

(20 U.S.C. 1206(a))

§ 166.44 Use of funds for sectarian or religious purposes.

No payment may be made from a State's allotment under the Act for any program, service, or activity related to sectarian instruction or religious worship, or provided by a school or department of divinity, as defined in section 312 of the Act. An institution which has a school, branch, department, or other administrative unit within the definition of "school or department of divinity" is not precluded for that reason from participating in programs, services, or activities under this part if the program is not offered by that school, branch, department, or administrative unit and, as in all other cases, the program, service, or activity is not related to sectarian instruction or religious workship.

(20 U.S.C. 1212)

§ 166.45 Tuition and fees.

Adults enrolled in adult basic education and adult secondary programs conducted under this part may not be charged tuition, fees, or any other charges, or be required to purchase any books or any other materials that are needed for participation in the program.

(20 U.S.C. 1203(b), 1205(a)(1); 45 CFR 100b, Subpart G)

Subpart F—Payments and Reports

§ 166.51 Conditions for payments to States.

(a) *Approved State plan.* Payments to States under the Act will be made only after the Commissioner has approved the State plan submitted in accordance with the requirements of the Act, these regulations, and GEPR.

(b) *Maintenance of effort.* The State shall certify to the Commissioner that there will be available for expenditure by the State, including its political subdivisions, for adult education from non-Federal sources during the fiscal year for which the allotment is made an amount equal to not less than the total amount expended for such purposes from such sources during the preceding fiscal year. No State will be required to use its funds to supplant any portion of the Federal share.

(20 U.S.C. 1206)

§ 166.52 Reports.

(a) *Financial reports.* The State agency shall submit financial reports annually, 90 days after the end of the grant year, in accordance with Subpart P of Part 100b of the GEPR.

(b) *Performance reports.* The State agency shall submit performance reports annually, 90 days after the end of the fiscal year, in accordance with Subpart Q of Part 100b of the GEPR.

(c) *Independent evaluations.* The State shall forward to the Commissioner a copy of any independent evaluations of projects and programs (including projects under section 309 and programs of instruction under section 306 of the Act). Each such evaluation shall include a summary of its operation, objectives, conclusions, or any studies of a similar nature which may be sponsored by the State agency, in addition to and including those conducted and submitted in accordance with § 166.12(b)(2).

(d) *Other reports.* (1) Within 15 days after the State agency's approval of a project under section 306(a)(4) and section 309 of the Act for special projects, teacher training, and research, the State agency shall forward to the Commissioner an informational copy of the approved proposal for which the award was made. The State agency shall submit to the Commissioner, within 120 days after completion of the project, copies of final reports of programs or projects conducted by awardees under section 306(a)(4) and section 309 of the Act;

(2) The State educational agency shall submit, within 60 days after the end of any fiscal year, a report on the use of Federal funds as required by section 437(a) of the General Education Provisions Act;

(3) The State educational agency shall provide, in accordance with section 424 of the General Education Provisions Act a compilation of all inovative projects for each fiscal year in which funds under sections 306(a)(4) and 309 of the Act are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and location. Such indexing shall be in accordance with guidelines to be provided by the U.S. Office of Education, Clearinghouse on Adult Education; and

(4) The State educational agency shall submit along with its annual program plan a copy of any adult education legislation enacted by the State and a summary of the approved level of funding for each by fiscal year.

APPENDIX A

COVER SHEET

STATE PLAN FOR ADULT EDUCATION PROGRAMS

State plan for Adult Education Programs under Adult Education Act.

Amendment to State plan for Adult Education Programs under Adult Education Act.

Submitted by the State of _____ in accordance with the provisions of the Adult Education Act and the Regulations promulgated thereunder.

Submitted by _____
(Name of State agency)

on _____
(Date)

By _____
(Authorized official)

_____
(Title)

To be completed by the Office of Education:

Date on which plan or amendment is effective _____

Approval recommended _____
(Regional Director, Occupational and Adult Education Programs)

_____
(Date)

Concurred _____
(Deputy Commissioner for Occupational and Adult Education)

_____
(Date)

Approved _____
(U.S. Commissioner of Education)

_____
(Date)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF EDUCATION

State Plan

(State-Federal Agreement)

Adult Education Act, as Amended

(Public Law 91-230)

The _____
(Officially designated State agency)

of the State of _____, hereinafter called the State Agency, hereby agrees and assures that this State Plan which serves as an agreement between State and Federal Governments under the Adult Education Act, will be administered in accordance with the following provisions:

(1) The State Agency will provide for such methods of administration, as are necessary to assure proper and efficient administration of the program authorized by the Act; and has adequate fiscal and legal authority to do so (a certificate of legal authority in compliance with § 166.14 must be attached;

(20 U.S.C. 1202(g) and 1205(2)(9))

(2) The State Agency has entered into cooperative arrangements with the State Health Authority, authorizing the use of such health information and services for adults as may be available from such authorities and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to the Act;

(20 U.S.C. 1205(a)(3))

(3) The State Agency will provide support to local educational agencies, and public and private nonprofit agencies for special projects, teacher training, and research projects;

(20 U.S.C. 1205(a)(4))

(4) The State Agency will provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work-Study programs, programs designed to provide reading instruction for adults, and other programs relating to the antipoverty effort;

(20 U.S.C. 1205(a)(5))

(5) The State agency will provide for cooperation with manpower development and training programs, including programs under the Comprehensive Employment and Train-

ing Act (CETA), and occupational education programs;

(20 U.S.C. 1205(a)(6))

(6) The State Agency will make such reports, including reports of evaluations, in such form and containing such information as the Commissioner may reasonably require to carry out his functions under the Act, and to determine the extent to which funds provided under the Act have been effective in carrying out its purpose;

(20 U.S.C. 1205(a)(8))

(7) The State Agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of all reports submitted to him;

(20 U.S.C. 1205(a)(8))

(8) The State agency has provided for such fiscal control and fund accounting procedures as will assure proper disbursement of, and accounting for, Federal funds paid to the State under the Act (including any funds paid by the State to local educational agencies and public and private nonprofit agencies under this State plan);

(20 U.S.C. 1205(a)(12))

(9) The State Agency will ensure that special emphasis will be given to adult basic education programs;

(20 U.S.C. 1205(a)(10))

(10) The State Agency will provide such further information and assurances as may be required by applicable regulations;

(20 U.S.C. 1205(a)(12))

(11) The State Agency, including its political subdivisions, has available from non-Federal sources for expenditure for adult education, in the fiscal year for which the allotment is made, an amount not less than the amount expended for such purpose from such sources during the preceding fiscal year;

(20 U.S.C. 1206(b))

(12) (a) The State Agency assures that the program will be conducted in compliance with all requirements imposed by or pursuant to the regulations in 45 CFR Part 80 to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352);

(b) The State Agency was submitted or is hereby submitting as an attachment to this agreement the methods of administration to give reasonable assurance that the applicant and all recipients of Federal financial assistance under the State plan will comply with all requirements imposed by or pursuant to the regulations in 45 CFR Part 86 (prohibition of sex discrimination) Title IX of the Education Amendments of 1972 (Public Law 92-318);

(42 U.S.C. 2000d; P.L. 92-318, Title IX)

(13) The State plan has been submitted to the Governor for review; and his/her comments (or a statement that no comments have been made) will be attached to the annual program plan. Any amendments to this plan, as well as other periodic reports required under the program, if any, will be submitted for the Governor's review. The Governor's comments (or a statement that no comments were made) will accompany the materials when they are submitted to the U.S. Office of Education;

(20 U.S.C. 1205(a))

(14) Assurance is hereby given that the total annual expenditure of Federal funds for adult secondary education shall not exceed 20 percent of the total annual allotment granted to the State under section 305 of the Act;

(20 U.S.C. 1205(a)(7))

(15) Assurance is hereby given that special assistance will be provided for persons of limited English-speaking ability by providing bilingual adult education programs, in accordance with the criteria specified in § 166.12(e) of these regulations;

(20 U.S.C. 1205(a)(11))

(16) Assurance is hereby given that not more than 20 percent of the total funds available for expenditures for any fiscal year for the purposes of this Act shall be used for adult basic education and adult secondary education programs for institutionalized adults;

(20 U.S.C. 1205(a)(1))

(17) The program for the use of grants has been developed by the State Agency in accordance with section 306 of the Act and affords assurance for substantial progress with respect to all segments of the adult population and all areas of the State toward carrying out the purpose of the Act and applicable regulations;

(20 U.S.C. 1205(a)(1))

(18) The State Agency assures that it will not approve an application for a program of instruction unless it determines that the program will (a) utilize qualified administrative personnel and instructional staff, adequate facilities, equipment, materials, and guidance and counseling services; (b) provide for effective recruitment and retention of participants in adult education programs; and (c) provide for effective administration and supervision and assure efficient and economical operation in providing an adequate learning environment;

(20 U.S.C. 1205(a), 1232(c)(b))

(19) The State agency will submit for approval by the U.S. Commissioner of Education an annual program plan, in accordance with section 434(b)(1)(A)(V) of the General Education Provisions Act. Such annual program plan will include a certification by the State's Attorney General or other appropriate official, as specified in § 166.14 of the regulations.

Such program for use of grants is set forth in _____ which is
(Name of existing identifiable document)
attached hereto.

_____
(State Agency)

_____
_____
(Address)

By: _____
(Signature of authorized official)

_____
_____
_____
(Title)

_____
(Date)

APPENDIX B

PRIORITIES FOR PROGRAMS OF NATIONAL SIGNIFICANCE

The Commissioner has suggested for the guidance of State educational agencies that the following priorities merit special consideration by States in meeting the special project and staff development needs of their adult education program.

1. *Dissemination in adult education.*

Administrators and practitioners of adult education have only limited means for learning of and assessing the kinds and quality of improved practices and products generated in adult education. Many States do not have a mechanism for systematic retrieval, review, assessment, and diffusion of improved practices and products. Without these capabilities, programs suffer from duplication of effort, lack of planning ability, and the continuation of traditional, non-progressive educational strategies.

Characteristics of such a mechanism include the ability to locate improved practices and products, identify specific users, disseminate the practices and products to these users, and provide training and technical assistance for adoption and implementation by local adult educators. A Statewide dissemination program would develop these capabilities as part of the overall State Department of Education concern and planning for dissemination in education. If no such effort is presently being undertaken by a particular State Department of Education, the adult education program could play an important leadership role in developing departmental interest in a Statewide dissemination system. It will also be useful for State systems to coordinate plans and activities with the U.S. Office of Education, Clearinghouse on Adult Education.

2. *Adult performance level implementation.*

By the end of fiscal year 1975, the Adult Performance Level (APL) test and objectives will be completed and available for implementation. States should plan to utilize section 309 and other funds in support of projects to conduct a Statewide literacy assessment and to develop instructional programs designed to meet APL objectives. Also encouraged are staff development or special projects which focus on the translation of APL objectives into curriculum and teacher competencies. Careful attention should be paid to the avoidance of overlap and duplication in these developments.

3. *Role of the employer in adult learning.*

At the 1974 Summer Commencement of Ohio State University, the President asked the students and faculty to help bring the domains of education, employment and labor closer together to foster a community of learning. A major aim of this endeavor is to release the intellectual energy of America's youth to stimulate greater productivity on and off the job.

Adult educators can assist this effort by developing programs which identify the educative aspects of work and which structure the work environment and personnel policies to facilitate adult learning and career development. This may require restructuring the responsibilities of the employee to provide opportunities to learn new knowledge and skills which will prepare the employee to assume more or different job responsibilities.

This concept assumes that the organization of production around learning experiences for employees will ultimately lead to increased cost effectiveness of that production system.

4. *Adult education staff development.*

As part of the continuing staff development effort, each region and State has developed an adult education staff development plan. It is recommended that each State continue the implementation of its plan, and carefully assess the desirability of supporting the continuation of a regional approach to staff development.

5. *Experimental and demonstration project continuation.*

States are encouraged to review current experimental and demonstration projects funded under Pub. L. 91-230 in fiscal year 1974 to determine the appropriateness of assuming support for those projects which are of significance to State Adult Education Programs.

[FR Doc. 75-1874 Filed 1-20-75;8:45 am]

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TUESDAY, JANUARY 21, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 14

PART III

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

INORGANIC ARSENIC

Proposed Exposure Standard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH-37]

STANDARD FOR EXPOSURE TO INORGANIC ARSENIC

Notice of Proposed Rulemaking

Pursuant to sections 6(b) and 8(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 12–71 (36 FR 8754), and 29 CFR Part 1911, it is proposed to amend Part 1910 of Title 29, Code of Federal Regulations, by adding a new occupational safety and health standard for exposure to inorganic arsenic as § 1910.93r, and by deleting the present standards for arsenic and its compounds, calcium arsenate and lead arsenate, contained in Table G–1 of § 1910.93.

I. *Introduction.* The toxic effects of inorganic arsenic compounds on man, following oral ingestion, are well known. Some of the effects of acute inorganic arsenic poisoning are vomiting, nausea; diarrhea, irritation, inflammation and ulceration of the mucous membranes and skin; and kidney damage. Among the effects of chronic arsenic poisoning are increased pigmentation and keratinization of the skin, dermatitis, muscular paralysis, visual disturbances, and liver and kidney damage. Both acute and chronic poisoning by ingestion can lead to death.

Findings of excess cancer mortalities among worker populations exposed to airborne concentrations of various inorganic arsenic compounds have implicated inorganic arsenic as an occupational carcinogen. Results of a number of studies have shown sodium arsenite, arsenic trioxide, lead arsenate and calcium arsenate to be cancer-suspect agents (See Section III of this notice). Additionally, such effects as perforation of the nasal septum, conjunctivitis and dermatitis resulting from occupational exposure to airborne concentrations of inorganic arsenic compounds have been cited in the National Institute for Occupational Safety and Health (NIOSH) document, "Criteria for a Recommended Standard.—Occupational Exposure to Inorganic Arsenic."

In view of the observed effects and suspected carcinogenicity of these substances, the Occupational Safety and Health Administration (OSHA) has concluded that a comprehensive occupational health standard is needed to protect employees from the harmful effects of exposure to inorganic arsenic compounds.

In developing this proposed standard, OSHA has considered the NIOSH criteria document; written comments on the NIOSH document received in response to the OSHA advance notice of proposed rulemaking, published in the FEDERAL REGISTER on June 11, 1974 (39 FR 20494); recommended modifications of the criteria document, submitted by NIOSH on November 8, 1974; and the complete record of the fact-finding hearing announced in the FEDERAL REGISTER on August 30, 1974 (39 FR 31644) and held on September 20, 1974, including all of the evidence presented at the hearing and all written comments received prior to the close of the hearing record on October 20, 1974.

II. *Background.* Inorganic arsenic, for the purpose of this standard, is defined as arsenic and all inorganic compounds containing arsenic, except arsine. Elemental arsenic (As), a gray metalloid, is primarily found in the ores of metals such as copper, lead, zinc, gold and silver. Arsenic is also widely distributed, in small amounts, throughout the soils and waters of the world. Traces are found in foods, particularly seafood, and in some meats and vegetables.

Arsenic trioxide, the compound used in the synthesis of many other arsenic compounds, is released and obtained primarily as a by-product of the smelting of sulfide ores of copper, zinc or lead. The U.S. consumption of arsenic trioxide has been estimated at 25,000–30,000 tons annually.

Arsenic compounds are manufactured and used as herbicides and pesticides due to their toxic effects on plants and insects. Calcium arsenate and lead arsenate are two of the arsenicals commonly used as insecticides. Calcium, sodium, and zinc arsenites are used as herbicides for the control of weed growth. Arsenic acid is used as a defoliant and desiccant, e.g., in the treatment of cotton prior to machine picking.

In addition to agricultural uses, arsenicals are used in the production of glass, wood preservatives and nonferrous alloys. Small quantities are used in cattle and sheep-dips, pyrotechnics, pigments, poultry feed additives, pharmaceuticals, leather tanning, and anti-fouling paints.

History of the Standard. In 1943, the American Standards Association (now the American National Standards Institute or ANSI) proposed a standard for arsenic of not more than 0.015 milligrams elemental arsenic per cubic meter of air (mg As/cu m). However, by 1945, this standard was increased by a factor of ten to 0.15 mg As/cu m.

The American Conference of Governmental Industrial Hygienists (ACGIH) recommended a Maximum Airborne Concentration (MAC) of 0.1 mg As/cu m, in 1947. This was changed the following year to a Threshold Limit Value (TLV) of 0.5 mg As/cu m. It appears that this level was set to protect against the hazard of dermatitis from arsenic trioxide and without consideration for possible carcinogenicity.

The ACGIH has separate standards for lead arsenate and calcium arsenate. A limit for lead arsenate of 0.15 mg lead arsenate/cu m has remained in effect since 1957. (There are at least six forms of lead arsenate compounds, depending upon the molecular formula. The arsenic content (as As) can range from approximately 0.02 to 0.055 mg As/cu m.) According to ACGIH documentation, lead arsenate was considered to present the double threat of chronic toxicity due to its lead content and acute toxicity due to its arsenic content. The limit for calcium arsenate of 0.1 mg/cu m, adopted by ACGIH in 1957, was later changed to the present 1.0 mg calcium arsenate/cu m (equivalent to 0.38 mg As/cu m).

The present OSHA standard for "arsenic and its compounds" in Table G–1 of § 1910.93 is 0.5 mg As/cu m, as determined on an eight-hour time-weighted average basis. The present OSHA standards for lead arsenate and calcium arsenate are 0.15 mg/cu m and 1.0 mg/cu m, respectively. These levels were based on the 1968 ACGIH list of Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment (TLV's).

III. *Environmental and epidemiological studies.* Historically, attention has focused upon issues concerning the specific toxicity of arsenic compounds, the overall toxic mode of respiratory versus skin effects, the lack of animal toxicity data and the question of carcinogenicity. These differences in emphasis are evidenced by the wide variation and numerous changes in the threshold limit values for inorganic arsenic compounds. NIOSH attempted to clarify these issues with an examination of the available studies on various inorganic arsenic compounds (except lead arsenate and arsine) in the criteria document submitted to OSHA in January, 1974.

The first significant study involved a two-part investigation of the worker population of an English factory which manufactured a sodium arsensite sheep dip. The first part of the study, reported by Hill and Fanning, compared mortality data of the factory worker population with that of workers in other occupations in the same community, during the years 1910 to 1943. Hill and Fanning reported 22 cancer deaths (29.3 percent) among 75 deceased factory workers as compared to 157 cancer deaths (12.9 percent) among 1,216 deceased workers from other occupations in the community. The excess of cancer deaths due to cancer of the respiratory system was 31.8 percent for the sodium arsenite workers, compared to 15.9 percent for the control group, and 13.6 percent from skin cancer as compared to 1.3 percent for the general population.

The second part of the study, by Perry et al., consisted of a clinical and environmental investigation of the same factory during 1945 and 1946. Although the study was limited in scope and design, Perry's results showed some correlations between the levels of arsenic found in the hair and urine of workers and the levels of airborne arsenic contamination to which workers were exposed.

Snegireff and Lombard (1951) conducted a statistical study of cancer mortality in the metallurgical industry. They concluded that the frequency of cancer deaths of all types among the employees of a plant handling arsenic trioxide was not significantly different from that of

the control population (a plant identical to the first except that it handled no arsenic trioxide). As a result of this lack of statistical significance, the authors concluded that arsenic trioxide was not carcinogenic.

However, NIOSH's evaluation of the Snegireff and Lombard data found the authors' conclusions to be of questionable validity. NIOSH's analysis revealed a large excess of lung cancer mortality in the worker populations for both plants, when the data were compared to the respiratory cancer death rates for the states in which the plants were located. NIOSH concluded that the authors should have placed more emphasis on the significance of the lung cancer data.

Further, NIOSH questioned the choice of control population. Since both plants were in the metallurgical industry and nearly identical, it may be assumed that both were metal smelters. Thus, based on the information available on the release of arsenic during the smelting of metal ores, there is a question as to whether the control population of employees was not, in fact, exposed to some arsenic trioxide. According to NIOSH, had a more suitable control population been chosen the excess of respiratory cancer might have been more readily apparent.

Pinto and McGill (1953) studied the effects of arsenic trioxide exposure in a copper smelter producing arsenic trioxide as a by-product. Without the use of air measurements, Pinto and McGill divided the workers into "exposed" and "nonexposed" groups. The authors measured the workers' urinary arsenic levels and noted that the urinary arsenic levels for those "nonexposed" averaged 0.13 milligrams of arsenic per liter (mg As/l) while those "exposed" averaged 0.82 mg As/l. As will be discussed below, the division of workers into the two exposure categories is questionable. The authors concluded that arsenic trioxide dust produced an irritant effect on body surfaces, but that systemic toxicity from inhalation was rare.

Milham and Strong, who measured urinary arsenic levels of residents downwind from the smelter studied by Pinto and McGill, found that the residents' urinary arsenic levels decreased with the distance from the smelter. Milham and Strong also collected samples of vacuum cleaner dust and reported that arsenic content of the dust declined from a high of 1300 parts per million parts of dust (ppm) at a distance of 0 to .4 mile from the smelter to 70 ppm at a distance of 2.0 to 2.4 miles. This would suggest that arsenic exposure was not confined to only one section of the smelter, but extended to the surrounding community. Thus, the "nonexposed" control group of smelter workers very likely also had a significant degree of arsenic exposure.

In 1963, Pinto and Bennett analyzed the causes of death for 229 plant workers and pensioners at the same smelter investigated by Pinto and McGill. On the basis of the average urinary arsenic levels found in the Pinto and McGill study, Pinto and Bennett divided the working population into "exposed" and "nonexposed" groups. Pinto and Bennett concluded that arsenic exposures had no significant effect on the amount of cancer mortalities observed in the plant workers as compared to the cancer mortality rates for the state as a whole. However, these findings have since been challenged.

NIOSH's evaluation of the Pinto and Bennett study showed an increase in lung cancer mortality. As noted above, the "nonexposed" workers probably had, in fact, been subjected to significant occupational exposures. When the "exposed" and "nonexposed" worker populations were combined, 18 lung cancer deaths were found where only 3.6 would have been expected. Further, Dr. Milham stated at the OSHA fact-finding hearing that he had found an additional seven lung cancer deaths among Pinto and Bennett's study population (See fact-finding hearing transcript, hereinafter refered to as FTR, pages 111–116). Combining the 18 lung cancer deaths with the seven additional cases, increases the lung cancer deaths among the workers in the smelter to three times the number expected.

Further, the excess lung cancer mortalities found in the analysis of the Pinto and Bennett study were confirmed by the findings of a study by Milham and Strong, who examined death certificates of former smelter workers who had worked in the same smelter studied by Pinto and Bennett. For the years between 1950 and 1971, 40 lung cancer deaths were found among former smelter workers, where only 18 would have been expected (P less than .001).

In 1969, Lee and Fraumeni, in an effort to clarify the role of arsenic in human carcinogenesis, studied and compared the mortality data of 8,047 white male smelter workers exposed to both arsenic trioxide and sulfur dioxide during 1938–1963, with that of a similar population in the same states. As of December 1963, of the 8,047 workers, 5,397 were known to be alive; 1,877 deceased; and 773 had status unknown. Hence, there were 1,877 observed deaths compared to 1,634 expected deaths (P less than 0.01). The authors divided the deceased workers by duration and degree of exposure to arsenic trioxide and sulfur dioxide. Excesses of lung cancer deaths were found to increase with increasing lengths of exposure to arsenic trioxide. These increases ranged from 2.03 to 4.7 times expected. These groups were further subdivided into "heavy," "medium," and "light" exposures to arsenic trioxide. Lung cancer mortalities for each group were found to increase with increasing degrees of exposure to arsenic trioxide.

Similarly, workers were grouped according to duration and degree of exposure to sulfur dioxide. Again, excess lung cancer mortality was found with increasing exposure to sulfur dioxide. The greatest excesses of lung cancer were found among workers exposed to high concentrations of arsenic trioxide and medium or high concentrations of sulfur dioxide. Lee and Fraumeni concluded that their findings were "consistent with the hypothesis that exposure to high levels of arsenic trioxide, perhaps in interaction with sulfur dioxide or unidentified chemicals in the work environment, is responsible for the threefold excess of respiratory cancer deaths among smelter workers."

Animal Studies. In its criteria document, NIOSH evaluated 18 animal studies involving inorganic arsenic exposures. However, only two of these were studies of the effects of exposure to airborne concentrations, and neither of these studies were designed to observe lung cancer.

The first of these was an inhalation study, by Rozenshtein, on albino rats exposed to arsenic trioxide for 24 hours per day, for three months. The study was designed to observe the effects of atmospheric pollution. The second study, by Bencko and Symon, involved an evaluation of hairless mice exposed to fly ash containing .1% arsenic trioxide. The authors observed an accumulation of arsenic in the animals' livers and kidneys from exposures to the fly ash.

At the OSHA fact-finding hearing, Dr. Kraybill, of the National Cancer Institute, discussed the overall lack of carcinogenic animal data, and the important elements to be considered in evaluating animal studies. Of significance, Kraybill said, is the dose given the animal, the adequacy of the numbers of animals within the test and control groups to permit statistical evaluation of the data, and the time frame of the study.

Dr. Kraybill discussed the findings of 20 animal studies included in a review published by the International Agency for Research on Cancer. These studies were primarily concerned with routes of entry other than inhalation. Dr. Kraybill referred to two preliminary reports suggesting possible carcinogenic effects in mice exposed to sodium arsenate, potassium arsenate, and arsenic trioxide. However, Kraybill said that these studies were difficult to interpret and must await further confirmation. Kraybill commented, "Arsenic stands out as the one substance for which human carcinogenicity has been demonstrated, but for which an animal model has yet to be found to reproduce this effect." (FTR 36–40)

IV. *Recent studies and comments.* On July 8, 1974, in response to the Notice of Proposed Rulemaking, the Dow Chemical Company submitted a retrospective mortality study, by Ott et al., of the relationship between respiratory cancer and occupational exposure to dry arsenicals (FTR Exhibit #3). Arsenic trioxide was the compound used for the synthesis of the other dry arsenicals. Therefore, OSHA concludes that there may have been some worker exposure to arsenic trioxide as well as to the following dry arsenicals, listed by extent of production, over the 37-year period of the study: lead arsenate (59 percent), calcium arsenate (34 percent), copper aceto-arsenate (5 percent), and magnesium arsenate (2 percent).

The Dow study compared the proportionate mortality experience among the

arsenic-exposed employees with the experience among nonexposed employees, for the period from 1919 to 1956. The exposed employee population included only those who had spent one or more days in the arsenical production area. The control group had never worked in the arsenic exposure area. Noteworthy was the fact that of the 173 deaths among exposed employees, 138 of these had worked in the exposure areas for a period of less than one year. Of these 138, 16 died of lung cancer. An increased percentage of cancer deaths was observed among the exposed (32.9 percent) versus the nonexposed (20.7 percent). The authors' analysis of the data indicated an approximate threefold increase in lung cancer for the exposed (16.2 percent) over the nonexposed (5.7 percent). Lymphatic cancer occurred 2.5 times the expected rate (3.5 percent versus 1.4 percent). Fewer cancers of the digestive system were found in the exposed than expected.

In addition, Ott performed a cohort analysis to supplement the results of the above study by examining mortality data for 603 men who had worked for at least one month in the exposure area. Death rates of this group were compared to those of the U.S. white male population. There were 35 cancer deaths observed among the exposed group versus 19.4 expected. Of the total cancer deaths, 20 lung cancer deaths were observed where 5.8 would have been expected. Additionally, there were 5 deaths attributable to lymphatic cancer, where 1.3 were expected. Hence, the results of the cohort analysis confirmed the findings of the earlier mortality study.

The Allied Chemical Corporation submitted a mortality study to OSHA and NIOSH with findings similar to the Dow study for respiratory and lymphatic cancer deaths (FTR Exhibit #24). The Allied facility had also been engaged in the manufacturing of dry arsenicals for pesticides. Like the Dow process, arsenic trioxide was the starting compound for the subsequent synthesis of lead arsenate, calcium arsenate and other chemicals.

The Allied study, performed by Baetjer et al., compared the mortality experience of retirees with that of the general population of Baltimore, Maryland, the location of the pesticide facility. The study focused on 27 deaths occurring between 1690 and 1972. Of the total deaths, 19 were due to cancer, including 10 from respiratory cancer and 3 from leukemia or lymphosarcoma. The expected numbers of deaths, based on figures adjusted for the combined age, race and sex-specific relative frequencies in the general population of Baltimore, were 5.6, 1.5 and 0.18, respectively.

When an analysis was carried out on death rates among male retirees from this plant, Baetjer found even greater differences between observed and expected deaths from all cancer, as well as respiratory and leukemia-lymphatic cancers. Specifically, there were 17 deaths from all forms of cancer versus 1.35 expected; 10 respiratory cancer deaths versus 0.4 expected; and 3 deaths from leukemia-lymphatic cancers with .05 expected.

Kennecott Copper Corporation (KCC) submitted a survey of mortalities from respiratory diseases observed among its active and retired employees. The study, performed by Drs. T. H. Milby and C. H. Hine, compared the ratios of observed employee deaths to the expected ratios. Additionally, the authors compared the proportion of deaths due to cancers of all types, respiratory cancer, and nonmalignant respiratory diseases among KCC employees with corresponding data for the United States and the State of Utah. They found that the proportion of respiratory cancer deaths among KCC employees was not very different from the U.S. respiratory cancer death rate or that of Utah State.

Milby and Hine also compared results of their study with three earlier studies of copper smelter workers (Snegireff and Lombard, Pinto and Bennett, and Lee and Fraumeni). Their results of lung cancer deaths were well below those found by the other groups of investigators.

NIOSH's evaluation of the KCC study showed it to be inadequate in several ways. For example, although the study showed no excess lung cancer, it utilized a relatively insensitive technique (analysis by proportionate mortality ratios); it excluded some of the exposed population (workers who left KCC before retirement); and it apparently included many workers who did not have significant exposure to arsenic (e.g. miners).

A study by Kuratsune et al., reported a high frequency of respiratory cancer mortality among workers at a Japanese copper smelter. Kuratsune stated that the results of his study were reported to both the Ministry of Labor and to the employer. On the basis of Kuratsune's findings, the Ministry judged that the cases of lung cancer were due to occupational exposure to arsenic trioxide and other compounds released during the smelting of copper ores. Kuratsune's study confirms the findings of excess mortalities in some American smelters.

In 1973, W. C. Nelson et al., of the Environmental Protection Agency (EPA) published a follow-up mortality study for a cohort of 1,231 individuals in Wenatchee, Washington, who had participated in a 1938 mortality survey of the effects of exposures to lead arsenate insecticide spray. (Neal et al., Public Health Bulletin 267, 1941). The population surveyed was classified by spray exposure, duration of exposure, age and sex. Additionally, three exposure groups were identified: orchardists, those having the highest exposure; consumers, those having no exposure; and a third group, having intermediate exposures.

Nelson located over 97 percent of the original 1938 study group. The Standard Mortality Ratio (SMR) technique was used to compare the total death rate to the expected death ratio in the State of Washington. The authors concluded that excess mortality did not occur consistently from the amount of exposure to lead arsenate spray. In fact, the orchardists, the most highly exposed group, had the lowest SMR of the three groups analyzed.

Especially noteworthy, however, is the authors' discussion of their study design. In this discussion, the authors noted that it was difficult to be sure of the exposure dosage categories and that they lacked data for individual exposure measurements. Nelson stated that they could not be positive as to whom the most exposed individuals were, and that the dosage levels were especially a problem for the intermediate group, who had the most heterogeneous exposure. He also admited difficulty with interpretation of the study results due to the relatively small number of individuals involved. In fact, Nelson stated that some of the more suggestive excesses in mortality cannot be considered significant because of small numbers. Moreover, many of the volunteers in the 1938 study "are still too young to have reached high risk mortality age." (FTR Exhibit #28)

Because the results of the Nelson study were at a variance with previous evidence on the long-term effects of arsenic exposure, NIOSH queried EPA regarding possible explanations for the differences, and reviewed data from other sources which might confirm the findings. Upon review of the life table procedure used by Nelson, NIOSH suggested that the unexpected differences noted might have resulted from use of an incorrect statistical technique for computing the expected numbers of deaths. While EPA reported to NIOSH that the statistical method used was entirely appropriate, EPA confirmed the authors' conclusions that the paper had unfortunate methodologic limitations.

Using two types of data sources, NIOSH attempted to independently evaluate the Nelson study findings. The first data source reviewed was occupational mortality data for adult white males in the State of Washington for the period 1950–1971 (FTR Exhibit #34). Dr. Samuel Milham of the Washington Department of Social and Health Services compared disease frequencies of approximately 400 distinct occupational groups and found that deaths due to respiratory cancer were 19 percent higher than expected for the decendents classified as "orchardists". Further, during the most recent 11 years (1961–1971) an increase of 27 percent was observed for lung cancer among orchardists.

The second data source reviewed was age-adjusted mortality rates for specific types of cancers for the three-county area from which the Nelson orchardist sample was drawn. The mortality rates for the three counties during the period 1950 to 1969 were compared to the rates for the state as a whole to identify unusual cancer patterns. NIOSH found that the rates were highest for Chelan County, the county in which the majority of the persons in the Nelson study resided. The mortality data on orchardists and men residing in Chelan

County indicate a significant excess of lung cancer.

Because the two independent sources of information contradicted, rather than confirmed, the Nelson study, NIOSH questioned the negative results found by Nelson. While no explanation for the contradictory results could be determined it appears that the Nelson study did not correctly depict the cancer experience of the persons exposed to lead arsenate in the Wenatchee Valley.

V. *Conclusions.* From an analysis of available studies and consistent with the findings of the National Institute for Occupational Safety and Health and the National Cancer Institute, OSHA considers exposure to airborne concentrations of inorganic arsenic compounds to be strongly implicated as a cause in occupational carcinogenesis.

In six epidemiological studies, excess lung cancer mortalities were observed among worker populations having had exposure to inorganic arsenic compounds. The authors of four other epidemiological studies concluded that there was no significant excess of cancer mortalities among inorganic arsenic workers. However, in the analysis of three of these studies, both NIOSH and OSHA confirmed that excess lung cancer mortalities were involved, but were not observed due to inadequate study designs. No definitive conclusions could be ascribed to the fourth study. Further, it is recognized that the retrospective epidemiological mortality studies are deficient in providing accurate occupational exposure data. However, most of the available studies, including the data submitted by Dow and Allied, do show significant excesses of lung cancer mortalities for workers exposed to a variety of inorganic arsenic compounds.

In the epidemiological studies to date, both the trivalent compounds (such as arsenic trioxide) and pentavalent compounds (such as lead and calcium arsenate) have been observed to be carcinogenic, eliciting lung cancer, lymphatic cancer and skin cancer. While little is known about relative carcinogenic activity of the two valence states of arsenic in the various inorganic compounds, there is no evidence supporting a distinction between the various inorganic arsenic compounds.

The evidence to date, including both environmental and epidemiological studies, shows that exposure to airborne concentrations of inorganic arsenic presents the most significant occupational health hazard. The proposed standard is directed primarily to protect employees from the hazard of airborne concentrations of inorganic arsenic. We have found only limited evidence to date implicating the ingestion of inorganic arsenic and no evidence implicating the ingestion of organic arsenic as a cause of cancer. The proposed standard, however, does protect employees from poisoning due to ingestion of inorganic arsenic. OSHA has no evidence that inhalation of organic arsenic compounds causes cancer and therefore, organic arsenic compounds are not included in this standard.

With respect to the permissible exposure limits, the proposal sets a limit of .004 mg As/cu m with an action level of .002 mg As/cu m. NIOSH originally recommended, in the criteria document, that the standard for controlling inorganic arsenic exposure, except for lead arsenate and arsine, be set at .05 mg As/cu m. This limit resulted from their evaluation of the then available data, from which they concluded that respiratory cancer was associated with occupational exposure to inorganic arsenic.

However, based on the presently available evidence, which strongly indicates that inorganic arsenic causes cancer, NIOSH now recommends that the standard be set at a "non-detectable" level for all inorganic compounds, except arsine. NIOSH defines non-detectable as "the limit of analytical sensitivity when general workroom air samples are collected for 15 minutes at a flow rate of 10 liters a minute." Application of NIOSH's factors of analytical sensitivity, flow rate, and sampling time, results in an air concentration of .002 mg As/cu m.

OSHA feels that the evidence clearly establishes the need to limit occupational exposures to inorganic arsenic in order to prevent harmful health effects on workers. Since inorganic arsenic is considered to be a carcinogen, and since there is no evidence of a safe level of exposure, it is felt that the exposure levels must be reduced as low as feasible. For the purposes of controlling worker exposures to inorganic arsenic, OSHA believes that a range of .002 to .004 mg As/cu m will significantly reduce, if not prevent arsenic-induced cancer. At the same time, it is felt that such a range will facilitate employer surveillance of exposure conditions, the implementation and maintenance of control measures, and compliance enforcement.

For the implementation of this range, OSHA proposes that employer measurement of inorganic arsenic levels begin at an action level of .002 mg As/cu m, as determined on an eight-hour time-weighted average basis. This level of exposure would also trigger the requirements concerning medical surveillance, regulated areas, and protective clothing.

A ceiling limit of .01 mg As/cu m over any 15 minute period during the work shift is proposed to prohibit significant excursions above the permissible exposure limit.

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VI. *The proposed standard.* The proposed standard would include the following major points:

(1) *Scope and application.* The proposed standard would apply to all employers having establishments where inorganic arsenic and its compounds are produced, reacted, released, packaged, repackaged, stored, handled or used, except that this section will not apply to working conditions with respect to which the Mining Enforcement and Safety Administration, Department of the Interior, or the Environmental Protection Agency have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. Further, the proposal would apply to transportation of the substances except that this section will not apply to working conditions with respect to which the Department of Transportation has exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. Although the proposal's scope is broad, including nearly every use of inorganic arsenic, the specific provisions of the proposed standard that would apply to any particular employer, depend upon the amount of the substance actually released in the workplace.

The proposal would apply to all inorganic compounds containing arsenic, with the exception of arsine. In its criteria document, NIOSH excluded lead arsenate and arsine. NIOSH felt that

lead arsenate poses a double threat of chronic lead poisoning as well as acute arsenic intoxication, and should be considered separately. However, following their analysis of new studies by Dow, Allied and EPA, NIOSH concluded and we agree that lead arsenate should be included in this proposed rulemaking.

Since arsine has different toxicological properties than other inorganic arsenic compounds, NIOSH felt and we agree that it should be excluded from this standard.

(2) *Permissible exposure limit.* The proposed standard sets a maximum limit for employee exposure of .004 milligrams of arsenic (As) per cubic meter of air averaged over an eight-hour period. Additionally, a ceiling limit of .01 mg As/cu m is proposed for any 15 minute time period during the work shift. These limits set levels above which no employee exposure is permitted.

Further, the proposal prohibits all skin contact with liquid arsenic trichloride, and repeated skin contact with other liquid or solid forms of inorganic arsenic compounds which are likely to cause skin irritation. The strict requirement for arsenic trichloride is due to the particularly hazardous nature of this compound. It has an extremely high vapor pressure at room temperature, and can be absorbed directly through the skin. Repeated contact with other inorganic arsenic compounds may result in skin irritation.

(3) *Action level.* The proposed standard sets an "action level" of .002 mg As/cu m averaged over an eight hour period. The purpose of the action level is to set a level at which airborne inorganic arsenic can be practicably detected by the employer, and above which precautionary measures such as medical surveillance and monitoring are warranted. Regulated areas would be established for all areas in which levels of inorganic arsenic exceed the action level. Where it has been determined that operations involving inorganic arsenic do not exceed the action level, provisions of this standard such as requirements for medical surveillance and regulated areas do not apply.

In OSHA's judgment, exposures below the action level do not present a sufficient hazard to warrant application of the entire standard to places of employment which have such exposures.

It should be noted, however, that certain provisions of the proposed standard, such as employee training and information, apply wherever inorganic arsenic is released as a result of operations, without regard to the airborne concentrations.

(4) *Monitoring.* Under the provisions of this proposed standard, the employer would be required to make an initial determination of employee exposure to airborne concentrations of inorganic arsenic. This initial determinaiton may be an observation based on the amount of inorganic arsenic present, type of operations being performed, the amount and type of ventilation, and the proximity of employees to the sources of emission. Initially, the employer is not required to sample or measure airborne concentrations. However, the employer must be certain that the determination accurately reflects employee exposure conditions over the working day. If the employer chooses to perform any measurements at this time, these must be considered in the determination.

If the results of the initial determination are negative, that is, if the employer determines that no employee is exposed above the action level, a written record of this determination must be made. This record must include any information or observations that indicate an employee may be exposed in excess of the action level, such as employee complaints of signs or symptoms that may be attributed to overexposure. Further, the determination record must include any measurements of inorganic arsenic exposures taken, and the names and social security numbers of the employees considered under this determination.

In establishments having more than one work operation involving the use of inorganic arsenic, an initial determination must be made for each operation. Also, the determination must be repeated each time there is a change in production, process or control measures which could result in new or additional exposures, or whenever the employer has any other reason to suspect that a change in exposure conditions has occurred.

If the results of the initial determination are positive, indicating that an employee is exposed to concentrations in excess of the action level, the employer would be required to implement a program to measure the exposures of affected employees. Because the determination has indicated exposure in excess of the action level, thus triggering the monitoring program, no written record of the determination need be made.

The results of the exposure measurement program would determine further action to be taken by the employer: (1) If measurements show that an employee is exposed to concentrations above the action level, but below the permissible exposure limit, measurements of that employee's exposure must be made at least every two months. (2) If measurements show that an employee is exposed to concentrations above the permissible limit, the employer would be required to measure that employee's exposure at least monthly. Such exposures also trigger other actions on the part of the employer, such as notifying the employee of his overexposure and institution of engineering and work practice controls to reduce the exposure to within permissible limits. (3) If the results of two consecutive measurements, taken at least five working days apart, show that an employee is not exposed above the action level, the measurement program may be terminated for that employee.

The monitoring provisions are designed so that employers having work places in which use of inorganic arsenic is controlled, without regard to the use of respirators, to the extent that exposures are below the action level, would not be required to make any measurements. The intent of this procedure is to provide adequate protection for employees while minimizing unnecessary burdens on employers.

The frequency of measurement would depend on the degree of employee exposure. Bimonthly measurement for employees whose exposures are in the range between the action level and permissible level would be required to provide sufficient warning when exposures are approaching the permissible limit. A minimum bimonthly sampling frequency would be required because the data from fewer samples would not provide statistical information of an accuracy necessary to assure protection of employees.

For work places in which exposures are above the permissible limit, monthly measurements would be required because OSHA believes that exposure above the permissible level presents a hazard to the employee. Monthly measurements would be required even when employees routinely wear respirators, because the type of respirator to be worn is determined by the concentrations of inorganic arsenic present in the work place air.

The proposal provides for the termination of exposure measurement when two samples indicate levels below the action level. Two samples, rather than one, are required in order to allow for the normal variability of individual exposure measurements, which may produce unrepresentative samples. A requirement for a period of five working days between samples has been included to ensure that any recorded decrease in exposure levels is not merely a short-term reduction. It should be noted that the termination of measurement would be effective only as long as there is no change in production, process or control which could result in new or additional exposure. If such a change occurs, the procedure, beginning with the initial determination, must be repeated.

(5) *Methods of measurement.* The proposal would require that exposure measurements reflect the actual exposure conditions for each employee. No specification is made for the location of the samples taken. Thus, the employer is free to choose to perform either personal breathing zone samples or general air samples, provided that the method chosen gives accurate indication of the employees' exposures. Further, any appropriate combination of long-term or short-term samples would be acceptable, although the proposal would require that all exposures be calculated on an eight-hour time-weighted average basis.

The provisions state that the accuracy of the sampling method must have a confidence level of 95 percent. The term accuracy refers to the difference between the measured value and the true concentration. It allows for both the random variation of the method (its precision) and the difference between the average result from the method and the true value (bias of the method). The re-

quired accuracy for concentrations above the action level is 25 percent at a 95 percent confidence level. This means that out of a long series of measurements, 95 percent must be within 25 percent of the true value. The required accuracy values allow the use of relatively inexpensive collection and analytical equipment.

(6) *Regulated area.* The proposal requires that regulated areas be established, that access be limited to authorized persons and that a roster of persons authorized to enter be made daily and maintained for at least 40 years. One purpose of establishing regulated areas is to limit the exposures above the action level to as few people as possible. The 40 year record retention requirement is based on the observed latency period for inorganic arsenic-induced cancer. The burden on the employer is considered to be minimal because the provisions require the employer merely to identify and control such areas.

(7) *Methods of compliance.* The proposed standard requires that employers immediately institute feasible engineering controls to reduce employee exposures to inorganic arsenic to at or below .004 mg As/cu m. In establishments where controls that can be instituted immediately will not reduce exposure to the permissible level, they must nonetheless be implemented to reduce exposures to the lowest practicable level, and be supplemented by the use of work practice controls or respirators to provide the necessary protection.

Engineering controls for inorganic arsenic may include mechanical ventilation and closed processing systems. When mechanical ventilation is used for engineering control, checks of air system efficiency, such as air velocity, static pressure, or air volume, must be made at least every three months. Engineering controls, which reduce levels of exposure in the work place environment by removing airborne contaminants, are the preferred means of compliance because of the problems generally associated with the use of respirators and work practice controls.

As part of its modified criteria document, NIOSH has included recommendations for the use of "standby rooms" under positive air pressure, with a filtered air supply for controlling exposure to inorganic arsenic. OSHA believes that this may be a useful method, particularly in the smelting industry, although we question the uniform application of standby rooms for all types of industry. The proposed standard does not specifically require the use of standby rooms.

Administrative or work practice controls which distribute exposures over a large number of workers are less desirable than engineering controls since this increases the population of employees at risk from exposure to potentially harmful levels of inorganic arsenic.

Respirators are capable of providing very good protection if they are properly selected, properly fitted, and if they are worn by the employee. The proposal would require proper selection and fitting, and that the employer ensure their proper use. However, because of the difficulties inherent in the use of respirators, they are less favored than engineering controls.

Where compliance with this standard cannot be achieved immediately through the institution of engineering controls, they must nevertheless be used to control exposures to the lowest practicable level. In addition, a program must be established and implemented to reduce exposures to the permissible exposure limit, or to the greatest extent feasible, solely by means of engineering controls. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or his designee and the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or his designee. These plans must be reviewed and updated to reflect the current status of exposure control. The revisions must be made at least every six months.

(8) *Respiratory protection.* When engineering controls and work practices are not feasible or are inadequate, respirators would be required. Additionally, the proposed standard provides for the use of respirators in other specific situations, including during installation of engineering controls, in hazardous operations, and in emergencies.

The proposal requires the employer to select respirators that have been approved by the Mining Enforcement and Safety Administration or NIOSH. Further, the employer must select the type of respirator to be used from the table provided in the proposed standard. This table lists the type of respirator to be used based on the concentrations of inorganic arsenic in the workplace. For situations in which the airborne concentrations are unknown, respirators which afford the maximum protection, as stated in the table, are required.

NIOSH recommended that only two types of respirators be permitted, based on their recommendation of a nondetectable level of exposure. These respirators are capable of providing protection for conditions of unknown or massive concentrations of inorganic arsenic. However, OSHA feels that other respirators provide adequate employee protection as long as their use is limited to specific ranges of concentrations. For this reason, OSHA has provided an expanded respirator table in the standard, which requires that particular types of respirators be used for specific concentrations.

(9) *Hazardous operations.* Certain operations are inherently hazardous due to the working conditions, amount of toxic material used, or the toxic properties of the materials. Examples of such hazardous operations are the cleaning of electrostatic precipitators or dust collection systems; maintenance operations on smelter furnaces; arsenic kitchen operations; loading and unloading of bulk quantities of inorganic arsenic compounds; other maintenance operations; and operations involving arsenic trichloride.

The proposed standard requires that employees wear respirators when engaged in hazardous operations because it might be expected that these operations will result in the release of inorganic arsenic in excess of the permissible limit. Appropriate protective clothing is required during hazardous operations to prevent employees from having any skin contact with arsenic trichloride.

(10) *Emergency situations.* The proposed standard would require employers to prepare a written plan of action to be followed in the event of occurrences which result in massive releases of inorganic arsenic. Examples of such emergencies are ruptures of containers and control or operating equipment failures. Emergency plans are necessary to inform employees of actions required for personal protection and for reduction of hazards in the event of an emergency. Employees not engaged in correcting the emergency situations must be restricted from the area and normal operations halted until the emergency is abated.

(11) *Protective clothing.* The proposal requires the employer to provide, and ensure that employees wear, clean protective clothing, such as but not limited to coveralls, smocks, aprons, face shields, gloves, shoes, hats and dust proof goggles, where exposures are in excess of the action level. This requirement is intended to prevent the accumulation of inorganic arsenic dust on the body or street clothes of the employee.

The proposed standard requires the employer to ensure that all protective clothing is removed in special change rooms and that contaminated protective clothing is removed from these rooms only in closed, impermeable containers. The employer is also required to ensure that no employee removes contaminated protective clothing from the change rooms, except those employees authorized by the employer to do so for the purpose of disposal, maintenance or laundering. The employer is responsible for disposal, maintenance and laundering of protective clothing and equipment. The employer must ensure that the person who is charged with laundering contaminated protective clothing is apprised of the harmful effects of exposure to inorganic arsenic.

(12) *Housekeeping.* Removal and prevention of accumulations of inorganic arsenic dust deposits on all surfaces in the work environment are an important aspect in dust control. Thus, for the purpose of ensuring that inorganic arsenic dust and particles are not reintroduced into the workplace air, the proposal prohibits dry sweeping or the use of compressed air for cleaning of floors and other surfaces. Vacuuming and water spray methods of dust removal are both safe and adequate, provided the practices outlined in the standard are followed.

(13) *Hygiene facilities and practices.* The proposal prohibits smoking, nonfood chewing products, application of cosmetics, or consumption of food in areas where exposures to airborne concentrations of inorganic arsenic are above the action level or in areas where skin contact with inorganic arsenic may occur. Storage of such items is also prohibited in these areas. Further, all employees must be required to wash hands, forearms, face and neck before eating or smoking or at the end of the work shift. Workers exposed above the action level, must shower at the end of the work shift, prior to changing into street clothes. Employers must also provide eye wash facilities wherever eye contact with inorganic arsenic could occur, and both eye wash facilities and emergency showers where arsenic trichloride is handled.

This section of the proposed standard requires the employer to provide for the number and placement of facilities such as change rooms, toilets, lavatories and showers in accordance with 29 CFR 1910.141.

(14) *Medical surveillance.* Medical surveillance provisions have been included in this proposal to provide for early diagnosis of health effects of inorganic arsenic exposure. The employer must make medical examinations and tests available to all employees who are exposed or will be exposed to inorganic arsenic in excess of the action level. All medical examinations and procedures must be performed by, or under the supervision of a physician, and provided during the employee's normal working hours, without cost to the employee. Examinations must be repeated every 6 months for employees who have had 10 years or more of occupational exposure to inorganic arsenic, and annually for all other employees exposed above the action level.

OSHA has placed special emphasis on medical surveillance of employees exposed for 10 years or more by requiring a medical examination every 6 months. More frequent examinations of these employees are required because their past exposure may have been at high levels, and these examinations may help in early diagnoses of any harmful effects resulting from their past exposures.

The medical examination includes such items as a medical and work history; 14 x 17 posterior-anterior chest X-ray; a complete blood count; palpation of the superficial lymph nodes; and examination of body surfaces for hyperpigmentation, keratoses or other skin lesions. NIOSH suggested the use of periodic sputum cytologic examination for early detection of lung cancer. OSHA recognizes that this particular examination may be useful in a medical surveillance program, but feels that the necessity for a sputum cytological analysis is more appropriately determined by the examining physician. Therefore, a recommendation for this type of test is mentioned in the Medical Surveillance Guidelines (Appendix C), but not required by the proposed standard.

Additionally, periodic urine analysis for arsenic content has been suggested as a useful indication of arsenic exposure. However, because of the ubiquitous nature of arsenic (it is found in food, water, etc.) it is difficult to relate occupational exposure to the amount excreted in the urine. A urine sample program might benefit the medical surveillance program provided background levels for each employee are established. Since such background levels are difficult to establish, the proposal does not require arsenic urine analysis.

The employer must provide the examining physician with a copy of the standard for inorganic arsenic, including appendices; a description of the employee's duties; a description of any personal protective equipment used by the employee; and information concerning actual and estimated exposures to which the employee has been or may be exposed. The employer must also provide any available employee medical history information requested by the physician.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him at increased risk to his health, or that would be aggravated by exposure to inorganic arsenic. Additionally, the physician's opinion must state any recommended limitations upon the employee's exposure or upon the use of protective equipment and respirators. Also, the opinion must state that the employee has been informed of any medical conditions which require further examination or treatment; however, the written opinion shall not contain specific findings or diagnoses unrelated to the employee's exposure to inorganic arsenic. The employer must provide a copy of the physician's opinion to each employee.

If, based on the physician's opinion, the employer determines that exposure of an employee to inorganic arsenic would materially impair the employee's health, it is the responsibility of the employer to remove that employee from exposure.

(15) *Employee information and training.* The proposal would require the employer to provide an annual training program for all employees assigned to the workplace areas within the scope of the standard. The program must be provided at the time of initial assignment to such work areas, and at least annually thereafter.

The program must, at a minimum, present the information contained in Appendices A and B; inform the employee of the quantity, location, and manner of use, release or storage of inorganic arsenic; inform the employee of necessary protective steps; inform the employee of the purpose for, proper use of, and limitations of respiratory protection devices; explain the purpose for, and a description of the medical surveillance program; and explain emergency procedures to be followed. Additionally, the training program must include a review of this standard. A copy of the standard and its appendices must be readily available to employees.

Training and information are essential factors in the protection of employees. An employee can do a great deal to protect himself from harmful exposures to inorganic arsenic; but only if he is aware of the nature of the hazard and what actions are needed for prevention of overexposure.

(16) *Signs and labels.* Due to the hazardous nature of inorganic arsenic, OSHA feels that emphasis should be placed on warning employees and other persons about the dangers of exposure. For this reason, the proposed standard includes a section on signs and labels for regulated areas, areas in which hazardous operations exist, or where exposures exceed the permissible limit, and for containers of inorganic arsenic.

The signs to be posted at regulated areas inform employees of the suspected carcinogenicity of inorganic arsenic and alert them to the fact that only persons authorized by the employer should enter the area. Signs posted for hazardous operations or where exposure exceeds the permissible limit, where personal protective equipment is mandated by the standard, reiterate the warning of carcinogenicity, and advise that respiratory equipment is necessary for entry and that such entry is limited to authorized personnel.

Containers of inorganic arsenic are required to be labeled with a more detailed description of the hazard and practices to be followed in use of the substance. These labels may be applied in addition to or in combination with labels required by other statutes, regulations or ordinances. In addition, no sign or instruction may contradict or detract from the effect of the warnings, information, or instructions required for labels in this section.

(17) *Records.* The proposed standard would require employers to make written records of the following: negative initial determinations; measurements of employee exposures; tests of mechanical ventilation systems (where such systems are used for engineering control); respirator usage; annual training and information sessions; rosters of persons authorized to enter regulated areas; and records required under medical surveillance provisions. Records of exposure determinations and respirator usage have to be retained five years. Exposure measurements and regulated area rosters would be required to be maintained for 40 years. Medical surveillance records would have to be maintained for 40 years, or for the duration of employment plus 20 years, whichever is longer. The other records required would only have to be retained for two years.

Additionally, this portion of the proposal would provide for access to records of exposure measurements by employees, former employees or their representatives, and access to medical records by

physicians designated by employees or former employees.

Further, the proposed standard would require that in the event the employer ceases to do business, the successor shall retain all records for the required length of time. If there is no successor to receive and maintain his records, the employer shall send the records to the Director, by registered mail, and individually notify each employee of the transfer.

(18) *Observation of monitoring.* The proposed standard would require employers to assure that affected employees or their representatives are given an opportunity to observe any measuring of employee exposure to inorganic arsenic conducted pursuant to this standard. The proposal requires the observers to use whatever personal protective devices are required, and to comply with all other applicable safety procedures.

Observers would be entitled to receive an explanation of the measurement procedure, observe all the steps related to the measurement procedure that are performed at the place of exposure, and to record the results obtained.

(19) *Reports.* The proposal would require the employer to notify the OSHA Area Director within one month of establishment of a regulated area. This report would include the address and location of each establishment having one or more regulated areas and the approximate number of employees authorized to enter such areas during normal operations. Further, this portion of the proposal would require the employer to report all emergencies, and the facts obtainable at the time, to the Area Director within 24 hours of their occurrence.

VII. *Public Participation.* Interested persons are invited to comment on the proposed standard on or before March 3, 1975. Written data, views, and arguments must be submitted in quadruplicate to Ms. N. Hucke, OSHA Committee Management Office, Docket OSH 37, 1726 M Street, NW, Room 200, U.S. Department of Labor, Washington, D.C. 20210 (Phone: 202/961-2248 or 2487). Written submissions must clearly identify the provision of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

In order to expedite this rulemaking proceeding and in anticipation of requests for a hearing, we are scheduling an informal public hearing, pursuant to section 6(b) of the Act and 29 CFR Part 1911, to begin on April 8, 1975, in the Departmental Auditorium, U.S. Department of Labor, Constitution Avenue between 12th and 14th Streets, NW., Washington, D.C. All aspects of the proposed standard, including environmental impact, will be at issue in the hearing. Beginning at 9:30 a.m. e.d.t. on April 8, 1975, the presiding Administrative Law Judge will hold a pre-hearing conference in order to settle any matters relating to the proceedings. All persons intending to make presentations should attend the pre-hearing conference which is open to the public. The hearing will be conducted, and the decisions made, in accordance with 29 CFR Part 1911.

Persons desiring to appear at the hearing must file a notice of intention to appear on or before March 17, 1975, with Ms. N. Hucke, OSHA Committee Management Office, Docket OSH-37, 1726 M Street, NW., Room 200, U.S. Department of Labor, Washington, D.C. 20210 (Phone: 202/961-2248 or 2487). The notice must contain the following information:

(1) The name and address of the person to appear;
(2) The capacity in which he will appear;
(3) The approximate amount of time required for the presentation;
(4) The specific provisions of the proposal that will be addressed;
(5) A brief statement of the position that will be taken with respect to each provision addressed; and
(6) A summary of the evidence with respect to each such provision proposed to be adduced at the hearing.

The oral proceedings will be reported verbatim. All statements and documents that are intended to be submitted for the record of the hearing must be submitted in quadruplicate. The use of prepared statements by witnesses is encouraged.

The Administrative Law Judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(a) To regulate the course of the proceedings;
(b) To dispose of procedural requests, objections, and comparable matters;
(c) To confine the presentations to matters pertinent to the proposed standard;
(d) To regulate the conduct of those present at the hearing by appropriate means;
(e) In his discretion, to question and permit questioning of any witnesses; and
(f) In his discretion, to keep the record open for a reasonable, stated time to receive written information from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health.

The proposed standard will be reviewed after consideration of all relevant oral and written information, data, views, or arguments and will be modified appropriately if the submissions so warrant.

Accordingly, pursuant to sections 6(b) and 8(c) of the William-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 12-71 (36 FR 8754), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the Code of Federal Regulations as set forth below:

§ 1910.93 [Amended]

1. In § 1910.93, Table G-1 would be amended by deleting the following substances:

Arsenic and compounds (as As)	0.5
Calcium arsenate	.15
Calcium arsenate	1
Lead arsenate	.15

2. A new § 1910.93r would be added to Part 1910 of Title 29 of the Code of Federal Regulations to read as follows:

§ 1910.93r Inorganic arsenic.

(a) *Scope and application.* (1) This section includes requirements for the control of employee exposure to inorganic arsenic.

(2) This section applies to the production, reaction, synthesis, release, packaging, repackaging, storage, handling or use of inorganic arsenic except that this section will not apply to working conditions with respect to which the Mining Enforcement and Safety Administration, Department of the Interior, or the Environmental Protection Agency have exercised statutory authority to prescribe or enforce standards or regualtions affecting occupational safety or health.

(3) This section applies to the transportation of inorganic arsenic except that this section will not apply to working conditions with respect to which the Department of Transportation has exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(b) *Definitions.* (1) "Inorganic arsenic" means arsenic and all inorganic compounds containing arsenic except arsine.

(2) "Action level" means a concentration of inorganic arsenic of 0.002 milligrams Arsenic per cubic meter of air (mg As/cu m) as determined on an eight-hour, time-weighted average basis.

(3) "Emergency" means any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which is likely to, or does, result in the massive release of inorganic arsenic.

(4) "Hazardous operation" means any operation, procedure or activity where a release of inorganic arsenic might be expected as a consequence of the operation or because of an accident in the operation which would result in an employee exposure in excess of the permissible exposure limit. All operations involving the release of, or direct skin contact with arsenic trichloride shall be considered hazardous.

(5) "Authorized person" means any person specifically authorized by the employer whose duties require him to enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising an opportunity to observe monitoring and measuring procedures.

(6) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or his designee.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or his designee.

(8) "OSHA Area Director" means the Director of the Occupational Safety and Health Administration Area Office having jurisdiction over the geographic

area in which the employer's establishment is located.

(c) *Permissible exposure limit.* (1) No employee may be exposed to airborne concentrations of inorganic arsenic greater than 0.004 mg As/cu m as determined on an eight-hour, time-weighted average basis; or a ceiling limit greater than .01 mg As/cu m averaged over any 15 minute period during the working day.

(2) No employee may be exposed to any skin contact with liquid arsenic trichloride, or to repeated skin contact with liquid or solid inorganic arsenic likely to cause skin irritation.

(d) *Determination and monitoring of exposure.* (1) Each employer who has a place of employment in which inorganic arsenic is produced, reacted, synthesized, released, packaged, repackaged, stored, handled or used shall inspect each work place and work operation to accurately determine if any employee may be exposed, without regard to the use of respirators, to inorganic arsenic above the action level.

(2) Such a determination shall be based on the following, along with any other relevant considerations:

(i) Any information, observations, or calculations which would indicate employee exposure to inorganic arsenic; and

(ii) Any measurements of inorganic arsenic; and

(iii) Any employee complaints of symptoms which may be attributable to exposure to inorganic arsenic.

(3) When a determination is made that no employee is exposed, without regard to the use of respirators, in excess of the action level, the employer shall make a record of such determination which shall include at least the information specified in paragraph (d)(2) and shall also include the date of determination, work being performed at the time, location within work site, name and social security number of employees considered.

(4) Where a determination conducted under paragraphs (d)(1) and (d)(2) of this section shows the possibility of any employee exposure in excess of the action level, without regard to the use of respirators, the employer shall immediately make measurements to accurately determine the actual exposure for each such employee.

(i) Such measurements shall be repeated at least monthly for any employee who is exposed, without regard to the use of respirators, in excess of the permissible exposure limit.

(ii) Such measurements shall be repeated at least bimonthly for any employee who is exposed, without regard to the use of respirators, in excess of the action level.

(iii) Such measurements may be discontinued for any employee only when at least two consecutive measurements, made not less than five working days apart, show exposures for the employee are at or below the action level.

(5) Whenever there has been a production, process or control change which may result in new or additional exposures or whenever the employer has any other reason to suspect a change in exposure conditions, a new determination under this paragraph shall be made.

(6) A record of measurements of employee exposure to airborne concentrations of inorganic arsenic shall be made and shall include at least the information required in paragraph (q)(2) of this section.

(7) The employer shall individually notify in writing, within 10 working days after the occurrence, every employee who is found to be exposed to inorganic arsenic above the permissible exposure limit. Such notification need not be given more frequently than once a month. The employee shall also be notified of the corrective action being taken to reduce exposure to or below the permissible exposure limit.

(8) The method of monitoring and measurement shall have an accuracy (with a confidence level of 95 percent) of not less than plus or minus 25 percent for concentrations of inorganic arsenic greater than or equal to .002 mg As/cu m. (Some methods meeting the accuracy requirements are available in the "NIOSH Manual of Analytical Methods.")

(e) *Regulated area.* (1) A regulated area shall be established where inorganic arsenic concentrations are in excess of the action level.

(2) Access to regulated areas shall be limited to authorized persons.

(3) A daily roster shall be made of authorized persons who enter a regulated area.

(f) *Methods of compliance.* Employee exposures to inorganic arsenic shall be controlled to or below the permissible exposure limit provided in paragraph (c) of this section by engineering controls, work practices, and personal protection controls as follows:

(1) Engineering controls shall be instituted immediately to reduce exposures to or below the permissible exposure limit, except to the extent that such controls are not feasible.

(2) Wherever feasible engineering controls which can be instituted immediately are not sufficient to reduce exposures to the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by work practice controls and by respiratory protection in accordance with paragraph (g) of this section. A program shall be established and implemented to reduce exposures to or below the permissible exposure limit, or to the greatest extent feasible, solely by means of engineering controls, as soon as practicable.

(3) Written plans for such a program shall be developed and furnished upon request for examination and copying to the Assistant Secretary and the Director. Such plans shall be reviewed and revised as necessary, at least every six months, to reflect the current status of such a program.

(4) When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control such exposure, such as air velocity, static pressure or air volume, shall be made at least every three months. Measurements of the system's effectiveness to control exposure shall also be made within five days of any change in production, process or control which might result in an increase in airborne concentrations of inorganic arsenic.

(g) *Respiratory protection.* (1) Where respiratory protection is required under this section, compliance with the permissible exposure limit may not be achieved by the use of respirators except:

(i) During the time period necessary to install engineering controls; or

(ii) In work operations in which engineering controls are not feasible; or

(iii) In work situations in which engineering controls are insufficient to reduce exposure to or below the permissible exposure limit; or

(iv) In emergencies.

(2) Where respiratory protection is required under this section, the employer shall select and provide the appropriate respirator from the Table below and shall ensure that the employee uses the respirator provided.

RESPIRATORY PROTECTION FOR INORGANIC ARSENIC

Concentration of inorganic arsenic	*Required respirator*
(i) Unknown or greater than 4.0 mg As/m³.	(A) Self-contained breathing apparatus, pressure-demand type (positive pressure), with full facepiece; or (B) Combination constant flow or pressure demand full facepiece, supplied-air respirator type with auxiliary self-contained air supply.
(ii) Not greater than 4.0 mg As/m³.	(A) Supplied air respirator (positive pressure), continuous flow, with full facepiece, hood, helmet, or suit; or (B) Supplied air respirator, pressure demand, with full facepiece.
(iii) Not greater than 0.8 mg As/m³.	(A) Powered air purifying respirator, with high efficiency filter[1] and full facepiece, hood, or helmet.
(iv) Not greater than 0.40 mg As/m³.	(A) Supplied air respirator, pressure-demand type, with full facepiece; or (B) Air purifying respirator, with high efficiency filter,[1] with full facepiece.
(v) Not greater than 0.04 mg As/m³.	(A) Air purifying respirator, with high efficiency filter,[1] with half mask; or (B) Supplied air respirator, pressure demand, with half mask.

[1] High efficiency filter—99.97 percent efficient against 0.3-micron size particles.

(3) Respirators shall be selected from those approved by the Mining Enforcement and Safety Administration (formerly called the Bureau of Mines) or by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(4) The employer shall institute a respiratory protection program in accordance with § 1910.134.

(5) Respirators prescribed for higher concentration may be used for any lower concentration.

(6) Employees who wear respirators shall be allowed to leave work areas to wash the face and respiratory facepiece to prevent potential skin irritation associated with respirator use.

(h) *Hazardous operations.* (1) Employees engaged in hazardous operations, as defined in paragraph (b)(4), such as, but not limited to, cleaning of electrostatic precipitators or dust collection systems, maintenance of smelter furnaces, arsenic kitchen operations, loading and unloading operations, or other maintenance operations or exposed to the release of or direct skin contact with arsenic trichloride shall be provided with and required to wear and use:

(i) Respiratory protection in accordance with paragraph (g) of this section; and

(ii) Appropriate protective clothing, in accordance with paragraph (j) of this section, to prevent skin irritation due to contact with inorganic arsenic and any skin and eye contact with arsenic trichloride. The protective clothing shall be selected for the operation and its possible exposure conditions.

(2) In addition to the requirements of paragraph (h)(1) of this section, all operations involving arsenic trichloride shall be performed under well ventilated conditions.

(i) *Emergency situations.* (A) A written plan for emergency situations shall be developed for each facility involved in an inorganic arsenic operation in which there is a possibility of an emergency as defined in paragraph (b)(3) of this section. Appropriate portions of the plan shall be implemented in the event of an emergency.

(B) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraphs (g) and (j) of this section until the emergency is abated.

(C) Employees not engaged in correcting the emergency shall be restricted from the area and normal operations in the affected area(s) shall not be resumed until the emergency is abated.

(j) *Protective equipment.* (1) Where exposures are in excess of the action level, the employer shall provide and ensure that the employees wear appropriate clean protective equipment such as, but not limited to, coveralls, smocks, aprons, face shields, gloves, shoes, hats, or dust proof goggles to prevent contamination of the employee's street clothing and to prevent skin contact.

(2) Clean and dry protective equipment shall be provided at least daily to each affected employee.

(3) The employer shall ensure that all protective equipment is removed only in change rooms as prescribed in paragraph (m)(3) of this section and shall ensure that used protective equipment is removed from the facility only in accordance with paragraph (k) of this section.

(4) Where required by this section, the employer shall provide and ensure that the employee wears eye and face protection in accordance with § 1910.133(a)(2) through (a)(6).

(k) *Laundering.* (1) The employer shall launder, maintain, and dispose of protective equipment used in inorganic arsenic operations.

(2) The employer shall ensure that employees remove contaminated protective equipment only in change rooms as required in paragraph (m)(3) of this section.

(3) The employer shall ensure that no employee removes contaminated protective equipment from the change room except for those employees authorized to do so for the purpose of laundering, maintenance, and disposal.

(4) Inorganic arsenic contaminated protective equipment shall be placed in impermeable closed containers.

(5) Containers of contaminated protective equipment which are to be removed from change rooms or from the work place for laundering or disposal, or for any other reason, shall bear labels in accordance with paragraph (p)(3) of this section.

(6) Dust removal may not be done by blowing or shaking of clothing.

(7) The employer shall inform any person who launders or cleans inorganic arsenic protective equipment of the potentially harmful effects of exposure to inorganic arsenic.

(l) *Housekeeping.* (1) All external surfaces shall be maintained free of accumulation of inorganic arsenic if, with their dispersion, there would be an excessive air concentration.

(2) Floors and other surfaces may not be cleaned by dry sweeping or the use of compressed air.

(3) Where vacuuming methods are selected, either portable units or permanent systems shall be used. (i) If a portable unit is selected, the exhaust shall be attached to the exhaust of the work place ventilation system or collected with the vacuum unit so that inorganic arsenic is not reintroduced into the work place air; and

(ii) Portable vacuum units used to collect inorganic arsenic may not be used for other cleaning purposes and shall be labeled as prescribed in paragraph (p)(3) of this section.

(4) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(m) *Hygiene facilities and practices.* (1) The presence or consumption of food or beverages, the presence or use of smoking or non-food chewing products, and the presence or application of cosmetics are prohibited in areas where airborne concentrations of inorganic arsenic are in excess of the action level and in areas where skin contact with inorganic arsenic may occur.

(2) Employees shall be required to wash hands, forearms, face, and neck before leaving work areas specified in paragraph (m)(1) of this section, for the purpose of drinking, eating, or smoking and at the end of each work shift.

(3) Where employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with § 1910.141(e).

(4) Where toilets are in regulated areas, such toilets shall be in a separate room.

(5) Where employees are required by this section to wash, washing facilities shall be provided, in accordance with § 1910.141(d)(1) and (2)(ii) through (vii).

(6) The employer shall provide eye wash facilities that are suitable for quick drenching or flushing of the eyes for immediate emergency use in locations where eye contact with inorganic arsenic may occur.

(7) The employer shall provide eye wash facilities and emergency showers that are suitable for quick drenching or flushing of the eyes and body for immediate emergency use where arsenic trichloride is handled.

(8) Workers exposed above the action level, without regard to the use of respirators, shall be required to shower prior to changing into street clothes.

(9) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(n) *Medical surveillance.* (1) Each employer who has a place of employment in which employees are, or have been exposed, without regard to the use of respirators, to inorganic arsenic in excess of the action level shall institute a medical surveillance program.

(2)(i) The program shall provide each employee exposed or who will be exposed above the action level, without regard to the use of respirators, with medical examinations and tests in accordance with this paragraph.

(ii) If any employee refuses any required medical examination, the employer shall inform the employee of the possible health consequences of such refusal and shall obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(3) All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided during the employee's normal working hours without cost to the employee.

(4) At the time of initial assignment, or upon institution of medical surveillance, the following shall be performed by the physician:

(i) A medical and work history;

(ii) A medical examination which must include as a minimum the following:

(A) A 14 x 17 posterior-anterior chest X-ray giving particular attention to parenchymal and hilar changes;

(B) A complete blood count to include differential;

(C) Palpation of the superficial lymph nodes for indication of neoplastic changes;

(D) Careful examination of the skin for the presence of hyperpigmentation, keratoses or other skin lesions.

(5) Examinations provided in accordance with this paragraph shall be performed at least:

(i) Every 6 months for each employee who has been employed in operations involving inorganic arsenic for 10 years or more, except that chest X-rays shall be given annually only; and

(ii) Annually for all other employees as specified in paragraph (n) (2) (i).

(6) Each employee exposed to an emergency shall be given appropriate medical surveillance.

(7) The employer shall provide to the examining physician the following information: (i) A copy of this regulation for inorganic arsenic including all the appendices;

(ii) A description of the affected employee's duties as they relate to his exposure;

(iii) A description of any personal protective equipment used;

(iv) The results of the employee's exposure measurement, if available;

(v) The employee's anticipated exposure level; and

(vi) Upon request of the physician, information from previous medical examinations of the affected employee.

(8) (i) The employer shall obtain a written opinion from the examining physician containing the following:

(A) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to inorganic arsenic or would directly or indirectly aggravate any detected medical condition;

(B) Any recommended limitations upon the employee's exposure to inorganic arsenic and upon the use of protective equipment and respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment;

(ii) The written opinion shall not reveal specific findings or diagnoses unrelated to exposure to inorganic arsenic.

(iii) A copy of the physician's written opinion shall be provided to each employee.

(9) If the employer determines, on the basis of the physician's written opinion, that any employee's health would be materially impaired by continued exposure to inorganic arsenic, such employee shall be withdrawn from possible exposure to inorganic arsenic.

(o) *Employee information and training.* (1) The employer shall provide a training program for employees assigned to workplace areas where any inorganic arsenic is produced, reacted, synthesized, released, packaged, repackaged, stored, handled, or used. The training program shall be provided at the time of initial assignment, and at least annually thereafter, and shall include informing each employee of:

(i) The information contained in the substance data sheets for inorganic arsenic, which are contained in Appendix A and B; and

(ii) The quantity, location, manner of use, release or storage of inorganic arsenic and the specific nature of operations which could result in exposure to inorganic arsenic in excess of the action level as well as any necessary protective steps; and

(iii) The purpose for, proper use, and limitations of respiratory devices as specified in § 1910.134; and

(iv) The purpose for, and a description of, the medical surveillance program as required by paragraph (n) of this section and the information contained in Appendix C; and

(v) Emergency procedures as required by paragraph (o) (1) (i) of this section; and

(vi) A review of the standard.

(2) A copy of this standard and its appendices shall be made readily available to all employees exposed to inorganic arsenic.

(3) All materials relating to the employee information and training program shall be provided upon request to the Assistant Secretary and the Director.

(p) *Signs and labels.* (1) Entrances or access ways to regulated areas shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT IN THIS AREA AUTHORIZED PERSONNEL ONLY

(2) Areas containing hazardous operations or where exposures exceed the permissible exposure limit shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT IN THIS AREA RESPIRATORY EQUIPMENT REQUIRED AUTHORIZED PERSONNEL ONLY

(3) Containers of inorganic arsenic shall bear the following label, in addition to or in combination with labels required by other statutes, regulations, or ordinances:

Name of Compound
Danger! Contains Arsenic
Cancer-Suspect Agent
Harmful if Inhaled or Swallowed
Avoid Contact with Skin and Eyes
Use only with adequate ventilation

(4) No statement shall appear on or near any required sign, label or instruction which contradicts or detracts from the effect of any required warning, information, or instruction.

(q) *Recordkeeping.* (1) *Exposure determination.* The employer shall keep an accurate record of all determinations as prescribed in paragraphs (d) (1), (d) (2), and (d) (3) of this section.

(i) This record shall include the written determination and any supporting documentation required in paragraph (d) (3) of this section.

(ii) This record shall be maintained for at least five years and shall include at least the most recent determination.

(2) *Measurement.* The employer shall keep an accurate record of all measurements taken to determine employee exposure to inorganic arsenic.

(i) This record shall include:

(A) The date of measurements;

(B) The operation involving exposure to inorganic arsenic which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Name and social security number and exposure of the employee monitored.

(ii) This record shall be maintained for at least 40 years.

(3) *Mechanical ventilation measurements.* When mechanical ventilation is used as an engineering control, the employer shall maintain a record of the measurements, required by paragraph (f) (4) of this section, demonstrating the effectiveness of such ventilation.

(i) This record shall include:

(A) Date of measurement;

(B) Type of measurement taken;

(C) Result of measurement;

(ii) This record shall be maintained for at least two years.

(4) *Respirator usage.* The employer shall keep and maintain an accurate record of all respirator usage pursuant to paragraph (g) of this section.

(i) The record shall include:

(A) Type of respirator used;

(B) The nature, duration, and names and social security numbers of employees in each operation; and

(C) Airborne concentrations of inorganic arsenic if known.

(ii) This record shall be maintained for at least five years.

(5) *Employee information and training.* The employer shall keep an accurate record of all employee training required by paragraph (o) of this section.

(i) The record shall include:

(A) Date of training;

(B) Name and social security number of employee trained;

(C) Content or scope of training provided.

(ii) This record shall be maintained for at least two years.

(6) *Medical surveillance.* The employer shall keep an accurate medical record for each employee subject to medical surveillance required by paragraph (n) of this section.

(i) The record shall include:

(A) Physician's written opinion required in paragraph (n) (8) (i);

(B) Any employee medical complaints related to exposures to inorganic arsenic;

(C) A signed statement of any refusal to be examined;

(D) A copy of the information provided to the physician pursuant to paragraph (n) (7) of this section.

(ii) This record shall be maintained for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

(7) *Rosters.* Authorized personnel rosters required in paragraph (e) (3) of this

section shall be maintained for at least 40 years.

(8) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) Written determinations and employee exposure measurements required by paragraphs (d)(3) and (d)(6) of this section shall be made available for examination and copying to employees, former employees, and their designated representatives.

(iii) Employee medical records required to be maintained by this section shall be made available upon request for examination and copying to a physician designated by the employee or former employee.

(9) *Transfer of records.* (i) In the event the employer ceases to do business, the successor shall receive and retain all records required to be maintained by this section.

(ii) In the event the employer ceases to do business and there is no successor to receive and retain his records for the prescribed period, these records shall be transmitted by registered mail to the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, Washington, D.C. 20852.

(r) *Observation of monitoring.* (1) The employer shall give affected employees or their representatives an opportunity to observe any measuring of employee exposure to inorganic arsenic which is conducted pursuant to this section.

(2) When observation of the monitoring of employee exposure to inorganic arsenic requires entry into an area where the use of personal protective devices is required, the observer shall be provided with and required to use such equipment and shall comply with all other applicable safety procedures.

(3) Without interfering with the measurement, observers shall be entitled to:

(i) Receive an explanation of the measurement procedure;

(ii) Observe all steps related to the measurement of airborne concentration of inorganic arsenic performed at the place of exposure; and

(iii) Record the results obtained.

(s) *Reports.* (1) Not later than one month after the establishment of a regulated area, the following information shall be reported to the OSHA Area Director:

(i) The address and location of each establishment which has one or more regulated areas; and

(ii) The approximate number of employees authorized to enter each regulated area including during maintenance operations; and

(iii) Any changes in such information shall be reported within 15 days.

(2) Emergencies, and the facts obtainable at that time, shall be reported within 24 hours to the OSHA Area Director. Upon request of the Area Director, the employer shall submit all additional information in writing relevant to the nature and extent of employee exposures and corrective measures taken to prevent similar emergencies.

(t) *Effective date.* This standard shall become effective January 21, 1975.

(u) *Startup dates.* (i) Determinations and measurements prescribed in paragraph (d) of this section shall be instituted within three months of the promulgation of the final standard, except that for new production areas or operations such determinations and measurements shall be instituted within 30 days of startup of operation.

(ii) Medical surveillance prescribed in paragraph (n) of this section shall be instituted within three months of the promulgation of the final standard.

APPENDIX A

SUBSTANCE SAFETY DATA SHEET

Inorganic Arsenic

I. SUBSTANCE IDENTIFICATION

A. *Substance:* Inorganic Arsenic.

B. *Permissible Exposure:* 0.004 milligrams of arsenic per cubic meter of air (mg As/cu m) as determined on an eight hour time weighted average or a ceiling limit of .01 mg As/cu m averaged over any 15 minute period. No employee may be exposed to any skin contact with arsenic trichloride, or to repeated skin contact with inorganic arsenic which is likely to cause skin irritation.

C. *Appearance:* Inorganic arsenic is usually a white powder. Metallic arsenic is a gray powder. Arsenic trichloride is a clear, almost colorless to pale yellow corrosive oily liquid.

II. HEALTH HAZARD DATA

A. *Comments:* The health hazard of inorganic arsenic is high.

B. *Ways in which the chemical affects your body:* Inorganic arsenic can affect your body if you inhale it, or if it comes in contact with your skin. Inorganic arsenic may also affect your body if swallowed. Arsenic trichloride is especially dangerous because it can be absorbed through the skin. Because inorganic arsenic is a poison, you could be poisoned if you eat or smoke without thoroughly washing your hands after working in an inorganic arsenic work area.

C. *Effects of Overexposure:* If you are exposed to high concentration of inorganic arsenic you may be affected in various ways. You may feel nauseous, weak, and have a loss of appetite. Gradually your skin may harden and darken which may be followed by a feeling of "pins and needles." Excessive inhalation of inorganic arsenic compounds may cause cancer.

III. EMERGENCY AND FIRST AID PROCEDURES

A. *Eye and face exposure:* If arsenic trichloride is splashed in your eyes, wash it out immediately with large amounts of water. Remove contact lenses if worn. Call a doctor as soon as possible.

B. *Skin exposure:* If arsenic trichloride is spilled on your clothing or your skin, wash the exposed skin and clothes under an emergency shower with large amounts of water. You are required to wear protective clothing to prevent repeated skin contact with inorganic arsenic which is likely to cause skin irritation. All inorganic arsenic protective clothing shall be provided by and washed by the employer or any launderer he designates before you wear it again. You may not take your protective clothing home.

C. *Swallowing* (Ingestion): Upon ingestion of any inorganic arsenic compounds, seek immediate medical attention.

IV. PROTECTIVE CLOTHING AND EQUIPMENT

A. *Respirators:* Respirators can only be required for routine use if your employer is in the process of installing engineering controls or where engineering controls are not feasible or insufficent. You must wear respirators for nonroutine activities (e.g., maintenance operations) where you are likely to be exposed to levels of inorganic arsenic above the permissible exposure limit. You must wear respirators in emergencies. Where respirators are worn, they must have a label of approval from the Mining Enforcement and Safety Administration or the National Institute for Occupational Safety and Health. (Older respirators may have a Bureau of Mines approval label). If you experience difficulty in breathing while wearing a respirator, tell your employer.

B. *Protective clothing:* Your employer is required to provide and you must wear appropriate impervious protective clothing (such as boots, gloves, aprons, etc.) over any parts of your body that could be exposed to arsenic trichloride. Your employer is required to provide appropriate protective clothing where repeated skin contact with inorganic arsenic is likely to cause skin irritation.

C. *Eye and face protection.* Your employer is required to provide and you must wear eye and face protection where you may be splashed by arsenic trichloride, or in cases where handling any other inorganic arsenic compounds which may cause eye or face irritation.

V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

Cleanup crews shall wear respirators. Because inorganic arsenic is a poison, you must wash your hands thoroughly before eating and smoking. You shall not eat or smoke in a work area where there is skin contact with inorganic arsenic. You shall not wear your work clothes home. You shall shower, when required by this standard, at the end of each workday before going home. Ask your supervisor where inorganic arsenic is used in your work area and for any additional plant rules.

APPENDIX B

SUBSTANCE TECHNICAL GUIDELINES

Arsenic, Arsenic Trioxide, and Arsenic Trichloride

I. PHYSICAL AND CHEMICAL PROPERTIES

A. Arsenic (metal).

1. Formula: As.
2. Appearance: Gray metal.
3. Melting Point: Sublimes without melting at 613C.
4. Specific Gravity ($H_2O=1$): 5.73.
5. Solubility in Water: Insoluble.

B. Arsenic Trioxide.

1. Formula: As_2O_3.
2. Appearance: White powder.
3. Melting Point. 315C.
4. Specific Gravity ($H_2O=1$): 3.74.
5. Solubility in Water: 3.7 grams in 100 cc of water at 20°C.

C. Arsenic Trichloride (liquid).

1. Formula: $AsCl_3$.
2. Appearance: Colorless or pale yellow liquid.
3. Melting Point: −8.5C.
4. Boiling Point: 130.2C.
5. Specific Gravity ($H_2O=1$): 2.16 at 20C.
6. Vapor Pressure: 10 mm Hg at 23.5C.
7. Solubility in Water: Decomposes in water.