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federal register

TUESDAY, APRIL 26, 1977

highlights

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER

The Office of the Federal Register will publish supplement 3 to the U.S. Government Manual on May 2. This supplement will be a separate part in the FEDERAL REGISTER. Executive agencies may obtain copies by submitting Standard Form 1 to the Planning Services Division of the Government Printing Office no later than April 28. Copies may also be purchased for 75 cents from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

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Title 7—Agriculture

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

[Lemon Reg. 88, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 17-23, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period April 17-23, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Lemon Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 20,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.388 Lemon Regulation 88 (42 FR 19865) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period April 17, 1977, through April 23, 1977, is established at 250,000 cartons."

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

Dated: April 21, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Market Service.

[FR Doc.77-11903 Filed 4-25-77;8:45 am]

[Peach Regulation 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Regulation by Grade and Size

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh peaches grown in Georgia for the 1977 season. These requirements are designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202-447-3545).

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation of the Industry Committee, established under the amended marketing agreement and order, and upon other available information, it is found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based on the Department's appraisal of the crop and current and prospective market conditions for Georgia peaches. These grade and size requirements are necessary to prevent shipment of peaches which do not meet such requirements, and are designed to permit shipment of ample supplies of peaches of an acceptable quality and of the more desirable sizes in the interest of producers and consumers pursuant to the declared policy of the act. The less stringent size requirements early in the season reflect the fact that earlier-maturing varieties of peaches generally mature at smaller sizes than do later maturing varieties. The exception of peaches shipped in bulk to adjacent markets from grade, size, and inspection requirements follows the practice of prior years and is designed to permit shipment of peaches which are of a quality and size acceptable in the adjacent markets but are not suitable for distribution in more distant markets in competition with peaches from other areas.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting April 14, 1977, after giving due notice, to consider supply and market conditions for peaches and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of peaches. Shipments of peaches are expected to begin April 26, 1977, and this regulation should apply to all shipments of peaches in order to effectuate the declared policy of the act. Compliance with this regulation will not require of handlers any preparation which cannot be completed by April 26, 1977. It is necessary, to effectuate the

declared policy of the act, to make this regulation effective as specified.

§ 918.319 Peach Regulation 1.

Order. (a) No handler shall ship, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) During the period April 26 through August 31, 1977, do not grade at least 85 percent U.S. No. 1 quality: *Provided,* That peaches with well-healed hail marks or split pits not scored as serious damage, or peaches with not more than 1 percent decay, may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period April 26 through May 4, 1977, are smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count of such peaches in any container in such lot, may be smaller than 1⅜ inches in diameter.

(3) During the period May 5 through May 12, 1977, are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent by count of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(4) During the period May 13 through August 31, 1977, are smaller than 1⅞ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅞ inches in diameter.

(b) The inspection requirement contained in § 918.64 of this chapter shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets, except for peaches in new containers, during the period April 26, through August 31, 1977.

(c) The maturity regulations contained in § 918.400 of this chapter are hereby suspended with respect to shipments of peaches to all destinations other than those in the adjacent markets during the period April 26, through August 31, 1977.

(d) When used herein, the terms "handler," "adjacent markets," "peaches," "peaches in bulk" and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the terms "U.S. No. 1" and "diameter" shall have the same meaning as when used in the revised United States Standards for Peaches (7 CFR 51.1210–51.1223).

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

Dated: April 22, 1977.

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

[FR Doc.77-12103 Filed 4-25-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

DELETION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration is deleting the provision in its regulations which requires funds included in the loan for payment of interest to be collected and applied as a regular payment at the time of loan closing. This action is being taken since this provision is inconsistent with the promissory note, which allows the interest to be collected when due.

DATES: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul R. Conn, Director, Multiple Family Housing Loan Division, 202–447–7207.

SUPPLEMENTARY INFORMATION:

§ 1822.95 [Amended]

Paragraph 1822.95(c)(5) of Subpart D, Part 1822, Title 7, Code of Federal Regulations (40 FR 4278, 42 FR 4408) is deleted. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This deletion, however, is not published for proposed rulemaking since the purpose of the change is to correct a current inconsistency in the regulation and any delay would be contrary to the public interest.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: April 13, 1977.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-11907 Filed 4-25-77;8:45 am]

SUBCHAPTER K—PROPERTY MANAGEMENT

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart A—Liquidation of Loans and Acquisition of Property

Subpart C—Disposal of Acquired Property

MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: A Farmers Home Administration regulation is amended to allow rural housing property located in an area whose designation has been changed from rural to nonrural, but is otherwise suitable for retention in the FmHA program, to be considered as suitable property. This amendment is necessary to add language implementing a provision of the Housing Authorization Act of 1976. In addition, other various editorial changes have been made.

DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. R. M. Yates, 202–447–3752.

SUPPLEMENTARY INFORMATION: Various sections of Subparts A and C of Part 1955, Chapter XVIII, Title 7, Code of Federal Regulations (41 FR 32698) are amended. Section 1955.3(c) of Subpart A is amended to add language inadvertently omitted when published as a rule. Section 1955.103(e) of Subpart C is amended to add language implementing a provision of the Housing Authorization Act of 1976 which provides that Government-acquired housing located in nonrural (formerly rural) areas may be treated as suitable property and handled as if in an area eligible for loans and servicing through the Farmers Home Administration. Paragraph (g) of this section is amended by deleting language no longer applicable.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking for the following reasons: The change in § 1955.3(c) corrects an omission made in the August 5, 1976, rulemaking publication; the changes in § 1955.103 (e) and (g) which are needed to obtain just and proper sale values for Government acquired housing implement the Housing Authorization Act of 1976 and to delay its implementation would be contrary to the public interest.

Accordingly, §§ 1955.3 and 1955.103 (e) and (g) are amended as follows:

1. In § 1955.3, paragraph (c) is amended beginning on the fifth line from the bottom of this paragraph as follows:

§ 1955.3 Definitions.

* * * * *

(c) *Loans to organizations.* * * * LH except to individuals without a loan agreement; and Rural Cooperative Housing (RCH); Business and Industrial (B&I) to both individuals and groups. Economic Opportunity Cooperative (EOC) loans are no longer being made, but those already made will be referred to as organization loans.

* * * * *

2. Section 1955.103 is amended as follows:

In paragraph (e) by adding a sentence to the end of this paragraph; and in paragraph (g) by placing a period following the word "sanitary" in the third line from the bottom of this paragraph

and deleting the remainder of that sentence.

§ 1955.103 Definitions.

* * * * *

(e) *Suitable property.* * * * Rural Housing property located in an area whose designation has changed from rural to nonrural and which is otherwise suitable property shall be considered as if it were still in a rural area.

* * * * *

(g) [Amended]

((7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301); sec. 10 Pub. L. 93-357, 85 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Dated: April 5, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-11906 Filed 4-25-77;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to release a portion of San Diego County in California from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: April 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, Veterinary Services, Federal Building, Room 748, Hyattsville, MD., 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of San Diego County in California from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended]

In § 82.3, in paragraph (a)(3) relating to the State of California, subdivision (v) relating to San Diego County is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of April 1977.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

[FR Doc.77-11905 Filed 4-25-77;8:45 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. E. R. Mackery, USDA, APHIS, Veterinary Services, Room 868, Federal Building, Hyattsville, Md. 20782, 301-436-8685.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1976 ed.), as amended January 21, 1976 (41 FR 3074), April 16, 1976 (41 FR 16145), July 23, 1976 (41 FR 30321), and November 30, 1976 (41 FR 52433), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

§ 97.2 Administrative instructions prescribing the commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

THREE HOURS

Add: Lincoln, Nebraska (when served from Leshara, Nebraska).

* * * * *

SIX HOURS

Add: Nogales, Arizona (when served from Ajo, Arizona).

* * * * *

(64 Stat. 561; 7 U.S.C. 2260.)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of April 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-11866 Filed 4-25-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Small Refiner Bias Under Entitlements Program With Respect to Processing Agreements

AGENCY: Federal Energy Administration (FEA).

ACTION: Final rule.

SUMMARY: This rule amends the small refiner bias under FEA's domestic crude oil allocation (entitlements) program to

eliminate issuances of all bias entitlements with respect to small refiners' processing agreements with other refiners. FEA has determined that the bias entitlements issuable with respect to processing agreements do not serve the underlying rationale of the bias, which is to compensate for the relative inefficiencies of the smaller refiners.

DATES: Effective Date, refiners' crude oil runs to stills for June 1977. Comments due on or before May 21, 1977 (see Supplementary Information).

ADDRESS: Send comments to: Executive Communications, Room 3309, Federal Energy Administration, Box LR, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Avenue, NW., Room 2107, Washington, D.C., 202–566–9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue, NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Doris Dewton (Program Office), 2000 M Street, NW., Room 6128H, Washington, D.C. 20461, 202–254–8660.

Michael Paige (Office of General Counsel), 12th and Pennsylvania Avenue, NW., Room 5134, Washington, D.C. 20461, 202–566–9565.

SUPPLEMENTARY INFORMATION: On February 10, 1977, FEA issued a notice of proposed rulemaking and public hearing (42 FR 9394, February 16, 1977) to amend the small refiner bias under the entitlements program set forth at 10 CFR 211.67(e) to eliminate issuances of all bias entitlements with respect to processing agreements for the account of small refiners.

The amended § 211.67(e)(2) adopted herein provides that no bias entitlements shall be issuable under § 211.67(e)(1) with respect to any volume of a small refiner's crude runs attributable to a processing agreement with another refiner, but does not eliminate from a small refiner's bias calculations crude runs attributable to processing agreements with non-refiners.

Discussion of Comments

In addition to requesting oral and written comments on the proposed amendment, FEA specifically requested public comments on the following alternative approaches: (1) whether bias entitlements issuances should be eliminated as to all processing agreements except those agreements in effect in February 1976; (2) whether FEA should eliminate issuances of small refiner bias entitlements only as to crude runs attributable to processing agreements which, when added to the small refiner's other crude run volumes, would result in total crude runs in excess of the small refiner's capacity, or a specified increment thereof; (3) whether bias entitlements should be issued based on the crude oil run levels of the particular refiner actually processing the crude oil; and (4) whether provisions should be made to permit bias entitlements for processing agreements entered into for the purpose of continuing product output during shutdowns due to normal maintenance, repairs or turnarounds.

Comments on the proposed amendment and alternatives were invited through March 11, 1977, and sixty-six written comments were received by FEA. The public hearing on this proposal was held on March 10 and fifteen persons presented oral statements. The oral statements and written comments presented the views of major refiners, large independent refiners, small refiners, independent marketers, trade associations, and government agencies. FEA is satisfied that the comments received fairly represent the broad range of interests which would be affected by any such changes in the benefits received by small refiners under the entitlements program.

A majority of the comments received by FEA supported the proposed amendment. There was virtual unanimity with FEA's finding that abuses had occurred and that many processing agreements currently in effect for the account of small refiners had no business justification other than to earn bias entitlements.

Most important, no evidence was presented in the record of this proceeding to justify issuance of bias entitlements for processing agreements outside a small refiner's plant, where the efficiencies of the refiner processing the crude oil in most cases would bear no relation to the small refiner's inefficiencies for which the bias is designed to compensate. Very little evidence was presented which substantiated any conclusion that processing fees being demanded were too high to permit small refiners to market the products produced therefrom competitively, and no evidence was presented that related the additional entitlement revenues necessary for small refiners to enter into these processing agreements directly to the amount of bias entitlements currently receivable with respect thereto. Accordingly, FEA concludes that the Agency has no basis for continuing to provide bias entitlements for small refiners' processing agreements with other refiners, in that the inefficiencies that the bias amounts are designed to compensate for do not bear any relation to any alleged competitive disadvantages of small refiners with respect to obtaining processing arrangements or with respect to the processing fees charged.

The principal objections that were raised in opposition to the proposal were (1) that processing agreements are necessary to secure an adequate supply of crude oil prior to refinery expansion; and (2) it is frequently less costly for a small refiner to have crude oil processed at a refinery located near the point of purchase than to transport it for refining in the small refiner's plant.

Neither of these objections convinced FEA that its proposal should not be adopted. If small refiners wish to enter into processing agreements for independent economic reasons, FEA believes that elimination of bias entitlements for out-of-plant processing should not make such agreements uneconomic. Further, there was no evidence presented at the public hearing or in written comments that ran contrary to FEA's tentative finding that many small refiners were entering into processing agreements solely for the purpose of earning additional bias entitlements. Some of the testimony indicated that processing agreements had become difficult to obtain, and that processing agreement fees had risen to take into account the bias entitlements under arrangements whereby the benefits of the bias entitlements are shared with the processing refiner.

Of the four alternative approaches suggested by FEA, only Alternative #2 was favored by a slight majority of the small refiners submitting comments. Alternative #2 proposed that bias entitlements be granted for processing agreements up to a stated percentage of the small refiner's capacity. FEA's conclusion from the record in this proceeding is that there is no rationale for a partial elimination of bias entitlements for processing agreements based solely on a refiner's capacity. Such a provision would not distinguish between processing agreements entered into for independent economic reasons and those undertaken to take advantage of the bias. Further, such a provision would not eliminate the undesirable incentives and market distortions FEA has determined exist with respect to small refiners entering processing agreements, but would only serve to establish a ceiling on the level of processing agreements for which small refiners would receive additional bias entitlements.

A majority of the comments opposed the other three alternatives presented. Opposition to the "grandfathering" provision (Alternative #1) was nearly unanimous, the consensus being that the rule should either allow or disallow bias entitlements for processing agreements. Several small refiners commented in favor of Alternative #4, which proposed allowing bias entitlements for processing agreements during shutdowns. Many comments, however, pointed out that most refiners had informal arrangements with other refiners in anticipation of occasional shutdowns or disruptions. FEA has therefore concluded that there were no persuasive arguments advanced for adopting any of the alternatives.

The Amendments Adopted

Based on its analysis of the material submitted in the public hearing and in the written comments, and upon all other information available to it, FEA has determined to adopt the amendments to the small refiner bias essentially as proposed, effective for June 1977 crude oil runs to stills. At this time FEA is soliciting comments, as discussed below, on whether to establish procedures under which small refiners who enter into processing agreements as part of a program of plant expansion could apply for bias

entitlements on those processing agreements.

In the proposed rule of February 10, 1977, FEA initially determined that the bias entitlements issuable with respect to processing agreements do not serve the underlying rationale of the bias, which is to compensate for the relative inefficiencies of the smaller refiners. This initial determination has been confirmed by the material submitted in the record of this proceeding. The evidence indicates that in many cases the refined products produced pursuant to such processing agreements are not entering the distribution systems of the small refiners concerned. FEA further concludes that the high level of the bias for such processing agreements, particularly for refiners in the lower capacity ranges, appears to have had the effect of creating economic distortions and inefficiencies in the marketplace counter to the objectives of the Emergency Petroleum Allocation Act of 1973, as amended (the "EPAA").

The amendment to § 211.67(e) adopted herein does not eliminate from a small refiner's bias calculations crude runs attributable to processing agreements with non-refiners. The intended effect of this provision is to permit small refiners to compete for processing agreements with non-refiners and to provide an incentive for utilization of small refiner capacity by non-refiners.

Because the formula for bias entitlements grants an optimal number of bias entitlements at the 30,000 barrel per day (B/D) level, FEA is aware that the elimination of the issuance of bias entitlements for processing agreements could have the effect of encouraging refiners above the 30,000 B/D level to enter into processing agreements so as to artifically reduce the computation of their crude runs in their refineries to 30,000 B/D for purposes of maximizing their small refiner bias entitlements. FEA does not believe that the amendment adopted today will encourage refiners to change their production methods so as to utilize a higher level of processing agreements, as it would not be consistent with the normal logistics and business practices of refiners in that range. FEA will closely monitor the effect of the rule adopted today to ascertain whether small refiners in the 30,000 to 175,000 B/D range seek to maximize entitlement issuances through exchanges or other arrangements to take advantage of the higher small refiner bias as crude runs decrease toward the 30,000 B/D level.

Relation of Rule Adopted to Procedures for Modification of Small Refiner Purchase Exemption

Some comments raised the interrelationship of FEA's proposed changes to the bias with the procedures for modification of the small refiner entitlement purchase exemption of section 403(a) of the Energy Policy and Conservation Act, Pub. L. 94-163 (the "EPCA").

FEA adopted Special Rule No. 6 on December 31, 1975, (41 FR 1044, January 6, 1976) to implement section 403(a) of the EPCA. Special Rule No. 6 generally exempted all qualified small refiners from any purchase requirements that they would otherwise have had as to the first 50,000 B/D of their crude runs and from a proportion of the entitlement purchase requirements for run levels from 50,000 to 100,000 B/D.

On May 12, 1976 (41 FR 20392, May 18, 1976), FEA revoked Special Rule No. 6 pursuant to the authority of section 455 of the EPCA. Section 455 of the EPCA generally permitted FEA to modify the small refiner purchase exemption if FEA determined that the exemption resulted in an unfair economic or competitive advantage for its beneficiaries with respect to other small refiners or otherwise had the effect of seriously impairing FEA's ability to provide for the attainment of the objectives set forth in section 4(b)(1) of the EPAA. In its modification of the statutory purchase exemption, together with the revocation of Special Rule No. 6, FEA increased the number of entitlements issuable to small refiners, as this was believed to be a more equitable way to effect the Congressional intent underlying section 403(a) of the EPCA. The May 12, 1976 amendments were not subsequently disapproved by either House of Congress under the procedures set forth in section 551 of the EPCA, and thus became effective with respect to entitlement issuances for April 1976.

The increase in the small refiner bias adopted in lieu of the statutory purchase exemption as implemented by Special Rule No. 6 benefitted both small refiner purchasers and sellers of entitlements. As to small refiner entitlement purchasers, the bias increase in effect retained a portion of the statutory entitlement purchase exemption, since the issuance of the related incremental bias entitlements has the effect of exempting domestic crude oil receipts from entitlement purchase obligations. Therefore, only a reduction in the portion of the bias attributable to the April 1976 increase therein for small refiner purchasers is subject to the Congressional review required under section 455 of the EPCA, since that portion of the bias is all that remains of the statutory purchase exemption under Special Rule No. 6. The elimination of bias entitlements for processing agreements under this rule affects the calculation of the volume of crude runs for purposes of receiving bias entitlements, but does not affect the basic amount of the increased bias, and thus is not subject to Congressional approval under section 455 of the EPCA.

Although changes in the manner of computing the volumes of crude runs affects the number of bias entitlements a small refiner will actually receive and in some instances could result in a diminution of bias entitlements issued to a small refiner even though the amount of the small refiner bias remains unchanged, FEA's adoption of this final rule does not in fact reduce the amount of bias entitlements received by any small refiner entitlement purchasers as a result of the adoption of the May 12, 1976 amendments. From an analysis of the data reported to FEA, it is shown that only two small refiners who benefited under the statutory purchase exemption were parties at that time to processing agreements. Since the crude runs for both of these firms exceeds 30,000 B/D, the elimination of bias entitlements for processing agreements under this final rule would actually serve to increase bias entitlements issued to these two firms. Thus, no beneficiary of the statutory purchase exemption is adversely affected by these amendments as compared to its situation at the time the Congressional review period was completed and the modification of the exemption was effective.

Further Comments Solicited

Although FEA is adopting this rule in accordance with its proposal, FEA recognizes that, where processing agreements are entered into as a means of securing crude oil supplies prior to expansion of plant capacity, it may be desirable to grant bias entitlements for such agreements. Accordingly, FEA hereby solicits comments from interested parties on whether to adopt a modification to the rule adopted today which would permit application for bias entitlements to be issued for crude runs under processing agreements entered into pursuant to a bona fide program of plant expansion. FEA requests specific comments from refiners as to appropriate standards to evaluate the types of plant expansions that would be eligible and the amount of bias entitlements necessary for this purpose.

Criteria could be established which would include only certain types of expansions based on the capacity of the final unit; for example, very small plant expansions could be disallowed. Special consideration could be given to expansions or renovations which would result in an improved yield of lighter products. FEA also requests comments as to (1) the type of documentation that refiners should be required to submit to demonstrate that they are undertaking an expansion, e.g., whether a refiner must certify as to specified financial commitments before bias entitlements would be granted for processing agreements; and (2) the type of showing a refiner should be required to make to demonstrate that a processing agreement is required for a specified period and that a particular level of bias entitlements is needed to make the processing agreement economic. FEA is also interested in receiving comments as to the necessity for procedures to verify that expansion's for which processing agreement bias entitlements have been awarded are actually taking place.

In this regard, written comments will be accepted and considered if filed by May 21, 1977. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box LR, the Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA

with the designation "Processing Agreements for Plant Expansions under the Small Refiner Bias." Fifteen copies should be submitted.

EFFECTIVE DATE

Many small refiners were concerned about the date of implementation of the proposed rule. Several comments opposing the March 1, 1977, effective date argued that the notice was insufficient to enable small refiners to avoid serious economic hardships from existing processing agreements. FEA has determined that an effective date prior to June 1, 1977 would not give small refiners sufficient time to adjust to the amendment herein adopted, in that commitments as to crude runs and product sales have already been made based on the issuance of bias entitlements. Accordingly, FEA is adopting this rule effective for June 1977 crude oil runs, since refiners have been on notice as to the potential adoption hereof since the publication of the proposed rule on February 16, and reasonable notice is provided for small refiners by the issuance of this final rule in April 1977 to structure June 1977 crude oil runs and processing agreements.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, and Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act Pub. L. 94-163, as amended Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10, Code of Federal Regulations, is amended as set forth below, effective June 1, 1977.

Issued in Washington, D.C., April 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

Section 211.67 is amended in subparagraph (2) of paragraph (e) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(e) *Small refiner bias.*

* * * * *

(2) Effective for refiners' volumes of crude oil runs to stills for June 1977, no entitlements shall be issuable under paragraph (e)(1) of this section with respect to any volume of a small refiner's crude oil runs to stills attributable to a processing agreement for the account of that small refiner with another refiner.

[FR Doc.77-11930 Filed 4-21-77;3:01 pm]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 329—INTEREST ON DEPOSITS

Individual Retirement Accounts ("IRA") and Keogh (H.R. 10) Plans

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: These amendments establish a new deposit category for IRA and Keogh funds. They are designed to give depositors an opportunity to earn interest on IRA and Keogh funds at the highest rate allowed by Federal regulation for deposits in any insured commercial bank or thrift institution. It is needed because depositors currently are unable to receive maximum interest on their retirement funds unless they deposit those funds in a six-year time deposit in a thrift institution such as a mutual savings bank or savings and loan association. The amendments will allow both insured nonmember commercial banks and mutual savings banks to pay interest on IRA or Keogh funds with a maturity of three years or longer at a rate which does not exceed the highest permissible rate that may be paid by any insured nonmember bank on deposits of less than $100,000. That rate is presently 7¾ percent per year.

EFFECTIVE DATE: July 6, 1977.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429, (202) 389-4324.

ADDRESS: Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Room 6108, Washington, D.C. 20429

SUPPLEMENTARY INFORMATION: For some time FDIC, in conjunction with the Board of Governors of the Federal Reserve System, and pursuant to its authority under sections 9 and 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828(g)), has been considering the creation of a separate category of time deposit encompassing IRA and Keogh funds. Special provisions of FDIC's regulations permit withdrawal prior to maturity of IRA or Keogh funds where the depositor is 59½ years of age or older or has become disabled, and waive the $1,000 minimum amount requirement as to such funds where they are held in 4 and 6 year time deposits. However, no provision is made for higher interest rates than those payable on other time deposits with comparable maturities.

The special provisions mentioned above were made in light of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, "ERISA") which amends sections 401 and 408 of the Internal Revenue Code (12 U.S.C. 401 and 408). They were designed to avoid the situation in which the holder of an IRA or a Keogh deposit either has to pay a penalty for withdrawal of the deposit prior to maturity or suffers tax penalties for failure to withdraw the deposit at the mandatory distribution age for IRA and Keogh funds.

In July of 1975, prior to adopting the above special provisions, FDIC published a list of questions in the FEDERAL REGISTER (40 FR 28099) in order to solicit public comment on several issues involved in the special treatment of IRA (and later Keogh) accounts. Among these questions was one directed to the desirability of eliminating the ¼ percent interest rate differential between commercial banks and thrift institutions whereby the latter are generally permitted to pay interest on any given category of time or savings deposit at an annual rate ¼ of 1 percent above the maximum rate that commercial banks are allowed to pay. The differential was initially created to offset the competitive advantage enjoyed by commercial banks because of the relatively limited variety of services which could be offered by thrift institutions as compared to commercial banks.

After reconsidering the comments received on the rate differential and after consultation with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, the FDIC has concluded that in the case of IRA and Keogh funds there is serious question whether any useful purpose can be served by preserving the differential. In fact, it can be argued that rather than preserving the competitive parity of thrift institutions vis-a-vis commercial banks, maintenance of the differential as to IRA and Keogh deposits actually tips the competitive balance in favor of thrift institutions. This is because IRA and Keogh deposits are by nature extremely long-term deposits where, over time, even a fractional differential yields a significantly greater aggregate dollar return to the depositor.

The Board of Governors of the Federal Reserve System recently announced that it is taking similar action to amend Federal Reserve Regulation Q. To quote from the Board's announcement: "a penalty for choosing deposits at a particular type of institution is clearly inconsistent with the objectives of maximizing the total amount of earnings on retirement savings that the Congress sought to encourage through establishment of IRA and Keogh programs * * *." The FDIC concurs in this view.

In amending its regulations, FDIC is aware of Pub. L. 94-200 which provides, in part, that an interest rate differential for any category of deposit existing on December 10, 1975 may not be reduced or eliminated without first obtaining the approval of both Houses of Congress. Since FDIC's action will have the effect of creating a new category for IRA and Keogh deposits, the provisions of Pub. L. 94-200 presumably do not apply. However, the FDIC will consider comments on this particular issue.

Under the amended regulations, insured nonmember banks will be able to offer up to 7¾ percent interest on IRA and Keogh deposits having a minimum maturity of three years. In addition, any such bank that wants to do so will be allowed to modify its existing deposit contracts to take advantage of the amendment.

In view of the fact that FDIC previously solicited public comments on the issues which are the subject of the following amendments, the Board of Di-

rectors of FDIC has determined that compliance with the notice and comment rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)) is unnecessary. However, the Board of Directors will consider post-promulgation comments submitted to FDIC prior to the July 6 effective date of the amendments.

12 CFR Part 329 is amended as follows:

1. Section 329.6(b) is changed by adding new subparagraph (4) to read as follows:

§ 329.6 Maximum rates of interest payable on time and saving deposits by insured nonmember banks other than insured nonmember mutual savings banks.[23]

* * * * *

(b) *Deposits of Less than $100,000*

* * * * *

(4) *Individual Retirement Account and Keogh (H.R. 10) plan deposits.* Except as provided in paragraph (a), no insured nonmember bank may pay interest on any time deposit with a maturity of three years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) plan established pursuant to 26 U.S.C. 408 or 26 U.S.C. 401, at a rate in excess of the highest permissible rate that may be paid on time deposits of under $100,000 by any insured nonmember mutual savings bank subject to the provisions of this Part. The provisions of § 329.4(e) of this Part shall not apply where qualified existing time deposit contracts are amended to conform to the requirements of this subparagraph (4).

* * * * *

2. Section 329.7(b) is changed by revising section 329.7(b)(3) and by adding a new subparagraph (6) to read as follows:

§ 329.7 Maximum rates of interest or dividends payable on deposits of insured nonmember mutual savings banks.[24]

* * * * *

(b) *Maximum rates payable.*

* * * * *

(3) *Time deposits of less than $100,000.* Except as provided in paragraphs (b), (4), (5) and (6) of this section no insured nonmember mutual savings bank shall pay interest or dividends on any time deposit of less than $100,000 at a rate in excess of the applicable rate under the following schedule: * * *

* * * * *

(6) *Individual Retirement Account and Keogh (H.R. 10) plan deposits.* Except as provided in paragraph (b)(2), no insured nonmember mutual savings bank may pay interest on any time deposit with a maturity of three years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) plan established pursuant to 26 U.S.C. 408 or 26 U.S.C. 401, at a rate in excess of the highest permissible rate that may be paid on time deposits of under $100,000 by any insured nonmember mutual savings bank subject to the provisions of this Part. The provisions of § 329.4(e) of this Part shall not apply where qualified existing time deposit contracts are amended to conform to the requirements of this subparagraph (6).

* * * * *

By order of the Board of Directors April 19, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-11934 Filed 4-25-77;8:45 am]

[23] The maximum rates of interest payable by insured nonmember banks on time and savings deposits as prescribed herein are not applicable to any deposit which is payable only at an office of an insured nonmember bank located outside of the States of the United States and the District of Columbia.

[24] The maximum rates of interest payable by insured nonmember mutual savings banks as prescribed herein are not applicable to any deposit which is payable only at an office of an insured nonmember mutual savings bank located outside of the States of the United States and the District of Columbia.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Doc. C-2872]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Walter Switzer, Inc., Trading as Switzer's, et al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: This is a consent order requiring a Phoenix, Arizona, retailer of women's wearing apparel, including furs and fur products, among other things, to cease violating the labeling, invoicing, and advertising provisions of the Fur Products Labeling Act.

DATES: Complaint and order issued March 4, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

William A. Arbitman, Director, San Francisco Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, 415-556-1270.

SUPPLEMENTARY INFORMATION: In the Matter of Walter Switzer, Inc., a corporation, d/b/a Switzer's, and Walter E. Switzer, Jr., individually and as an officer of said corporation. The prohibited trade practices, and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.30 Composition of goods; 13.30-30 Fur Products Labeling Act; § 13.73 Formal regulatory and statutory requirements; 13.73-10 Fur Products Labeling Act; § 13.95 Identity of product; 13.95-20 Fur Products Labeling Act; § 13.135 Nature of product or service; § 13.205 Scientific or other relevant facts. Subpart—Invoicing Products Falsely: § 13.1108 Invoicing products falsely; 13.1108—45 Fur Products Labeling Oct. Subpart—Misbranding or Mislabeling: § 13.1185 Composition; 13.1185-30 Fur Products Labeling Act; § 13.1230 Identity; § 13.1255 Manufacture or preparation; 13.1255-30 Fur Products Labeling Act; § 13.1260 Nature; § 13.1320 Scientific or other relevant facts. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1590 Composition; 13.1590-30 Fur Products Labeling Act; § 13.1623 Formal regulatory and statutory requirements; 13.1623-30 Fur Products Labeling Act; § 13.1655 Identity; § 13.1685 Nature; 13.1685-35 Fur Products Labeling Act; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1845 Composition; 13.1845-30 Fur Products Labeling Act; § 13.1852 Formal regulatory and statutory requirements; 13.1852-35 Fur Products Labeling Act; § 13.1855 Identity; § 13.1865 Manufacture or preparation; 13.1865-40 Fur Products Labeling Act: § 13.1870 Nature; 13.1870-40 Fur Products Labeling Act; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended, Sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f.)

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

ORDER

It is ordered. That Walter Switzer, Inc., a corporation, trading and doing business as Switzer's, or under any other name, its successors and assigns, and its officers, and Walter Switzer, Jr., individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by failing to affix a label to such fur product showing in words and in figures plainly

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

legible all of the information required to be disclosed by each subsection of section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

B. Falsely or deceptively invoicing any fur product by failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words or figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

C. Falsely or deceptively advertising any fur product by failing to show in words plainly legible all the information required to be disclosed by each of the subsections of section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-11935 Filed 4-25-77;8:45 am]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Children's Wearing Apparel Containing TRIS; Interpretation as Banned Hazardous Substance

Correction

FR Doc. 77-11438 appearing at page 20479, in the issue of Wednesday, April 20, 1977, in the third column, the document was inadvertently published as a proposed rule, rather than a rule. The heading should read as set forth above. The document is reprinted below.

AGENCY: Consumer Product Safety Commission.

ACTION: Correction of an interpretation.

SUMMARY: On April 8, 1977 the Commission published an interpretation that TRIS-treated children's clothing and uncut fabric intended for sale to consumers for use in such clothing are banned hazardous substances under the Federal Hazardous Substances Act. In this document the Commission is making editorial corrections to that interpretation.

DATES: The corrections are effective immediately.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6470.

SUPPLEMENTARY INFORMATION: The following are editorial corrections to "Children's Wearing Apparel Containing TRIS; Interpretation as Banned Hazardous Substance," published on April 8, 1977 (FR Doc. 77-10616, 42 FR 18850):

1. On page 18850, first column, the telephone area code of Francine Shacter, the person to contact for further information, is 301 not 202.

2. On page 18852, middle column, in the section on References, the correct citation for (13) is "March 16, 1977 NCI draft Bioassay of TRIS (2,3-dibromopropyl) phosphate for possible Carcinogenicity."

3. On page 18853, middle column, under Commission Action on Petitions, the correct citation for the Federal Hazardous Substances provision is 2(q)(1)(A).

4. Also on page 18853, third column, in the final paragraph before the regulatory language, the paragraph beginning with the word "Accordingly," should state that "the Commission amends * * *," rather than "the Commission proposes to amend * * *"

Dated: April 13, 1977.

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Doc. No. 76N-0115]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Streptomycin and Streptomycin-Containing Drugs; Updating and Technical Revision

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This rule amends the antibiotic regulations that provide for streptomycin and streptomycin-containing drugs for human use. This action is taken because of the need to update and make technical changes to the regulations. These amendments provide only for the sterile bulk drug and an injectable dosage form, set maximum and minimum potency limits, and designate one official method for determining potency of streptomycin sulfate.

EFFECTIVE DATE: May 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of May 18, 1976 (41 FR 20414), to amend the antibiotic drug regulations in Parts 436 and 444 (21 CFR Parts 436 and 444) to update and technically revise the regulations that provide for streptomycin and streptomycin-containing drugs. Sixty days were allowed for public comment.

One comment was received from a drug manufacturer. It objected to the proposed designation of the turbidimetric assay as the official method of determining potency of streptomycin sulfate. The manufacturer contends that another method, the agar cup plate diffusion assay, which it uses, is more precise and more informative. The manufacturer requested time to investigate further the turbidimetric assay because it is not currently equipped to convert to the turbidimetric assay.

The Commissioner has considered the comment but, for the following reasons, does not find cause to revise the proposed regulation:

1. The proposal did not introduce the turbidimetric assay nor did it modify the procedure; it merely deleted an alternative method, a microbiological agar diffusion assay, so that only one method would be designated as official. The turbidimetric assay, which FDA finds to give equivalent results to other assay methods, has been used by FDA laboratories for many years and, where its use is appropriate, has become the preferred analytical procedure for the certification program.

2. The manufacturer may have mistakenly inferred that it is now required to use the turbidimetric assay. This is not the case. Under § 436.2 (21 CFR 436.2), an assay method other than that designated as the official method may be used by manufacturers provided the results obtained are as accurate as those produced by the official method. Since FDA has observed no significant difference in the assay values obtained in the past by the manufacturer's chosen method, the Commissioner has no objection to its continued use of that procedure. In view of the foregoing, the Commissioner finds that the amendments should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59

Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 444 are amended as follows:

§ 436.33 [Amended]

1. Part 436 is amended in § 436.33 *Safety test*, paragraph (b), by deleting to amend Parts 436 and 444 as follows: the entry for "Streptonicozid sulfate" from the table therein.

2. Part 444 is amended:

a. By revising § 444.70a to read as follows:

§ 444.70a Sterile streptomycin sulfate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile streptomycin sulfate is the sulfate salt of a kind of streptomycin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency is not less than 650 micrograms and not more than 850 micrograms of streptomycin per milligram. If it is packaged for dispensing, its content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of streptomycin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine or histamine-like substances.

(vi) Its loss on drying is not more than 5.0 percent.

(vii) Its pH in an aqueous solution containing 200 milligrams per milliliter is not less than 4.5 and not more than 7.0.

(viii) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, and identity.

(ii) Samples required:

(a) If the batch is packaged for repacking or for use in manufacturing another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 12 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient sterile distilled water to give a stock solution of convenient concentration; and also, if it is packaged for dispensing, reconstitute as directed in the labeling. Then, using a suitable hypodermic syringe and needle, remove all of the withdrawable contents from each container represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, withdraw an accurately measured representative portion from each container. Accurately dilute the sample thus obtained with sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 30 micrograms of streptomycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 10 milligrams of streptomycin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using a solution containing 200 milligrams per milliliter.

(8) *Identity*—(i) *Reagents.* (a) 10 percent ferric chloride stock solution: Dissolve 5 grams of $FeCl_3.6H_2O$ in 50 milliliters of 0.1*N* HCl.

(*b*) 0.25 percent ferric chloride solution: Dilute 2.5 milliliters of 10 percent ferric chloride in 0.1*N* HCl to 100 milliliters with 0.01*N* HCl. Prepare the solution fresh daily.

(ii) *Procedure.* Using distilled water, dilute the sample to be tested to a concentration of approximately 1,000 micrograms per milliliter. To 5.0 milliliters of this solution, add 2.0 milliliters of 1*N* NaOH and heat in a boiling water bath for 10 minutes. Cool in ice water for 3 minutes and then acidify the solution by adding 2.0 milliliters of 1.2*N* HCl. Add 5.0 milliliters of 0.25 percent ferric chloride reagent. A violet color indicates the presence of streptomycin.

§ 444.72a [Revoked]

b. By revoking § 444.72a *Sterile streptonicozid sulfate.*

§ 444.170a [Revoked]

c. By revoking § 444.170a *Streptomycin-polymyxin-bacitracin tablets.*

d. By revising § 444.270a to read as follows:

§ 444.270a Sterile streptomycin sulfate.

The requirements for certification and the tests and methods of assay for sterile streptomycin sulfate, packaged for dispensing, are described in § 444.70a.

e. By revising § 444.270b to read as follows:

§ 444.270b Streptomycin sulfate injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Streptomycin sulfate injection is an aqueous solution of streptomycin sulfate. It may contain one or more suitable and harmless buffer substances and stabilizing agents. Each milliliter contains streptomycin sulfate equivalent to 400 milligrams, 420 milligrams, or 500 milligrams of streptomycin. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of streptomycin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine or histamine-like substances. Its pH is not less than 5.0 and not more than 8.0. The streptomycin sulfate used conforms to the standards prescribed by § 444.70a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The streptomycin sulfate used in making the batch for potency, histamine, loss on drying, pH, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine (except that the results of this test performed on the streptomycin sulfate used in making the batch may be submitted instead), and pH.

(ii) Samples required:

(*a*) The streptomycin sulfate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) If the batch is packaged for use in the manufacture of another drug:

(*i*) For all tests except sterility: Five containers, each containing not less than 2.0 milliliters.

(*ii*) For sterility testing: 20 containers, each containing not less than 2.0 milliliters.

(*2*) If the batch is packaged for dispensing:

(*i*) For all tests except sterility: A minimum of eight immediate containers.

(*ii*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and method of assay*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Using a suitable hypodermic syringe and needle, remove all of the withdrawable contents if it is represented as a single-dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Accurately dilute the portion with sterile distilled water to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 30 micrograms of streptomycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 10 milligrams of streptomycin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter, except use a test dose concentration of 1.5 milligrams per milliliter in lieu of 2.0 milligrams per milliliter.

(5) *Histamine* (the histamine test may be omitted if it is performed on the streptomycin sulfate used in preparing the injection). Proceed as directed in § 436.35 of this chapter.

(6) pH. Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

§§ 444.270c, 444.570, 444.570a, 444.570b, 444.570c [Revoked]

f. By revoking §§ 444.270c Streptomycin sulfate for injection, 444.570 Streptomycin dermatologic dosage forms, 444.570a Streptomycin ointment; dihydrostreptomycin ointment, 444.570b Streptomycin for topical use; streptomycin with (the blank being filled in with the name of the vehicle if a packaged combination) for topical use, and 444.570c Streptomycin-bacitracin - polymyxin gauze pads.

Effective date: This regulation shall become effective May 26, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: April 13, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-11764 Filed 4-25-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Doc. No. 77N-0073]

PART 539—BULK ANTIBIOTIC DRUGS SUBJECT TO CERTIFICATION

PART 544—OLIGOSACCARIDE CERTIFIABLE ANTIBIOTIC DRUGS FOR ANIMAL USE

Streptomycin and Streptomycin-Containing Drugs Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending provisions for certification of animal-use streptomycin drug products to conform with amendments to provisions for human-use streptomycin drug products. The human-use amendments are published elsewhere in this issue of the FEDERAL REGISTER, under FDA Docket No. 76N-0115.

DATES: Effective May 26, 1976.

FOR FURTHER INFORMATION CONTACT:

Frank Pugliese, Bureau of Veterinary Medicine (HFV-234), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3460.

SUPPLEMENTARY INFORMATION: These amendments are nonsubstantive, and they do not affect currently approved new animal drug applications (NADA's) or requirements for certification of the named antibiotic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 539 and 544 are amended as follows:

1. Part 539 is amended in § 539.170 by revising paragraph (a)(1)(ii), (iii), and (a)(4)(i); and by revising paragraph (b)(2), (3), and (4); and by amending paragraph (b)(1) in the second sentence by changing "§ 444.70a(b)(1)(x)" to read "§ 444.70a(b)(1)." The revised paragraphs read as follows:

§ 539.170 Streptomycin sulfate veterinary grade; dihydrostreptomycin hydrochloride veterinary grade.

(a) * * *

(1) * * *

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 14.0 percent.

* * * * *

(4) * * *

(i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the number of milligrams of streptomycin or dihydrostreptomycin per gram, and the total number of grams of streptomycin or dihydrostreptomycin in each package. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, safety, loss on drying, pH, and streptomycin content, if dihydrostreptomycin.

* * * * *

(b) * * *

(2) *Safety.* Proceed as directed in § 436.33 of this chapter.

(3) *Loss on drying.* Using a 1-gram sample, proceed as directed in § 436.200 (b) of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter.

* * * * *

2. Part 544 is amended:

a. By revising § 544.170a to read as follows:

§ 544.170a Streptomycin - polymyxin-bacitracin tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Streptomycin-polymyxin-bacitracin tablets are tables composed of streptomycin, polymixin B, and bacitracin, with or without the addition of one or more suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. The potency of each tablet is not less than 250 milligrams of streptomycin, 200,000 units of polymyxin B, and 5,000 units of bacitracin. Its loss on drying is not more than 3 percent. Tablets not exceeding 15 millimeters in diameter, or not intended only for preparing solutions, shall disintegrate within 1 hour. The streptomycin used conforms to the standards prescribed therefor by § 444.70a(1) of this chapter, except § 444.70a(a)(1), (ii), (iii), and (v). The polymyxin used conforms to the standards prescribed by § 448.30(a) (i) and (ii) of this chapter. The bacitracin used conforms to the standards prescribed therefor by § 448.10(a)(1) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* Unless each tablet is enclosed in a foil or plastic film and such enclosure is a tight container as defined by the U.S.P., except the provision that it shall be capable of tight reclosure, the immediate container shall be a tight container as so defined. The immediate container may also contain a desiccant separated from the tablets by a plug of cotton or other like material. The composition of the immediate container, or of the foil or film enclosure, shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging storage, and distribution practice shall be disregarded.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on the outside wrapper or container and the immediate container the statement, "Expiration date _____", the blank being filled in with the date that is 18 months after the month during which the batch was certified.

(4) *Requests for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch of streptomycin-polymyxin-bacitracin tablets shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless they were previously submitted) the dates on which the latest assays of the streptomycin, polymyxin, and bacitracin used in making such batch were completed, the potency of each tablet, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(ii) Except as otherwise provided in paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(*a*) The batch: average potency per tablet, average loss on drying, and if required by paragraph (a)(1) of this section, disintegration time.

(b) The streptomycin used in making the batch: potency, safety, loss on drying, and pH.

(c) The polymyxin used in making the batch: potency and safety.

(d) The bacitracin used in making the batch: potency, safety, loss on drying, and pH.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(a) The batch:

(1) For potency and loss on drying: One tablet for each 5,000 tablets in the batch, but in no case less than 30 tablets, collected by taking single tablets throughout the entire time of tableting so that the quantities tableted during the intervals are approximately equal.

(2) For disintegration time: six tablets.

(b) The streptomycin used in making the batch; five packages containing approximately equal portions of not less than 0.5 gram each.

(c) The polymyxin used in making the batch; five packages, each containing approximately equal portions of not less than 0.5 gram.

(d) The bacitracin used in making the batch; six packages, each containing approximately equal portions of not less than 0.5 gram.

(c) In the case of an initial request for certification, each other ingredient used in making the batch; one package of each, containing approximately 5 grams.

(iv) No result referred to in paragraph (a)(4)(ii) (*b*), (*c*), and (*d*) of this section, and no sample referred to in paragraph (a)(4)(iii) (*b*), (*c*), and (*d*) of this section, is required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Streptomycin content.* Using 12 tablets, proceed as directed in § 544.173a(b)(1)(i) of this chapter. Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place a representative number of tablets into a high speed glass blender jar containing sufficient 10-percent potassium phosphate buffer, pH 6.0 (solution 6), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated). Its content of polymyxin B is satisfactory if it contains not less than 85 percent of the number of units of polymyxin B it is represented to contain.

(iii) *Bacitracin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place a representative number of tablets into a high speed glass blender jar containing sufficient 1-percent potassium phosphate buffer, pH 6.0 (solution 1) to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 1 to the reference concentration of 1 unit of bacitracin per milliliter (estimated). In lieu of the test organisms described in § 436.105 of this chapter, use either test organisms R or V, described in § 436.103 of this chapter. Its content of bacitracin is satisfactory if it is not less than 85 percent of the number of units of bacitracin it is represented to contain.

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegrating time.* Proceed as directed in § 436.212 of this chapter.

b. In § 544.170b, paragraph (a)(1) is amended by revising the fifth sentence therein—"It is nontoxic."—to read "It passes the safety test."; paragraph (a)(4)(i) is amended in the second sentence by deleting "toxicity" and inserting "safety"; and paragraph (b) (2) and (3) is revised to read as follows:

§ 544.170b Streptomycin hydrochloride/streptomycin sulfate oral solution.

(a) * * *

(1) * * * It passes the safety test. * * *

* * * * *

(4) * * *

(i) * * * Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, safety, and pH.

* * * * *

(b) * * *

(2) *Safety.* Proceed as directed in § 444.70a(b)(4) of this chapter.

(3) *pH.* Proceed as directed in § 444.70a(b)(7) of this chapter.

* * * * *

c. In § 544.173a, paragraph (a)(1) is amended by revising the fifth sentence—"Its moisture content is not more than 10 percent."—to read "Its loss on drying is not more than 10 percent."; paragraph (a)(4)(ii) (*a*) and (*b*) is revised; paragraph (a)(4)(iii)(*a*)(*1*) is amended by deleting "For potency and moisture;" and inserting therefor "For potency and loss on drying"; paragraph (a)(4)(iii) (*b*) is revised; paragraph (b)(1)(i) is amended by deleting that portion of the first sentence up to the colon and inserting in its place, "Using 12 tablets, proceed as directed in § 436.105 of this chapter, preparing the sample as follows:"; and paragraph (b) (2) and (3) is revised to read as follows:

§ 544.173a Streptomycin/dihydrostreptomycin tablets.

(a) * * *

(1) * * * Its loss on drying is not more than 10 percent. * * *

* * * * *

(4) * * *

(ii) * * *

(*a*) The batch: Average potency per tablet, average loss on drying, and if required by paragraph (a)(1) of this section, disintegration time.

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; potency, safety, loss on drying, pH, streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin sulfate.

(iii) * * *

(*a*) * * *

(*1*) For potency and loss on drying: * * *

* * * * *

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; five packages, each containing approximately equal portions of not less than 0.5 gram.

* * * * *

(b) * * *

(1) * * *

(i) Using 12 tablets, proceed as directed in § 436.105 of this chapter, preparing the sample as follows: * * *

* * * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter.

* * * * *

d. In § 544.173b, paragraph (a)(1) is amended by revising the fifth sentence—"The streptomycin used conforms to the standards prescribed therefor by § 444.70a(a)(1) of this chapter, except paragraphs (a)(1) (ii), (iv), (v), and (vi) of that section."—to read "The streptomycin conforms to the standard prescribed therefor by § 444.70a(a)(1) of this chapter, except paragraph (a)(1)(iii), (v), and (vi) of that section."; and paragraph (a)(4) (ii)(*b*) and (iii)(*b*) and paragraph (b) are revised to read as follows:

§ 544.173b Streptomycin/dihydrostreptomycin syrup; streptomycin/dihydrostreptomycin in gel (streptomycin/dihydrostreptomycin oral suspension); potency.

(a) * * *

(1) * * * The streptomycin conforms to the standard prescribed therefor by § 444.70a(a)(1) of this chapter, except paragraphs (a)(1) (iii), (v), and (v)(i) of that section. * * *

* * * * *

(4) * * *

(ii) * * *

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; potency, safety, pH, streptomycin content if it is dihydrostreptomycin, and crystallinity if it is crystalline dihydrostreptomycin.

(iii) * * *

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; five packages, each containing approximately equal portions of not less than 0.5 gram.

* * * * *

(b) *Tests and methods of assay*—(1) *Streptomycin content.* Proceed as directed in § 446.70a(b)(1) of this chapter. Its potency is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin that it is represented to contain.

(2) *Dihydrostreptomycin content.* Using dihydrostreptomycin working standard as a standard of comparison, proceed as directed in § 444.70a(b)(1) of this chapter. Its potency is satisfactory if it contains not less than 85 percent of the number of milligrams of dihydrostreptomycin that it is represented to contain.

* * * * *

e. In § 544.173c, paragraph (a)(1) is amended by revising the fourth sentence—"It is nontoxic."—to read "It passes the safety test"; paragraph (a)(2) introductory text and paragraph (a)(3) are revised; paragraph (b)(1) is amended by revising the first sentence; and paragraph (b)(2), (3), and (4) is revised to read as follows:

§ 544.173c Streptomycin/dihydrostreptomycin sodium sulfathiazole solution.

(a) * * *

(1) * * * It passes the safety test. * * *

(2) *Packaging; labeling.* It shall be packaged and labeled in accordance with the requirements of § 510.55 of this chapter; except that in addition to the requirements of § 510.55, each package shall bear on the outside wrapper and container and the immediate container:

* * * * *

(3) *Requests for certification; samples.* The person who requests certification of a batch shall submit in connection with his request the same information and number of samples for the batch prescribed by § 444.270b(a)(3) of this chapter.

(b) * * *

(1) *Potency.* Proceed as directed in § 444.70b(a)(3) of this chapter, except if it contains dihydrostreptomycin use the dihydrostreptomycin working standard as a standard of comparison. * * *

(2) *Sterility, pyrogens, histamine, streptomycin content if it is dihydrostreptomycin.* Proceed as directed in §§ 444.10a(b)(2) and 444.70a(b)(2), (3), and (5) of this chapter.

(3) *Safety.* Proceed as directed in § 436.33 of this chapter, using as a test dose 0.5 milliliter of a solution containing 1.5 milligrams of streptomycin or dihydrostreptomycin per milliliter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted drug.

f. In § 544.173d, paragraph (a)(1) is amended by revising the third sentence—"Its moisture content is not more than 7 percent."—to read "Its loss on drying is not more than 7 percent."; and paragraphs (a)(4)(ii) (*a*) and (*b*) and (b)(2) are revised to read as follows:

§ 544.173d Streptomycin/dihydrostreptomycin sulfate oral powder; streptomycin sulfate/dihydrostreptomycin sulfate oral granules; dihydrochloride oral powder/oral granules.

(a) * * *

(1) * * * Its loss on drying is not more than 7 percent. * * *

* * * * *

(4) * * *

(ii) * * *

(*a*) The batch; potency and loss on drying.

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; potency, safety, loss on drying, pH, and streptomycin content if it is dihydrostreptomycin.

* * * * *

(b) * * *

(2) *Loss on drying.* Using a 1-gram sample, proceed as directed in § 436.200(b) of this chapter.

g. In § 544.173e, by revising paragraphs (a)(1), (a)(4)(ii) (*a*) and (*b*), (a)(4)(iii)(*b*), and (b)(1)(i) and (2) to read as follows:

§ 544.173e Streptomycin/dihydrostreptomycin-kaolin-pectin-aluminum hydroxide gel powder.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Streptomycin-kaolin-pectin-aluminum hydroxide gel powder and dihydrostreptomycin-kaolin-pectin-aluminum hydroxide gel powder are streptomycin or dihydrostreptomycin, kaolin, pectin, and dried aluminum hydroxide gel, with or without the addition of one or more suitable and harmless diluents, coloring, and flavorings. Its content of streptomycin or dihydrostreptomycin is not less than 37.5 milligrams per gram of powder. Its loss on drying is not more than 10 percent. The streptomycin used conforms to the standards prescribed therefor by § 444.70a(a)(1) of this chapter, except paragraph (a)(1)(ii), (iii), and (v) of that section. The dihydrostreptomycin used conforms to the standards prescribed therefor by § 444.10a(a) of this chapter, except the standards for sterility, pyrogens, and histamine content. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(4) * * *

(ii) * * *

(*a*) The batch; average potency per gram of powder and average loss on drying.

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; potency, safety, loss on drying, pH, streptomycin content if it is dihydrostreptomycin and crystallinity if it is crystalline dihydrostreptomycin sulfate.

(iii) * * *

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; five packages, in each containing approximately equal portions of not less than 0.5 gram.

* * * * *

(b) * * *

(1) * * *

(i) *Streptomycin content.* Using 3.0 grams of the sample, proceed as directed in § 444.70a(b)(1) of this chapter. Its potency is satisfactory if it contains not less than 85 percent of the number of milligrams of streptomycin it is represented to contain.

* * * * *

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

§ 544.211a [Amended]

h. In § 544.211a *Dihydrostreptomycin/streptomycin sulfates aqueous solution*, paragraph (a)(1) is amended in the second sentence by deleting the phrase "moisture content" and substituting therefor the phrase "loss on drying"; paragraph (a)(2) is amended by deleting the reference to "§ 444.270b(a)(2)" and substituting therefor "§510.45"; paragraph (a)(3) is amended by deleting the reference to "§ 444.70a(a)(3) (ii) or (iii)" and substituting therefor "§ 510.55"; paragraph (a)(4) is amended in the first sentence by deleting the reference to "§ 544.211b(a)(4)" and substituting therefor "§ 514.50 of this chapter"; paragraph (b)(3) is amended in its heading by deleting the word "toxicity" and substituting therefor the word "safety"; and paragraph (b)(4) is amended by deleting the reference to "§ 440.80a(b)(5)(ii)" and substituting therefor "§ 436.202".

i. In § 544.211b, paragraph (a)(3) is amended by deleting the reference to "§ 444.70a(a)(3) (ii) or (iii)" and substituting therefor "§ 510.55"; and paragraphs (a)(1) (ii) and (v), (a)(4)(ii) (*a*), (a)(4)(iii) (*b*) and (*c*), (a)(4)(iv) (*b*), and (b)(3) are revised.

The revised paragraphs read as follows:

§ 544.211b Dihydrostreptomycin/streptomycin sulfates.

(a) * * *

(1) * * *

(ii) It passes the safety test.

* * * * *

(v) Its loss on drying is not more than 5 percent.

* * * * *

(3) *Labeling.* It shall be labeled in accordance with § 510.55 of this chapter, except that each package shall bear on the outside wrapper or container the number of grams of dihydrostreptomycin, the number of grams of streptomycin, and the total number of grams of both salts in the immediate container.

(4) * * *

(ii) * * *

(*a*) The batch; content of dihydrostreptomycin and streptomycin, sterility, safety, pyrogens, histamine content, loss on drying, and pH.

* * * * *

(iii) * * *

(*b*) The dihydrostreptomycin used in making the batch; three packages, each containing approximately equal portions of not less than 0.5 gram.

(*c*) The streptomycin used in making the batch; three packages, each containing approximately 0.5 gram.

(iv) * * *

(*b*) For sterility testing: 20 packages. Each such package shall contain not less than 0.5 gram of dihydrostreptomycin and 0.5 of streptomycin taken from different parts of such batch.

* * * * *

(b) * * *

(3) *Sterility, safety, pyrogens, histamine, loss on drying, pH.* Using the total potency of the sample for preparing dilutions and weighings, proceed as directed in § 444.70a(b)(2), (3), (4), (5), (6), and (7) of this chapter.

§ 544.274 [Amended]

j. In § 544.274 *Streptomycin sulfate/dihydrostreptomycin sulfate/crystalline dihydrostreptomycin sulfate injectable*, by amending paragraph (a)(4)(ii)(*a*) in the first sentence by deleting the reference to "toxicity" and substituting therefor the word "safety".

k. By revising § 544.370a to read as follows:

§ 544.370a Streptomycin for topical use: streptomycin with (the blank being filled in with the name of the vehicle if a package combination) for topical use.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Streptomycin for topical use conforms to all the requirements prescribed by § 444.70a(a)(1) of this chapter for streptomycin, and may be packaged in combination with a container of a suitable and harmless vehicle.

(2) *Packaging.* The immediate container of streptomycin for topical use shall be of colorless transparent glass so closed as to be a tight container as defined by the U.S.P., shall be sterile at the time of filling and closing, shall be so sealed that its contents cannot be used without destroying such seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each such container shall contain not less than 20 milligrams.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 201.105 of this chapter (regulations issued under section 502(f) of the act), each package shall bear on its outside label or labeling, as hereinafter indicated, the following:

(i) On the outside wraper or container and the immediate container, the statement, "Expiration date _____", the blank being filled in with the date that is 48 months after the month during which the batch was certified.

(ii) If it is a packaged combination, on the immediate container of the vehicle in the combination, a statement giving the method of dissolving the streptomycin in the vehicle and the statement "The solution may be stored at room temperature for 1 week without significant loss of potency".

(4) *Requests for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch of streptomycin for topical use shall submit with his request a statement showing the batch mark, the number of packages of each size in each batch, the number of milligrams in each package, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, sterility, safety, pyrogens, histamine content, loss on drying, and pH. If such batch, or any part thereof, is to be packaged with a vehicle, such request shall be accompanied by a statement that such vehicle conforms to the requirements prescribed therefor by this section.

(ii) Such person shall submit in connection with his request an accurately representative sample of the batch, consisting of the following:

(*a*) For all tests except sterility: One immediate container for each 5,000 immediate containers in such batch; but in no case less than 50 immediate containers.

Such samples shall be collected by taking single immediate containers, before or after labeling, at such intervals throughout the entire time of packaging the batch so that the quantities packaged during the intervals are approximately equal.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(iii) In case of an initial request for the certification of a batch of streptomycin for topical use which is to be packaged in combination with a container of a vehicle, or when any change is made in the composition of such vehicle, such person shall submit in connection with his request five packages of the vehicle included in the combination.

(b) *Tests and methods of assay.*—(1) *Potency.* Proceed as directed in § 444.70a(b)(1) of this chapter. The potency of streptomycin for topical use is satisfactory if the immediate containers are represented to contain:

(i) Less than 500 milligrams and contain 85 percent or more of the number of milligrams so represented;

(ii) More than 500 milligrams and contain 90 percent or more of the number of milligrams so represented.

(2) *Sterility, safety, pyrogens, histamine, loss on drying, pH.* Proceed as directed in § 444.70a(b) (2) through (7).

l. In § 544.370b, paragraphs (a)(1), (a)(4)(ii)(*b*) and (iii)(*b*), and (b) are revised to read as follows:

§ 544.370b Streptomycin-erythromycin ointment.

(a) * * *

(1) *Standards of identity, strength, quality, and purity.* Streptomycin-erythromycin ointment is streptomycin and erythromycin in a suitable and harmless ointment base, with or without one or more suitable sulfonamides and with or without suitable and harmless dispensing and suspending agents. Its moisture content is not more than 1.0 percent. It contains per gram not less than 3 milligrams of streptomycin and not less than 5 milligrams of erythromycin. The streptomycin used conforms to the requirements of § 444.70a(a)(1) of this chapter, except paragraph (a)(1)(ii), (iii), (iv), and (v) of that section. The erythromycin used conforms to the standards prescribed by § 452.10(a)(1) of this chapter, except paragraph (a)(1)(ii), (v), (vi), and (viii) of that section. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * * *

(4) * * * *

(ii) * * *

(*b*) The streptomycin and erythromycin used in making the batch: Potency, pH, loss on drying, and color-identity test, if it is erythromycin.

(iii) * * *

(*b*) The streptomycin used in making the batch: six packages, each containing approximately equal portions of not less than 0.5 gram.

* * * * * *

(b) *Tests and methods of assay*—(1) *Potency.*—(i) *Streptomycin content.* Proceed as directed in § 436.105 of this chapter, except prepare the sample as follows: Place a representative quantity of the ointment (usually an entire container) in a blending jar containing approximately 225 milliliters of chloroform. Using a high-speed blender, blend the mixture for 3 minutes. Transfer the blended material to a large Buchner funnel (at least 10 centimeters in diameter) fitted with a highly retentive filter paper and attached to a vacuum line. Apply vacuum long enough to ensure removal of chloroform from the filter cake. Place the filter cake and the paper in a blending jar containing 250 milliliters of 0.1*M* phosphate buffer, pH 8.0, and blend for 10 minutes. Filter the blended material through a fast, porous, filter paper. Dilute the filtrate to obtain a solution for assay containing 1.0 microgram per milliliter. Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(ii) *Erythromycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Place a representative quantity of the ointment (usually an entire container) in a blending jar and add sufficient methyl alcohol to give a volume of approximately 100 milliliters. Using a high-speed blender, blend the mixture for 2 to 3 minutes. Add 400 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0, and blend for 2 to 3 minutes. Dilute the mixture to 1.0 microgram per milliliter (estimated) using 0.1*M* potassium phosphate buffer, pH 8.0. Its content of erythromycin is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

m. By revising § 544.373a to read as follows:

§ 544.373a Streptomycin/dihydrostreptomycin ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Streptomycin ointment and dihydrostreptomycin ointment are streptomycin or dihydrostreptomycin in a suitable and harmless ointment base, with or without suitable and harmless dispersing and suspending agents and

preservatives. Their potency is not less than 5,000 μg per gram of ointment. The streptomycin used conforms to the requirements of § 444.70a(a)(1) of this chapter, except paragraph (a)(1)(ii), (iii), (iv), (v), and (vi) of that section. The dihydrostreptomycin used conforms to the requirements of § 444.10a(a) of this chapter, except the standards for sterility, safety, pyrogens, histamine, and loss on drying. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(2) *Packaging.* Streptomycin ointment and dihydrostreptomycin ointment shall be packaged in collapsible tubes which shall be well-closed containers as defined by the U.S.P., and each such tube shall not be larger than the 2-ounce size—but if the ointment is labeled solely for hospital use it may be packaged in immediate containers of glass that meet the test for tight containers as defined by the U.S.P. The composition of the immediate container and closure shall be such as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards; but minor changes that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(3) *Labeling.* In addition to the labeling requirements prescribed by § 510.55 of this chapter, each package shall bear on its outside wrapper or container and the immediate container the statement, "Expiration date _____", the blank being filled in with the date that is 24 months after the month during which the batch was certified.

(4) *Requests for certification; samples.* (i) In addition to complying with the requirements of § 514.50 of this chapter, a person who requests certification of a batch of streptomycin ointment or dihydrostreptomycin ointment shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the streptomycin used in making such batch was completed, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug constituting such batch was completed, and that each component of the ointment base used conforms to the requirements prescribed therefor, if any, by this section.

(ii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, results of the tests and assays. These tests and assays shall be made on an accurately representative sample and shall consist of the following:

(*a*) The batch: potency.

(*b*) The streptomycin or dihydrostreptomycin used in making the batch: potency, pH, streptomycin content if it is dihydrostreptomycin and crystallinity if it is crystalline dihydrostreptomycin sulfate.

(iii) Except as otherwise provided by paragraph (a)(4)(iv) of this section, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(*a*) The batch: one immediate container for each 5,000 immediate containers in the batch, but in no case less than five immediate containers unless each such container is packaged for hospital use and contains more than 2 ounces, in which case the sample shall consist of approximately 1 ounce of ointment for each 5,000 immediate containers in the batch, but in no case less than five 1-ounce portions. Such sample shall be collected by taking single immediate containers or 1-ounce portions at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal.

(*b*) The streptomycin or dihydrostreptomycin used in making the batch; five packages containing approximately equal portions of not less than 0.5 gram each.

(*c*) In case of an initial request for certification, the ingredients used in making the ointment base of the batch: one package of each containing approximately 200 grams, except for the suspending and dispersing agents used, in which case the sample shall consist of approximately 5 grams.

(iv) No result referred to in paragraph (a)(4)(ii)(*b*) of this section, and no sample referred to in paragraph (a)(4)(iii)(*b*) of this section, is required if such result or sample has been previously submitted.

(b) *Tests and methods of assay*—(1) *Streptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows: Accurately weigh the tube and contents and squeeze approximately 1.0 gram into a blending jar containing 50 milliliters of 0.1*M* potassium phosphate buffer (pH 7.8 to 8.0). Re-weigh the tube to obtain weight of ointment used in the test. Using a high-speed blender, blend the mixture for 3 minutes. Dilute an aliquot of the mixture to contain 100 micrograms of streptomycin base (estimated) per milliliter. Transfer 1.0 milliliter of this solution to a 100-milliliter flask and make up to volume with 0.1*M* potassium phosphate buffer (pH 7.8 to 8.0). Use this last dilution in the assay for potency. The potency of streptomycin ointment is satisfactory if it contains not less than 85 percent of the number of micrograms of streptomycin base per gram it is represented to contain.

(2) *Dihydrostreptomycin content.* Proceed as directed in paragraph (b)(1) of this section, using the dihydrostreptomycin working standard as a standard of comparison. Its content of dihydrostreptomycin is satisfactory if it contains not less than 85 percent of the number of micrograms of dihydrostreptomycin base per gram it is represented to contain.

n. In § 544.373b, paragraphs (a)(1), (a)(4)(iii)(*b*), (b)(1)(i) introductory text, (b)(1)(iii), (b)(1)(iii) (*a*) and (*b*), (b)(1)(iv), (b)(1)(iv)(*a*) introductory text, and (b)(2) are revised to read as follows:

§ 544.373b Streptomycin/dihydrostreptomycin-polymyxin-neomycin ointment.

(a) * * *

(1) *Standards of identity, strength, quality and purity.* Streptomycin-polymyxin-neomycin ointment and dihydrostreptomycin-polymyxin-neomycin ointment are streptomycin or dihydrostreptomycin, polymyxin, and neomycin in a suitable and harmless ointment base, with or without one or more suitable sulfonamides, and with or without suitable and harmless dispersing and suspending agents. Their moisture content is not more than 1 percent. Their potency is such that when used as directed in their labeling each dose shall contain not less than 250 milligrams of streptomycin or dihydrostreptomycin, 100,000 units of polymyxin B, and 150 milligrams of neomycin. The streptomycin used conforms to the requirements of § 444.70a(a)(1) of this chapter, except paragraph (a)(1)(ii), (iii), (iv), and (v) of that section. The dihydrostreptomycin used conforms to the requirements of § 444.10a(a) of this chapter, except the standards for sterility, safety, pyrogens, and histamine. The polymyxin B used conforms to the requirements prescribed for polymyxin B by § 448.30 of this chapter, except the standard for safety. The neomycin used conforms to the standards prescribed by § 444.42a(a)(1)(i), (v), and (vi) of this chapter. Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

(4) * * *

(iii) * * *

(*b*) The streptomycin or dihydrostreptomycin used in making the batch: six packages, each containing approximately equal portions of not less than 0.5 gram.

* * * * *

(b) * * *

(1) * * *

(i) *Streptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample in one of the following ways:

* * * * *

(iii) *Polymyxin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample as follows:

(*a*) Place a convenient-sized representative quantity of the sample in a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 25 milliliters of 10-percent potassium phosphate buffer, pH 6.0, containing 2 grams of K_2HPO_4 and 8 grams of KH_2PO_4 in each 100 milliliters,

and shake. Remove the buffer layer and repeat the extraction with 25-milliliter portions of buffer at least three times and any additional times that may be necessary to ensure complete extraction of the antibiotic. Combine the extractives and make the proper estimated dilutions in 10-percent potassium phosphate buffer pH 6.0, to give a concentration of 10 units per milliliter (estimated). If the sample contains a water-soluble base, accurately weigh a representative sample and place in a blending jar containing 1 milliliter of polysorbate 80 and sufficient 10-percent potassium phosphate buffer, pH 6.0, to give a final volume of 200 milliliters. Use a high-speed blender and blend the mixture for 2 minutes. Make the proper estimated dilutions, using 10-percent potassium phosphate buffer, pH 6.0.

(b) The standard curve is prepared in the following concentrations: 6.4, 8.0, 10.0, 12.5, and 15.6 units per milliliter in 10 percent potassium phosphate buffer, pH 6.0. The 10-units-per-milliliter concentration is used as the reference point. Calculate from the quantity of neomycin that would be present when the sample is diluted to contain 10 units of polymyxin (labeled potency) per milliliter. Prepare the polymyxin standard curve by adding the calculated quantity of neomycin to each concentration of polymyxin used for the curve. Use the standard curve to calculate the polymyxin content. Its content of polymyxin is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(iv) *Neomycin content.* Proceed as directed in § 436.105 of this chapter:

(a) Prepare the samples as directed in paragraph (b)(1)(i)(*a*) of this section or by a blending technique as follows: * * *

* * * * *

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

0. In § 544.973b by revising paragraph (b)(2) to read as follows:

§ 544.973b Streptomycin/dihydrostreptomycin solution for inhalation therapy.

* * * * *

(b) * * *

(2) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted drug.

Effective date: This regulation shall become effective May 26, 1976.

(Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b).)

Dated: April 19, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-11765 Filed 4-25-77;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Poloxalene Liquid Feed Supplement

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Commissioner of Food and Drugs is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (38-281V) filed by Smith Kline Animal Health Products, Div. of Smith Kline Corp., 1500 Spring Garden St., Philadelphia, PA 19101, proposing the safe and effective use of a 10 gram per pound poloxalene liquid feed supplement for the control of legume (alfalfa, clover) bloat in cattle grazing on prebloom legumes.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), § 558.465 is amended by revising paragraph (d) to read as follows:

§ 558.465 Poloxalene liquid feed supplement.

* * * * *

(d) *Conditions of use.* (1) For control of legume (alfalfa, clover) and wheat pasture bloat in cattle, use 7.5 grams of poloxalene per pound of liquid feed supplement (1.65 percent weight/weight). Each animal must consume 0.2 pound of supplement per 100 pounds of body weight daily for adequate protection.

(2) For control of legume (alfalfa, clover) bloat in cattle grazing of prebloom legumes, use 10.00 grams of poloxalene per pound of liquid supplement (2.2 percent weight/weight). Each animal must consume 0.15 pound of supplement per 100 pounds of body weight daily for adequate protection. If consumption exceeds 0.2 pound of supplement per 100 pounds of body weight daily, cattle should be changed to a supplement containing 7.5 grams of poloxalene per pound.

(3) Poloxalene liquid premix must be thoroughly blended and evenly distributed into a liquid feed supplement and offered to cattle in a covered liquid feed supplement feeder with lick wheels. The formula for the liquid feed supplement, on a weight/weight basis, is as follows: Ammonium polyphosphate 2.66 percent, phosphoric acid (75 percent) 3.37 percent, sulfuric acid 1.00 percent, water 10.00 percent, and molasses sufficient to make 100.00 percent, vitamins A and D and/or trace minerals may be added. One free-turning lick wheel per 25 head of cattle must be provided.

(4) The medicated liquid feed supplement must be introduced at least 2 to 5 days befor legume consumption to accustom the cattle to the medicated liquid feed supplement and to lick wheel feedings. If the medicated liquid wheel supplement feeding is interrupted, this 2- to 5-day introductory feeding should be repeated.

Effective date. This regulation shall be effective April 26, 1977.

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

Dated: April 19, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-11870 Filed 4-25-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 12—CODE OF OFFENSES FOR NAVAJO-HOPI SETTLEMENT ACT SECRETARIAL RESPONSIBILITIES

SUBCHAPTER N—GRAZING

PART 153—GRAZING REGULATIONS FOR FORMER NAVAJO-HOPI JOINT USE AREA LANDS

Revision of Regulations Affecting Lands Formerly Held in Joint Ownership

APRIL 18, 1977.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: This notice revises regulations affecting the lands formerly held in joint, undivided and equal ownership between the Navajo and Hopi Tribes. On February 10, 1977 an order was entered in Federal District Court in Arizona partitioning the Joint Use Area and making

the lands part of the respective tribes' reservations. In that order and in the Settlement Act, which authorized partitioning, the Secretary of Interior was directed to accomplish certain tasks: (1) Livestock reduction; (2) range restoration; and (3) surveying, monumenting and fencing of the partition line. The existing regulations are revised to eliminate those parts which are not related to completion of these tasks.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

William Benjamin, Project Officer, Bureau of Indian Affairs, P.O. Box 1889, Flagstaff, Arizona 86001, 602-774-5261.

SUPPLEMENTARY INFORMATION: On July 2, 1975, regulations establishing a law and order code and controlling grazing on the Joint Use Area were promulgated 25 CFR Pts. 12 and 153, 40 FR 28026-28041. Those regulations were needed because of the undivided, joint and equal ownership between the Navajo and Hopi Tribes of the lands affected by the decision of *Healing* v. *Jones*, 210 F. Supp. 125 (D. Az. 1962), and beginning on October 14, 1972, orders of the District Court in supplemental proceedings to effectuate the decision. As a result, the area declared to be both tribes' was referred to as the "Joint Use Area." On December 22, 1974, the Navajo-Hopi Settlement Act, Pub. L. 93-531, 88 Stat. 1712, 25 U.S.C. 640d—640d-24, was enacted. It provided for the partition of those lands after a period of mediated negotiation between the tribes. Under the Settlement Act and earlier court orders, the Secretary of Interior was to reduce excess livestock on the Joint Use Area and was directed to restore the range. The Settlement Act also charged the Secretary with surveying, monumenting and fencing of the partition line. On February 10, 1977, the District Court in the supplemental proceedings now entitled *Sekaquaptewa, et al.* v. *MacDonald, et al.*, Civ. No. 579 Pct (JAW), accepted the recommended partition line of the mediator, ordered the land partitioned and declared the lands to be part of the respective tribes' reservations. The Joint Use Area was thus formally eliminated. While the order recognized that each tribe was being vested with civil and criminal jurisdiction over its lands, the court also charged the Secretary of the Interior with ensuring that law and order are maintained and that the civil rights of persons not be obstructed during the period that livestock reduction and range restoration are being carried out. On March 11, 1977, the District Court entered an order explicitly declaring that the Secretary of Interior had exclusive authority and jurisdiction over all activities that are in any way connected with livestock reduction, range restoration, and surveying, monumenting, and fencing of the former Joint Use Area lands. Because of the seizure of allegedly trespassing Navajo livestock on February 28, 1977, by the Hopi Tribe acting under a tribal ordinance, the Hopi and Navajo Tribes were enjoined in the order from interfering with or conducting any of the aforementioned activities.

The need for the extensive involvement of the Bureau of Indian Affairs in Joint Use Area matters has now been curtailed by partitioning. However, livestock reduction and range restoration continue. But notwithstanding the partitioning of what may now be referred to as the former Joint Use Area and those lands being made a part of the respective reservations, there is a need for the Secretary to fulfill his responsibilities and to do so independently. Thus, it is proposed to reduce the amount of Bureau of Indian Affairs involvement in former Joint Use Area matters to the minimum extent possible consistent with the obligation to fulfill those responsibilities specifically mandated by the Settlement Act and existing orders of the Court. However, the jurisdiction asserted under the Law and Order Code for the Joint Use Area extended only to Indians. But because of the Settlement Act and court orders vest the Secretary with exclusive subject matter jurisdiction over the aforementioned activities, jurisdiction under the Code of Offenses is enlarged to include all persons.

The assertion of this jurisdiction will last so long as it takes to complete the Settlement Act mandated tasks. As they are fulfilled for each range management unit, complete exclusive jurisdiction will then be vested in the respective tribes. The regulations in 25 CFR Pt. 12 have been revised to eliminate those subparts and those crimes not pertaining to livestock reduction, range restoration and surveying, monumenting and fencing of the partition boundary. Retained are only those powers concluded to be reasonably necessary to accomplish these tasks. Part 153 has been revised to delete the Joint Use Committee composed of representatives of each tribe and to change names so as to recognize the partition of the lands.

In order to effectuate reduction and restoration, the former Joint Use Area has been divided into five management units. Each of these units will be fenced and cross-fenced into range units. It is these activities which must be accomplished so as to have an orderly administration of the Area and to achieve the goals set by the statute. The goals can only be accomplished by the continued presence of Bureau of Indian Affairs personnel who must delicately oversee the removal of the affected persons' livelihood—their livestock.

There is an immediate need for maintaining the Bureau of Indian Affairs' activities without interruption. These matters are directly conferred on the Secretary both by statute and court order. Therefore, the finding is hereby made that this rule-making is exempt from the public procedure requirements of 5 U.S.C. 553(b). Under the above mentioned circumstances, public procedure is impractical. In view of the fact that the changes represent a reduction of existing regulations and constitute revisions made necessary by court order and statute, public procedure thereon is unnecessary. And because of the detrimental exertion of jurisdiction by either tribe in the former Joint Use Area due to uncertainty over their authority, public procedure is contrary to the public interest. Therefore, under 5 U.S.C. 553(b)(3)(B), these revised regulations are published to become effective on April 26, 1977.

(5 U.S.C. 301, 25 U.S.C. 9, 463, and 640d-18.)

Part 12—*Code of Offenses for Navajo-Hopi Settlement Act Secretarial Responsibilities* is revised to read as follows:

Subpart A—Title, Purpose and Definitions

Sec.
12.1 Title.
12.2 Purpose.
12.3 Definition.

Subpart B—Judicial Power

12.4 Judicial power.

Subpart C—The Court of Appeals

12.5 Jurisdiction.
12.6 Composition.
12.7 Sessions.

Subpart D—Trial Court

12.8 Composition.
12.9 Court sessions.
12.10 Qualification of judges.
12.11 Disqualification.
12.12 Removal.

Subpart E—Jurisdiction of Court

12.13 Jurisdiction.

Subpart F—Rules and Court of Powers

12.14 Court rules.
12.15 Powers of the courts.

Subpart G—Court Officials

12.16 Officers of the courts.
12.17 Court clerks.
12.18 Representation before the courts.

Subpart H—General Provisions

12.19 Public records.
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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, and 640d-18.

Subpart A—Title, Purpose and Definitions

§ 12.1 Title.

The provisions contained in Part 12 shall be known as the "Code of Offenses for Navajo-Hopi Settlement Act Secretarial Responsibilities".

§ 12.2 Purpose.

(a) It is the purpose of the regulations in this code to provide the means through adequate law enforcement for the completion of those tasks imposed upon the Secretary of Interior in the Navajo-Hopi Settlement Act, Act of December 22, 1974, Pub. L. 93-531, 88 Stat. 1712, 55 U.S.C. 640d—640d-24.

(b) The regulations in this code shall continue to apply until such time as notice is published in the FEDERAL REGISTER of the completion of the Settlement Act mandated responsibilities within a range management unit located within the former Joint Use Area.

(c) The regulations in this code shall be enforced by the Court of Indian Offenses known as the Court as provided in 25 CFR Part 12.

§ 12.3 Definitions.

In this code, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older .

(b) "Code" shall mean the Code of Offenses for Navajo-Hopi Settlement Act Secretarial Responsibilities.

(c) "Indian" shall mean any person of Indian descent who is a member of any recognized Indian tribe under federal jurisdiction.

(d) "Non-Indian" shall mean a person who is not an Indian.

(e) "Person" shall mean an individual and, where relevant, a corporation or unincorporated association.

(f) "Property" shall mean both real and personal property.

(g) "Courts" shall mean the Trial Court and Court of Appeals for the former Joint Use Area.

(h) "Project Officer" means the Project Officer of the Bureau of Indian Affairs Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in those matters respecting the former Joint Use Area pertaining to completion of the tasks imposed upon the Secretary of the Interior under the Navajo-Hopi Settlement Act, 25 U.S.C. 640d, et seq.

(i) "Former Joint Use Area" shall mean that area found in *Healing* v. *Jones*, 210 F. Supp. 125 (D.Az.) 1962 to be held in joint, undivided and equal ownership by the Navajo and Hopi Tribes and partitioned on February 10, 1977, by the District Court in the supplemental proceeding entitled *Sekaquaptewa* v. *MacDonald* No. 579 Act (JAW), as authorized under the Settlement Act.

Subpart B—Judicial Power

§ 12.3 Judicial power.

The judicial powers within the former Joint Use Area shall be vested in a Court of Appeals and a Trial Court.

Subpart C—The Court of Appeals

§ 12.5 Jurisdiction.

The Court of Appeals shall have jurisdiction to hear appeals from final orders and final judgments of the Trial Court as provided in the Appeal provisions contained herein.

§ 12.6 Composition.

The Court of Appeals shall consist of a single Judge, other than the presiding Judge of the Court which rendered the order or judgment from which appeal is taken. When the Chief Judge is the Judge of the rendering Court, an Associate Judge shall sit as the Appeal Court Judge, with at least two other Judges to hear the appeal.

§ 12.7 Sessions.

The Court of Appeals shall meet within twenty working days after notice of an appeal or application for other relief has been filed with the Clerk of the Court, or as soon thereafter as possible.

Subpart D—Joint Use Trial Court

§ 12.8 Composition.

The Trial Courts shall consist of a Judge appointed by the Commissioner of Indian Affairs or his duly appointed representative. There shall be a Chief Judge whose duties shall be full time; and there may be one or more Associate Judges who may be called to serve when the occasion arises. The Associate Judges may be hired on contract and compensated on a per diem basis.

§ 12.9 Court sessions.

(a) Regular sessions of the Trial Courts may be held on a regular workday at times and places designated by the Chief Judge.

(b) Special sessions of the Trial Courts may be held as necessary upon call of the Chief Judge: Provided, That such sessions are held at reasonable times and places.

§ 12.10 Qualifications of judges.

Any person over the age of 21 years shall be eligible to serve as a Judge of the Court if he has never been convicted of a felony or, within the preceding year, been convicted of a misdemeanor other than a minor traffic violation. Such person shall complete a course of training in judicial procedures.

§ 12.11 Disqualification.

No Judge shall hear or determine any case wherein he has any direct interest or wherein any relative, by marriage or blood in the first or second degree, is a party. Any party to a proceeding may raise the issue of the qualification of the Judge to hear the case.

§ 12.12 Removal.

(a) Any Judge of the Court may be suspended, dismissed, or removed by the Commissioner of Indian Affairs or his representative for any of the following reasons:

(1) Conviction of felony in any court;

(2) Conviction of any offensive involving moral turpitude in any court;

(3) Conviction of the offense of disorderly conduct;

(4) Being under the influence of alcoholic beverages while presiding over the Court;

(5) Any other conduct unbecoming to a Judge of the Court.

(b) A judge shall be given full and fair opportunity to reply to any and all charges for which he may be removed from his judicial office.

Subpart E—Jurisdiction of Court

§ 12.13 Jurisdiction.

(a) The Trial Court of the Courts of the former Joint Use Area shall have jurisdiction over all offenses enumerated in the code when committed by any person within the former Joint Use Area.

(1) All persons employed by the Bureau of Indian Affairs shall be subject to jurisdiction of the Courts.

(b) The jurisdiction of the Courts shall be exclusive of any other court over those matters pertaining to livestock reduction, range restoration, surveying, monumenting and fencing within the former Joint Use Area with respect to any offense enumerated herein over which a Federal Court may assert jurisdiction, the jurisdiction of the Courts shall be concurrent and not exclusive.

Subpart F—Rules and Court Powers

§ 12.14 Court rules.

The Chief Judge of the Trial Court shall promulgate rules to govern the proceedings in the Trial Courts, subject to the approval of the Project Officer of the former Joint Use Area, *Provided*, That such rules shall not abridge, enlarge, or modify any substantive rights and shall preserve the right of trial by jury as provided in Subpart H, section 12.44 of this Chapter.

§ 12.15 Powers of the courts.

The Court of Appeals and the Trial Courts shall have, but not be limited to, the following powers:

(a) To punish for contempt any of its officers or other persons present at judicial proceedings;

(b) To compel witnesses to attend and testify and to produce documents or other tangible objects to be used as evidence: *Provided*, That a defendant in a criminal trial may not be compelled to be a witness against himself.

Subpart G—Court Officials

§ 12.16 Officers of the courts.

Officers of the Courts shall include:

(a) Court Clerks and court interpreters;

(b) Police Officers, Probation Officers, and other persons when carrying out orders of the Courts;

(c) Professional and lay counsel representing parties before the Courts;

(d) Bailiffs; and

(e) Prosecutor.

§ 12.17 Court clerks.

(a) A person shall be employed to serve the Courts and shall be known as the Clerk of the Court. Additional clerks may be employed as necessary.

(b) The Clerk of the Court is charged with the duty of assisting the lawful functioning of the courts. Such duties shall include, but not be limited to, the following:

(1) Drafting complaints, subpoenas, warrants, writs, or other orders of the Court;

(2) Maintaining records of court proceedings;

(3) Administering oaths;

(4) Collecting and accounting for fines and other property taken into the custody of the Courts;

(5) Accepting bonds; and

(6) Filing notices of appeal and petitions.

§ 12.18 Representation before the courts.

A person before the Courts may represent himself or have another person or a professional attorney serve as his counsel.

Subpart H—General Provisions

§ 12.19 Public records.

Except as otherwise provided in this Code, the Courts shall keep open for inspection a record of all proceedings of each Court. Such record shall reflect the title of the case, the names and addresses of parties and witnesses, the substance of the complaint, the date of the hearing or trial, by whom conducted, the findings of the Court or jury, and the judgment or order entered, together with any other facts or circumstances deemed of importance to the case.

§ 12.20 Copies of laws.

The Courts shall be provided with, or have access to, all tribal, Federal and state laws and regulations of the Bureau of Indian Affairs applicable to the conduct of persons within the boundaries of the former Joint Use Area.

§ 12.21 Complaints.

(a) All prosecutions for violation of the Code of Offenses shall be initiated by complaint. A Complaint is a written statement sworn to by the complaining witness and charging that a named individual(s) has committed a particular criminal offense.

(b) Complaints shall contain:

(1) The signature of the complaining witness sworn to before a judge or an individual designated by the Chief Judge; and

(2) A written statement by the complaining witness describing in ordinary language the nature of the offense committed including the time and place as nearly as may be ascertained; and

(3) The name or description of the person alleged to have committed the offense; and

(4) The section of the Code of Offenses allegedly violated.

(c) The Chief Judge of the Court may designate an individual who shall be available to assist persons in drawing up complaints and who shall screen them for sufficiency. Complaints shall then be submitted without unnecessary delay to a judge to determine whether a warrant or summons should be issued.

(d) If the complaint, or the complaint together with other sworn statements, is sufficient to establish probable cause to believe that a crime has been committed by the person charged, the court shall issue a warrant pursuant to 12.23 of this Code instructing the police to arrest the named accused or, in lieu thereof, the court shall issue a summons commanding the accused to appear before the court at a specified time and place to answer to the charge.

(e) When an accused has been arrested without a warrant, a complaint shall be filed forthwith with the court for review as to whether probable cause exists to hold the accused, and in no instance shall a complaint be filed later than at the time of arraignment.

§ 12.22 Arrests.

(a) Arrest is the taking of a person into police custody in order that he may be held to answer for a criminal offense.

(b) No police officer shall arrest any person for a criminal offense set out in the Code except when:

(1) The officer shall have a warrant signed by a Judge of the Courts commanding the arrest of such person, or the officer knows for a certainty that such a warrant has been issued; or

(2) The offense shall occur in the presence of the arresting officer; or

(3) The officer shall have probable cause to believe that an offense has been committed and that the person to be arrested has committed the offense.

§ 12.23 Arrest warrants.

(a) Every judge of the Courts shall have authority to issue warrants to arrest and such warrants shall be issued only upon a showing of probable cause in sworn written statements. The trial judge shall deny the issuance of a warrant, if he finds that there is not probable cause to believe that the offense charged has been committed by the named accused.

(b) The arrest warrant shall contain the following information:

(1) Name or description and address, if known, of the person to be arrested.

(2) Date of issuance of the warrant.

(3) Description of the offense charged.

(4) Signature of the issuing judge.

§ 12.24 Notification of rights at time of arrest.

Upon arrest the suspect shall be advised of the following rights:

(a) That he has the right to remain silent.

(b) That any statements made by him may be used against him in court.

(c) That he has the right to obtain counsel at his own expense.

(d) That if he wishes to answer questions of the police, he may have his counsel present with him.

§ 12.25 Summons in lieu of warrant.

(a) When otherwise authorized to arrest a suspect a police officer or a judge may, in lieu of a warrant, issue a summons commanding the accused to appear before the Court at a stated time and place and answer to the charge.

(b) The summons shall contain the same information as a warrant, except that it may be signed by a police officer.

(c) If a defendant fails to appear in response to a summons, a warrant for his arrest shall be issued.

§ 12.26 Hot pursuit.

A police officer may arrest a person beyond the territorial boundaries of the former Joint Use Area when such officer has probable cause to believe that the person has committed an offense and is attempting to escape arrest.

§ 12.27 Search warrant—defined.

A search warrant is a written order, signed by a Court judge, and directed to a police officer ordering him to conduct a search and seize items or property specified in the warrant. A warrant shall describe the property or place to be searched and shall describe the items or person to be seized.

§ 12.28 Issuance of search warrant.

(a) Every Court judge shall have the power to issue warrants for the search and seizure of property and premises of any person under the jurisdiction of the court.

(b) No warrant of search and seizure shall be issued except upon probable cause that a search will discover: stolen, embezzled or contraband or otherwise criminally possessed property; property which has been or is being used to commit a criminal offense; or property which constitutes evidence of the commission of a criminal offense. Such probable cause shall be supported by a duly signed, written and sworn statement based upon reliable information.

§ 12.29 Execution and return of search warrant.

Warrants of search and seizure shall only be executed by police officers. The executing officer shall return the warrant to the Court within the time limit shown on the face of the warrant, which in no case shall be longer than 10 days from the date of issuance. Warrants not returned within such time limit shall be void.

§ 12.30 Search without a warrant.

No police officer shall conduct any search without a valid warrant except:

(a) Incident to making a lawful arrest; or

(b) With consent of the person being searched; or

(c) When he has probable cause to believe that the person searched may be armed and dangerous; or

(d) When the search is of a moving vehicle and the officer has probable cause to believe that it contains contraband, stolen, or embezzled property.

§ 12.31 Contraband, confiscated, and abandoned property.

(a) The disposition of all property, confiscated as contraband, seized as evidence, or otherwise taken into the custody of the Court, shall be determined at a hearing before a Trial Court.

(b) The Trial Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful; such property may be declared property of the United States. However, property delivered to the custody of the Court by a private person shall become the property of such person if it is not claimed within 30 days after the hearing.

(c) Any property declared to be the property of the United States may be dealt with as authorized by Federal law.

(d) The Clerk of the Court shall keep written records of all transfers and dispositions of property taken into the custody of the Court.

(e) Contraband shall mean:

(1) Any property, under this Code, which is illegal to possess.

§ 12.32 Arraignment.

(a) Arraignment is the bringing of an accused before the court, informing him of his rights and of the charge against him, receiving his plea, and setting bail as appropriate in accordance with § 12.-35.

(b) Arraignment shall be held in open court without unnecessary delay after the accused is taken into custody and in no instance shall arraignment be later than the next regularly scheduled session of court.

§ 12.33 Rights of accused at arraignment.

Before an accused is required to plead to any criminal charge the judge shall:

(a) Read the complaint to the accused and determine that he understands the complaint and the section of the Code which he is charged with violating, including the maximum authorized penalty; and

(b) Advise the accused that he has the right to remain silent; to be tried by a jury; and to be represented by counsel at his own expense and that the arraignment will be postponed should he desire to consult with counsel.

§ 12.34 Receipt of plea at arraignment.

(a) If the accused pleads "not guilty" to the charge, the judge shall then inform him of a trial date and set conditions for bail prior to trial.

(b) If the accused pleads "guilty" to the charge the judge shall determine that the plea is made voluntarily and that the accused understands the consequences of the plea, including the rights which he is waiving by the plea. The judge may then impose sentence or defer sentencing for a reasonable time in order to obtain any information he deems necessary for the imposition of a just sentence. The accused shall be afforded an opportunity to inform the court of facts in mitigation of the sentence.

(c) If the accused refuses to plead, the judge shall enter a plea of not guilty on his behalf.

§ 12.35 Bail—Release prior to trial.

Every person charged with a criminal offense before the Court shall be entitled to release from custody pending trial under whichever one or more of the following conditions is deemed necessary to reasonably assure the appearance of the person at any time lawfully required:

(a) Release on personal recognizance upon execution by the accused of a written promise to appear at trial and all other lawfully required times.

(b) Release to the custody of a designated person or organization agreeing to assure the accused's appearance.

(c) Release with reasonable restrictions on the travel, association, or place of residence of the accused during the period of release.

(d) Release after deposit by the accused or a bail bondsman's bond in either cash or other sufficient collateral in an amount specified by the judge or a bail schedule. The judge, in his discretion, may require that the accused post only a portion of the total bond, the full sum to come due if the accused fails to appear as ordered.

(e) Release after execution of bail agreement by two responsible members of the community.

(f) Release upon any other condition deemed reasonably necessary to assure the appearance of the accused as required.

§ 12.36 Bail—Release by police officer.

Any Police Officer authorized to do so by the court may admit an arrested person to bail pursuant to the bail schedule or release upon personal recognizance. Police Officers shall have available a bail schedule prepared by the court which shall be used for setting money bond where such condition of release is deemed necessary. Any Police Officer who refuses to release an accused on bail or who specifies a bail condition which the accused is unable to satisfy shall bring such accused before a judge for review of the release conditions at the first available opportunity and without unnecessary delay.

§ 12.37 Bail—Release pending appeal.

Every person who has been convicted of an offense and who has filed an appeal or a petition for a writ of habeas corpus shall be treated in accordance with the provision of § 12.36 of this chapter unless the judge has substantial reason to believe that no conditions of release will reasonably assure the appearance of the accused or that release of the accused is likely to pose a danger to the community, to the accused, or to any other person. If the judge finds such to be the case he may order detention of the accused.

§ 12.38 Withdrawal of guilty plea.

The court may, in its discretion, allow a defendant to withdraw a plea of guilty whenever it appears that the interest of justice and fairness would be served by doing so.

§ 12.39 Issuance of subpoenas.

(a) Upon request of any party to a case or upon the court's own initiative, the court shall issue subpoenas to compel the testimony of witnesses, or the production of books, records, documents or any other physical evidence which is relevant and necessary to the determination and not an undue burden on the person possessing the evidence of the case. The clerk of the court may act on behalf of the court and issue subpoenas which havce been signed by a judge and which are to be served within the confines of the former Joint Use Area.

(b) A subpoena shall bear the signature of the Chief Judge or an Associate

Judge of the Court and it shall state the name of the court, the name of the person or description of the physical evidence to be subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

§ 12.40 Service of subpoena.

(a) A subpoena may be served at any place within or without the confines of the former Joint Use Area but any subpoena to be served outside the former Joint Use Area shall be issued personally by a judge of the Court.

(b) A subpoena may be served by any Police Officer or other person appointed by the court for such purpose. Service of a subpoena shall be made by delivering a copy of it to the person named or by leaving a copy at his place of residence with any competent person 16 years of age or older who also resides there.

(c) Proof of service of the subpoena shall be filed with the clerk of the court by noting on the back of a copy of the subpoena the date, time, and place that it was served and noting the name of the person to whom it was delivered. Proof of service shall be signed by the person who actually served the subpoena.

§ 12.41 Failure to obey subpoena.

In the absence of a justification satisfactory to the court, a person who fails to obey a subpoena may be deemed to be in contempt of court and a bench warrant may be issued for his arrest.

§ 12.42 Witness fees.

(a) Each witness answering a subpoena shall be entitled to a fee as set by rules of the Courts and approved by the Project Officer for each day his services are required in court. In addition, the court may order the payment of reasonable travel and living expenses of the witness.

(b) The fees and expenses provided for in this section shall be paid to the witness upon completion of the trial, but such expenses may be taxed as costs against the defendant if he is found guilty, provided, however, that no defendant shall be incarcerated solely because of his inability to pay such costs immediately.

(c) If the court finds that a complaint was not filed in good faith but with frivolous or malicious intent, it may order the complainant to reimburse the Court for the expenditures incurred under this section, and such order shall constitute a judgment upon which execution may be levied.

§ 12.43 Trial procedure.

(a) The time and place of court sessions, and all other details of judicial procedure shall be set out in rules of court adopted pursuant to § 12.14 of this Code.

(b) The court shall not be bound by common law rules of evidence, or the rules of evidence which pertain in state or federal courts.

§ 12.44 Jury trial.

(a) A jury trial shall be held if: (1) Requested by either party in a civil case; or (2) Requested by the defendant in a criminal case where imprisonment is a possible penalty for the offense charged.

(b) A list of eligible jurors shall be prepared and maintained by the Project Officer or his representative. Any person over the age of 21 years, not subject to judicial restraint by any court, and who resides within the former Joint Use Area may be listed as an eligible juror. Jurors shall be compensated at a rate recommended by the Judge and approved by the Project Officer.

(c) A jury shall consist of seven persons chosen at random by the presiding Judge from the persons listed as eligible to serve as jurors.

(d) Each party shall have the right to challenge an unlimited number of jurors for cause on the basis of lack of qualifications, partiality, or other acceptable reason. Whether or not cause exists shall be determined by the Judge in all instances. In addition, each party shall have the right to a maximum of three peremptory challenges for jurors, for which no reasons need be given and which the judge may not refuse to grant.

(e) A judge shall instruct the jury with regard to the applicable law and the jury shall decide all questions of fact on the basis of that law.

(f) The jury shall deliberate in secret and return a verdict of guilty or not guilty. The judge shall render judgment in accordance with the jury verdict.

(g) A jury may render a verdict by a vote of 6 to 1 in criminal cases.

§ 12.45 Contempt of Court.

(a) The Judges of the Courts may rule a person in contempt of court if he willfully and unjustifiably, disrupts, obstructs, or otherwise interferes with the due and orderly course of proceedings in the courtroom, after being advised by the Court to cease.

(b) All rulings of, and sentences for, contempt shall be announced immediately after the acts of contempt occur.

(c) A person found in contempt of court may be sentenced to imprisonment for a period not to exceed 30 days or to pay a fine not to exceed $150, or both.

§ 12.46 Commitments.

(a) No person shall be detained, jailed, or imprisoned for more than 36 hours pursuant to an arrest unless there be issued an express or conditional commitment order signed by a duly qualified Judge of a Trial Court. Any person arrested on a Friday, Saturday, or a day before a legal holiday who does not provide bail may be held in custody pending arraignment until noon of the next regular business day of the Trial Court.

(b) There shall be issued for each person held for trial a temporary commitment order and, for each person held after sentencing, a final commitment order.

§ 12.47 Right of appeal.

(a) Any party to a case, other than the prosecution in a case, who is aggrieved by a final order or final judgment of a Trial Court, shall have the right to appeal to the Court of Appeals.

(b) The appealing party shall file with the Clerk of the Court a notice of appeal along with a filing fee of $5 within ten (10) days after the entry of the final order or final judgment from which appeal is taken. The filing fee may be waived in the appeal of a conviction if the defendant files an affidavit swearing that he is without funds to pay the filing fee. If the Court of Appeals finds that the appellant is without funds to pay the filing fee, it shall order that the fee be permanently waived.

(c) If the Court of Appeals finds that any or a combination of the following has occurred, it shall order the judgment or order reversed or may remand the case for retrial: (1) Irregularities in the proceedings or conduct by the jury, adverse party, or his counsel prejudicial to the appellant; (2) Any ruling, order, or abuse of discretion which may have prevented a fair trial; (3) Newly discovered evidence which could not, with reasonable diligence, have been produced at trial; (4) Insufficient evidence to support the verdict; (5) Any error of law occurring at the trial prejudicial to the appellant; or (6) Any other reason which would warrant reversal by a court when reviewing a similar appeal.

(d) If the Court of Appeals finds that reversal under paragraph (c) of this section is unwarranted, it shall affirm the judgment or order appeal from; no further appeal under this Code shall thereafter be permitted.

§ 12.48 Cooperation by Federal employees.

(a) No field employee of the Bureau of Indian Affairs shall obstruct, interfere with, or control the function of the Courts or influence such functions in any manner except as permitted by the regulations or in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs, particularly those engaged in social, health, or education services, shall assist the courts upon their request in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Subpart I—Sentencing

§ 12.49 Nature of sentences.

Except as otherwise provided hereunder, a person found guilty of violating a provision of the Code may be sentenced to the penalty provided in such offense. Sentences shall be imposed without unreasonable delay and shall not exceed the maximum penalties provided by law. The penalties provided for the offense are maximum penalties and should be imposed only in extreme cases.

§ 12.50 Sentences of imprisonment.

(a) A person sentenced to imprisonment may work for the benefit of the Hopi or Navajo Tribes or for the benefit of the former Joint Use Area. Any work performed shall reduce the sentence at the rate of two days of incarceration for each day of work performed. "Day of work" shall mean at least four hours of work performed in any 24-hour period. Any work performed shall be under the supervision of any person authorized by the Court.

(b) Any sentence of imprisonment shall be reduced by any time spent in jail before judgment was entered.

§ 12.51 Payment of fines.

(a) Any person sentenced to pay a fine shall pay such fine in cash or money order to the Clerk of the Court who shall issue a receipt therefor.

(b) If the full amount of the fine cannot immediately be paid, the Court may provide for the payment of such fine in installments.

§ 12.52 Failure or inability to pay fines.

(a) A sentence of imprisonment shall not be imposed upon any indigent person in the form of an alternative to a fine, i.e. "dollars or days."

(b) Any person sentenced to pay a fine shall not be imprisoned to work off such fine if, by reason of indigency, he is unable to pay the fine imposed.

(c) Any person who is presently able to pay a fine or an installment of a fine and who willfully refuses to do so may be ordered imprisoned for, or allowed to work off, the unpaid amount of the fine at the rate of $5.00 per day for each day in jail or $10.00 for a day of work performed.

§ 12.53 Commutation of sentence.

The Judge of the sentencing Court may, at any time that one-half or more of an original sentence of imprisonment has been served, commute such sentence to a lesser period upon proof that the person sentenced served without misconduct.

§ 12.54 Suspension of sentence; probation.

(a) The Judge of the sentencing Court may suspend any sentence upon condition that the defendant comply with such reasonable terms and conditions as the Court deems necessary.

(b) When considering suspending any sentence, the Court shall consider the prior record of the defendant, his background, character, financial condition, family and work obligations, the circumstances of the offense, and attempts at restitution.

§ 12.55 Violation of suspended sentence.

(a) Any person accused of violating the terms or conditions of his suspended sentence shall be afforded a hearing before the sentencing Court to determine the truth of the accusations.

(b) Where, by a preponderance of testimony, a person is found to have violated the terms or conditions of his suspended sentence, such person may be ordered to serve his original sentence or any portion thereof.

§ 12.56 Disposition of fines.

(a) All money fines imposed for the commission of an offense shall be in the nature of an assessment of the payment of designated Court expenses. Such expenses may include the payment of fees to jurors and witnesses answering a subpoena. All fines assessed and collected shall be paid over to the Project Officer or his disbursing agent to be deposited in a special account labeled "Special Deposit, Court Funds" to the disbursing agent's credit in the Treasury of the United States. The disbursing agent shall withdraw such funds in accordance with existing federal regulations upon the order of the Clerk of the Court signed by a Judge of the Court for payment of special fees to the jurors and witnesses. The disbursing agent and the Clerk of the Court shall keep an accounting of all such deposits and withdrawals for the inspection of any interested person.

(b) Whenever such funds shall exceed the amount necessary for the payment of court expenses hereinbefore mentioned, the Project Officer shall designate further expenses of the Court which shall be paid by these funds.

§ 12.57 Civil remedies not precluded.

The imposition or suspension of any penalty, on condition of restitution to one whose person or property has been injured, for the commission of any offense under this Code shall not preclude an application for any civil remedy for such injuries.

Subpart M—Code of Offenses

§ 12.58 Definitions.

In this subpart, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older.

(b) "Bodily injury" shall mean impairment of physical condition or substantial pain.

(c) "Deadly weapon" shall mean any instrument used in such a manner as to render it capable of causing death or serious bodily injury.

(d) "Serious bodily injury" shall mean physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(e) "Person" shall mean a person as defined in § 12.3(e).

(f) "Range management personnel" shall mean the Project Officer or his representatives.

§ 12.59 Aiding and abetting.

(a) When an act is declared an offense under this Code, and no punishment for counseling or aiding in the commission of the act is expressly prescribed by law, a person who counsels or aids another in the commission of the act is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed the maximum penalty for the offense for which he aided and abetted.

§ 12.60 Assault.

(a) A person who unlawfully attempts or threatens to cause bodily injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed fifty ($50) dollars, or both.

§ 12.61 Battery.

(a) A person who:

(1) Willfully and unlawfully uses force or violence upon the person of another; or

(2) By threatening force or violence, causes another to harm himself; or

(3) Recklessly causes physical injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.62 Bribery—giving.

(a) A person who gives or offers to give to another person money, property or other thing of value with intent to influence a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.63 Bribery—receiving.

(a) A public servant who asks, receives, or offers to receive from another, money, property, or other thing of value, with intent or upon a promise to be influenced in the discharge of his public duties, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.64 Bribery—soliciting.

(a) A person who obtains or seeks to obtain money, property, or other thing of value, upon a claim or representation that he can or will improperly influence the action of a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.65 Carrying a concealed weapon.

(a) A person who has concealed on or about his person a dangerous weapon is guilty of an offense.

(b) A dangerous weapon as used in paragraph (a) of this section shall include any:

(1) Airgun, blowgun, explosive device, pistol, or other firearm;

(2) Bayonet, dagger, switchblade, bowie knife, or other kind of knife;

(3) Sling shot, club, blackjack, or chain;

(4) Sword, sword cane, or spear;

(5) Metal knuckles; or

(6) Any other instrument capable of lethal use, possessed under circumstances not appropriate for lawful use.

(c) A folded pocket knife with a blade 3" or less is not considered a dangerous weapon, except a switchblade.

(d) Paragraph (a) shall not apply to any person authorized by the tribal, state, federal governments, or subdivisions thereof to carry such weapons.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

(f) Any weapons concealed in violation of this section shall be subject to seizure and forfeiture as provided in § 12.31 of Subpart H.

§ 12.66 Conspiracy.

(a) A person is guilty of conspiracy if, with the intent to commit or to have another person commit any action constituting an offense under this Code, he conspires with one or more persons to engage in or cause the commission of such action.

(b) No agreement amounts to a conspiracy unless some act besides such agreement is done to effectuate the object thereof by one or more of the parties to the agreement.

(c) Upon a trial for conspiracy, the defendant shall not be convicted unless one or more overt acts are expressly alleged in the complaint, nor unless one of the acts alleged is proved, but other overt acts not alleged may be given in evidence.

(d) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed 180 days (6 months) or to pay a fine not to exceed $500, or both.

§ 12.67 Criminal negligence.

(a) A person who:

(1) Recklessly endangers the safety of another; or

(2) Acts with careless disregard for the safety of another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.68 Criminal trespass.

(a) A person who:

(1) Enters or remains upon any public property for an unlawful purpose; or

(2) Without good cause enters, remains upon, or traverses private lands or other property not his own, where notice against trespassing has been reasonably communicated by the owner or occupant is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.69 Cruelty to animals.

(a) A person who wantonly or maliciously inflicts pain, suffering, or death upon any animal is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) dollars, or both.

§ 12.70 Disobedience to a lawful order of the Court.

(a) A person who willfully disobeys any order, subpoena, warrant, or command duly issued by a Joint Use Court or any Officer thereof is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) dollars, or both.

§ 12.71 Disorderly conduct.

(a) A person who:

(1) Engages in fighting or provokes a fight;

(2) Disrupts any lawful public or religious meeting;

(3) Causes unreasonable noise; or

(4) Uses language or gestures knowing them to be obscene or likely to provoke a fight is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.72 Escape.

(a) A person who willfully escapes, attempts to escape, or assists in an escape, from lawful custody, is guilty of an offense.

(b) "Lawful custody" shall mean confinement by court order or actual or constructive restraint by a police officer pursuant to an arrest.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) dollars, or both.

§ 12.73 Extortion.

(a) A person who compels or induces another person to deliver property to himself or to a third person by threatening that if the property is not delivered, the actor or another will:

(1) Cause physical injury to some person; or

(2) Cause damage to property; or

(3) Accuse some person of a crime or cause criminal charges to be instituted against some person; or

(4) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule; or

(5) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(6) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty in such manner as to affect some person adversely is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.74 Fraud.

(a) A person who obtains property:

(1) By willful misrepresentation of fact; or

(2) By falsely interpreting; or

(3) By failure to reveal facts which he knows should be revealed, with intent to defraud another of such property is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed one hundred and eighty ($180) dollars, or both.

§ 12.75 Interfering with an officer.

(a) A person who willfully prevents or attempts to prevent a police officer from effecting an arrest or from otherwise discharging his official duty by:

(1) Creating a substantial risk of bodily harm to the officer or any other person; or

(2) Employing means of resistance which justify or require substantial force to overcome is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.76 Misusing property.

(a) A person who, without proper authority, knowingly uses or damages any property not his own is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) dollars, or both.

§ 12.77 Perjury.

(a) A person who knowingly makes a false statement while under oath, or who induces another to do so or who signs an affidavit knowing the same to be false, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) dollars, or both.

§ 12.78 Receiving stolen property.

(a) A person who buys, receives, conceals, or aids in concealing any property which he knows or should know has been

obtained by theft, extortion, fraud or other means constituting an offense under the provisions of this Law and Order Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) dollars, or both.

§ 12.79 Refusing to aid an officer.

(a) A person who willfully refuses to assist a police officer:

(1) In the lawful arrest of any person;

(2) In conveying a lawfully arrested person to the nearest place of confinement, when such assistance is reasonably requested, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) dollars, or both.

§ 12.80 Theft.

(a) A person, who unlawfully takes or exercises control over property whether or not possession was originally obtained with consent of the owner, with the intent of permanently depriving the owner of the value or use of the property for the benefit of himself or another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.81 Unlawful burning.

(a) A person who:

(1) Willfully and unlawfully causes or attempts to cause damage to any Federal Government property by fire or explosion; or

(2) Negligently causes damage to any property by fire or explosion; or

(3) Sets fire to any forest, brush, or grasslands, or sets a campfire, with careless disregard for the spread or escape of such fire, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days or to pay a fine not to exceed One Hundred and Twenty ($120) dollars, or both.

§ 12.82 Interfering with livestock reduction, range restoration or surveying, monumenting and fencing.

(a) Any person who: (1) Willfully impedes Bureau of Indian Affairs personnel or its agents in the execution of their duties involving the gathering of and movement from the former Joint Use Area range of trespassing livestock; or (2) Willfully and substantially interferes with the Bureau or its agents in the execution of their duties involving restoration of the range of the former Joint Use Area; or (3) Willfully and substantially interferes with Interior Department personel or its agents in surveying, monumenting or fencing the boundary partitioned to the Navajo and Hopi Tribes under the Settlement Act or any management or range units within the former Joint Use Area, shall be guilty of a crime.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days or to pay a fine not to exceed One Hundred and Twenty ($120) dollars, or both.

Subpart N—Land; Livestock and Area Regulation Offenses

§ 12.83 Branding livestock of another.

(a) A person who: (1) Willfully brands or marks an animal with a brand or mark other than the recorded brand of the owner of the animal; or (2) Willfully alters or obliterates any brand or mark on any animal not his own with intent to convert the animal to his or some third person's use without the consent of the owner is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) dollars, or both.

§ 12.84 Failure to control livestock diseases and parasites.

(a) A person who willfully refuses to dip or treat any livestock under his ownership or control in accordance with orders or directions initiated by authorized range management personnel of the former Joint Use Area is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.85 Grazing, introduction without a permit.

(a) A person who: (1) Knowingly permits livestock under his ownership or control to graze upon lands within the former Joint Use Area; or (2) Willfully introduces or causes the introduction of any livestock into unallotted or unallocated lands within the former Joint Use Area without a valid permit issued by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.86 Livestock roundups.

(a) A person who willfully hinders, harasses, obstructs, or otherwise interferes with persons conducting roundups authorized by the Project Officer is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.87 Making false reports of stock owned.

(a) A person who: (1) Knowingly makes a false report as to the total number of stock under his ownership or control; or (2) Willfully refuses to report the number of stock under his ownership or control, when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.88 Refusal to brand or mark livestock.

(a) A person, who willfully refuses to brand or mark any livestock under his ownership or control when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.89 Refusal to dispose of cull or infected animals.

(a) A person who willfully refuses to dispose of or remove any cull or infected animals designated for disposal or removal by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.90 Trespass—inter-district.

(a) A person who knowingly permits any livestock under his ownership or control to occupy or graze upon land reserved by range management personnel for demonstration, administration or agricultural purposes, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.91 Unauthorized use of range.

(a) A person who willfully: (1) Grazes livestock under his ownership or control in the former Joint Use Area in excess of the number allowed under his grazing permit; or (2) Refuses to graze livestock under his ownership or control in accordance with plans made public by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.92 Unauthorized fencing.

(a) A person who fences any land knowing such fencing is not authorized by range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.93 Violation of regulations.

(a) A person who willfully: (1) Violates any provision of 25 CFR Part 153; or (2) Violates or refuses to comply with lawful orders and directions issued by the Secretary of the Interior or his representatives for the purpose of regulating the use or occupancy of the former Joint Use Area is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) dollars, or both.

§ 12.94 Other actions not precluded.

The arrest, conviction, or sentencing of any person for violating any provision contained in this part shall not preclude impoundment, seizure, or other authorized action taken by range management personnel for the enforcement of regulations for, or management of, the former Joint Use Area.

Subpart R—Other Provisions

§ 12.95 Indian Police.

The Project Officer shall be recognized as commander of the Indian police of the former Joint Use Area and shall be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the Project Officer or his duly authorized representative to keep himself informed as to the efficiency of the Indian police in the discharge of their duties, to subject them to regular inspection, to inform them of their duties, and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Project Officer to detail such Indian Policemen as may be necessary to carry out the orders of the Court and to preserve order during court sessions. The Project Officer shall investigate all reports and charges of misconduct on the part of Indian Policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations.

§ 12.96 Police commissioners.

The Project Officer may, with the approval of the Commissioner of Indian Affairs, designate as police commissioner any qualified person. Such Police Commissioner shall obey the orders of the Project Officer and see that the orders of the Court are properly carried out. The police commissioner shall be responsible to the Project Officer for the conduct and efficiency of the Indian Police under his direction and shall give such instruction and advice to them as may be necessary. The police commissioner shall also report to the Project Officer all violations of law or regulation and any misconduct of any member of the Indian Police.

§ 12.97 Police training.

It shall be the duty of the Project Officer to maintain from time to time as circumstances require and permit classes of instruction for the Indian Policemen. Such classes shall familiarize the Policemen with the manner of making searches and arrests, the proper and human handling of prisoners, the keeping of records of offenses and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

§ 12.98 Indian policemen.

(a) The Project Officer may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian Police whose qualifications shall be as follows: (1) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required. (2) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty. (3) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

(b) The duties of an Indian policeman shall be:

(1) To obey promptly all orders of the police commissioner or the Court when assigned to that duty;

(2) To lend assistance to brother officers;

(3) To report and investigate all violations of any law or regulation coming to his notice or reported for attention;

(4) To arrest all persons observed violating the laws and regulations for which he is held responsible;

(5) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest;

(6) To prevent violations of the laws and regulations;

(7) To report to his superior officers all accidents, births, deaths, or other events or impending events of importance;

(8) To abstain from the use of intoxicants or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department;

(9) To refrain from the use of profane, insolent, or vulgar language;

(10) To use no unnecessary force or violence in making an arrest, search, or seizure;

(11) To keep all equipment furnished by the government in reasonable repair and order;

(12) To report the loss of any and all property issued by the government in connection with official duties;

(13) To collect and issue receipts for bail.

§ 12.99 Dismissal.

The Project Officer may remove any Indian Policeman for any noncompliance with the duties and requirements as set out in the police duty guidelines or for neglect of duty.

§ 12.100 Return of equipment.

Upon the resignation, death, or discharge of any member of the Indian police, all articles or property issued him in connection with his official duties must be returned to the Project Officer or his representative.

Part 153—*Grazing Regulations for Former Navajo-Hopi Joint Use Area Lands*, is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 153 issued under 5 U.S.C. 301; 25 U.S.C. 2, and 640d–18.

§ 153.1 Definitions.

As used in this Part 153, terms shall have the meanings set forth in this section.

(a) "Project Officer" means the Special Project Officer of the Bureau of Indian Affairs Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in matters respecting the former Joint Use Area.

(b) "Former Joint Use Area" means the area established by the United States District Court for the District of Arizona in the case entitled *Healing* v. *Jones*, 210 F. Supp. 125 (1962), which is inside the Executive Order Area (Executive Order of December 16, 1882) but outside Land Management District 6 and which was partitioned by court order dated February 10, 1977.

(c) "Range unit" means a tract of range land designated as a management unit for administration of grazing.

(d) "Permit" means a revocable privilege granted in writing limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term as used herein shall include written authorizations issued to enable the crossing or trailing of domestic livestock across specified tracts or range units.

(e) "Animal unit" means one adult cow with unweaned calf by her side or the equivalent thereof based on comparative forage consumption. Conversion factors to be accepted are: ewe, doe, buck, ram, 0.25; horse, mule, donkey, burro, 1.25 animal units.

(f) "Tribe" means the Navajo or Hopi Tribes including all bands, chapters, villages and clans.

(g) "Allocate" means to apportion grazing privileges including the determination of who may graze livestock, the number and kind of livestock, and the place such livestock will be grazed.

§ 153.2 Authority.

It is within the general authority of the Secretary to protect Indian trust lands against waste and to prescribe rules and regulations under which these lands may be leased or permitted for grazing. Also, under the Navajo-Hopi Settlement Act, 25 U.S.C. 640d–640d–24, the Secretary is to (a) reduce livestock grazing within the former Joint Use Area to carrying capacity, (b) restore the range to the maximum grazing extent feasible, and (c) survey, monument and fence the partition boundary.

§ 153.3 Purpose.

These regulations are issued to carry out the Secretary's responsibilities mandated by the Settlement Act. The regulations of Part 153 apply only to the former Joint Use Area of the 1882 Executive Order Area. Parts 151 and 152 do not apply to the former Joint Use Area.

§ 153.4 Establishment of range units.

The Project Officer will use Soil and Range Inventory data to establish range units on the former Joint Use Area to allow for a program of surface land use so as to restore the land to its full grazing potential to the maximum extent feasible.

§ 153.5 Grazing capacity.

The Project Officer shall prescribe the maximum number and kind of livestock which may be grazed without inducing damage to vegetation or related resources on each range unit and the season or seasons of use to achieve the objectives of the land recovery program required by the Settlement Act.

The stocking rate upon which the grazing permits are issued shall be reviewed on a continuing basis and adjusted as conditions warrant.

§ 153.6 Grazing on range units authorized by permit.

Grazing use of range units is authorized only by a grazing permit. The Project Officer shall assign grazing privileges to each tribe for their respective reservation land within the former Joint Use Area. Grazing use by tribal enterprises will be permitted and permits may be issued in the name of the tribe. The Project Officer shall issue permits to persons or enterprises based on the determination by the respective tribes.

§ 153.7 Kind of livestock.

Each tribe may determine, subject to the grazing capacity, the kind of livestock that may be grazed on the range units within their reservation lands.

§ 153.8 Grazing fees.

(a) The respective tribal governing bodies may determine whether grazing fees will be charged and the rate to be charged for the use.

(b) Annual grazing fees, if any, shall be paid in advance and payment shall be made to the Project Officer for immediate disbursement to the appropriate tribal treasurer.

§ 153.9 Duration of grazing permits.

Each tribe may determine the maximum duration of grazing permits not to exceed 5 years per permit period and subject to § 153.10(b).

§ 153.10 Assignment, modification and cancellation of permits.

(a) Grazing permits shall not be assigned, subpermitted or transferred without the consent of the tribe involved and the Project Officer.

(b) The Project Officer may revoke or withdraw all or any part of the grazing permit by cancellation or modification on 30 days written notice of violation of permit or special conditions affecting the land or the safety of the livestock thereon, as may result from flood, disaster, drought, contagious diseases, etc. Except in the case of extreme necessity, cancellation or modification shall be effected on the next annual anniversary date of the grazing permit following the date of notice. Revocation or withdrawal of all or any part of a grazing permit by cancellation or modification as provided herein shall be an appealable decision under 25 CFR Part 2. For the purpose of taking an appeal, decisions of the Project Officer shall be considered under 25 CFR 2 in the same manner as taking an appeal of a decision of an Area Director.

§ 153.11 Conservation and land use provisions.

Grazing operations shall be conducted in accordance with recognized principles of good range management. Conservation management plans necessary to accomplish this will be made a part of the grazing permit.

§ 153.12 Range improvements; ownership; new construction.

Improvements placed on the permitted land shall be considered affixed to the land unless specifically excepted therefrom under the permit terms. Written permission to construct or remove improvements must be obtained from the respective tribe within whose reservation the lands are located and the Project Officer, who will specify the maximum time allowed for removal of improvements so excepted.

§ 153.13 Payment of tribal fees.

Fees and taxes exclusive of annual grazing rental provided for in § 153.8 which may be assessed by the respective tribes in connection with grazing permits shall be billed for by the respective tribe and paid annually in advance to the designated tribal official. Failure to make payments will subject the grazing permit to cancellation and may disqualify the permittee from receiving future permits so long as he is delinquent.

§ 153.14 Special permit requirements and provisions.

All grazing permits shall contain the following provisions:

(a) Because the lands covered by the permit are in trust status, all of permittee's obligations on the permit and the obligations of his sureties are to the United States as well as to the beneficial owners of the land. Annual rent and other obligations under the terms of a valid grazing permit shall constitute a first lien on livestock permitted.

(b) The permittee agrees he will not use, cause, or allow to be used any part of the permitted area for any unlawful conduct or purpose.

(c) The permit authorized the grazing of livestock only and the permittee shall not utilize the permitted area for hay cutting, hunting, post or timber cutting or any other use without authorization from the Project Officer.

§ 153.15 Violations.

In addition to the penalties provided in this part, violation of the provisions of this part are subject to penalties of the Code of Offenses applicable to the former Joint Use Area.

§ 153.16 Fences.

Fencing will be erected by the Federal Government around the perimeter of the 1882 Executive Order Area, Land Management District 6, and on the boundary of the former Joint Use Area partitioned to each tribe by Order of District Court on February 10, 1977. Fencing of other areas in the former Joint Use Area will be required for a range recovery program in accordance with the range units established under § 153.4. Such fencing shall be erected at Government expense and such ownership shall be clearly identified by appropriate posting on the fencing. Intentional destruction of Federal property will be treated as a violation of the Federal criminal statute, 18 U.S.C. 1164.

§ 153.17 Livestock trespass.

In addition to any criminal liability, the owner of any grazing livestock in trespass on the former Joint Use Area is liable to a civil penalty of $1 per head for each animal thereof for each day of trespass, together with the reasonable value of the forage consumed and damages to property injured or destroyed. The Project Officer shall take action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be credited to the tribe on whose lands the livestock trespassed. The following acts are prohibited:

(a) The grazing upon or driving across any of the former Joint Use Area of any livestock without an approved grazing or crossing permit.

(b) Allowing livestock to drift and graze on lands without an approved permit.

(c) The grazing of livestock upon lands within an area closed to grazing of that class of livestock.

(d) The grazing of livestock by permittee upon any land withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the livestock, after the re-

ceipt of notice from the Project Officer of such withdrawal, or refusal to remove livestock upon instructions from the Project Officer when an injury is being done to the Indian lands by reason of improper handling of livestock.

§ 153.18 Control of livestock diseases and parasites.

Whenever livestock within the former Joint Use Area become infected with contagious or infectious diseases or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable laws.

§ 153.19 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the former Joint Use area which are not removed therefrom within the periods prescribed by the regulation may be impounded and disposed of by the Project Officer as provided herein.

(a) When the Project Officer determines that unauthorized livestock use is occurring and has definite knowledge of the kind of unauthorized livestock, and knows the name and address of the owners, such livestock may be impounded anytime 5 days after written notice of intent to impound unauthorized livestock is mailed by certified or registered mail or personally delivered to such owners.

(b) When the Project Officer determines that unauthorized livestock use is occurring but does not have complete knowledge of the number and class of livestock or if the name and address of the owner thereof are unknown such livestock may be impounded anytime 15 days after the date of notice of intent to impound unauthorized livestock is first published in the local newspaper, posted at the nearest chapter house and in one or more local trading posts. The notice will identify the area or areas in which it will be effective.

(c) Unauthorized livestock on the former Joint Use Area which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in the areas for which a notice has been posted and published under paragraph (b) of this section, may be impounded without further notice anytime within the twelve-month period immediately following the effective date of the notice or notices given under paragraphs (a) and (b) of this section.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock will be published in the local newspaper, posted at the chapter house and in one or more local trading posts. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owner may redeem the livestock anytime before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding and feeding or pasturing the livestock.

(f) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder, provided his bid is at or above the minimum amount set by the Project Officer. If a bid at or above the minimum is not received, the livestock may be sold at private sale at or above the minimum amount, reoffered at public sale, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this regulation, the Project Officer shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(g) The proceeds of any sale of livestock as provided herein shall be applied as follows: First, to the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock. Second, in payment of any penalties or damages assessed pursuant to § 153.17 of this part which penalties or damages shall be credited to the tribe on whose lands the livestock trespassed as provided in said section. Third, any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership. If any proceeds remaining after payment of the first and second items noted above are not claimed within one year from the date of the sale, such remaining proceeds will be credited to the tribe owning the land.

RAYMOND V. BUTLER,
Acting Commissioner, of Indian Affairs.

APRIL 18, 1977.

[FR Doc.77-11858 Filed 4-25-77; 8:45 am]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6710-1, CH 11]

PART 1067—FUNDING OF CSA GRANTEES

Applying for a Grant Under Title II, Sections 221, 222(a) and 231 of the EOA

Correction

In FR Doc. 77-10269, appearing at page 18402, in issue of Thursday, April 7, 1977, the table on page 18403 has several typographical errors. For the convenience of the reader, the table is reprinted as set forth below:

Required documents

Sections of the act under which funds requested	Applicant	Forms to be submitted prior to formal application [1]						Forms to be submitted at time of formal application							
		424	3	5	393	394	395	424	25	25a	419	84 [2]	When delegating programs [3]		
													85	87	11
I. 221:															
A. Initial funding.	Community action agency.	X	X	X	.....	Opt.	X	X	X	X	X	X	X	X	X
	Limited purpose agency (including SEOO's).	X	.....	X [3]	X [3]	X	X [4]	X	X	X	X	X	X	X	X
B. Refunding..	Community action agency.	X	X [3]	X [3]	.....	Opt.	X	X	X	X	X	X	X	X	X
	Limited purpose agency (including SEOO's).	X	.....	X [3]	.....	X	X [4]	X	X	X	X	X	X	X	X
II. 222:															
A. Initial funding.	Community action agency.	X	.....			Opt.	X [4]	X	X	X	X	X	X	X	X
	Limited purpose agency (including SEOO's).	X	.....	X [3]	X	Opt.	X [4]	X	X	X	X	X	X	X	X
B. Refunding..	Community action agency.	X	.....			Opt.	X [4]	X	X	X	X	X	X	X	X
	Limited purpose agency (including SEOO's).	X	.....			Opt.	X [4]	X	X	X	X	X	X	X	X
III. 231.....	State economic opportunity offices.	X	.....			Opt.	X [4]	X	X	X	X	.....	X	X	X

[1] For refundings, submission will be 150 days prior to PYE.
[2] Except SEOO's.
[3] Keep on file.
[4] Except sec. 1.
[5] Except Program Account 01.

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-126]

PART 0—COMMISSION ORGANIZATION

Establishment of a New Land Mobile Spectrum Management Division in the Safety and Special Radio Services Bureau

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Part 0 of the Commission's Rules and Regulations is amended to add a new Land Mobile Spectrum Management Division to the Safety and Special Radio Services Bureau. This document implements the revised land mobile spectrum management program approved by the Commission on June 24, 1976, and enables the Safety and Special Radio Services Bureau to assume, from the Spectrum Management Task Force, the majority of the land mobile spectrum management program responsibilities.

EFFECTIVE DATE: May 2, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Bernard I. Kahn, Management Systems Division, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: February 23, 1977.

Released: April 20, 1977.

In the matter of amendment of Part 0, Subpart A of the Commission's rules and regulations concerning organization

of the Safety and Special Radio Services Bureau.

1. On February 23, 1977, the Commission approved the establishment of a new Land Mobile Spectrum Management Division in the Safety and Special Radio Services Bureau to accommodate the transfer of the majority of the Land Mobile Spectrum Management Program responsibilities formerly held by the Spectrum Management Task Force in the Office of Chief Engineer. The Spectrum Management Task Force was a temporary, experimental and developmental operation. The new Land Mobile Spectrum Management Division and the existing Industrial and Public Safety Facilities Division, will both report to a new Assistant Bureau Chief for Land Mobile Spectrum Management residing in the immediate office of the Bureau Chief. The new organization will provide an orderly transition for the transfer of the Land Mobile Spectrum Management Program and will also centrally locate responsibility for the future operation and integration of the manual and the automated land mobile systems.

2. This Order is issued to designate and establish the new division.

3. Because this amendment relates to internal Commission organization and practice, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

4. Authority for the amendment adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

5. Accordingly, it is ordered, that effective May 2, 1977, Part O of the Commission's Rules and Regulations is amended as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Section 0.132(f) is amended to read as follows:

§ 0.132 Units in the Bureau.

The detailed operations of the Bureau are performed within six major units, as follows:

* * * * *

(f) Land Mobile Spectrum Management Division.

[FR Doc.77-11976 Filed 4-25-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1264]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Certain Unit-Grain Trains Comprised of Sixty Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1264).

SUMMARY: The Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to add ten additional cars to each of two remaining unit-grain trains to be shipped under a tariff requiring the shipment of five consecutive trainloads of not more than fifty cars per train. The total weight of the grain to be transported by each train is to remain at the weight specified by the tariff. Because of soft track resulting from spring thaws it is necessary that the maximum load transported by each car be reduced below the carload weights required by the applicable tariff.

DATES: Effective date: 12:01 a.m., April 11, 1977. Expiration date: 11:59 p.m., May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, TLX 89 2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of April, 1977.

It appearing, That because of tariff requirements the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is operating a unit-grain train transporting shipments of 4,625 tons of 2,000 lbs. in not more than 50 covered hopper cars; that compliance with such tariff provision requires that each car be loaded with a minimum of 185,000 lbs. or full visible capacity and that such unit-grain train must make 5 consecutive trips for a total of 23,125 tons; that 3 consecutive trips under said tariff have been completed; that because track deterioration due to spring thaws has necessitated reduction of weight limits over territory transversed to a maximum of 157,000 lbs.; that such reduction in weight limits prevents compliance by the shipper with the minimum weight limit provisions of the tariff; that the MILW is willing and able to provide 10 additional cars to the 50 car complement of the train to accomplish the total of 23,125 tons required by tariff within 5 consecutive trips; that the shipper is willing and able to load to full visible capacity as required by tariff but is prevented from doing so by the present inability of the MILW to comply fully with its tariff provisions; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1264 Service Order No. 1264.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate certain unit-grain trains comprised of sixty cars.* Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) be, and it is hereby authorized to operate one unit-grain train of sixty (60) covered hopper cars on two remaining trips, transporting a minimum weight of 4,625 tons of grain, in lieu of a unit-grain train of fifty (50) cars to enable the shipper to complete his obligation to ship five consecutive shipments of 4,625 tons of grain as required by MILW Grain Tariff 18710-C, ICC B-8437. The consent of the shipper must be obtained before the shipment is made and reference to this order endorsed on the bill-of-lading and waybills covering the shipment.

(b) *Rules and Regulations Suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., April 11, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 16, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by fil-

ing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11973 Filed 4-25-77;8:45 am]

[Amdt. 6; S.O. No. 1188]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of emergency order (Amendment No. 6 to Service Order No. 1188).

SUMMARY: This amendment extends for six months a service order which authorizes the Chicago, Rock Island and Pacific Railroad Company to operate over tracks owned by the Chicago and North Western Transportation Company at Spring Valley, Illinois. The Chicago and North Western Transportation Company is unable to operate over its line serving Spring Valley because of track conditions. The order enables the Chicago, Rock Island and Pacific Railroad to provide continued rail service to shippers located on such tracks at Spring Valley.

DATES: Effective date: April 15, 1977. Expiration date: October 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, TLX 89 2742.

SUPPLEMENTARY INFORMATION: The order is reprinted in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of April 1977.

Upon further consideration of Service Order No. 1188 (39 FR 24016; 40 FR 2990, 30267; 41 FR 2644, 29387 and 45843), and good cause appearing therefor:

It is ordered, That:

Service Order No. 1188 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1188 **Service Order No. 1188.**

(a) *Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Chicago and North Western Transportation Company.* * * *

* * * * *

(e) *Expiration date.* This order shall expire at 11:59 p.m., October 15, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., April 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15 (4), and 17(2) 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple and John R. Michael.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11974 Filed 4-25-77;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 HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 131]

[Doc. No. 76N-0175]

MILK

Stabilizers and Emulsifiers in Lowfat and Skim Milk; Further Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposesd rule.

SUMMARY: The Food and Drug Administration (FDA), based upon requests for extension of time submitted by the Milk Industry Foundation, the International Association of Ice Cream Manufacturers, and Stein Hall and Co., Inc., is extending the time to May 11, 1977 for submitting comments on the proposal to allow the use of stabilizers and emulsifiers in lowfat and skim milk.

DATE: New deadline for comments, May 11, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene McGarrahan, Division of Food Technology (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of October 26, 1976 (41 FR 46873), the Commissioner of Food and Drugs proposed amendments to the standards of identity for lowfat milk (21 CFR 131.135) and skim milk (21 CFR 131.145) (formerly 21 CFR 18.10 and 18.20, respectively, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) that would permit the optional use of safe and suitable stabilizers to increase the viscosity of the food, with or without added emulsifiers. The proposal also provided for definitions of the terms "nonfat milk solids" and "nonfat milk-derived solids". Comments were to be filed on or before December 27, 1976.

In the FEDERAL REGISTER of February 8, 1977, based upon requests for extension received from the Milk Industry Foundation, Stein Hall and Co., Inc., and the Association of New England Milk Dealers, the Commissioner issued a 60-day extension of the comment period, to April 11, 1977.

The Commissioner has received a request for further extension of the comment period from the Milk Industry Foundation and the International Association of Ice Cream Manufacturers so that their Boards of Directors will have the necessary opportunity to consider the proposal at their next semiannual meeting scheduled for April 25, 26, and 27, 1977. The Commissioner has also received a request for further extension of the comment period from Stein Hall and Co., Inc., the firm asserting that it is conducting consumer tests and that additional time is needed to prepare adequate comments. The Commissioner concludes that the requests for extension should be granted and hereby extends the comment period on the proposal to May 11, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and comments shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: April 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-12018 Filed 4-25-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

[30 CFR Parts 75, 77]

TRAINING AND RETRAINING OF MINERS

Findings of Fact

AGENCY: Mining Enforcement and Safety Administration, Interior.

ACTION: Proposed Rule; Notice of Findings of Fact.

SUMMARY: This Notice contains the findings of fact of the Secretary of the Interior on issues raised by written comments, objections and the grounds therefor presented in a public hearing concerning proposed regulations for the training and retraining of miners. The findings of fact are based on relevant evidence submitted in the written comments, and information received in response to the proposed rulemaking and the public hearing. Under section 101 (g) of the Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 745; 30 U.S.C. 811(g)), (the Act) within 60 days after completion of any public hearing on proposed mandatory safety standards, the Secretary is required to make findings of fact which shall be public. The findings of fact represent the position of the Secretary relative to the issues raised and are used by the Secretary to develop the final rules on the training and retraining of miners.

FOR FURTHER INFORMATION CONTACT:

Donald P. Schlick, Acting Assistant Administrator, Education and Training, Mining Enforcement and Safety Administration (MESA), Department of the Interior, Room 917, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, 703-235-1580. The transcript of the hearing and information submitted for the record are available for public inspection at the above address.

SUPPLEMENTARY INFORMATION: Notices of the proposed rules for the training and retraining of coal miners were published in the FEDERAL REGISTER for July 29, 1976 (41 FR 31553 and 31556). The proposed rules amend Parts 75 and 77, Chapter I, Title 30, Code of Federal Regulations by adding a new Subpart T and a new Subpart U, respectively. The public was afforded more than 45 days following publication to submit to the Administrator, MESA, written comments and objections concerning the proposed rules and to request a public hearing on such objections. Written objections were timely filed with the Administrator stating the grounds for objections and requesting a public hearing on all of the proposed rules. A Notice of Objections Filed and Hearing Requested was published in the FEDERAL REGISTER for Subpart T of Part 75 on November 11, 1976 (41 FR 49838) and Subpart U of Part 77 on November 15, 1976 (41 FR 50299). A notice was then published in the FEDERAL REGISTER on December 2, 1976 (41 FR 52890), announcing a public hearing to be held for the purpose of receiving relevant evidence on the issues raised in the comments and objections. The public hearing was held on January 5 and 6, 1977, in the House Chamber, State Capitol Building, Charleston, West Virginia, and on January 10 and 11, 1977, in the auditorium (Rm. 269) of the Main Post Office Building, 1823 Stout St., Denver, Colo-

rado. The record of the public hearing was held open until February 12, 1977, for the submission of additional comments and information.

The findings of fact on the issues raised and upon which the public hearing was held are set forth below.

GENERAL

1. *Issue.* Whether the Secretary of the Interior has the authority to regulate training.

Finding. There were numerous questions from operators' representatives concerning whether the Secretary of the Interior has the authority to regulate training. It is found that the Secretary of the Interior has the authority to regulate training under section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91-173. Section 101 (a) provides that, "The Secretary shall * * * develop, promulgate, and revise as may be appropriate, improved mandatory safety standards for the protection of life and the prevention of injuries in a coal mine."

Studies conducted on the nexus between training and improved miners' safety in coal mines include the "Review and Evaluation of Current Training Programs Found in Various Mining Environments" prepared by the Bendix Corporation (1976), "An Assessment of the Impact of Pre-employment Training on The Safety Experience of Miners and Off-Highway Vehicle Operators" prepared by Bascomb Associates, Inc. (1975), and the "Industrial Engineering Study of Hazards Associated with Underground Coal Mine Production" prepared by Theodore Barry and Associates (1971). Results from these studies indicate that safety and general accident prevention training leads to significant improvements in the corresponding injury rates and safety prospects of miners and particularly of entry level miners.

In addition, such training requirements serve to meet one of the stated purposes of Congress when enacting the Act: "(T)o improve and expand, in cooperation with the States and the coal mining industry, * * * training programs aimed at preventing coal mine accidents and occupationally caused diseases in the industry." (Sec. 2(g))

Accordingly, section 502(a) of the Act evidences Congressional recognition of the nexus between improved mine safety and training programs and places an affirmative obligation upon the Secretary to expand such training programs; regulation and specifications of safety training programs assist the Secretary in fulfilling this obligation.

2. *Issue.* Whether training regulations are necessary or justifiable.

Finding. Studies conducted for the Department have shown that training and retraining of miners are necessary to improve health and safety in coal mines. The "Industrial Engineering Study of Hazards Associated With Underground Coal Mine Production" (1971) by Theodore Barry and Associates (p. iii) states, "A very strong relationship was found to exist between fatal accident occurrences and low task experience." Although it is recognized that there are many good industry sponsored training programs, minimum training standards are necessary in order to achieve a minimum uniform level of safety and health training.

3. *Issue.* What are the anticipated costs of the regulations.

Finding. Operators' representatives inquired what the anticipated costs of the regulations are. MESA reviewed its prior economic impact evaluation on the proposed rules in January 1977, and concluded that training costs for the first year training will approximate $31 million and that training costs for the initial two year period will approximate $65 million. These anticipated costs are contained in the cost evaluations statement attached to MESA's negative declaration, dated January 26, 1977, that an Economic Impact Statement is not necessary. The anticipated training costs are well within the stated cost parameters of $50 million and $75 million for the first one year and two year periods of regulation, respectively, above which an Economic Impact Statement is required.

4. *Issue.* Whether the assigned courses and course hours are satisfactory or necessary, for example, should cardiopulmonary resuscitation (CPR) and explosives training be mandatory for all miners and should instruction in miners' rights and fire protection be included.

Finding. Comments were received from operators and labor representatives that support the concept of allowing a greater degree of flexibility in the choice of specific subjects and times allocated to each topic to improve the educational soundness of the training program. For example, many comments were received that two hours of training in procedures for entering and leaving the mine, transportation and communications would be inappropriate for a small mine or one in the initial stages of development. Because the circumstances, practices and accident experiences in the coal mining industry vary from mine to mine, minimum training standards should allow flexibility for the operator to tailor his program of instruction to his particular mining operation.

While some comments suggested that explosive training for all miners may not be appropriate, explosives are inherently dangerous and nearly universally used in mining and some training in explosive hazard recognition is necessary for all miners. Where a miner's job requires that he works more closely with explosives, he should have more extensive training.

Many comments made the point that cardiopulmonary resuscitation (CPR) training is a difficult subject requiring psychomotor coordination, and is not appropriate training for all miners. However, miners should have ready access to persons trained in CPR within the mine. Therefore I find that some miners should be trained in CPR.

Comments were received that the minimum training standards should include instruction in miners' statutory rights. Congress recognized that miners have an important role in insuring their own safety and health, and Congress has given miners specific rights under the Act. It is found that an effective health and safety program requires full participation by the miner, and instruction in the miner's statutory rights will improve his participation.

The need for fire protection training was questioned by one commenter. Requirements for training in fire protection are presently generally stated in 30 CFR 75.1101 and 75.1704 for underground mines and in 30 CFR 77.1100 and 77.1101 for surface mines. Therefore it is not necessary to specifically require training in fire protection in the new training standards.

5. *Issue.* Whether the regulations should require miners to participate in the training course.

Finding. Providing training to miners is the operator's responsibility. An operator who does not provide training to miners employed at the mine would risk violating the mandatory standards.

6. *Issue.* Whether representatives of miners should have input into the development and conduct of training programs.

Finding. Several commenters pointed out that miner acceptance of the program is likely to be improved as it the likelihood that the program is tailored to specific health and safety problems at the mine if representatives of the miners participate in the development of the training program. It is found that a training program for a particular mine would be enhanced by participation of the representative of the miners at the mine in the development of the program. The regulations should provide an opportunity for input from the miners.

7. *Issue.* Will MESA have the means to provide necessary assistance, and if not, what impact will that have on enforcement.

Finding. MESA presently has 10 Training Centers and 22 training field offices. These facilities have the ability to provide assistance in training instructors so that they may become approved by MESA. MESA also has the ability to provide sample instruction guides, suggested curricula and course materials. However responsibility for complying with the regulations rests with the operator to develop an approved training program for the miners at his mine. Testimony at the public hearing indicates that many large operations already have the ability to meet the proposed requirements. Numerous small mine operators may require more extensive assistance from MESA.

8. *Issue.* Whether training received by a qualified person will satisfy the proposed mandatory training.

Finding. The training for qualified persons required by certain sections in 30 CFR Parts 70, 71, 75 and 77 is designed to ensure the qualifications of specific individuals to perform specified tasks. Such training is not designed as a general safety training program, and therefore does not satisfy the goals of the proposed regulations. The proposed

training regulations are additional requirements to those specified for qualified persons.

9. *Issue.* Whether the requirements allow adequate flexibility to permit centralized training, on-the-job training, and otherwise allow training to vary according to the particular operation.

Finding. Comments received from operators of small mines indicated that centralized cooperative training ought to be permitted. Although each mine must have an individually approved plan, flexibility in the method of achieving the desired result should not be precluded. Training in the job environment is an acceptable and recognized method of training for experienced miners assigned to new work assignments and for annual retraining when training, not production, is the primary goal. It is found that flexibility in the conduct of the training program with regard to location and type of training is important to making a training program as worthwhile for the trainees as possible.

10. *Issue.* Whether all experienced and inexperienced miners must first complete training before performing any work in a coal mine.

Finding. Studies conducted by Theodore Barry and Associates and others demonstrate that untrained miners are more likely to be involved in mining accidents than miners who have received training. In light of this, it is found that it is essential that training for such miners be completed prior to performing any work in a coal mine. On-the-job training is acceptable only after this initial training has been received and the miner is being trained for a specific work assignment.

11. *Issue.* Whether training for inexperienced and experienced miners should be spread over a period of weeks or concentrated in the first few days of employment.

Finding. Comments were received from representatives of miners suggesting that training should be split into two segments, separated by six to eight weeks of job experience. Some operators requested that initial training be spread over a longer period of time. As noted in Finding ten, studies have shown that the initial employment period is a very dangerous one and that pre-production training will have a significant impact on reducing accidents and injuries. The study by Theodore Barry and Associates (p. 257) states that "the first 1 to 3 weeks of a job are extremely hazardous when compared to the remainder of the worker's career at a particular task". Therefore it is found that in order to improve safety, initial training should be completed prior to production assignments.

12. *Issue.* Whether there should be a provision for conducting periodic unscheduled emergency evacuation drills under MESA supervision.

Finding. Practice escapeway drills and escapeway maps at strategic locations and at each working section are required under 30 CFR 75.1704-2 and 77.1101. Further, the proposed regulations require instruction in emergency escape. Periodic unscheduled escapeway drills under MESA supervision would not significantly improve the miners' knowledge of the mine's escapeways and would be an unwarranted hardship particularly in mines with low coal seams.

13. *Issue.* Should there be a provision for periodic review of the adequacy of training and how will the regulations be enforced.

Finding. Comments received by the Department suggested that MESA periodically review approved training plans. It was felt that such review would ensure effective compliance with the regulations. It is found that periodic review of training plans is an effective method of monitoring performance under the approved plans. It is also found that circumstances, practices, conditions and the accident experience at the mine, in addition to other information available to MESA, should also be used in monitoring approved plans. Plans will also be reviewed when an operator requests a change in the approved plan.

14. *Issue.* Whether special provisions for training at Accident Prevention (AP) mines should be included.

Finding. MESA has developed systems for identifying those mines with high injury frequency rates, a history of previous violations, and mine management relative to safety and health. Those mines which liberate high quantities of methane are also readily identifiable. It is found that training plans for such mines should undergo closer scrutiny by MESA to ensure that the training plan is developed and implemented with regard to the particular problem of the mine. The Training Center Chief should have the flexibility to require additional training at mines where the need for such additional training is indicated.

15. *Issue.* Whether the regulations should require periodic upgrading of the skills of supervisory personnel.

Finding. Requirements for periodic training of supervisors in order to upgrade their skills are presently undergoing development by the Department. It is found that regulations for training and retraining of miners should not be delayed pending development of training regulations for supervisors.

SECTIONS 75.2000 AND 77.2000

16. *Issue.* Whether the surface training regulations should exclude surface areas of underground mines.

Finding. Many comments brought to light the differences among jobs and their respective hazard potentials at various locations at surface mines and surface work areas of underground mines. For example, a miner working in a preparation plant is exposed to different hazards than a miner working at an auger machine beneath a highwall. It is found that the regulations should not exclude surface work areas of underground mines but should allow sufficient flexibility to permit a training program to be tailored to a specific operation.

17. *Issue.* Whether small operators and independent contractors should be exempted from complying with the training regulations.

Finding. Comments received from representatives of small coal mine operators recognized that miners working at small mines are subject to most of the same safety and health hazards as those miners working at large mines. The ability of the small coal mine operators to provide training was however brought out as an issue. Since it is recognized that the need for training at small mines exists, it is found that small operators should not be excluded from the requirements to provide training. As to the specific training required, it is found that flexibility in developing an approved plan is necessary to accomplishing effective training. MESA has the capability of assisting small operators in developing a training plan which can be approved by MESA.

As was vividly brought out at the public hearings, miners employed to do construction work by construction contractors experience occupational hazards unique in the mining industry. Therefore, it is found that miners employed by independent contractors should not be excluded from the coverage of the regulations. It is found that flexibility in tailoring a training plan to specific work performed will accommodate the need for providing effective training for miners doing construction work.

SECTIONS 75.2001 AND 77.2001

18. *Issue.* Whether the terms "experienced miner," "inexperienced miner," "agent," "opening," "work stoppages," "safe operating procedures," "experienced foremen," "experienced machine or equipment operators" and "interested persons" should be defined or clarified.

Finding. Numerous commenters suggested that various terms which are used in the proposed regulations should be clarified or defined. It is found that the terms "experienced miner" and "inexperienced miner" should be clarified in the final regulations.

Many requests for clarification of the term "agent" were received. It is found that the regulations will be improved if the final regulations specify those classes of miners who are not covered, i.e., supervisory personnel and others such as office workers designated by the operator and approved by the Training Center Chief.

Comments were received which questioned the meaning of the terms, "work stoppages," "experienced foremen," "experienced machine or equipment operators" and "interested persons." It is found that the regulations will be more clearly understood if these terms are defined or otherwise clarified by spelling out exactly who and what is meant.

One comment was received as to the meaning of the term "opening." It is found that the term "opening" needs no additional clarification or definition as the meaning of that term is fairly well recognized in the industry.

It is found that questions as to the meaning of the term "safe operating procedures" can be resolved by incorporating a definition of the term in the final

regulations in order to emphasize that such procedures be reduced to written form for purposes of consistency, predictability and enforcement.

SECTIONS 75.2002 AND 77.2002

19. *Issue.* Should MESA "approve" training programs.

Finding. Some mine operators objected to provisions requiring MESA approval of training plans. It was argued that plan approval was not relevant to the actual performance of training and that MESA should not control the development and content of a training program. It is found that the most efficient method of assuring quality training is for MESA to require instruction in specific courses and to approve plans and then monitor training performance under the plan through a system of periodic review and actual course monitoring. Such an approach will ensure that minimum standards are maintained while still allowing for the flexibility necessary to make the program relevant to the particular operation.

20. *Issue.* Whether the time limits are sufficient for the operator to submit a training program for approval.

Finding. One comment suggested that six months for the submission to MESA of a training program for approval was not adequate. Training and course materials are already available from MESA, and many of the major coal mine operators have instructors presently approved by MESA. It is found that a time period of six months after the effective date of the regulations is ample time for operators to prepare a training plan that can be submitted for approval.

21. *Issue.* Whether prior MESA approval should be required for changes in instructors, course materials, and time allocations in approved programs.

Finding. Comments were received that operators should be allowed to make changes in an approved training program without obtaining prior approval by MESA. In order for MESA to maintain the integrity of approved training programs, any changes in the approved plan should be approved by the Training Center Chief. It is found that prior approval of changes in an approved training plan is necessary to ensure the training program is effective.

SECTIONS 75.2003 AND 77.2003

22. *Issue.* Whether the regulations should include a brief outline of course material, a general description of teaching methods or guidelines for an acceptable program.

Finding. Some operators expressed the view that MESA should include specific course outlines and teaching methods within the published regulations. The proposed regulations set out the general subjects to be taught and give specific guidance as to what topics should be covered in each course. The operator should retain the flexibility to develop his own training materials and program. The final regulations should give guidance as to what is required to develop a training plan that can be approved by MESA. It is found that it is impractical to specify in the regulations the course materials and general description of the teaching methods to be used. MESA can provide support in terms of course material and training aids to operators.

23. *Issue.* Whether instructors should be approved by MESA, and if so, whether the criteria for approval should be set forth.

Finding. Several commenters suggested that MESA should not approve instructors. Other commenters wanted standards for approval set forth in the regulations. MESA control over the qualifications of the instructors teaching in an approved program is of paramount importance in assuring the quality of the instruction given. It is found that the best way to ensure the qualifications of the instructors is for MESA to approve them. It is further found that in order to fairly administer the approval of instructors, the regulations should specify the standards by which MESA will approve or disapprove instructors.

24. *Issue.* Whether qualifications should be established for the company official responsible for health and safety training at the mine.

Finding. Representatives of miners wanted the regulations to establish qualifications for the person designated by the operator who is responsible for health and safety training at the mine. The person whose qualifications should be of greater concern to MESA is the instructor. The individual responsible for health and safety training at the mine may be involved only in management of the program. It is found that to effectively administer the training program, MESA need only know the identity of the person responsible for health and safety training at the mine.

25. *Issue.* Whether under §§ 75.2003(c) and 77.2003(c) the Chief of the Training Center should specify in writing his reasons for disapproving any phase or time reduction of a training program.

Finding. Representatives of operators and an educator requested that the regulations specify that the Training Center Chief should specify his reasons in writing for disapproving all or any portion of a training plan submitted for approval. It is found that the proposed regulations do provide, and were intended to provide, that the Training Center Chief communicate his reasons in writing for disapproving all or any portion of a training plan. Clarity in specifying those areas of a plan deemed deficient is necessary for efficiency in the approval process and for developing the best training plan.

It was suggested that an administrative appeal procedure should be included. An administrative appeal process in addition to those created in the Act would be administratively cumbersome and would not significantly improve the quality of training plans. It is therefore found that an administrative appeal process from plan disapproval is not necessary to be included in these regulations since the Act and other regulations provide a means for administrative appeal.

26. *Issue.* Whether the word "reasonable" should be inserted before the word "time" in §§ 75.2003(c)(1) and 77.2003(c)(1).

Finding. One commenter suggested that the time fixed by the Chief of the Training Center "within which discussions shall be held or alternative revisions or changes submitted before final approval is made" should be "reasonable." It is agreed that such time periods should be "reasonable" in order to expedite the approval of plans. It is therefore found that the addition of the word "reasonable" in the cited sections would improve the regulations.

27. *Issue.* Whether the official responsible for health and safety training must be "at the mine."

Finding. Operators expressed concern over the requirement in the proposed regulations that "the name and position of the person designated by the operator who is responsible for health and safety training at the mine" be included in the training plan. Confusion apparently resulted over whether the person responsible for the training program at the mine had to be physically present at the mine. MESA's administrative needs would be satisfied if MESA can identify and contact the person responsible for training for the mine. It is therefore found that the responsible official need not be physically present at the mine. The person responsible may be responsible for training for more than one mine.

28. *Issue.* Whether an operator can proceed with phases of a training program that have been approved or whether the entire program must be approved before implementation.

Finding. Miner representatives inquired whether an operator may proceed with phases of a training program that have been approved or whether the entire program must be approved before implementation. If approval is given to proceed with portions of a training program, the operator may then concentrate on revising those phases of the training program which were not approved in order to obtain MESA approval of the entire training program. It was intended and it is found that an operator may proceed with phases of a training program that have been approved by the appropriate MESA Chief of the Training Center.

SECTIONS 75.2004 AND 77.2004

29. *Issue.* Whether the operator should bear the burden of proof for demonstrating that a newly hired miner has received prior training.

Finding. Operator representatives objected to the portion of the proposed regulations placing on the operator the burden of proving that newly hired miners have received prior training. When States, associations of mine operators, miner representatives, other mine operators, private associations or educational institutions provide training through a MESA approved program,

MESA should require, as a condition of approval of the training program, that certificates be issued to miners. Such certificates should constitute acceptable evidence that a newly hired miner has received training. MESA will also have records of miners who have received training, and operators may verify through MESA that miners have received training. It is found that the operator, as the employer of the miner, is in the best position to assure himself, and to provide to MESA information substantiating the fact that a newly hired miner has been trained.

30. *Issue.* Whether inexperienced miners should receive certificates from MESA as proof of training received.

Finding. Operator representatives suggested that inexperienced miners should receive certificates from MESA as proof of training received. MESA will not actually train miners and therefore cannot issue certificates to miners having completed training. As discussed in finding of fact number 29, it is found that MESA should, however, require as a condition of approval of a training program, that miners completing an approved program be issued a certificate.

31. *Issue.* Whether the operator should be required to submit "proof" to the representative of the miners that an inexperienced miner has been trained.

Finding. Labor representatives inquired whether the operator should be required to submit "proof" to the representatives of the miners that an inexperienced miner has been trained. It is found that the operator should make available for inspection by the miners' representative training records of each miner currently working at the mine. It is further found that accessibility to such records by the representative of the miners recognizes the role Congress intended for miner representatives and should improve the effectiveness of the training program.

32. *Issue.* Whether the words "preceding initial employment" should be deleted from §§ 75.2004(c) and 77.2004(c) to eliminate any conflict as to which employees are to be given training.

Finding. An operator's representative recommended that the words "preceding initial employment" should be deleted from §§ 75.2004(c) and 77.2004 (c) to eliminate any conflict as to which employees are to be given training. It is found that the word "initial" should be deleted to clarify that a miner need not repeat the required designated training for inexperienced miners if the miner received such training at the mine within 12 months preceding his employment or reemployment at the mine.

33. *Issue.* Whether relative to first aid and cardiopulmonary resuscitation (CPR) training the operator is liable when an instructor fails to use or misuses the proposed technique resulting in injury to the trainee miner.

Finding. A representative of an operator questioned whether, relative to first aid and cardiopulmonary resuscitation (CPR) training, the operator is liable when an instructor fails to use or misuses the proposed technique resulting in injury to the trainee miner. It is not clear from the context or wording of the question and from comments at the hearing what type of liability is referred to and to whom and in what situations and it is accordingly improper to prejudge the existence of any liability which may arise. In general, furthermore, it is not the function of the Secretary to advise private parties of their civil liability under diverse state laws.

34. *Issue.* Whether once a miner is trained such training is sufficient although the miner changes jobs or mines.

Finding. Several operators suggested that once a miner is trained, the miner should not have to be retrained when he changes jobs or mines. When a miner leaves one mine to work in another mine he will encounter many new and different circumstances which affect his health and safety. For example in an underground mine, roof and rib control, ventilation, transportation, communications and the mine map in addition to the authority and responsibility of supervisors are all factors unique to the particular mine. In order to ensure that every miner is trained in such areas vital to the miner's safety it is found that it is necessary to train experienced miners entering jobs at new mines. As pointed out in the Theodore Barry Report, when experienced miners change jobs within the same mine, they are subject to increased safety hazards associated with their new work assignments. Training for such miners should be specifically related to their new assignments. For example, in an underground mine, if a miner employed on a roof bolting machine changes jobs to that of a shuttle car operator, that miner needs specific training in the safe operation of a shuttle car in order to perform his job safely.

It is therefore found that training for an experienced miner who changes jobs or mines is essential to promoting safety in the mines.

SECTIONS 75.2006 AND 77.2006

35. *Issue.* Whether training should be required for all new work assignments.

Finding. Operators' representatives questioned the administrative manageability of training miners for new work assignments, particularly in light of the high absentee rate in the coal mining industry. High absentee rates lead to miners performing tasks for which they have not been trained or for which they do not have experience. Studies have shown that there is a correlation between fatalities and task experience. It is found that safety will be improved by providing training for miners assigned to hazardous work duties such as mobile equipment operators, blasting and drilling equipment operators, haulage and conveyor system operators and roof control equipment operators before miners perform such work.

36. *Issue.* Whether the acceptable work experience requirement for reassigned miners should be changed.

Finding. Several comments were received that the proposal that miners have 40 hours of experience within 12 months in performing certain jobs in order to avoid training for a new work assignment, should be changed to accommodate the administrative problems associated with keeping track of each miner performing such jobs. It is recognized that the administrative problems are considerable, and it is found that specific hours of experience should not be specified in the regulations. However, it is found that training in the performance of certain hazardous jobs and assurance from the operator that the miner has demonstrated knowledge of the safe operating procedures should accomplish the goal of improving safety.

37. *Issue.* Whether in §§ 77.2006(a) there is a conflict between the term "on-the-job training" and the wording "shall not perform such new work duties until the training * * * has been completed."

Finding. Numerous operators pointed out what was believed to be a conflict in § 77.2006 of the proposed regulations in which performance of new work duties was not permitted before a miner was trained and the provision that training to satisfy this requirement may include on-the-job training. It was intended that the on-the-job training be done under the direct supervision of an instructor and that the primary objective would be training rather than production. In this context, no conflict is found. It is found that the difficulties are resolved if the regulations more clearly specify that instruction shall be given in an on-the-job environment.

38. *Issue.* Whether §§ 75.2006 and 77.2006 would conflict with job bidding provisions or state laws.

Finding. One commenter suggested that the proposed regulations could conflict with contractual provisions and State laws. Other operators saw no conflict. A review of the Bituminous Coal Operators Association—United Mine Workers of America 1974 Wage Agreement reveals no apparent conflict with regard to job bidding provisions. Similarly, no conflict is found with State laws. Section 506 of the Federal Coal Mine Health and Safety Act of 1969 provides that insofar as any State law is in conflict with the Federal Act or any health or safety standard, such State law shall be superseded by the Federal Act or regulation. However, if a State law or regulation provides for more stringent health and safety standards than do the Federal Act or regulations, the State law shall not be held to be in conflict with the Act.

39. *Issue.* Whether requirements for training on new machinery and for dispatchers should be written as separate regulations.

Finding. Comments from representatives of miners suggested that separate provisions be included for training miners who operate new or modified machinery and for training dispatchers. Studies recognize that miners operating new or modified machinery, just as miners operating old machinery for the first time, are more likely to be involved in accidents. It is found that specific

training in such circumstances will improve safety. Dispatchers, as a job classification with considerable responsibility affecting the safety of many miners, may require specific training and testing to ensure that minimum job qualifications are met. Separate training regulations for qualified hoistmen, qualified electricians, miners involved in blasting and drilling, preshift examiners, and supervisors are presently undergoing development by the Department. It is found that it is more appropriate to consider specific training requirements for dispatchers within the framework of those regulations.

40. *Issue.* Whether the proficiency test required of machine operators should be recorded and attested to by signature.

Finding. Representatives of operators addressed the issue of whether the proficiency test required of machine operators should be recorded and attested to by signature. It is found that the proficiency test should be recorded and attested to by the signature of the mine operator or a responsible agent of the operator. The effect of the signature is to have the operator attest to the machine operator's training and skill in handling machinery safely and thereby clearly place responsibility for safe machine operation upon the operator of the mine.

SECTIONS 75.2007 AND 77.2007

41. *Issue.* Whether to include a provision to the effect that if a training program is conducted during a regular shift, miners should be compensated at regular rates; if conducted on overtime, miners should be compensated at premium rates.

Finding. Representatives of the miners suggested that the regulations require compensation of miners attending training sessions at the regular or overtime rate of pay, depending on when the course is given. One operator suggested that all training be conducted on regular shifts. It is found that such training for miners should be at the expense of the operator, and where "regular rates" are defined, such rates should apply. There are many circumstances where "regular rates" may not be defined in which case it is a matter best left between the operator and the miners in his mine. It is found that training, for maximum effectiveness, should be provided during the regular shift.

42. *Issue.* Whether the last two words of §§ 75.2007(b)(1) and 77.2007(b)(1), "each miner" should be changed to "job classification."

Finding. An operator's representative suggested that the last two words of §§ 75.2007(b)(1) and 77.2007(b)(1), "each miner" should be changed to "job classification." It is found that the words "each miner" along with the preceding phrase, "which are related to the tasks and work assignments of" should be deleted from §§ 75.2007(b)(1) and 77.2007(b)(1). This deletion should clarify that the purpose of the training is not to be narrowed to job related requirements per se but to give miners a general familiarization and appreciation of the Act and to enable miners to work safely and maintain a safe work environment. In this way, the training is intended as an overview of the health and safety regulations including miners rights in order to acquaint miners with occupational health and safety requirements and safeguards.

SECTIONS 75.2008 AND 77.2008

43. *Issue.* Whether the reduction in amount of time for instruction provisions should be eliminated since operators may file section 301(c) petitions for modification.

Finding. A representative of the miners suggested that §§ 75.2009 and 77.2009 be eliminated since operators may file section 301(c) petitions for modification. It is found that §§ 75.2009 and 77.2009 should be retained. Compared to section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, these sections provide for a more informal process which will permit the prompt consideration of requests for course time reduction and formulation of any necessary changes thereby allowing for increased flexibility in applying the course time requirements to particular operations. Section 301(c) does allow the operator to apply for a modification of a mandatory safety standard including the training standards and may be invoked when the informal remedy under §§ 75.2009 and 77.2009 is exhausted.

44. *Issue.* Whether reductions in instruction time permitted by the Chief of the Training Center should have the concurrence of the District Manager.

Finding. An operator introduced the issue of whether reduction in instruction time permitted by the Chief of the Training Center should have the concurrence of the District Manager. It is found that authority to reduce course time should remain with the Chief of the Training Center. The pertinent training expertise resides with the Chief of the Training Center. In addition, centralized authority will facilitate effective and responsible agency administration of the training programs and expedite effectuating time changes which otherwise could result in delay of implementation. The Training Center Chief will, however, for purposes of enforcement, confer with the District Manager and keep the District Manager apprised on matters concerning the implementation of the training regulations.

SECTIONS 75.2009 AND 77.2009

45. *Issue.* Whether MESA's program for approving instructors should be conducted at regular intervals in the immediate region of the mine site.

Findings. Representatives of operators suggested that MESA's program for approving instructors should be conducted at regular intervals in the immediate region of the mine site. MESA has the ability to conduct an ongoing and regular process for approving instructors. This contemplates that MESA will conduct instructor training programs on a regular basis at the training center sites and on an intermittent basis at or around mine sites, which may involve using a centralized training location for several mines in a particular area. Such intermittent programs at or around the mines is necessitated by the limits in resources and facilities available to MESA.

46. *Issue.* Should operators be given a specified time to have instructors approved before the effective date of the training program.

Finding. Representatives of operators questioned the time limits to have instructors approved. It is found that, for purposes of having instructors approved, the operator has approximately ten months from the effective date of the regulations to implement an approved training program. This is considered a reasonable time within which to have instructors approved. So long as instructors are approved by the date of the implementation of the training program, then the operator has met the time requirement under the regulations.

47. *Issue.* Should MESA promptly notify the employer upon approval of an instructor.

Finding. A representative of the operators suggested that MESA should promptly notify the employer upon approval of an instructor. It is found that the effectiveness of the training program will be improved if MESA promptly notifies the operator of the approval of an instructor and that the instructor has successfully completed the required training course. In addition, the instructor will receive a certificate from MESA indicating successful completion of the course.

SECTIONS 75.2010 AND 77.2010

48. *Issue.* Whether the records of training should be kept by the operator at the mine or other specified location.

Finding. Representatives of operators questioned whether the records of training should be kept by the operator at the mine or some specified location. It is found that the records of training should be kept by the operator at the mine site or any other location chosen by the operator and approved by the Training Center Chief. This should allow a prompt and thorough check of the training records.

Dated: April 20, 1977.

WILLIAM D. BETTENBERG,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-11902 Filed 4-25-77;8:45 am]

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 207]

NAVIGATION REGULATIONS

Disestablishment of Seaplane Restricted Area; Extension of Time

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments to the notice published 16 March 1977 (42 FR 14739), proposing to disestablish the seaplane restricted area located in San Francisco Bay bordering the Coast Guard Air Station. We normally allow 30 to 45 days for public comment on proposed rules. However, the previous notice was inadvertently shortened to less than that.

DATE: Comments on or before 1 June 1977.

ADDRESS: Send comments to: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWO-N.

FOR FURTHER INFORMATION CONTACT:

Ralph T. Eppard, 202-693-5070.

SUPPLEMENTARY INFORMATION: The Commander, Twelfth Coast Guard District has requested that a seaplane restricted area located in San Francisco Bay bordering the Coast Guard Air Station in South San Francisco, San Mateo County, California, be disestablished as the Coast Guard no longer requires the use of the area nor requires that watercraft be restricted from the area at any time. Accordingly, we propose to delete and reserve paragraph (d) of 33 CFR 207.640 to disestablish this seaplane restricted area as set forth below:

§ 207.640 San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisan Bay, San Joaquin River, and Connecting Waters, California.

* * * * *

(d) [Reserved]

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NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(40 Stat. 266; 33 U.S.C. 1.)

Dated: April 14, 1977.

MARVIN W. REES,
Corps of Engineers,
Executive Director of Civil Works.

[FR Doc.77-11864 Filed 4-25-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket 20642]

RADIO BROADCAST SERVICES

Clear Channel Broadcasting in the Standard Broadcast Band; Order extending time for filing reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: At the request of Daytime Broadcasters Association, this Order extends the time for filing reply comments to allow it to study comments filed in the Clear Channel proceeding.

DATE: Reply comments must be received on or before June 27, 1977.

ADDRESS: Send reply comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Policy and Rules Division, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: April 13, 1977.

Released: April 18, 1977.

In the matter of clear channel broadcasting in the standard broadcast band.

1. The Commission presently has before it a Motion Requesting Extension of Time for Filing Reply Comments regarding the Notice of Inquiry and Notice of Proposed Rule Making in the above-captioned proceeding, 40 F.R. 58467. The present deadline for filing reply comments is April 25, 1977. Daytime Broadcasters Association ("DBA") requests that the date be extended to July 26, 1977.

2. Counsel for DBA states that because of the volume of comments which DBA must address in its reply comments, DBA's limited resources, and the fact that the DBA chairman and its counsel will be heavily preoccupied in the next two months with other urgent matters, it is impossible to complete the extensive reply comments by the present deadline date.

3. Although we are persuaded that good cause has been shown for some additional time in which to file reply comments, we do not believe that a sufficient showing has been made to justify an extension of the length requested. Accordingly, *it is ordered*, That the motion for extension of time for filing reply comments submitted by Daytime Broadcasters Association is granted to the extent that the present deadline for filing reply comments is extended through June 27, 1977, and is denied in all other respects.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-11977 Filed 4-25-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-039]

OCCUPTATIONAL EXPOSURE TO SULFUR DIOXIDE

Informal Public Hearing on Proposed Standard; Change in Location of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Change in location of public hearing on proposed sulfur dioxide standard.

SUMMARY: This notice changes the location for the previously announced informal rulemaking hearing on the proposed standard for occupational exposure to sulfur dioxide.

DATES: The hearing will begin at 9:30 a.m. on May 3, 1977.

ADDRESSES: The hearing will now be held in the New Department of Labor Auditorium, Department of Labor Building, 3rd Street and Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Stephen Kaffee, Office of Committee Management, Docket No. H-039, N3633, U.S. Department of Labor, 3rd and Constitution Avenue, NW., Washington, D.C. 20210, 202-523-8024.

SUPPLEMENTARY INFORMATION: On February 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 10017) to inform interested persons that an informal public hearing was scheduled for May 3, 1977 on the proposed OSHA standard for occupational exposure to sulfur dioxide. That notice stated that the hearing would begin at 9:30 a.m. at the Departmental Auditorium, Constitution Avenue between 12th and 13th Streets, N.W., Washington, D.C.

The purpose of this document is to notify interested persons that the location of the informal public hearing on the proposed sulfur dioxide standard has been changed. The hearing will now be held at the following location: New Department of Labor Auditorium, Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210. The hearing will begin at 9:30 a.m. on May 3, 1977, as originally scheduled at the new location.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).

Signed at Washington, D.C., this 21st day of April, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-12005 Filed 4-25-77;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 AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A471]

FLORIDA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Florida Counties as a result of various adverse weather conditions shown in the following chart:

FLORIDA—9 COUNTIES

Alachua—Severe freeze January 17 through January 25, 1977.
Calhoun—Below normal temperatures beginning October 1, 1976, followed by freezing conditions through January 31, 1977.
Dixie—First frost October 23, 1976, followed by long periods of freezing temperatures with heavy rainfall through January 31, 1977.
Gadsden—Unusually cold weather October 1, 1976, through January 31, 1977.
Gilchrist—Prolonged cold, snow, ice, etc., January 17 through January 22, 1977.
Levy—Severe freeze and frost January 1 through January 31, 1977.
Liberty—Below normal temperatures beginning October 1, 1976, followed by freezing conditions through January 31, 1977.
Madison—Beginning October 1, 1976, excessive rains, some flooding, early frost and freeze through January 31, 1977 (especially hard freeze conditions beginning January 16 through January 31, 1977).
Okaloosa—Excessive rains beginning October 1, 1976, followed by freezing through January 31, 1977.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Reubin O'D. Askew that such designation be made.

Applications for emergency loans must be received by this Department no later than June 13, 1977, for physical losses and January 13, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 20th day of April, 1977.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc.77-11940 Filed 4-25-77;8:45 am]

Forest Service

TIMBER MANAGEMENT PLAN; DeSOTO NATIONAL FOREST, MISS.

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 DeSoto Timber Management Plan, DeSoto National Forest, Mississippi, USDA–FS–DES (ADM.) 77–08.

The DeSoto National Forest contains 232,928 acres of National Forest land in Forrest, George, Greene, Pearl River, Perry, and Stone Counties, in Mississippi.

Management actions include timber harvesting, and other timber management activities, road construction and reconstruction, prescribed burning and the use of pesticides.

This draft environmental statement was transmitted to CEQ on April 18, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.
USDA, Forest Service, 1720 Peachtree Street NW., Rm. 804, Atlanta, Georgia 30309.
USDA, Forest Service, 350 Milner Building, Box 1291, Jackson, Mississippi 39205.

A limited number of single copies are available upon request to Forest Supervisor B. F. Finison, Box 1291, Jackson, MS. 39205.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the Council on Environmental Quality 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 Forest Supervisor B. F. Finison, Box 1291, Jackson, MS. 39205. Comments must be received by June 20, 1977 in order to be considered in the preparation of the final environmental statement.

Dated: April 18, 1977.

THOMAS W. SEARS,
Acting Regional
Environmental Coordinator.

[FR Doc.77-11868 Filed 4-25-77;8:45 am]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

NATIONAL ADVISORY COMMITTEE ON AN ACCESSIBLE ENVIRONMENT

Public Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) that a meeting of the National Advisory Committee on an Accessible Environment will be held on May 8–9, 1977 at 9 a.m. The May 8 meeting will be held at the Washington Hilton Hotel, 1919 Connecticut Avenue, NW., Washington, D.C. The May 9 meeting will be held at the Department of Health, Education, and Welfare South Building, 330 C Street SW., Room 3113, Washington, D.C.

The National Advisory Committee on an Accessible Environment is established under the 1974 amendments to the Rehabilitation Act, Pub. L. 93–516, 29 U.S.C. 792, et seq. The Committee is established to provide advice, guidance, and recommendations to the Architectural and Transportation Barriers Compliance Board in carrying out its functions.

The meeting of the Committee shall be open to the public. On the first day the Committee Chairman will discuss activities since the previous meeting and call for government spokespersons to report on program activities and plans of the Architectural and Transportation Barriers Compliance Board. The full Committee will then break into subcommittee meetings to discuss specific area concerns and reconvene as a full Committee to receive subcommittee recommendations at the end of the first day. On the second day, the Committee will meet in conjunction with the Architectural and Transportation Barriers Compliance Board, if the Board is composed. During the second afternoon, the National Advisory Committee will discuss and plan agenda topics for the next meeting.

Persons interested in attending the meeting should contact Ms. Laurinda Steele, Coordinator, Architectural and Transportation Barriers Compliance Board, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201, telephone 202–245–1801.

ROBERT JOHNSON,
Acting Executive Director, Architectural and Transportation Barriers Compliance Board.

[FR Doc.77-11994 Filed 4-25-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Doc. 27573, Agreement C.A.B. 26537; Order 77-4-76]

IATA

Agreement Adopted Relating to Specific Commodity Rates

Issued under delegated authority April 15, 1977.

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 resolution of the Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the 43rd Meeting of the TC1 Specific Commodity Rates Board held in Miami Springs, Florida on February 22, 1977.

With respect to air transportation as defined by the Act, the agreement proposes revisions to the specific commodity rates structure applicable within the Western Hemisphere. These revisions are outlined in the attachment hereto, and reflect reductions from otherwise applicable general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered*, That: Agreement C.A.B. 26537, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

Agreement CAB 26537

IATA commodity item No.[1]	Specific commodity rate at— Cents per kilogram	Minimum weight, kilogram	Market
Rates added under existing commodity descriptions:			
100	[3] 40	200	Miami, Fla. to Barranquilla.
	[3] 56	200	Miami, Fla. to Bogota.
	[3] 63	200	Miami, Fla. to Cali.
	[3] 40	200	Miami, Fla. to Cartagena.
	[3] 56	200	Miami, Fla. to Medellin.
	[3] 56	200	Miami, Fla. to Pereira.
0007	30	1,000	Mazatlan to Los Angeles, Cal.
	25	2,000	Do.
	30	1,000	Mexico City to Los Angeles, Cal.
	25	2,000	Do.
0009	[3] 55	100	Merida to San Juan.
	[3] 35	500	Mexico City to Miami, Fla.
	[3] 71	100	Mexico City to San Juan.
0026	47	200	Mexico City to Los Angeles, Cal.
	43	500	Do.
1400	26	200	Mexico City to Houston, Tex.
	26	200	Mexico City to San Antonio, Tex.
1477	30	1,000	Santo Domingo to New York, N.Y.
1491	[3] 56	200	Miami, Fla. to Bogota.
1566	[3] 102	2,000	Salvador to New York.
2199	49	100	Mexico City to Los Angeles, Cal.
	37	500	Do.
	35	1,000	Do.
2420	40	500	Mexico City to Denver, Col.
2460	[4] 35	1,000	Mexico City to New York, N.Y
	[4] 44	2,000	Do.
4204	[3] 35	200	Miami, Fla. to Barranquilla.
	[3] 48	200	Miami, Fla. to Bogota.
	[3] 53	200	Miami, Fla. to Cali.
	[3] 48	200	Miami, Fla. to Medellin.
	[3] 48	200	Miami, Fla. to Pereira.
4206	[3] 40	100	Miami, Fla. to San Salvador.
4416	21	500	Port Au Prince to Miami, Fla.
5305	[3] 38	200	Barranquilla to Miami, Fla.
6001	[3] 50	200	Mexico City to Chicago, Ill.
	[3] 45	500	Do.
	43	100	Mexico City to Los Angeles, Cal.
	37	500	Do.
6100	[3] 40	200	Mexico City to Dallas, Tex.
7101	48	500	Mexico City to Los Angeles, Cal.
7104	[3] 56	200	Miami, Fla. to Bogota.
7800	[3] 69	100	Merida to San Juan.
7900	[3] 50	500	Mexico City to Chicago, Ill.
8200	[3] 49	100	Mexico City to Los Angeles, Cal.
	[3] 28	200	Mexico City to San Antonio, Tex.
9310	[3] 86	1,000	Porto Alegre to Miami, Fla.
	[3] 80	1,000	Sao Paulo to Miami, Fla.
9516	[3] 34	500	Mexico City to Denver, Colo.
9521	35	500	Port Au Prince to New York, N.Y.
9910	[3] 47	1,000	Bogota to Miami, Fla.
9994	31	500	Bermuda to New York, N.Y.
	[3] 49	500	Bogota to Miami, Fla.
	[3] 40	200	Miami, Fla. to Barranquilla.
Rates changed under existing commodity descriptions:			
0007	35	100	Mazatlan to Denver, Colo.
	30	500	Do.
Rates canceled under existing commodity descriptions:			
1400		[5] 100	Mexico City to Houston, Tex.
2420		[5] 500	Mexico City to Los Angeles, Cal.
		[5] 1,000	Do.
7104		[5] 300	Miami, Fla. to Bogota.
Rates extended under existing commodity descriptions:			
1421	[4] 57	100	Bogota to Baltimore, Md.
	[4] 68	100	Bogota to Boston, Mass.
	[4] 57	100	Bogota to Charlotte, N.C.
	[4] 68	100	Bogota to Cleveland, Ohio
	[4] 68	100	Bogota to Detroit, Mich.
	[4] 68	100	Bogota to Hartford, Conn.
	[4] 53	100	Bogota to Jacksonville, Fla.
	[4] 53	100	Bogota to Orlando, Fla.
	[4] 57	100	Bogota to Philadelphia, Pa.
	[4] 68	100	Bogota to Pittsburgh, Pa.
	[4] 53	100	Bogota to Tampa, Fla.
	[4] 57	100	Bogota to Washington, D.C.
	[4] 57	100	Medellin to Baltimore, Md.
	[4] 57	100	Medellin to Charlotte, N.C.
	[4] 68	100	Medellin to Cleveland, Ohio.
	[4] 68	100	Medellin to Detroit, Mich.
	[4] 68	100	Medellin to Hartford, Conn.
	[4] 53	100	Medellin to Jacksonville, Fla.
	[4] 53	100	Medellin to Orlando, Fla.
	[4] 57	100	Medellin to Philadelphia, Pa.
	[4] 68	100	Medellin to Pittsburgh, Pa.
	[4] 53	100	Medellin to Tampa, Fla.
	[4] 57	100	Medellin to Washington, D.C.

IATA commodity item No.[1]	Specific commodity rate at— Cents per kilogram	Minimum weight, kilogram	Market
2201	[4] 49	300	Barranquilla to New York, N.Y.
	[4] 55	300	Bogota to New York, N.Y.
	[4] 55	300	Cali to New York, N.Y.
	[4] 55	300	Medellin to New York, N.Y.
	[4] 55	300	Pereira to New York, N.Y.
4491	[4] 73	500	Bogota to Los Angeles, Cal.
	[4] 45	500	Bogota to Miami, Fla.
	[4] 61	500	Bogota to New York, N.Y.
	[4] 86	500	Bogota to San Francisco, Cal.

[1] See applicable tariffs for complete commodity descriptions.
[2] Expires December 31, 1977.
[3] Expires April 30, 1978.
[4] Expires September 30, 1977.
[5] Expires Apr. 30, 1977.

Item No.	Description
0009	Foodstuffs, spices and beverages, excluding strawberries.[1 2]
1566	Cigars.[3]
2460	Underwear.[3]
2804	Hammocks.[3]
6228	Pyrethrum extract in containers, not exceeding 50 kg per container.[1 3]
7900	Paper and rubber manufactures, excluding newspapers, periodicals, magazines, books, catalogues and braille type equipment.[3]
9310	Sporting guns.[3]
9910	Furniture and furniture parts.[3]
9910	Furniture.[3]

[1] Description changed.
[2] Area of application changed.
[3] New description.

[FR Doc.77-11827 Filed 4-25-77;8:45 am]

[Docs. 25546/28266]

MACKEY CERTIFICATION PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 17, 1977 at 9:30 a.m. (local time), in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, Washington, D.C. 20428, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served January 18, 1977 and the supplemental prehearing conference reports served February 10 and March 4, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 20, 1977.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.77-11997 Filed 4-25-77;8:45 am]

CIVIL SERVICE COMMISSION

ESTABLISHMENT OF PRESCRIBED MINIMUM EDUCATIONAL REQUIREMENTS

Ecology Series, GS-408

AGENCY: U.S. Civil Service Commission.

ACTION: Notice.

SUMMARY: The Civil Service Commission has established a prescribed minimum education requirement for ecologists employed within the Federal service. Ecology is a new professional occupation and the prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: April 26, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond R. Yinger, Personnel Management Specialist, Bureau of Policies and Standards, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of Title 5, United States Code, the Civil Service Commission has established a prescribed minimum educational requirement for ecologists employed within the Federal service. The requirement, the duties of the positions, and the reasons for the Commission's decision that the requirement is necessary are set forth below:

THE ECOLOGY SERIES, GS-408
GS-5 THROUGH GS-15

Minimum Educational Requirement. Candidates must have successfully completed a full 4-year or longer course of study in an accredited college or university leading to a bachelor's or higher degree in biology or a related field of science underlying ecological research. This total course of study must have included at least 40 semester hours in basic and applied biological sciences, including a total of at least 6 semester hours in population ecology, community ecology, and systems ecology and 15 semester hours in the physical or mathematical sciences. The nature and quality of this required coursework must have been such that it would serve as a prerequisite for more advanced study in ecology.

Duties. Ecologists perform professional and scientific work that utilizes both a systems approach and factual analysis to study the interrelationships of organisms with each other, with factors of their physical and chemical environment, and with society. Such relationships are considered primarily at the levels of individuals, populations, communities, and ecosystems. Ecologists analyze biological components and processes in the context of ecosystems including environmental factors, physical-chemical-biological relationships, and social relationships using quantitative analytic and synthetic systems analysis techniques to predict the effects of planned or natural changes in ecosystems and to develop solutions to ecological problems.

Reasons for Establishing Requirements. The duties of these positions cannot be performed without thorough cross-disciplinary training in ecology, the several fields of biological science that underly ecology, and the relevant physical or mathematical sciences. The duties of the positions require the application of highly technical scientific knowledge and skills which can only be acquired through the successful completion of a course of study leading to a baccalaureate or higher degree in an accredited college or university which has scientific libraries, well equipped laboratories, and thoroughly trained instructors who give expert guidance and evaluate progress competently.

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

[FR Doc.77-11951 Filed 4-25-77;8:45 am]

REVOCATION OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Agriculture Department

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy for Congressional Affairs, Office of Congressional and Public Affairs, Immediate Office, Office of the Secretary.

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

[FR Doc. 77-11954 Filed 4-25-77;8:45 am]

GRANT OF AUTHORITY TO MAKE NONCAREER EXECUTIVE ASSIGNMENT

Agriculture Department

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy for Public Affairs, Office of Congressional and Public Affairs, Immediate Office, Office of the Secretary.

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

[FR Doc.77-11953 Filed 4-25-77;8:45 am]

REVOCATION OF AUTHORITY TO MAKE A NONCAREER EXECUTIVE ASSIGNMENT

Justice Department

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Serv-

ice Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Attorney General, Office of the Assistant Attorney General, Land and Natural Resources Division.

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

[FR Doc.77-11956 Filed 4-25-77;8:45 am]

GRANT OF AUTHORITY TO MAKE A NONCAREER EXECUTIVE ASSIGNMENT

Justice Department

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Attorney General, Office of Legislative Affairs.

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

[FR Doc.77-11955 Filed 4-25-77;8:45 am]

GRANT OF AUTHORITY TO MAKE A NONCAREER EXECUTIVE ASSIGNMENT

Justice Department

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Associate Attorney General, Office of the Associate Attorney General.

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

[FR Doc.77-11952 Filed 4-25-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, May 11, 1977, at 9 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. The Executive Session will convene at 9:00 a.m. and the General Session will convene at approximately 11:30 a.m.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommitte of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

EXECUTIVE SESSION

(1) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

GENERAL SESSION

(2) Opening remarks by the Chairman.
(3) Presentation of papers or comments by the public.
(4) Discussion of further work program of the Subcommittee.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (1), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: April 21, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-11914 Filed 4-25-77;8:45 am]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, May 11, 1977, at 1:30 p.m. in Room 1851, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of pro-

duction and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report by Department of Defense on the status of their paper addressing: (a) What software is being transferred to East Europe; (b) Mechanisms used to transfer this software; (c) Key software areas which should be considered for control; and (d) Software areas which should not be controlled.

(4) Discussion of assignments and review of the draft report dated February 7, 1977 on the transfer of computer software technology.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Date: April 21, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, Department of Commerce.

[FR Doc.77-11913 Filed 4-25-77;8:45 am]

National Oceanic and Atmospheric Administration

GULF WORLD, INC.

Receipt of Application for Public Display

Notice is hereby given that the following Applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Gulf World, Inc., 15412 West Highway 98, Panama City Beach, Florida 32407 to take five (5) Atlantic bottlenosed dolphins (*Tursiops truncatus*), five (5) California sea lions (*Zalophus californianus*), and five (5) harbor seals (*Phoca vitulina*).

The dolphins will be maintained in a main pool 60 feet by 30 feet by 12 feet with a volume of 162,000 gallons, and three holding tanks which measure 15 feet by 10 feet by 6 feet with a combined capacity of 20,250 gallons. The sea lions will be maintained in a pool 29 feet by 8 feet by 4 feet with a volume of 6,900 gallons and a haul-out area of 22 feet by 7 feet. The harbor seals will be maintained in a pool 31 feet by 20 feet by 2 feet with a haul-out area of 14 feet by 9 feet. The water for these displays is taken from the Gulf of Mexico and is filtered.

Gulf World is a profit making corporation that is visited by 95,000 people annually.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Gandy Boulevard, Duval Building, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors. Written data or views, or request for a public hearing on this application, should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before May 26, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 17, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-11948 Filed 4-25-77;8:45 am]

MYSTIC MARINE LIFE AQUARIUM

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a Permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C.; 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Mystic Marine Life Aquarium, Mystic, Connecticut 06355 to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*) and to retain a stranded harbor porpoise (*Phocoena phocoena*) for public display.

The bottlenosed dolphins will be captured by a professional collector off the coast of Florida, with a seine net.

The dolphins will be shipped to the Connecticut facility by commercial aircraft and truck.

The dolphins and porpoise will be maintained in a main pool 70 feet long by 40 feet wide by 20 feet deep. Two holding pools are available each measuring 30 feet in diameter by 9 feet deep. The volume of water circulated in these pools 410,000 gallons which is maintained to be comparable to low salinity sea water.

The dolphins are requested to be part of the marine mammal display of the Aquarium which is visited by some 500,000 visitors a year. The institution is privately owned and self supporting.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved. It is the opinion of this veterinarian that the harbor porpoise will not readapt to the wild if released.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before May 26, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: April 19, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management National Marine Fisheries Service.

[FR Doc.77-11949 Filed 4-25-77;8:45 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Three Public Meetings

Notice is hereby given of three meetings of the New England Fishery Management Council established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The New England Fishery Management Council has authority, effective March 1, 1977 over fisheries within the fishery conservation zone adjacent to the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings as it deems necessary.

The first of the three Council meetings will be held on May 23 and 24, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 4 p.m., respectively at the Holiday Inn, Woodbury Avenue, Portsmouth, New Hampshire.

PROPOSED AGENDA

1. Report on the Council Scallop Plan.
2. Review of Council Final Management Plan for Hearing.
3. Development of Council Silver Hake Management Plan.
4. Other Business.

The second of these three Council meetings will be held on July 5 and 6, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 4 p.m., respectively at the Newport Treadway Inn, On the Harbor, Newport, Rhode Island.

PROPOSED AGENDA

1. Development of Herring Final Management Plan.
2. Development of Council Silver Hake Final Management Plan.
3. Review of proposed Final Management Plan for Red Fish and Pollock.
4. Other Business.

The third in this series of Council meetings will be held on August 2 and 3, 1977, from 10 a.m. to 5 p.m., and 9 a.m. to 4 p.m., respectively at the Holiday Inn, Cooks Corner, Brunswick, Maine.

PROPOSED AGENDA

1. Review of Final Management Plan for Silver Hake.
2. Review of Final Management Plan for Red Fish.
3. Review of Final Management Plan for Pollock.
4. Development of Council Final Management Plan for Red Crab.
5. Development of Council Final Management Plan for Squid.
6. Development of Council Final Management Plan for Red Hake.
7. Other Business.

These meetings are open to the public and there will be seating at each for approximately 30 public members available on a first-come, first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about 10 days before each of these meetings:

Mr. Spencer Apollonio, Executive Director, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960.

At the discretion of the Council, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to provide written comments should do so by submitting them to Mr. Apollonio at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the Council meeting.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

APRIL 18, 1977.

[FR Doc.77-11916 Filed 4-25-77;8:45 am]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that the Commerce Technical Advisory Board will hold a meeting on Tuesday, May 17, 1977 from 9:45 a.m. to 5 p.m. and Wednesday, May 18, 1977 from 9:45 a.m. until 1 p.m. in Room 4830, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

The Board was established to study and evaluate the technical activities of the Department of Commerce and recommend measures to increase their value to the business community. Tentative agenda items include:

Discussion of Draft Report on the Need for Independent Reassessment of the Strategies for Achieving the Goals of the National Environmental Policy Act;

Discussion of CTAB's views on U.S. Technology Policy; and

Review of organization and function of CTAB.

The meeting will be open to public observation. The public may submit written statements of inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-serve basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mrs. Florence S. Feinberg, Administrator, Room 3865, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5065.

Dated: April 21, 1977.

BETSY ANCKER-JOHNSON, Ph. D.,
Assistant Secretary for Science and Technology.

[FR Doc.77-11978 Filed 4-25-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY COMMITTEE ON PRIORITY CHEMICALS TESTING

Meeting

APRIL 21, 1977.

This notice is intended to advise all interested persons of the schedule for the

meeting of the TSCA Interagency Committee on Priority Chemicals Testing established under section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing of chemical substances and mixtures.

The next meeting will be held Thursday, April 28, 1977, at 1 p.m. in the CEQ Conference Room, 722 Jackson Place, Washington, D.C. Further information may be obtained by calling the Committee Secretary, 382-2027. All interested persons are invited to attend.

WARREN R. MUIR,
Chairman, TSCA ICPCT.

[FR Doc.77-12038 Filed 4-25-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ROCKY MOUNTAIN ARSENAL, COLORADO

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on April 15, 1977 provided the Council on Environmental Quality with Draft Environmental Impact Statement concerning Disposal of Chemical Agent Identification Sets at Rocky Mountain Arsenal, Colorado.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Project Manager, Chemical Demilitarization and Installation Restoration, Building E-4585, Attn: DRCPM-DR-T (Mr. G. Anderson), Aberdeen Proving Ground, Md., phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-1163.[1]

Dated: April 19, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77-11936 Filed 4-25-77;8:45 am]

ROCKY MOUNTAIN ARSENAL, COLORADO

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on April 15, 1977 provided the Council on Environmental Quality with Draft Environmental Impact Statement concerning Part 1 Pilot Containment Operations at Rocky Mountain Arsenal, Colorado.

Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies from Office of the DA Project Manager for Chemical Demilitarization and Installation Restoration, Building E, 4585, ATTN: DRCPM-DR-T (Mr. G. Anderson) Aberdeen Proving Ground, Md. 21010, phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, phone 202-694-1163.[1]

Dated: April 11, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc.77-11937 Filed 4-25-77;8:45 am]

Department of the Army

DISCHARGE REVIEW BOARDS

Plan for Review of Discharges of Certain Vietnam Era Personnel

Notice is hereby given that the Secretary of Defense has established a Special Discharge Review Program to review certain administrative discharges received by former service members during the Vietnam Era (August 4, 1964 through March 28, 1973). Also eligible are certain service members presently in a deserter status whose absence commenced during the Vietnam Era.

Because the plan establishes agency procedures to be followed, notice of proposed rule making and procedures thereto, are not necessary. In addition, notice of proposed rule making and the procedures thereto are impracticable, unnecessary, and contrary to the public interest, in view of the need to implement the program at the earliest possible date.

The Department of the Army is the Executive Agent for the conduct of this program. The Plan for Review of Discharges of Certain Vietnam Era Personnel is published below.

Effective date: This plan was effective April 5, 1977.

FREDERICK R. DALY,
GS Project Officer, Special Discharge Review Program.

PLAN FOR REVIEW OF DISCHARGES OF CERTAIN VIETNAM ERA PERSONNEL

1. *General:* This plan provides guidance for the implementation of a program concerning the processing of deserters-at-large and review of discharges for eligible former members of the Armed Services during the Vietnam War.

2. *Concept:* a. Deserters-at-large will be afforded an opportunity to return to military control and be discharged promptly in accordance with applicable Department of Defense and individual Service regulations by reason of "prolonged unauthorized absence". Deserters have a period of 180 days from the date of announcement of detailed procedures for the program (5 April 1977) to return to military control. Upon return and discharge, the records of these persons will be reviewed for possible upgrading of their discharges under this program.

b. Discharge reviews will be conducted by the Discharge Review Boards (DRB) of the Military Departments on an on-the-record basis after the individual has had an opportunity to submit information he wants considered along with the material in his military record.

c. Discharged personnel will have a 180 day period from the announcement of detailed application procedures (5 April 1977) to apply for a review of their discharge.

d. Military Departments have 14 days to respond to the individual confirming receipt of his/her application. A notification will be sent to the applicant stating that he/she will have 30 days to submit any additional data desired to be considered along with the material in the military records. The discharge review process will be accomplished within 180 days after receipt of the application.

e. Requests on behalf of discharged personnel who are deceased or mentally incompetent may be initiated by their surviving spouse, next-of-kin, or legal representative. In these cases, proof of death or legal proof of mental incompetency will be required as an additional document.

f. Persons discharged as a result of sentence by a General Court-Martial or discharged with a Bad Conduct Discharge by sentence of a Special Court-Martial are not eligible for review of their discharges under this program. Such individuals will be advised that any request for review of their discharges will be submitted in accordance with application procedures under existing regulations of their respective former Service under 10 U.S.C. 1552 or 1553 as applicable.

3. *Deserters-at-Large:* a. A toll free telephone number will be established which can be used by deserters to inform their Service of their desire to participate in this program (see paragraph 4a (3) below). Deserters will be requested to provide the necessary information to verify their status and will be told subsequent instructions will be provided to them by their Service by mail at a later date.

b. The Secretaries of the Military Departments will establish procedures for expedited verification of status and procurement of necessary military records of deserters who apply. The records will be screened to determine whether or not the deserter meets the criteria for discharge. If other charges were pending at the time of desertion or absence, an appropriate authority will determine whether these charges will be dismissed or retained for possible prosecution.

[1] A copy is also on file with the original document at the Office of the Federal Register.

[1] A copy is also on file as part of the original document at the Office of the Federal Register.

Those who deserted in or from a combat zone are not eligible.

c. If charges other than those for desertion or absence are pending and a decision has been made that these charges will not be dismissed, the deserted will be informed of this fact, as well as the fact of non-eligibility for the program.

d. Persons eligible for discharge pursuant to this program will be instructed to return to military control as directed by the military service concerned. Charges for desertion and/or absence will be dismissed and applicants will be discharged in accordance with applicable Department of Defense and individual service regulations by reason of "prolonged unauthorized absence."

e. In the cases of those discharged, notification will be made to the FBI (National Crime Information Center) that the individual's return to military control is no longer desired and that status as an Absentee from the Armed Services is cancelled.

f. If the individual is discharged with an Under Other Than Honorable Discharge (enlisted personnel) or separated Under Other Than Honorable Conditions (officer personnel), the service record will be forwarded directly to the DRB of the Military Department concerned so that the individual may have his/her discharge reviewed under the discharge review part of this program.

g. These instructions are also applicable to any deserter who has been returned to military control but not discharged on the date of the public announcement of the program provided that the period of absence or desertion commenced between 4 August 1964 and 28 March 1973.

h. Deserters who are outside the United States and return to military control may be processed under this program if international agreements permit.

4. *Discharge Reviews.* Military Department DRBs will process an application considered within this program under the procedures outlined below using the criteria contained in Inclosure 1. Augmentation of the DRBs and support administrative facilities are authorized and directed in order to ensure that the reviews can be conducted within 180 days after receipt of application.

a. *Applications.* Application procedures will be simplified. Use of DD Form 293 (Application for Review of Discharge or Separation from the Armed Forces of the Untied States) and formal application procedures currently in use will not be required.

(1) The Secretary of the Army shall establish a Joint Liaison Office in St. Louis. The Army will provide facilities, communications and logistical support for all Services on a reimbursable basis. Staffing of the office will be on a proportional basis considering the potential number of requests from each Service.

(2) This Joint Liaison Office will have the functions of responding to initial inquiries, receiving applications, sending letters of confirmation to each applicant, notifying the respective Service of the former member's desire for a discharge review, and coordinating the retrieval of records from the National Personnel Records Center. The Joint Liaison Office will ensure that the address of the individual is furnished along with the personnel record.

(3) Toll free telephone service will be established for this Joint Liaison Office so that individuals may apply for discharge review by a telephone call. (This same number can be used for initial contacts by deserters.) The telephone numbers and mailing address of the Joint Liaison Office will be given widespread publicity so that telephonic or written requests can be accommodated.

(4) At the time of calling, caller will be notified that under the Privacy Act, he may refuse to provide the requested information. The caller will be notified that should the information not be provided, it may not be possible to process his request. The caller will be informed that he/she will receive a letter providing additional information. Unless otherwise specified by applicant, it will be assumed that the requestor is seeking upgrade to Honorable Discharge by reason of this program.

(5) Upon application, the requestor will be furnished a letter explaining the program, advising him of the opportunity to submit additional information, and advising him that if additional documentation is not received within 30 days, an initial review by the DRB will be based on the material in his military records only.

(6) A request for the military record will be levied on the National Personnel Records Center. After receipt of a response from the applicant or the passage of 30 days from the date of the letter, the file will be forwarded to the DRB for review. (Services may have the applicant respond directly to their DRB if this is more appropriate for their method of operation.)

(7) The Joint Liaison Office will be staffed so that it can be operational from 0700 to 2000 hours CST/DST on a seven day a week basis initially. Subsequent operating hours can be adjusted based on workload experience.

b. *Procedures.* (1) Cases will be reviewed within 180 days after receipt of application. The initial review of the individual's records and information submitted in response to the letter will be in closed session by the DRB. Expedited processing procedures are encouraged to reduce the administrative processing time to a minimum consistent with careful consideration of each request for review.

(2) Applicants with discharges Under Other than Honorable Conditions who meet one of the special considerations (Inclosure 1) will be upgraded to a general discharge under honorable conditions (or may be upgraded to an honorable discharge if the DRB so determines) unless there are compelling reasons to the contrary. Compelling reasons are the following:

(a) Discharge was for desertion or absence in or from the combat zone. An individual who departed the combat zone on leave, TDY, or other authorized absence basis and did not return is considered to have deserted or absented himself in or from the combat zone. Conversely, an individual who failed to report to an embarkation point for further assignment to the combat zone is not considered to have been absent in or from the combat zone.

(b) Discharge was based on an act of violence or violent conduct.

(c) Discharge was based on cowardice or misbehavior before the enemy.

(d) Discharge was based on an act or conduct that would be subject to criminal prosecution if it had taken place in a civilian environment.

(3) Applicants with discharges Under Other than Honorable Conditions who meet the mitigating factors (Inclosure 1) may be upgraded to a general discharge under honorable conditions (or an honorable discharge) when the DRB finds such upgrading is appropriate based on the total circumstances of the case.

(4) Individuals with general discharges under honorable conditions may apply under this program for review to the DRB of their former Military Department. The DRB shall consider in their deliberations the President's desire that discharges be re-examined in a spirit of compassion.

(5) When initial review by the DRB does not result in granting of the full relief requested, requesters will be advised of their right to further review by the DRB.

c. *Counsel.* Neither counsel nor applicant will appear at the initial review in closed session of the Board. In the event an applicant's request for upgrading is initially denied, the application, upon request, shall be reviewed by the DRB de novo, (anew). At this stage, the applicant may appear and be represented by counsel. Upon request, counsel will be provided without charge to applicants who at this stage do not have a discharge under honorable conditions. In the latter case, the Military Departments shall ensure the availability of counsel, but may use counsel from outside the Department of Defense.

d. *Findings, Conclusions, and Reasons.* A statement of Findings, Conclusions, and Reasons must be prepared for each final determination as to every application considered under this program in accordance with DRB procedures as set forth in applicable service regulation.

e. *Notification to the Veteran's Administration.* Each DRB will provide a monthly listing of the individuals whose discharges have been upgraded under this program. (Not required if computer program is established.)

f. *Cases on Hand.* DRB will screen the cases on hand at the time this program is announced and determine which cases qualify for review under this program. A letter will be dispatched to those applicants qualifying for review under this

program, advising them of this fact, explaining the program, and advising them of the opportunity to submit additional information. All issues raised in the DD Form 293 will be considered.

5. *Separation Program Designator (SPD).* Each individual will have the SPD shown as KCR. The authority will be DOD Discharge Review Program (Special).

6. *Funding and Accounting Procedures:* a. Each Military Department will initially provide the additional resources required to operate this program. Separate accounting controls will be established to identify the costs of the program separately from normal operations. Costs will be accumulated at Budget Program levels for each Budget Program affected.

b. Reimbursement to Department of the Army for the costs of facilities, communications, and logistical support of the Joint Services Liaison Office will be made by the Departments of the Navy and Air Force in accordance with normal reimbursement procedures.

c. A consolidated report of the DRP (Special) costs will be provided by the Department of the Army to the Assistant Secretary of Defense (Comptroller), at the end of each fiscal quarter.

d. For deserters, a final pay voucher will be prepared after final determination of the case to reflect all pay and allowances which have accrued to the individual as of the date of the desertion. The amount due, if any, will be offset by any costs such as transportation, food, etc.

7. *Inter-Agency Actions.* Successful accomplishment of this program will require assistance of other agencies outside the Department of Defense and Department of Transportation.

8. *Public Affairs Guidance.* a. This program has national significance. The Assistant Secretary of Defense (Public Affairs) (OASD (PA)) will:

(1) Provide overall public affairs guidance to the Services;

(2) Make initial and subsequent DoD release with details of the program to national electronic and print media;

(3) Provide initial release and comprehensive program explanation to national veterans organizations and other associations/groups as appropriate;

(4) Inform members of the Armed Forces through internal information media;

(5) Coordinate with Veterans Administration Public Affairs Office and request VA make maximum use of their media to disseminate program information.

b. Each Service, in line with OASD (PA) guidance, will:

(1) Provide public affairs guidance to all installations/bases so public affairs office will be immediately responsive to query at the local level;

(2) Provide specific public affairs guidance for personnel engaged in face-to-face or phone contact with applicants.

9. *Records and Reports:* a. Records generated by this program will be filed and disposed of under existing Service directives. In all cases where upgrading takes place, the internal military record of the individual will reflect the original discharge as well as the upgraded discharge. Individuals upgraded will have their DD 214 annotated to reflect they are not eligible for reenlistment except on receipt of a separate waiver from the Military Service concerned.

b. The Department of the Army will provide a monthly consolidated report showing data on deserters returned and discharge review activities. The first report will be submitted to Assistant Secretary of Defense (M&RA) by the 10th of the month following the first full calendar month of operation of the program. Each Military Department will complete a case data sheet on each case processed and forward a copy to the Army Council of Review Boards, Room 1E464, The Pentagon, by close of business Friday of each week.

c. The Secretary of the Army will submit a comprehensive final report and program evaluation to the Secretary of Defense within 60 days following completion of the program.

10. The Department of the Army is Executive Agent for the conduct of the program.

CRITERIA FOR DISCHARGE REVIEW

1. *Types of Discharges Eligible:* All discharges (including Clemency discharges) except Honorable Discharges and punitive discharges as a result of sentence by court-martial.

2. *Period of Service Covered by the Discharge:* a. Discharged during the period 4 August 1964 through 28 March 1973.

b. Deserter-at-large from that period who surrenders and who is separated under this program.

3. *Special Considerations.* Applicants with discharges Under Other than Honorable Conditions who meet one of the following considerations with have their discharges upgraded to a general discharge under honorable conditions (or may be upgraded to an Honorable Discharge if the DRB so determines) unless there are compelling reasons to the contrary:

a. Received a U.S. Military decoration other than a service medal.

b. Was wounded in action.

c. Satisfactorily completed an assignment in Southeast Asia or in the Western Pacific in support of operations in Southeast Asia.

d. Completed alternate service or was excused therefrom in accordance with Presidential Proclamation 4313 of 16 September 1974.

e. Received an Honorable Discharge from a previous tour of military service.

f. Had a record of satisfactory active military service for 24 months prior to discharge.

4. *Mitigating Factors.* Applicants with discharges under other than honorable conditions may also qualify for upgrading to a general discharge under honorable conditions (or an Honorable Discharge) when a Service Discharge Review Board finds such action is appropriate based on all of the circumstances of a particular case and on the quality of the individual's civilian record since discharge. Factors to consider in this regard include:

a. Age, general aptitude, and length of service at time of discharge.

b. Education level at the time of discharge.

c. Individual entered the service from a deprived background.

d. Actions which led to the discharge were alleged at the time of discharge to have been motivated by conscience.

e. Individual entered the service upon a waiver of normally applicable entrance standards.

f. Possible personal problems which may have contributed to the acts which led to discharges.

g. Record of good citizenship since discharge. Boards are encouraged to give weight to this factor when a good record is documented.

h. Was discharged for drug or alcohol abuse and, if so, any contributing or extenuating circumstances.

i. Other factors which the applicant contends warrant an upgrade in discharge.

5. Applicants with General Discharges (Under Honorable Conditions) may apply under this program for review to the DRB of their former Military Department. The DRB shall consider in their deliberations the President's desire that discharges be re-examined in a spirit of compassion.

[FR Doc.77-12021 Filed 4-25-77;8:45 am]

PRIVACY ACT OF 1974

System of Records

The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974 have been published in the FEDERAL REGISTER as follows:

FR Doc. 75-21075 (40 FR 35151) August 18, 1975.
FR Doc. 75-22781 (40 FR 41970) September 9, 1975.
FR Doc. 75-26296 (41 FR 2952) January 20, 1976.
FR Doc. 76-20187 (41 FR 28806) July 13, 1976.
FR Doc. 76-21185 (41 FR 30824) July 26, 1976.
FR Doc. 76-27015 (41 FR 39798) September 16, 1976.
FR Doc. 76-32920 (41 FR 49960) November 11, 1976.
FR Doc. 77-5005 (42 FR 9700) February 17, 1977.
FR Doc. 77-9080 (42 FR 16465) March 28, 1977.
FR Doc. 77-11277 (42 FR 20326) April 19, 1977.

Notice is hereby given that the Department of the Army submitted a proposed new system of records on March 17, 1977 pursuant to the provisions of Office of Management and Budget (OMB) Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their

intention to establish or alter systems of personal records as required by the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a(o)).

The Department of the Army invites public comments concerning the proposed new record system. Interested persons are invited to submit written data, views and arguments to Headquarters, Department of the Army (DAAG-AMR-R), Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20314 on or before May 26, 1977. The system will become effective, within 30 days, as proposed without further notice unless comments are received which result in a contrary determination.

AO708.16aUSREDCOM

System name:

708.16 Military Personnel Data File, USREDCOM

System location:

Primary system: Computer Operations Section, Command Control Support Division, Directorate of Operations, J3, Building 501, United States Readiness Command (USREDCOM), MacDill Air Force Base (AFB), FL 33608. Computer products: Military Personnel Division, J1, Room 160, Building 501, USREDCOM, MacDill AFB, FL 33608.

Categories of individuals covered by the system:

All Army, Navy, Marine Corps, and Air Force personnel assigned for duty with USREDCOM, MacDill AFB, FL 33608.

Categories of records in the system:

File contains following information on all military personnel assigned for duty with USREDCOM: (1) Social security number (SSN), (2) name, (3) rank, (4) pay grade, (5) date of rank, (6) branch of service, (7) Army officer branch, (8) basic active service date, (9) basic pay entry date, (10) date of birth, (11) passport expiration date, (12) organization and division, (13) Joint Table of Distribution paragraph and line number, (14) alert status, joint task force, (15) immunization dates, (16) weapon qualification, (17) primary military specialty/Air Force specialty code (MOS/AFSC), (18) marital status, (19) secondary MOS/AFSC, (20) duty MOS/AFSC, (21) officer evaluation report/enlisted efficiency report (OER/EER) date, (22) date assigned to supervisor, (23) reserve/regular officer, (24) duty telephone number, (25) building and room number, (26) home address, (27) nearest town, (28) home telephone number, (29) spouse's name, (30) date arrived USREDCOM, (31) projected loss date, (32) expiration term of service, (33) foreign service availability code, (34) human personal reliability screening date, (35) language proficiency, (36) enlisted evaluation report weighted average, (37) primary MOS evaluated, (38) primary evaluation date, (39) primary score, (40) secondary MOS evaluated, (41) secondary evaluation date, (42) secondary score, (43) name of OER rater, (44) duty title, (45) permanent grade, officers, (46) permanent date of rank, (47) rated category, (48) highest professional military education, (49) civilian education, (50) source of commission, (51) mandatory retirement date, officers.

Authority for maintenance of the system:

Title 10 U.S.C., § 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Purpose of system is to maintain a consolidated joint personnel file pertaining to Army, Navy, Marine Corps, and Air Force personnel. Although each service has its own personnel records system, USREDCOM requires a consolidated system of basic personnel data that would allow the production of Command Manning Rosters, Immunization Rosters, Joint Task Force Deployment Rosters, Locator Rosters, and retrievability of individual personnel data as needed in the Joint Military Personnel Division.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The entire personnel system is an online disk resident application with backup maintained on magnetic tape.

Retrievability:

Standard reports and ad hoc retrievals are generated via remote terminals using a data management system. Additionally, updates and record brousing may be accomplished in the interactive mode through keying by SSN.

Safeguards:

All personnel qualified to add, change, or delete records of this file must be cleared for TOP SECRET as the computer equipment used to maintain this file is physically located within a TOP SECRET access area. The overall classification of the personnel file is "For Official Use Only", but all operators have individual "Pass Words" which are required for access to the computer file. All output products have the following statement printed at the beginning of each page: "This roster contains Privacy Act information and will not be released unless request meets the requirements of para 3-2, AR 340-21".

Retention and disposal:

All personnel data collected from military records for local use of this command are deleted from the data file upon the departure of the individual from USREDCOM. No history is maintained on departing individuals under this system.

System manager(s) and address:

Chief, Military Personnel Division, Directorate of Personnel, J1, USREDCOM, MacDill AFB, FL 33608.

Notification procedure:

Information may be obtained from:

Directorate of Personnel, J1, Attn: RCJ1-MP, Room 160, Building 501, USREDCOM, MacDill AFB, FL 33608, Telephone area code 813-830-4106.

Record access procedures:

Requests from individuals should be addressed to: Chief, Military Personnel Division, ATTN: RCJ1-MP, USREDCOM, MacDill AFB, FL 33608.

Written requests for information should contain the full name of the individual, SSN, current address, and telephone number.

Visits are permitted at the Directorate of Personnel, J1, Room 168, and at the Military Personnel Division, Room 160, Building 501, MacDill AFB, FL 33608, where computer products are maintained. For personal visits, the individual should be able to provide some acceptable identification; e.g. military identification card, driver's license, or some other acceptable identification card, and give some verbal information which can be verified from his/her file.

Contesting record procedures:

The Army's rules for access to records, contesting contents, and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

Record source categories:

Fields of data recorded in this system were taken from official military personnel records of the individual upon his/her reporting to USREDCOM for duty.

Systems exempt from certain provisions of the act:

None.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

APRIL 21, 1977.

[FR Doc.77-11857 Filed 4-25-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 717-5; OPP-50291]

EXPERIMENTAL USE PERMITS

Issuance

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 2224-EUP-12. Mobil Chemical Company, Richmond, Virginia 23261. This experimental use pemit allows the use of 1,194 pounds of the insecticide ethoprop on cabbage, corn, cucumbers, peanuts, potatoes, snapbeans, soybeans, sugarcane, and sweet potatoes to evaluate control of nematodes, corn rootworms, wireworms, and rootknots. A total of 493 acres is involved; the program

is authorized only in the States of Alabama, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina North Dakota, Ohio, Oklahoma, Puerto Rico, South Carolina, South Dakota, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 16, 1977, to April 16, 1978. Permanent tolerances for residues of the active ingredient in or on cabbage, corn, cucumbers, peanuts, potatoes, snapbeans, soybeans, sugarcane, and sweet potatoes have been established (40 CFR 180.262).

No. 464-EUP-51. Dow Chemical U.S.A., Midland, Michigan 48640. This experimental use permit allows the use of 8,400 pounds of the herbicide chlorpyrifos on cotton to evaluate control of bollworms and boll weevils. A total of 1,200 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Mississippi, South Carolina and Texas. The experimental use permit is effective from April 1, 1977, to April 1, 1978. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.342).

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: April 18, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-11863 Filed 4-25-77;8:45 am]

[FRL 717-4; OPP-250004]

PESTICIDE PROGRAMS

Notification of the Secretary of Agriculture of a Proposed Regulation

Notice is hereby given as required by section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq., hereinafter referred to as FIFRA) that the Administrator of the Environmental Protection Agency (EPA) has forwarded to the Secretary of the U.S. Department of Agriculture, a copy of EPA's proposed regulation designed to implement section 25(c)(3) of FIFRA, which authorizes the Administrator to establish standards for the special packaging of pesticides.

Section 25(a)(2)(A) of FIFRA provides that the Administrator shall provide the Secretary of Agriculture a copy of any proposed regulation at least 60 days prior to signing it for publication in the FEDERAL REGISTER. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall publish in the FEDERAL REGISTER (with the proposed regulation) the comments of the Secretary and the response thereto of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign such regulation for publication in the FEDERAL REGISTER anytime after that 30 day period.

Pursuant to FIFRA section 25(a)(3), a copy of this proposed regulation has also been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate. The section 25(c)(3) proposed regulation was submitted to the FIFRA Scientific Advisory Panel on February 17, 1977, as required by section 25(d). The Panel approved the proposed regulation for publication.

Dated: April 19, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc.77-11862 Filed 4-25-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 1 Through April 8, 1977

Notice is hereby given that during the week of April 1 through April 8, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

APRIL 21, 1977.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, week of Apr. 1 through Apr. 8, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Apr. 1, 1977	Byron Elevator, Inc., Owasso, Mich. (If granted: The Mar. 16, 1977, remedial order issued by region V would be rescinded and Byron Elevator, Inc., would not be required to refund alleged overcharges in its sales of covered products.)	FRA-1249 FRS-1249	Appeal of a remedial order issued by region V on Mar. 16, 1977; stay requested.
Do	Chanslor-Western Oil & Development Co., Torrance, Calif. (If granted: The FEA's Feb. 18, 1977, decision and order would be rescinded and the firm would be permitted to sell 100 pct of the crude oil produced from its Torrance main zone unit at upper tier ceiling prices.)	FXA-1248	Appeal of FEA's decision and order in Chanslor-Western Oil & Development Co., 5 FEA par. ..... (Feb. 18, 1977.)
Do	Cleary Petroleum Co., Oklahoma City, Okla. (If granted: Crude oil produced from the J. A. Little A Lease located in Archer County, Tex., would be sold at upper tier ceiling prices.)	FEE-4042	Price exception (sec. 212.73).
Do	Edgington Oil Co., Inc., Washington, D.C. (If granted: The FEA's Dec. 15, 1976, decision and order would be modified to increase the amount of exception relief Edgington Oil Co. would receive from its entitlements purchase obligation.)	FMR-0097	Modification of FEA's decision and order in Edgington Oil Co., Inc., 4 FEA par. 83,243 (Dec. 15, 1976).
Do	Texaco, Inc., New York, N.Y. (If granted: The FEA's Mar. 2, 1977, order denying a portion of Texaco's information request would be rescinded and the firm would received access to FEA data relating to passthrough of increased nonproduct costs by refiners before Feb. 1, 1976.)	FFA-1247	Appeal of FEA information request denial dated Mar. 2, 1977.
Apr. 4, 1977	Consumers Federation of America, Washington, D.C. (If granted: The FEA Office of Exceptions and Appeals would appoint and pay a special public counsel to represent consumers in connection with FEA rulemaking proceedings involving price and allocation controls for middle distillates.)	FSG-0040	Request for assignment of a special public counsel.
Do	Gary Western Co., Englewood, Colo. (If granted: Gary Western Co. would receive an exception from the requirements of 10 CFR 212.83(c)(2)(iii)(E) and would not be required to calculate nonproduct cost increases by the output adjusted method.)	FEE-4023	Price exception (sec. 212.83).
Do	Luke Bros., Inc., Oklahoma City, Okla. (If granted: Luke Bros., Inc., would receive a temporary stay of the refund requirements in the remedial order issued by region VI on Oct. 5, 1976, pending judicial review.)	FST-0039	Temporary stay of the remedial order issued by region VI on Oct. 5, 1976.
Do	Sentry Refining Co., New York, N.Y. (If granted: The FEA's Mar. 4, 1977, decision and order would be rescinded and Sentry Refining Co. would be permitted to begin purchasing crude oil that may be allocated pursuant to sec. 211.65 before it actually begins its refinery operations and would quality as a refiner for purposes of sec. 211.67 before its proposed refinery at St. Mary's, W. Va., becomes operational.)	FXA-1231	Appeal of FEA's decision and order in Sentry Refining Co., 5 FEA par. ..... (Apr. 4, 1977).
Apr. 5, 1977	Brinkerhoff Drilling Co., Denver, Colo. (If granted: Brinkerhoff Drilling Co would receive an extension of the relief granted in FEA's Nov. 1, 1976, decision and order to permit crude oil produced from the Track lease, well No. 1 located in Roosevelt County, Mont., to be sold at upper tier ceiling prices.)	FXE-4047	Extension of the relief granted in Brinkerhoff Drilling Co., 4 FEA par. 83,173 (Nov. 1, 1976)
Do	Buck Drilling & Exploration, Oklahoma City, Okla. (If granted: The FEA's Feb. 15, 1977, stay decision and order issued to Buck Drilling & Exploration would be vacated.)	FEX-0139	Supplemental order to the FEA's decision and order in Buck Drilling & Exploration, 5 FEA par. 85,028 (Feb. 15, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Coastal States Gas Corp., Houston, Tex. (If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Almeda gas plant.	FEE-4045	Price exception (sec. 212.165).
Do.....	Daleco Resources, Beverly Hills, Calif. (If granted: Daleco Resources' Maino and Pricco leases would be classified as stripper well properties.)	FEE-4048	Price exception (sec. 212.73).
Do.....	Eagle Oil Co., Columbus, Ohio. (If granted: The FEA's Mar. 23, 1977, decision and order would be rescinded and Eagle Oil Co. would be assigned a new, lower priced supplier to replace its base period supplier, Tresler Oil Co.)	FXA-1251	Appeal of FEA's decision and order in Eagle Oil Co., 5 FEA par. ..... (Mar. 23, 1977).
Do.....	Gas Engine & Compressor Service, Inc., Longview, Tex. (If granted: Gas Engine & Compressor Service, Inc., would be permitted to retroactively increase its prices for condensate and natural gas liquids above the maximum level allowed in the mandatory petroleum price regulations.)	FEE-4046	Price exception (sec. 212.-165).
Do.....	Superior Oil Co. (McElmo Creek), Houston, Tex. (If granted: Crude oil produced from the McElmo Creek unit located in San Juan County, Utah, would be sold at upper tier ceiling prices.)	FEE-4049	Price exception (sec. 212.-76).
Do.....	The Refinery Corp., Washington, D.C. (If granted: FEA's Feb. 18, 1977, decision and order would be rescinded and the Refinery Corp. would be relieved of its obligations to purchase any entitlements pursuant to the revised notice of special correction amount under entitlements program (41 FR 42700 (Sept. 18, 1976)).)	FXA-1252	Appeal of FEA's decision and order in The Refinery Corp., 5 FEA par. 80,554 (Feb. 18, 1977).
Aug. 6, 1977	Austral Oil Co., Inc., Houston, Tex. (If granted: The FEA would recalculate the exception relief granted to Austral Oil Co. in the Mar. 1, 1977, decision and order to take into consideration the change in upper tier ceiling prices.)	FEX-0141	Supplemental order to Austral Oil Co., Inc., 5 FEA par. ..... (Mar. 1, 1977).
Do.....	Biglane Operating Co., Natchez, Miss. (If granted: Biglane Operating Co.'s wells located in Ellis Lake Field, Wilkinson County, Miss., and Flat Lake Field, Adams County, Miss., would be classified as stripper well properties.)	FEE-4050	Price exception (sec. 212.73).
Do.....	Bonray Oil Co., Oklahoma City, Okla. (If granted: The FEA's Mar. 11, 1977, stay decision and order issued to Bonray Oil Co., would be rescinded.)	FEX-0140	Supplemental order to Bonray Oil Co., 5 FEA par. ..... (Mar. 11, 1977).
Do.....	Boyd Oil Corp., Contoocook, N.H. (If granted: The FEA's Mar. 3, 1977, stay decision and order issued to Boyd Oil Corp. would be vacated.)	FEX-0143	Supplemental order to Boyd Oil Corp., 5 FEA par. ..... (Mar. 3, 1977).
Do.....	General Distributors, Inc., Snow Hill, Md. (If granted: The FEA's Feb. 23, 1977, remedial order issued by region III would be rescinded and General Distributors, Inc., would not be required to refund alleged overcharges in its propane sales.)	FRA-1250 FRS-1250	Appeal of FEA's remedial order issued by region III on Feb. 23, 1977; stay requested.
Do.....	General Distributors, Inc., Snow Hill, Md. (If granted: The FEA's Mar. 10, 1977, decision and order would be modified to permit General Distributors, Inc., to retroactively increase its rates in propane sales.)	FMR-0098	Modification of FEA's decision and order in General Distributors, Inc., 5 FEA par. ..... (Mar. 10, 1977).
Do.....	House Oil Co., Clare, Mich. (If granted: House Oil Co. would be assigned a new supplier of motor gasoline to replace its base period supplier, Naph-Sol Refining Co.)	FEE-4056	Exception to change suppliers.
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: FEA region VI's Mar. 24, 1977, decision and order would be rescinded and Phillips Petroleum Co. would not be required to comply with a special report order issued to the firm by region VI on Dec. 3, 1976.)	FSG-0041 FES-0085	Special redress; stay request.
Do.....	Southland Oil Co., Jackson, Miss. (If granted: The FEA would review the entitlements exception relief granted to Southland Oil Co. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0142	Review of entitlements exception relief.
Do.....	Texaco, Inc., Houston, Tex. (If granted: Texaco, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at its Headlee Gas, Headlee Cycling, Houma, Krotz, and Toca gas plants.)	FEE-4051—FEE-4055	Price exception (sec. 212.165).
Do.....	The Refinery Corp., Washington, D.C. (If granted: The FEA's Feb. 18, 1977, decision and order would be rescinded.)	FMR-0099	Request for modification of decision and order in The Refinery Corp., 5 FEA par. 80,554 (Feb. 18, 1977).
Apr. 7, 1977	Beacon Oil Co., Hanford, Calif. (If granted: Beacon Oil Co. would receive a stay of its entitlement purchase obligation as stated in FEA's Dec. 7, 1976, decision and order.)	FES-0086	Stay of FEA's decision and order in Beacon Oil Co., 4 FEA par. 85,041 (Dec. 7, 1976).
Do.....	Exxon Co., U.S.A., Houston, Tex. (If granted: The FEA would stay exception proceedings with respect to the appropriate method of recovery of nonproduct costs for the period prior to Feb. 1, 1976, pending final completion of the pending rulemaking proceeding or of a judicial determination with regard to this issue.)	FES-0091	Stay request with respect to the method of recovery of nonproduct costs.
Do.....	Garrett Production Co., Longview, Tex. (If granted: The Feb. 8, 1977, remedial order issued by FEA region VI would be rescinded and Garrett Production Co. would not be required to refund overcharges in its sales of crude oil during the period December 1973 through November 1974.)	FRA-1253	Appeal of the remedial order issued by FEA region VI on Feb. 8, 1977.

Date	Name and location of applicant	Case No.	Type of submission
Do.....	Martha Nell Jackson/W. P., Jackson Estate. (If granted: Crude oil produced from the W. P. Jackson Estate's wells would be sold at upper tier ceiling prices.)	FEE-4058	Price exception (sec. 212.73).
Do.....	Mason & Hanger-Silas Mason Co., Inc. (If granted: The Mason & Hanger-Silas Mason Co., Inc., would not be included as one of the 50 most-energy-consumptive corporations and the firm would be exempted from the requirement contained in sec. 375(a) of the Energy Policy and Conservation Act that it report its progress in improving energy efficiency to the FEA.)	FEA-1255	Appeal of FEA notice at 41 F.R. 54977 (Dec. 16, 1976)
Do.....	Pawnee Petroleum Co., Seminole, Okla. (If granted: The FEA's Mar. 4, 1977, decision and order would be rescinded and Pawnee Petroleum Co. would be permitted to retroactively and prospectively treat its Logan lease, Strothers # C well and the Riley No. 1 well as stripper well properties.)	FXA-1254	Appeal of FEA's decision and order in Pawnee Petroleum Co., 5 FEA par. .... (Mar. 4, 1977).
Do.....	Pennzoil Producing Co., Washington, D.C. (If granted: The FEA's Apr. 1, 1977, decision and order would be modified and the percentage of crude oil to be sold at upper tier ceiling prices would be increased.)	FEX-0144	Supplemental order to Pennzoil Producing Co., 5 FEA par. .... (Apr. 1, 1977).
Do.....	Pierce & Dehlinger, Midland, Tex. (If granted: Crude Oil produced from the Greathouse & Pierce No. 1 Carter well located in Lea County, N. Mex., would be sold at upper tier ceiling prices.)	FEE-4057	Price exception (sec. 212.73).

[FR Doc.77-11926 Filed 4-21-77;2:19 pm]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of April 8 Through April 15, 1977

Notice is hereby given that during the week of April 8 through April 15, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service or notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

APRIL 21, 1977.

APPENDIX IX.—*List of cases received by the Office of Exceptions and Appeals, Week of Apr. 8 through Apr. 15, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Apr. 8, 1977	Husky Oil Co., Washington, D.C. (If granted: The FEA would review the entitlements exception relief granted to the Husky Oil Co. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0145	Review of entitlements relief (supplemental order).
Do.....	John B. Walker Texaco, Inc., Jackson, Miss. (If granted: The FEA's Mar. 11, 1977, decision and order would be rescinded and Walker would be permitted to retain certain revenues which it received between Nov. 1, 1973, and Apr. 8, 1974, as a result of charging prices for No. 2-D diesel fuel in excess of the maximum lawful prices which the firm was permitted to charge under the provisions of 10 CFR 212.93.)	FXA-1256	Appeal of decision and order in John B. Walker Texaco, Inc., 5 FEA par .... (Mar. 11, 1977).
Do.....	Tenneco Oil Co., Houston, Tex. (If granted: At least 59.5 pct of the crude oil produced and sold from the Myrtle E. Cross lease located in Beamis Shutts field, Ellis County, Kans., would be sold at upper tier ceiling prices for the benefit of the working interest owner.)	FEE-4059	Price exception (sec. 212.-73).
Do.....	Whaleco Fuel Corp., Brooklyn, N.Y. (If granted: The Whaleco Fuel Corp. would be permitted to import No. 2 heating oil and residual fuel oil for the period May 1, 1977, through Apr. 30, 1979, on a fee-free basis.)	FPI-0112	Exception from the base fee requirements (sec. 213.35).
Apr. 11, 1977	Boston Gas Co., Washington, D.C. (If granted: The Boston Gas Co. would receive a further extension of the exception relief granted by the FEA regional office in Boston, Mass., on Mar. 8, 1974, until Jan. 1, 1978, or 180 d after its sec. 211.29 application is decided, whichever is later.)	FXE-4061	Extension of exception relief granted in Boston Gas Co., 5 par. .... (Mar. 25, 1977).
Do.....	City of Long Beach, Calif., Long Beach, Calif. (If granted: The FEA's Feb. 11, 1977, interpretation would be rescinded and prices specified in certain written contracts for the sale of the city of Long Beach's crude oil would constitute posted prices for purposes of the ceiling price rules applicable to the first sales of domestic crude oil.)	FIA-125	Appeal of FEA interpretation dated Feb. 11, 1977 (sec. 212.73).
Do.....	Quincy Oil, Inc., Quincy, Mass. (If granted: Quincy Oil, Inc., would be granted an exception from the application of the provisions of ruling 1977-5 to permit the firm to establish its selling price for No. 6 fuel oil above the maximum level permitted under the mandatory petroleum price regulations. The firm would be granted a stay of the refund requirements contained in the Nov. 2, 1976, remedial order issued to the firm pending a decision on its exception application.)	FEE-4060 FRS-4060	Price exception (ruling 1977-5; sec. 212.93). Stay requested.

APPENDIX IX.—*List of cases received by the Office of Exceptions and Appeals, Week of Apr. 8 through Apr. 15, 1977*—Continued

Date	Name and location of applicant	Case No.	Type of submission
Apr. 12, 1977	Braden-Zenith, Inc., Wichita, Kans. (If granted: The FEA's Mar. 30, 1977, remedial order would be rescinded and Braden-Zenith, Inc., would not be required to refund alleged overcharges made on sales of crude oil produced from the Zenith waterflood unit.)	FRA-1258 FRS-1258	Appeal of the FEA region VII's remedial order dated Mar. 30, 1977. Stay requested.
Do	Braden-Zenith, Inc., Wichita, Kans. (If granted: Braden-Zenith, Inc., would receive a temporary stay of the requirements of the FEA region VII's Mar. 30, 1977, remedial order pending a final determination of its request for stay and appeal of that order.)	FST-0040	Request for temporary stay.
Do	Gary Operating Co. (Altonah), Englewood, Colo. (If granted: The Gary Operating Co. would be permitted to increase its prices for natural gas liquid products produced at the Altonah gas processing plant to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-4064	Price exception (sec. 212.165).
Do	Gary Operating Co. (Bluebell), Englewood, Colo. (If granted: The Gary Operating Co. would receive an extension of the exception relief granted in the FEA's Dec. 23, 1976, decision and order and would be permitted to increase its prices for natural gas liquid products produced at the Bluebell gas processing plant to reflect nonproduct cost increases in excess of $0.005/gal.	FXE-4065	Extension of exception relief granted in Gary Operating Co., 5 FEA par. 83,005 (Dec. 23, 1976)
Do	Gulf Oil Corp., Tulsa, Okla. (If granted: The FEA's Mar. 4, 1977, decision and order would be rescinded and the Gulf Oil Corp. would be permitted to determine the price of the crude oil which it produced and sold from the South Timbalier block formation in Louisiana without regard to a current cumulative deficiency which accrued with respect to properties within the formation during the period between Feb. 29, 1976, and Apr. 9, 1976.)	FXA-1260	Appeal of decision and order in Gulf Oil Corp., 5 FEA par. ..... (Mar. 4, 1977).
Do	Mohawk Petroleum Corp., Inc., Los Angeles, Calif. (If granted: The FEA would review the entitlements exception relief granted to Mohawk Petroleum Corp., Inc., during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0147	Review of entitlements exception relief (supplemental order).
Do	Natrogas, Inc., Minneapolis, Minn. (If granted: The FEA's Mar. 8, 1977, decision and order would be rescinded and Natrogas, Inc., would be assigned a new, lower priced supplier of propane to replace its base period suppliers, Shell Oil Co., Mobil Oil Co., and Warren Petroleum.)	FXA-1259	Appeal of decision and order in Natrogas, Inc., 5 FEA par. ..... (Mar. 8, 1977).
Do	Oklahoma Natural Gas Co., Tulsa, Okla. (If granted: The Oklahoma Natural Gas Co. would receive an extension of the exception relief granted in the FEA's Dec. 3, 1976, decision and order and would be permitted to increase its prices for natural gas liquid products to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4062	Extension of exception relief granted in Oklahoma Natural Gas Co., 4 FEA par. 83,218 (Dec. 3, 1976).
Do	Texaco, Inc. (Delhi), Houston, Tex. (If granted: Texaco, Inc., would be permitted to increase its prices for natural gas liquid products produced at the Delhi gas plant to reflect nonproduct cost increases in excess of $0.005/gal.)	FEE-4063	Price exception (sec. 212.165).
Apr. 13, 1977	Farmland Industries, Inc., Kansas City, Mo. (If granted: Farmland Industries, Inc., would receive an extension of the exception relief granted in the FEA's Nov. 23, 1976, and Feb. 8, 1977, decisions and orders and would be permitted to increase its prices for natural gas liquid products produced at the Gillette, Lamont, Mertzon, and Quitman plants to reflect nonproduct cost increases in excess of $0.005/gal.)	FXE-4067- FXE-4070	Extension of exception relief granted in Farmland Industries, Inc., 4 FEA par. 83,205 (Nov. 23, 1976); Farmland Industries, Inc., 5 FEA par. 83,063 (Feb. 8, 1977).
Do	Fuels, Inc., Marietta, Ga. (If granted: The FEA's Mar. 30, 1977, remedial order would be rescinded and Fuels, Inc., would not be required to refund alleged overcharges made on sales of propane.)	FRA-1261 FRS-1261	Appeal of FEA region IV's remedial order issued on Mar. 30, 1977. Stay requested.
Do	Gulf Oil Corp., Tulsa, Okla. (If granted: Crude oil produced from the Northwest Graylin D Sand unit located in Logan County, Colo., would be sold at upper tier ceiling prices.)	FEE-4066	Price exception (sec. 212.73).
Do	Texas American Oil Corp., Midland, Tex. (If granted: The Texas American Oil Corp. would receive a stay of the provisions of the FEA's decision in Texas American Oil Corp., 5 FEA par. ..... (Apr. 5, 1977).)	FES-0092	Stay request.
Apr. 14, 1977	Charter Oil Co., Jacksonville, Fla. (If granted: The FEA would review the entitlements exception relief granted to the Charter Oil Co. during its 1976 fiscal year in order to determine whether the level of exception relief approved was appropriate.)	FEX-0148	Review of entitlements exception relief (supplemental order).
Do	Robert E. Davis, Great Bend, Kans. (If granted: The Weeks property located in Russell County, Kans., and the Gartung lease located in Stafford County, Kans., would be classified as stripper well properties during the months of November 1973 through December 1974.)	FEE-4072 FES-4072	Price exception (sec. 212.73 (a)). Stay requested.
Do	Jim Ellis, Tyler, Tex. (If granted: Crude oil produced from the Nay Ferry lease located in Henderson County, Tex., would be sold at upper tier ceiling prices.)	FEE-4071	Price exception (sec. 212.73).
Do	Southern Natural Resources, Inc., Birmingham, Ala. (If granted: Southern Natural Resources, Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Sea Robin gas plant.)	FEE-4073	Price exception (sec. 212.165).
Apr. 15, 1977	Champlin Petroleum Co., Fort Worth, Tex. (If granted: The Champlin Petroleum Co. would receive a stay of the proceedings in its exception application filed on Jan. 21, 1977, pending a final determination of the firm's judicial proceeding filed in the Federal District Court in St. Louis, Mo.)	FES-3500	Stay request.
Do	Sunland Refining Corp., Bakersfield, Calif. (If granted: The FEA's Dec. 15, 1976, decision and order would be vacated effective Jan. 1, 1977.)	FEX-0149	Modification of decision and order in Sunland Refining Corp., 4 FEA par. 83,200 (Dec. 15, 1976).

[FR Doc.77-11925 Filed 4-21-77;2:19 pm]

EXCEPTION FROM REFINERS PRICE RULES GOVERNING ORDER OF RECOVERY OF INCREASED NON-PRODUCT COSTS DURING PERIOD JANUARY 1, 1975 THROUGH JANUARY 31, 1976

Deadline for Filing Applications

I. INTRODUCTION—HISTORY OF PROCEEDINGS

During the period from January 1, 1975 through January 31, 1976 the FEA Mandatory Petroleum Price Regulations required refiners to regard increased crude oil and purchased product costs ("product costs") as having been recovered prior to the recovery of any increased non-product costs ("sequential recovery") in calculating the amount of increased non-product costs they had recovered. These calculations are an essential element in determining the maximum permissible selling prices which a firm may charge for the covered products which it sells and the amount of increased product costs that is available to be carried forward as "banked" costs for recovery in future periods. The applicable regulations during this period of time prohibited the banking of unrecovered increased non-producct costs. 10 CFR 212.83(e)(9) (deleted in 41 FR 15330 (April 12, 1976)). Thus, all increased product costs incurred by a firm were required to be passed through before the firm could increase its prices to reflect any increased non-product costs. In addition, any increased non-product costs which were not recovered in the month subsequent to the month in which they were incurred could not be reflected in the selling prices charged in subsequent months. The FEA Regulations also provided that a refiner could pass through its increased non-product costs only if its profit margin in the current fiscal year did not exceed its base period profit margin. 10 CFR 212.11 (deleted in 41 FR 9087 (March 3, 1976)).

On August 3, 1976 the FEA proposed a "class exception" to permit refiners that were not constrained during 1975 by the profit margin limitation to compute their recoveries of increased nonproduct costs under a proportional method from January 1975 through January 1976, rather than the sequential method authorized by the FEA Regulations. 41 FR 33282 (August 9, 1976). According to the proportional method a portion of each type of increased costs—product and non-product—is deemed to have been recovered in prices charged by refiners whether or not all available increased product costs had first been recovered.

On September 30, 1976 the FEA issued a notice which clarified the procedures which it would apply in considering whether exception relief would be granted from the refiners price rule requiring the sequential method of recovering increased non-product costs. 41 FR 43953 (October 5, 1976). In that notice the FEA observed that the proceeding which it had initiated on August 3, 1976 did not properly constitute a class exception proceeding and should be re-

garded instead as an invitation to refiners to seek individual exception relief within the scope of a consolidated exception proceeding. The FEA further stressed that the exceptions process was the only available means of obtaining administrative relief from the sequential recovery provisions of the FEA Regulations:

In the August 3, 1976 notice of this proposed class exception, FEA reaffirmed that the interpretation which was issued on February 1, 1976 of the November 29, 1974 regulations is correct, i.e., increased product costs were required to be recovered first and banking of unrecovered increased non-product costs was not permitted. FEA wishes to emphasize that it fully intends to enforce this interpretation of the regulations in all instances other than those in which a firm has applied for and been granted relief by FEA's Office of Exceptions and Appeals. 41 FR 43953 (October 5, 1976).

On October 13, 1976 the FEA held a public hearing in order to afford interested persons an opportunity to express their views regarding issues which would be raised in Applications for Exception from the FEA regulatory provisions governing the recovery of increased nonproduct costs by refiners during 1975 and January 1976. At that hearing the FEA indicated that, while the hearing was designed to facilitate the collection of data and comments concerning issues which would probably be raised in a number of exception applications, the FEA fully intended to adhere to its position of only considering the propriety of exception relief on a firm by firm basis pursuant to properly filed exception applications.

As of this date the following firms have filed Applications for Exception from the provisions of the FEA Regulations which specified the order of recoupment of non-product cost increases during 1975 and January 1976: Apco Oil Corporation (Case No. FEE-3399), Exxon Company, U.S.A. (Case No. FEE-3417), Southland Oil Company (Case No. FEE-3448), Tosco Corporation (Case No. FEE-3467), Continental Oil Company (Case No. FEE-3520), Shell Oil Company (Case No. FEE-3545), Champlin Petroleum Company (Case No. FEE-3590), Standard Oil Company of Indiana (Case No. FEE-3708), Time Oil Company (Case No. FEE-3893), and Quaker State Oil Refining Corporation (Case No. FEE-3898). (The Southland Application, however, has been dismissed because FEA determined that it had been filed prematurely. Southland stated that it had complied with the applicable FEA regulatory requirements during the period in question and its Application consisted only of a request that it receive equitable treatment in the light of any action which the FEA might take in exception proceedings initiated by other firms which failed to comply with the FEA Regulations.)

A preliminary analysis of data submitted to the FEA indicates that at least 48 other firms implemented non-product cost increases during this period in a manner that was not consistent with the FEA Regulatory requirements. See 41 FR 40559-40560 (September 20, 1976).

II. Deadline for Filing Application and Specification

The FEA has determined that a limit should be placed upon the period of time in which refiners will be permitted to file Applications for Exception from the FEA regulatory provisions which governed the order of recovery of increased non-product costs by refiners during the period from January 1, 1975 through January 31, 1976. In a notice published in the Federal Register on February 4, 1976, the FEA explicitly set forth its interpretation of those regulations. Thus, firms which believe that they may experience difficulties as a consequence of that interpretation have been on notice for over a year of their need to seek exception relief. The FEA reaffirmed its interpretation in the notice which it issued on August 3, 1976, 41 FR 33282 (August 9, 1976). In addition, the notice which the FEA issued on September 30, 1976 and the statements made by the FEA at the October 13, 1976 hearing informed firms that they must file individual exception applications if they wished to obtain administrative relief from the sequential recovery provisions. Since the dates of that notice and hearing refiners have had more than six months to request exception relief. Moreover, on the basis of the principles discussed in a Decision which it issued on April 14, 1977 denying an Application for Stay which Exxon Company, U.S.A. submitted (Exxon Co., U.S.A., 5 FEA Par. ------ (April 14, 1977)), there appears to be no valid reason why the FEA should further delay its determination of exception applications from these regulatory provisions. Additional delay could also adversely affect the substantial interest which the FEA has already recognized consumers have in these matters.

Based on a consideration of several factors, it would appear that a filing deadline is necessary to ensure an orderly consideration of the Applications which may be submitted. As we have indicated, nine Applications are currently pending before the FEA, and it is possible that as many as 48 other Applications may be subsequently filed. The Office of Exceptions and Appeals, which is charged with the responsibility of adjudicating these Applications, must establish a time frame for conducting these proceedings in an orderly, expeditious manner which avoids unnecessary duplication of effort. An additional factor underlying the FEA's determination to impose a filing deadline is reflected in the concern expressed by several of the firms that have already filed Applications that the burdens associated with participating in these proceedings should be equitably distributed. A filing deadline will serve to enable the FEA to allocate the burdens of participation in a manner which is equitable as well as being suited to provide a sound foundation for its determinations.

In view of the lengthy period of time which has elapsed since the FEA stated its sequential recovery interpretation and invited the submission of individual exception requests, it has been determined that 60 days would afford a reasonable opportunity to file exception applications. Consequently, notice is hereby being provided that the FEA will not consider any Application for Exception from the provisions of the FEA Regulations which governed the order of recovery of increased nonproduct costs by refiners during 1975 and January 1976 as being filed in a timely manner if the submission is filed with the FEA Office of Exceptions and Appeals later than June 27, 1977.

Any questions regarding this notice should be directed to Melvin Goldstein, Director of the Office of Exceptions and Appeals, Federal Energy Administration, Washington, D.C. 20461.

Issued in Washington, D.C., April 21, 1977.

Eric J. Fygi,
Acting General Counsel.

[FR Doc.77-11957 Filed 4-21-77;4:27 pm]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311 (p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
02194---	Compagnie Generale Maritime: *Aquilon, Kouang Si, Malzir Marquisien, Mauricien, Mohéli, Moroni, Si Kiang, Tigre, Vanoise, Var, Vaucluse, Velay, Ventoux, Vienne, Vivarais, Vosges, Yang Tse, Kangourou, Korrigan, Zambeze, Zeebrugge, Zelande, Teilier, Pascal, Marion Dufresne, Licorne Atlantique, Licorne Pacifique, Licorne Oceane, Rodin, Rostand, Rousseau, Montcalm, Martiniquais.*
02295---	The Great Eastern Shipping Co., Ltd.: *Jag Deesh.*
02344---	Empresa Lineas Maritimos Argentinos S.A.: *Mendoza, Santa Cruz II.*
02429---	G & C Towing Inc.: *E. Stuart Eichert.*
02471---	P. T. Djkarta Lloyd: *Djatiluhur.*
02976---	Arthur-Smith Corp.: *EBL-61, TCB-312.*
03479---	Okada Shosen Kabushiki Kaisha: *Iyo Maru, Tsugaru Maru.*
03508---	Taiyo Gyogyo K.K.: *Banshu-Maru No. 3.*
03836---	Splosna Plovba: *Celje.*
03972---	Chimo Shipping Ltd.: *Sir John Crosbie, Chesley A. Crosbie.*
04037---	C. F. Bean Corp.: John H. Shary.
04081---	Jugoslavenska Oceanska Plovidba, Kotor: *Orjen.*

Certificate No.	Owner/Operator and Vessels
04173---	Foss Launch & Tug Co.: *PT & S 286–2.*
04226---	National Marine Service Inc.: *N.M.S. No. 1463,* N.M.S. No. 1464.
04228---	Compagnie Maritime Belge (Lloyd Royal) S.A.: *Van Dyck.*
04420---	Navigazione Alta Italia S.P.A.: *Gino.*
04677---	Compania Gijonese De Navegacion S.A.: *Pola De Laviana.*
05431---	Tidewater Construction Corp.: *Rig Samson.*
05437---	The Dow Chemical Co.: *DC 405, DC 406, DC 407, DC 408, DC 409, DC 411, DC 412.*
05520---	Union Carbide Corp.: *DXE–1105, DXE–1110, DXE–1104, TCB–68.*
05537---	Empresa Navegacion Mambisa: *Juarez, Jesus Menendez.*
05834---	Koyo Suisan K.K.: *Sumiyoshi Maru No. 35, Koyo Maru No. 6.*
06248---	Commercial corporation sovrybflot: *Oreanda, Kerch, Almak, Klyasma, Strelets, Gerkules.*
06359---	Malaysian International Shipping Corp., Berhad: *Rimba Cengal, Rimba Sepetir.*
06339---	Tokumaru Kaiun K.K.: *Shintoku Maru.*
06676---	Overseas Maritime Ltd.: *Bonanza.*
06684---	Explorer Navigation Corp. Ltd.: *Panamax Mercury.*
06746---	Pukada Salvage K.K.: *North Sea.*
06877---	Societe Francaise De Transports Maritimes: *Penchateau.*
06937---	Kabushiki Kaisha Usufuku Honten: *Shofuku Maru No. 38, Shofuku Maru No. 58.*
07091---	Atlastor Navigation Ltd.: *Aepos.*
07255---	Teh Tung Steamship Co. Ltd.: *Allied Pioneer.*
07258---	Chi Lee Navigation S.A.: *Chi Lee.*
07519---	Mares Nortenos Armadores S.A.: *Juventus.*
07550---	Erato Shipping Inc.: *Golden Laurel.*
07574---	Georgian Shipping Co.: *Kerch, Borzhomi, Kremenchug, Adygeni.*
07817---	Yick Fung Shipping and Enterprises Co. Ltd.: *New Sulu Sea, New Coral Sea, New Sapphire Sea.*
09074---	Zuito Shipping Co. Ltd.: *Seine Maru.*
09545---	Maytide Line Co. Ltd.: *Duke Star.*
09713---	Iwakiri Suisan K.K.: *Yashima Maru No. 3.*
09788---	Daejin Shipping Co. Ltd.: *Sun Yang No. 22.*
09846---	Silver Bay Shipping Co. S.A. of Panama: *Silver Bay.*
10003---	Kamekichi Koyama: *Kiyo Maru No. 28.*
10260---	Hollywood Marine Inc.: *Hollywood 1502, TCB 311.*
10417---	T. Smith & Son Inc.: *SHB–9, SHB–10, SHB–11, SHB–12, SHB–13.*
10577---	Tokai Shipping Co. Ltd.: *Oregon Rainbow.*
10729---	Dragon Navigation S.A.: *Sun Dragon.*
11258---	J. Jost Ohg, Hamburg: *Bravenes.*
11259---	Schenk Seafood Sales Inc.: *Indian.*
11417---	Etablissement Maritime Camille: *Nopal Yona.*
11466---	Lee-Vac Ltd.: *Domar 7001.*
12010---	Bernhard Hanssen & Co.: *Musketeer Friend, Musketeer Fighter.*
12024---	Venezolana De Buques-Venebuques, C.A.: *Andreina, Paola Michaelangeli.*
12041---	Uiterwyk Corp. *Playas.*
12049---	MS Meteor Reederei & Schiffahrts GMBH & KG: *Meteor II.*
12065---	La Islas Navegacion S.A.: *Atropos Island.*
12071---	International Trans Caribbean Navigation Inc.: *Carib Freeze.*
12091---	Green Nobility Line S.A.: *Green Nobility.*
12125---	Reading & Bates Drilling Co.: *J. W. Bates.*
12166---	S.P.A. Pesca Oceanica Sarda: *Sagitta.*
12188---	Moreton Co., Ltd.: *World Saga.*
12251---	Maritime Corp. Dolphin Primera S.A.: *Aurelia.*
12268---	Augusto Rodriguez Da Silva: *Peerless.*
12283---	Junzo Sasaki: *Mitomaru No. 52.*
12306---	K/S Olsen Daughter Carriers A/S & Co.: *Lionheart.*
12309---	Licetus Shipping Inc.: *Eurounity.*
12310---	Deep Sea Rig Trading Ltd.: *Highland Piper.*
12332---	Aggelikos Prostatis Corp.: *Angelic Protector.*
12339---	Gulf Water Fueling Inc.: *Hollywood 150, GDM 60, S–1512.*
12380---	Alabama River Towing Co., Inc.: *MBL 602.*
12385---	S.I.T.M.A.-Soc Ind. Transporti Marittimi: *Corrado Secondo.*
12388---	Emerson Maritime Inc. S.A.: *Gogo Ranger.*
12390---	Raven Shipping Ltd.: *Ariadne E.*
12391---	Evel Corp.: *Mistral.*
12392---	Product Transport Corp.: *North Highness.*
12393---	Hyundae Enterprise Co. Ltd.: *Scansilva.*
12394---	Eternity Navigation Co. S.A.: *Montparnasse, Montmartre.*
12395---	Pan World Shipping Co. S.A.: *Fidelity, Kyokushin.*
12396---	KG Marine Service GmbH & Co.: *Chemtrans Sirius.*
12397---	Evermore Bloom Shipping S.A.: *Evermore Bloom.*
12400---	Islander Shipping Co. Ltd.: *Saturnia.*
12401---	Olita Compania Naviera S.A. Panama: *Nopal Luna.*
12402---	Soloil Compania Naviera Inc.: *Costis.*
12406---	Syuichi Nishimura: *Mitsumaru No. 30.*
12407---	Kumagoro Akiyama: *Narita Maru No. 35.*
12408---	Yuryo Gyogyo Kabushiki Kaisha: *Yuryo Maru No. 8.*
12409---	Wei Shin Shipping S.A.: *Chung Sam.*
12410---	Doei Unyu K.K.: *Koei Maru No. 3.*
12411---	Hartley Shipping Corp.: *Hartley Ace.*
12412---	Compania Orosol De Navegacion S.A.: *Sol De Oro.*
12413---	Eiyu Kaiun K.K.: *Awajishima Maru, Eiyu Maru, Asuka Maru.*
12414---	Nueva Naviera S.A.: *Zim Atlantic, Zim Iberia.*
12416---	Fuga Bulk Carriers Inc.: *Dona Paz.*
12418---	Westfield Shipping Co. S.A.: *Dimos Halcoussis.*
12420---	San Marco Petroli S.P.A.: *Mar, Graziella Zeta.*
12421---	Inter Invest Shipping Co. Panama Inc.: *Andriana II.*
12423---	Lee Wang Zin Navigation S.A.: *Lee Wang Zin.*
12428---	P/R Septimus: *Septimus.*
12429---	P/R P.A. Bornholm AF 15/4–69: *Egin.*
12431---	I/S Melsomvik: *Melsomvik.*
12432---	Cayzer, Irvine & Co. Ltd.: *Everett F. Wells.*
12433---	Leda Shipping Co. (Bermuda) Ltd.: *Leda.*
12434---	United Arab Shipping Co. (S.A.G.): *Al Kadisiah, Al Sabahiah, Al Jabiriah, Al Shamiah, Al Ahmadiah, Al Mansouriah, Al Odillah, Al Rumaithiah, Al Gourainiah, Al Khalidiah, Al Omariah, Al Aridhiah, Al Solaibiah, Al Farwaniah, Al Shidadiah, Al Salehiah, Al Mubarakiah, Ibn Majid, Al Salimiah, Ibn Battotah, Ibn Rushd, Ibn Hayyan, Ibn Tufail, Ibn Zaidoun, Ibn Hazm, Ibn Abdoun, Ibn Al-Atheer, Ibn Al-Haitham, Ibn Al-Nafees, Ibn Duraid, Ibn Qutaiban, Ibn Asakir, Ibn Khaldoon, Ibn Alroomi, Ibn Bassam, Ibn Albeitar, Ibn Shuhaid.*
12436---	Polestar Navigation S.A.: *Polar Ace.*
12437---	Centaurus shipping corp.: *Centaurus.*
12439---	Quadrant Shipping corp.: *Aegean Captain.*
12440---	Rigalt Shipping Compania S.A.: *Pericles Halcoussis.*
12441---	Far Eastern Carriers S.A.: *Evergreen.*
12442---	Ashcroft Co. Ltd.: *Menkar.*
12444---	Primera Maritime Enterprise S.A.: *Primera Peak.*
12445---	Gloria Maritime Enterprise S.A.: *Gloria Peak.*
12446---	Apollo Transport S.A.: *Apollo Peak.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-11931 Filed 4-25-77;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to 46 CFR Part 542 and section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01087---	Dampskibsselskabet Torm A/S: *Torm Gyda, Torm Estrid, Torm Ragnhild.*
01331---	Poling Transportation Corp.: *Chester A. Poling.*
01420---	Athelregent Tankers Co. LTD.: *Athelregent.*
01439---	Cory Maritime LTD.: *Queensgarth.*
01502---	Moore-McCormick Lines, Inc.: *Mormacpride, Mormacsoan, Mormaclake, Mormaccove.*
01561---	Lubeck Linie Aktiengesellschaft: *Regina Maris.*
01574---	Fearnley and Eger: *Fernview.*
01641---	The Bank Line Ltd.: *Elmbank.*
01874---	A/S Sobral: *Nopal Luna.*
01877---	Carbocoke Societa Di Navigazione S.P.A.: *Fezzano.*
01905---	Ben Line Steamers Ltd.: *Cramond.*
01910---	Deutsche Dampschiffahrts Gesellschaft Hansa: *Rabenfels.*

Certificate No.	Owner/Operator and Vessels
01919---	Aksjeselskapet Pelagos: *Perikum.*
02004---	Rederiet For MS Columbialand: *Columbialand.*
02013---	Granges AB: *Rautas.*
02032---	D.B. Deniz Nakliyate T.A.S.: *Batman.*
02060---	Aries Shipping Co.: *Elena.*
02063---	Eunice Shipping Co.: *World Grace.*
02077---	Fairfax Shipping Co.: *World Grandeur.*
02078---	Fenton Shipping Co.: *World Gratitude.*
02079---	Gentry Shipping Co.: *World Guardian.*
02080---	Gresham Shipping Co.: *World Guidance.*
02081---	Heron Inc.: *World Hope.*
02082---	Huxley Shipping Co.: *World Ideal.*
02088---	Kelso Shipping Co.: *World Intelligence.*
02108---	Questra Shipping Co.: *Northern Conqueror.*
02109---	Remus Shipping Co.: *Northern Conquest.*
02112---	Samson Shipping Co.: *Northern Unity.*
02116---	Easton Corp.: *World Seafarer.*
02117---	Urea Shipping Co.: *World Sincerity.*
02119---	Vega Shipping Co.: *World Spirit.*
02121---	Walden Shipping Co.: *Spyros Niarchos.*
02198---	The Peninsular and Oriental Steam Navigation Co.: *Meynell, Jedforest.*
02242---	Dal Deutsche Afrika-Linien G.M.B.H. and Co.: *Urundi.*
02243---	Astramar Compania Argentina De Navegacion Sociedad Anonima Comercial: *Astrasur, Astrasalta, Astrapatagonia.*
02286---	China Union Lines, Ltd.: *Union Freedom.*
02351---	Andrevirgin Compania Naviera S.A.: *Agios Andreas.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Redgate.*
02660---	Partenreederei Ms Inge Kruger: *Cap Doukato.*
02712---	Tarpon Towing Inc.: *RT-4, RT-3.*
02715---	Allied Towing Corp.: *ATC 6000.*
02716---	Aktieselskabet Det Dansk-Franske Dampskibsselskab: *Holland.*
02831---	Endasa Shipping Co. Ltd.: *Lalinda.*
02852---	Philippine Pacific Shipping Co.: *Pacmerchant.*
02855---	Great Pacific Shipping Co.: *Rose S.*
02877---	Nippon Yusen K.K.: *Iyo Maru.*
02889---	Showa Kaiun K.K.: *Keisho Maru.*
02929---	Soflumar-Societe D'Armement Fluvial and Maritime: *Port Blanc, Port De Bouc.*
02949---	Valley Towing Service, Inc.: *MM-5, MM-6, MM-4.*
02958---	Kawasaki Kisen K.K.: *Masukawa Maru, Isuzugawa Maru, Muneshima Maru, Fukukawa Maru.*
02960---	Taiyo Kaiun Kabushiki Kaisha: *Oigawa Maru.*
02961---	Kobe Kisen Kabushiki Kaisha: *Yaekawa Maru.*
02975---	Venture shipping (Managers) Ltd.: *Universal Venture.*
03004---	Rederi Ab Soya: *Falstaff.*
03139---	Offshore Marine Ltd.: *Bay Shore.*
03166---	St. Grigorousa Maritime Co. Ltd. of Monrovia, Liberia: *St. Nicholas II.*
03289---	Det Forende Dampskibsselskab A/S: *Damman Express*
03320---	Botelho Shipping Corp.: *Emilia Rosello.*
03438---	Inui Kisen Kabushiki Kaisha: *Wakamiyasan Maru.*
03452---	Kyoei Tanker K.K.: *Arita Maru.*
03537---	Herlofson Shipping Co. A/S: *Tank Princess.*
03561---	Skibsaksjeselskapet Solvang: *Kongsgaard.*
03627---	Igert (A Corp.): *MBL-611.*
03972---	Chimo Shipping Ltd.: *Andrew C. Crosbie.*
04002---	Compagnie Des Messageries Maritimes: *Maori, Rousseau, Rostand, Rodin, Licorne Oceane, Licorne Pacifique, Licorne Atlantique, Marion Dufresne, Pascal, Tellier, Zelande, Zambeze, Zeebrugge, Korrigan, Kangourou, Yang Tse, Vosges, Vivarais, Vienne, Ventoux, Velay, Vaucluse, Var, Vanoise, Tigre, Si Kiang, Moroni, Moheli, Mauricien, Martiniquais, Marquisien, Aquilon, Malais, Kouang Si.*
04061---	Sanko (Hongkong) Ltd.: *Maritime Brilliance, Maritime Dominion.*
04136---	Thomas Marine Co.: *C-201, C-202, ETT 108.*
04173---	Foss Launch and Tug Co.: *Foss 141.*
04226---	National Marine Service Inc.: *N.M.S. No. 2504, LTC No. 54.*
04244---	Buchanan Shipping Co., Inc.: *Star Bay.*
04256---	Far Eastern Navigation Corp. Ltd.: *Tunglee.*
04337---	Zephyr Shipping Corp.: *Vronti.*
04422---	Hai Shang Navigation Corp.: *Grand Commonwealth.*
04601---	American Tunaboat Association: *Constitution.*
04623---	Seaspan International Ltd.: *Seaspan 901.*
04703---	Yokkaichi Enyo Gyogyo K.K.: *Daienmaru No. 11.*
04813---	Golar Fruit, Inc.: *Golar Fruit.*
05016---	Hess Oil Virgin Islands Corp.: *U-704.*
05079---	N. V. Gebr. Uden's Scheepvaart and Agentuur Maatschappij: *Eemhaven.*
05114---	N. V. Stoomvaartmaatschappij De Maas: *Woensdrecht.*
05281---	Slade Inc.: *S 1512.*
05700---	The Trans Oceanic Steamship Co. Ltd.: *Ocean Endeavour.*
05834---	Kooyoo Suisan Kabushiki Kaisha: *Kooyoommaru No. 6, Seikomaru No. 8, Sumiyoshi Maru No. 35.*
05846---	Nordsee Deutsche Hochseefischerei GMBH: *Bremen, Hannover, Kiel, Mainz, Stuttgart, Wiesbaden.*
06013---	Osaka Asahi Kaiun Kabushiki Kaisha: *Kyokushin.*
06104---	Perseveranza S.P.A. di Navigazione: *Maddalena.*
06114---	Masahei Yamamoto: *Seishumaru No. 32*
06640---	Aomori Prefectural Government: *Aomori Maru.*
06764---	Crane Navigation S.A.: *Silver Crane.*
06819---	Williams Shipping Co., Inc.: *Grand Bahama, Gordon L.*
06853---	Shipping Co. Knud I. Larsen: *Hans Sif.*
06880---	Targulf Shipping Co.: *Tarpon Seaway.*
06937---	Kabushiki Kaisha Usufuku Honten: *Syofuku Maru No. 38, Syofuku Maru No. 58.*
07019---	Allied Shipping International Corp.: *Golden Jason.*
07173---	Athenian Transpetrol Co. S.A. of Panama: *Stolt Athenian.*
07203---	Nava Shipping Co., Ltd.: *Alexandros T.*
07234---	Lepanto Shipping Corp.: *Lepanto.*
07594---	Viamares Armadora S.A.: *Loyal Colocotronis.*
07627---	Kochi Prefectural Government: *Tosakaien Maru.*
07663---	Molave Bulk Carriers, Inc.: *Don Rene.*
07695---	Partrederiet of 30-4-70: *Mere Phoenecia.*
07718---	Tokyo Teion Senpaku K.K.: *Aden Maru.*
07772---	Great Eastern Maritime Co., Ltd.: *Lavander.*
07781---	Elmo Shipping Co.: *World Achilles.*
07838---	Marneptunea Armadora S.A. Panama: *Makron.*
08005---	Imperio Delmar S.A.: *Santa Clio.*
08071---	Anglo Nordic Bulkships (management) Ltd.: *Nordic Mariner, Nordic Leader.*
08168---	Apollonian Glory Co. S.A.: *Anco Glory.*
08199---	Gulf Shipping Corp. Ltd.: *Mansoor.*
08347---	P.A.M. Flota Argentina Mineralera S.A. de Navegacion C.I.F.M.I.: *Punta Indigo.*
08356---	Tarpon Shipping Co. of Liberia: *Tarpon Sealane.*
08370---	Indiana & Michigan Electric Co.: *Lois Vivian.*
08386---	Mercator Mariners Ltd.: *Corinna.*
08454---	Shipshape Mariners Ltd.: *Domina.*
08573---	Harvester Navigation S.A.: *Harvester.*
08617---	Fairmont Enterprises Ltd.: *Tradewind West.*
08676---	Apollonian Wave Co. S.A.: *Apollonian Wave.*
08683---	Far East Shipping Co. Ltd.: *Venus Gas.*
08746---	N.V. Bocimar: *Stolt Boel.*
08776---	Lendas Maritime Co. Ltd.: *Lendas.*
08836---	Interessenteskab Heering Christel: *Heering Christel.*
08889---	Companhia Portuguesa de Transportes Maritimos E.P.: *Ribeira Grande, Ponta Garca, Monte Brasil, Horta, Acores.*
08924---	Friendship Marine Inc.: *Oilbird.*
08982---	Fodele Shipping Co. Ltd.: *Fodele II.*
09069---	Spanier Towing, Inc. *SMC-3002, SMC-3001.*
09148---	United Pal Co.: *Saas Fee.*
09203---	Zeta Shipping Co.: *Antonis.*
09243---	Calabria Shipping Co. Ltd.: *Sitia.*
09269---	Garden Sun Shipping Ltd.: *Garden Sun.*
09295---	Bentsen Line A/S: *Anett Bentsen.*
09297---	Norma Shipping Corp.: *Norma M. Byrne.*
09374---	International Ocean Transport Corp.: *Cities Service Norfolk.*
09393---	Hongkong Senpaku Co. Ltd. S.A.: *Okuni.*
09600---	Tarsprings Shipping Co.: *Tarpon Springs.*

By the Commission.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-11932 Filed 4-25-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1486]

RAY-MAR EXPEDITION CORP.

Order of Revocation

On April 15, 1977, Ray-Mar Expedition Corporation, 380 Mountain Road, Union

City, NJ 07087, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1486 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Order, Commission Order No. 201.1 (Revised), § 5.01(b), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1486 issued to Ray-Mar Expedition Corporation, be and is hereby revoked effective April 15, 1977 without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Ray-Mar Expedition Corporation.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-11933 Filed 4-25-77;8:45 am]

FEDERAL POWER COMMISSION

[Doc. No. CP77-328]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

APRIL 18, 1977.

Take notice that on April 4, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-328 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 60,000 Mcf of natural gas per day for United Gas Pipe Line Company (United) 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 has entered into a limited term transportation agreement dated March 28, 1977, with United, in which Applicant has agreed to transport up to a maximum of 60,000 Mcf of natural gas per day for United commencing on May 1, 1977, and continuing for a period ending January 31, 1978, and thereafter until such date as any differences between deliveries and redeliveries are eliminated, in accordance with the terms of this Agreement.

Applicant further states that United would purchase the subject gas from Delhi Gas Pipeline Corporation (Delhi), which volumes Delhi would make available to Northern Natural Gas Company (Northern) in Pecos County, Texas, and Northern would deliver to Applicant an equivalent volume at an existing interconnection between Northern and Applicant in Mills County, Iowa (Mills County Delivery Point). Applicant states that it would transport on a best efforts basis such gas and redeliver to United on a daily basis, volumes of gas thermally equivalent to the volumes received by it, at existing points of interconnection between United and Applicant in Vermillion Parish, Louisiana (Erath Redelivery Point) or near Goodrich, Polk County, Texas (Goodrich Redelivery Point).

The rate Applicant proposed to charge United for the proposed transportation service is 12.0 cents per Mcf of gas transported and redelivered. Applicant indicates that it would use its existing facilities to render the proposed transportation services.

Applicant indicates that United needs the proposed transportation services due to gas supply shortages on its system which have caused it to curtail deliveries of gas to its customers. The proposed services would permit United to receive quantities of gas into its interstate pipeline system without the need to construct extensive facilities, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1977, 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.77-11919 Filed 4-25-77;8:45 am]

[Doc. No. CP76-97]

STINGRAY PIPELINE CO.

Amended Application

APRIL 18, 1977.

Take notice that on April 7, 1977, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77001, filed an Amendment to its application previously filed in Docket No. CP76-97 on September 23, 1975, pursuant to Section 7(c) of the Natural Gas Act and the regulations thereunder for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the transportation of gas for Natural Gas Pipeline Company of America (Natural) and Trunkline Gas Company (Trunkline), all as more fully set forth in the application and amendment which are on file with the Commission and open to public inspection.

In its Amendment, Stingray proposes to construct and operate approximately fifteen miles of 24-inch O.D. transmission line to connect Stingray's existing system in West Cameron Block 564, Offshore Louisiana, to High Island Block 330, Offshore Texas, together with related facilities for the transmission of gas through and between Stingray's existing offshore system and the High Island Offshore System (HIOS). The total cost of the facilities applied for by Stingray is estimated to be approximately Seventeen Million Five Hundred Fifty-Three Thousand Dollars ($17,553,000).

Stingray will transport through its system and to and from the HIOS system gas produced from Offshore Texas and Offshore Louisiana for Natural and Trunkline pursuant to an existing tariff. Natural and Trunkline have the right to purchase substantial portions of such gas as a result of advance payment agreements with various producers.

Any person desiring to be heard or to make any protest with reference to said application, on or before May 4, 1977, should 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.77-11921 Filed 4-25-77;8:45 am]

[Doc. No. CI75-45, et al.]

TENNECO OIL CO., ET AL.

Extension of Time

APRIL 18, 1977.

On April 6, 1977, Placid Oil Company filed, on behalf of itself and other members of the Placid Group, a motion to extend the time in which to submit the amended application and information required by Ordering Paragraphs (A) and (C)(iii) of Opinion No. 789, issued March 7, 1977, in the above-designated proceeding.

Notice is hereby given that an extension of time is granted to and including June 6, 1977, to comply with Ordering Paragraphs (A) and (C)(iii) of Opinion No. 789.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11918 Filed 4-25-77;8:45 am]

[Doc. No. CP75-363]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application To Amend

APRIL 18, 1977.

Take notice that on April 1, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-363 an application to amend the Commission's order issued November 11, 1975, in said docket pursuant to Section 7(e) of the Natural Gas Act by authorizing the transportation of up to 2,000 Mcf of natural gas per day for Owens-Corning Fiberglas Corporation (Owen-Corning), the only direct industrial customer of Applicant, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

The order of November 11, 1975 authorized Applicant to transport on an interruptible basis up to 600 Mcf of natural gas per day for Owen-Corning. Applicant states that the transportation, which began on December 13, 1975, was authorized for a term of one year and three months, and took place between a point near Falfurrias, Jim Wells County, Texas, where the gas was delivered to Applicant by South Texas Natural Gas Gathering Company (South Texas) and a point near Anderson, South Carolina where Applicant delivers the gas to Owens-Corning for high-priority use at its Anderson plant. Applicant indicates that it charged Owens-Corning a transportation rate of 22 cents per Mcf delivered to Owens-Corning and retained 3 percent of the transportation volumes as compensation for compressor fuel and line loss, and the source of the gas was a well in the Bob Cooper Field, Brooks County, Texas. Applicant states that the last delivery of gas from this source was on November 24, 1976, because of depletion of reserves.

Applicant states that on December 22, 1976, Texas Gas Transmission Corporation (Texas Gas) and Applicant were granted temporary authorization to transport additional volumes of gas to Owens-Corning's Anderson, South Carolina plant. Applicant further states that on January 11, 1977, it filed a telegraphic request to amend its certificate in the instant docket to receive up to 2,000 Mcf of natural gas per day from Texas Gas at an existing point of exchange located near Eunice, Louisiana, for transportation and ultimate delivery to Owens-Corning's Anderson, South Carolina plant, and the period of such service was to be no more than 90 days. Applicant states that it was granted temporary authorization pursuant to telegram of January 11, 1977.

Applicant states that the last delivery of the gas pursuant to such temporary authorization was on March 8, 1977. Applicant asserts that the original reason for the availability of the gas was a strike by employees at Owens-Corning's Jackson, Tennessee, plant which is served by Texas Gas. Applicant further states that because of the strike, Owens-Corning did not need the 2,000 Mcf of natural gas per day at the Jackson, Tennessee, plant and found it beneficial to have the gas diverted to its Anderson, South Carolina plant which is served by Applicant. On or about March 8, 1977, the strike at the Jackson plant terminated and the subject volumes of gas were once again needed at the Jackson plant, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application to amend should on or before May 4, 1977 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 Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11920 Filed 4-25-77;8:45 am]

[Doc. No. RI77-2]

TRITON OIL & GAS CORP.

Order Granting Petition for Special Relief

APRIL 18, 1977.

On October 8, 1976 Triton Oil & Gas Corporation (Triton) filed a petition for special relief in accordance with § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). The increased base rate of 58.08 cents per Mcf, Petitioner alleged, was needed to enable it to repair leaks in the casing and to restore production from its well in the J. B. McDonald lease, Iberia Parish, Louisiana so that the pipeline buyer, Texas Gas Transmission Company (TGT) can receive the well's remaining 409,200 Mcf of gas reserves. Petitioner stated that it ceased operating the well in May 1976 due to the leak in the well casing. It says that if the proposed remedial work is not performed the leases and the well will be abandoned. At the time production ceased, Petitioner was collecting a base contract rate of 21 cents per Mcf plus 6.2 cents per Mcf in tax reimbursement. TGT has advised Petitioner in a June 29, 1976 letter that it would purchase this gas at the price found by the Commission to be just and reasonable purusant to 18 CFR 2.76.

No interventions in opposition to the petition have been filed to date. A notice of Triton's petition was issued October 27, 1976, and appeared in the FEDERAL REGISTER at 41 FR 48413, November 3, 1976.

Staff has reviewed the cost information supplied by Triton and has determined on that information, that the proposed rate is cost justified. Upon consideration of the data submitted and Staff's analysis thereof, we conclude that the petition should be granted.

The Commission finds: The petition for special relief filed by Triton in Docket No. RI77-2 meets the criteria set forth in § 2.76 of the Commission's General Policy and Interpretations.

The Commission orders: (A) For the above stated reasons, the petition for special relief filed by Triton in Docket No. RI77-2 is hereby granted. Triton is authorized to collect from TGT a base rate of 58.084 cents per Mcf plus full tax reimbursement and BTU adjustment at 14.65 p.s.i.a. for all gas produced from the subject well effective as of the date of this order, or upon completion of the proposed reworking stated in this petition, whichever date is later.

(B) This rate is contingent upon Triton's filing with the Commission a statement, signed by Texas Gas Transmission, that the proposed remedial work has been fully completed. This statement shall be filed within 30 days of the effective date of the proposed rate as stated in Ordering Paragraph (A), above.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11923 Filed 4-25-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

FIFTH ANNUAL REPORT OF THE PRESIDENT ON FEDERAL ADVISORY COMMITTEES COVERING CALENDAR YEAR 1976

Availability of Publication

The above report is available to Federal Government sources by contacting

the Office of Management and Budget, Committee Management Secretariat, Washington, D.C. 20503, 202-395-5193.

Purchase of the report by the general public is available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The price is $2.60, the Stock Number is 040-000-00379-7, and the Catalog Number is PR 38.10(976).

The Compilation of Agency Submissions for the Fifth Annual Report of the President on Federal Advisory Committees Covering Calendar Year 1976 will be available on microfilm for viewing and/or purchase through the National Archives and Records Service at a later date which will be announced in the FEDERAL REGISTER.

Dated: April 15, 1977.

JAMES E. O'NEILL,
Acting Archivist of the United States.

[FR Doc.77-1193 Filed 4-25-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Education

EDUCATIONAL AGENCIES AND INSTITUTIONS

Comments on Collection of Information and Data Acquisition Activity

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics has proposed a collection of information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity is subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Description of the proposed collection of information and data acquisition activity follow below.

Written comments on the proposed activity are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before May 26, 1977 and should be addressed to Administrator, National Center for Education Statistics, attention: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: April 20, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

National Assessment of Educational Progress (Background information for achievement tests).

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics.

3. AGENCY FORM NUMBERS

NCES 2371-30-33, 36-38, 40-42.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"* * * The (National) Center (for Education Statistics) shall—* * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501. (a) of Pub. L. 93-380; Sec. 406.(b) of the General Education Provision Act, 20 U.S.C. 1221e-1).

5. VOLUNTARY/ OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

NCES 2371-30, 31, 32: One form at each age level (9, 13 and 17) will be used to obtain information related to previous experience in the use of hand calculators and in the use of the metric system. The information will be correlated to achievement tests in these areas. The analysis and interpretation of the information will help to assay the impact of hand calculators upon mathematics education and will help to identify effective methods for the teaching of the metric system.

NCES 2371-33: Information regarding the amount of time spent on mathematics instruction will be obtained. The information is designed to assist federal, state and local governments, the education community and the public in the improvement of mathematics education.

NCES 2371-36: The information obtained will be used in selecting the sample of students in each school and for the analysis of the data. The information will be available to researchers to assist in the interpretation of the test data.

NCES 2371-37: The information obtained will provide background variables for the analysis of test data related to the consumer knowledge of 17-year-old youths. The information will assist in determining the extent of 17-year-old knowledge about consumer issues and the sources of such knowledge. The analysis and interpretation of the background information and test item achievement will provide valid information to assist federal, state and local governments, the education community, governmental and non-governmental consumer organizations and the public in improving consumer education.

NCES 2371-38: The information obtained will provide background variables for the analysis of test data related to the speaking/listening skills of 17-year-old youths. The information will assist in understanding the factors affecting speaking/listening skills as measured by the tests and in understanding the differences among various population groups. The analysis and interpretation of the background information and test item achievement will provide federal, state and local governments, the education community and the public with valid information regarding the functional communication competence of youths.

NCES 2371-40, 41, 42: The forms will be used as quality control instruments to ascertain that student sample selection and assessment procedures were carried out according to specifications and to assure the quality of the testing program.

7. DATA ACQUISITION PLAN

a. *Method of collection:* Mail (NCES 2371-40) and personal interview (NCES 2371-30-32, 33, 36-38, 40-42).

b. *Time of collection:* October, 1977 to May, 1978.

c. *Frequency:* Annually.

8. RESPONDENTS

a. *Type:* School principals.

b. *Number:* Sample: NCES 2371-33, 550; NCES 2371-36, 1520; NCES 2371-40, 44; NCES 2371-42, 44.

c. *Estimated average man-hours per respondent:* NCES 2371-33, .25; NCES 2371-36, .50; NCES 2371-40, .10; NCES 2371-42, .05.

a. *Type:* Students.

b. *Number:* Sample: NCES 2371-30, 18,200; NCES 2371-31, 28,600; NCES 2371-32, 31,200; NCES 2371-37, 13,000; NCES 2371-38, 3,200; NCES 2371-41, 44.

c. *Estimated average man-hours per respondent:* NCES 2371-30, .15; NCES 2371-31, .15; NCES 2371-32, .15; NCES 2371-37, .16; NCES 2371-38, .15; NCES 2371-41, .20.

9. INFORMATION TO BE COLLECTED

a. *From school principals:*

NCES 2371-33: Total time of scheduled mathematics instruction for primary grade levels and recent changes in total time given to computation skills and general mathematics instruction.

NCES 2371-36: Enrollment and average daily attendance, size of community, racial/ethnic composition of student body, occupational level of parents, and whether the school participates in ESEA Title I.

NCES 2371-40: Suggestions for improvements in survey procedures.

NCES 2371-42: Procedures used for selection of students for testing, changes in enrollment.

b. *From students:*

NCES 2371-30, 31, 32: Experience with the metric system and hand calculators, types of mathematics instruction taken.

NCES 2371-37: Self-rating questions regarding knowledge of consumer information and education, consumer habits, personal finance, quality and prices of goods and services.

NCES 2371-38: Language spoken prior to enrollment in school, informal and formal speech therapy and training received.

NCES 2371-41: Questions regarding administration of test booklets.

[FR Doc.77-11911 Filed 4-25-77;8:45 am]

Office of Education

OCCUPATIONAL INFORMATION

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement of the National Occupational Information Coordinating Committee, which is composed of the Commissioner of Education, the Administrator of the National Center for Education Statistics, the Assistant Secretary for Employment and Training and the

Commissioner of Labor Statistics, see FR Doc. 77-11880, issued by the Committee, which appears as Part II of this issue.

Federal Council on the Aging

COUNCIL MEETING

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to Pub. L. 92-463 that the Federal Council on the Aging will hold a quarterly meeting on May 18, 19, 20, 1977 from 9:30 a.m. to 5 p.m. in Room 5051, HEW-North Building, 330 Independence Ave. SW., Washington, D.C. 20201. The agenda will consist of: Development of national health policy for the elderly, HEW welfare reform recommendations, Presidential transmittal to Congress of FCA annual report, Proposed evaluation of the Federal Council on the Aging, Administrative location of services for the frail elderly, Long term financing of Social Security, Amendments to the Older Americans Act, Impact of energy/weather crisis on elderly, Status report of Council projects and Mandatory retirement issues.

This meeting will be open for public observation.

Further information on the Council may be obtained from: Cleonice Tavani, Executive Director, Federal Council on the Aging, Washington, D.C. 20201, telephone: (202) 245-0441.

CLEONICE TAVANI,
Executive Director,
Federal Council on the Aging.

APRIL 20, 1977.

[FR Doc.77-11946 Filed 4-25-77;8:45 am]

Food and Drug Administration

[Docket No. 76N-0494]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

Correction

In FR Doc. 77-9556 appearing at page 17526 in the issue for Friday, April 1, 1977, the following corrections should be made in the table on page 17528:

(1) In the column labeled "Other Information", for the substance protein hydrolysates, item "d." now reading "Nestle Products Technical Assistance and toxicological information concerning HVP." should have read "Nestle Products Technical Assistance Co., Ltd. NESTEC. 1975. Technological and toxicological information concerning HVP."

(2) In the column labeled "Animal study report—Order number", for the substance caffeine, "Mutagenic evaluation (hose mediated, * * *" should read "Mutagenic evaluation (host mediated, * * *".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Doc. No. NFD-466, FDAA-532-DR]

ALABAMA

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 9, 1977, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms and flooding beginning about April 4, 1977, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Alabama.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Alabama to have been adversely affected by this declared major disaster:

The counties of:

Etowah St. Clair
Jefferson

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 9, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 77-11894 Filed 4-25-77;8:45 am]

[Doc. No. NFD-461; FDAA-3025-EM]

COLORADO

Amendment To Notice of Emergency Declaration

Notice of emergency for the State of Colorado, dated January 29, 1977, and amended on February 15, 1977, and March 10, 1977, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 29, 1977:

The county of:
Douglas

The purpose of this designation is to provide emergency livestock feed and cattle transportation assistance only in the aforementioned affected area effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 4, 1977.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistant Administration.

[FR Doc.77-11895 Filed 4-25-77;8:45 am]

[Doc. No. NFD-463; FDAA-3035-EM]

MICHIGAN

Amendment To Notice of Emergency Declaration

Notice of emergency for the State of Michigan, dated March 2, 1977, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 2, 1977:

The county of:
Chippewa

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected area effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 1, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-11896 Filed 4-25-77;8:45 am]

[Doc. No. NFD-462; FDAA-3013-EM]

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, November 9, 1976, December 30, 1976, January 14, 1977, January 19, 1977, and February 11, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The counties of:

Houston Koochiching

The purpose of these designations is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 1, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-11897 Filed 4-25-77;8:45 am]

[Doc. No. NFD-464; FDAA-3024-EM]

UTAH

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Utah, dated January 20, 1977, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 20, 1977:

The counties of:

Box Elder	Kane
Garfield	Washington

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: March 17, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster, Assistance Administration.

[FR Doc.77-11900 Filed 4-25-77;8:45 am]

[Doc. No. NFD-467; FDAA-530-DR]

VIRGINIA

Amendment to Notice of Major Disaster

Notice of Major disaster for the State of Virginia dated April 7, 1977, is hereby amended to include the following county determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1977:

The county of:

Giles

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 14, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-11901 Filed 4-25-77;8:45 am]

WASHINGTON

[Doc. No. NFD-460; FDAA-3037-EM]

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Washington, dated March 31, 1977, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 31, 1977:

The county of:

Kittitas

The purpose of this designation is to provide emergency livestock feed assistance and cattle transportation assistance only in the aforementioned affected area effective the date of this amended Notice.

Notice of emergency for the State of Washington, dated March 31, 1977, is hereby further amended to make the following counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of March 31, 1977, eligible for cattle transportation assistance effective the date of this amended Notice.

The counties of:

Benton	Yakima

The above-listed counties were previously declared eligible for emergency livestock feed assistance. This assistance remains available in the designated areas.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 4, 1977.

WILLIAM B. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-11898 Filed 4-25-77;8:45 am]

[Docket No. NFD-465; FDAA-531-DR]

WEST VIRGINIA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of West Virginia, dated April 7, 1977, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1977:

The county of:

Mercer

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: April 12, 1977.

THOMAS P. DUNNE,
Administrator Federal Disaster Assistance Administration.

[FR Doc.77-11899 Filed 4-25-77;8:45 am]

Office of Interstate Land Sales Registration

[Doc. No. N-77-741]

CONNESTEE FALLS, ET AL.

Hearing

In the matter of Connestee Falls Units 1-32, OILSR No. 0-4918-38-302, ED-77-4; Holly Forest Units 1-5, OILSR No. 0-4919-38-303, ED-77-2; Keowee Key, OILSR No. 0-4920-46-103, ED-77-3.

Pursuant to 15 U.S.C. 1706(b) and 24 CFR 1720.155(b) Notice is hereby given that:

1. Connestee Falls Units 1-32, Holly Forest Units 1-5, and Keowee Key, its officers and agents, hereinafter referred to as "Respondents," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, et seq.), received a Notice of Suspension dated March 23, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that its Statement of Record submitted February 22, 1977, for Connestee Falls Units 1-32, Holly Forest Units 1-5 and Keowee Key located in Charlotte, North Carolina, were not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondents filed an answer dated March 27, 1977, in answer to the allegations of the Notice of Suspension dated March 23, 1977.

3. In said answer the Respondents requested a hearing on the allegations contained in the Notice of Suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1720.155(b), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Suspension will be held before James W. Mast, Chief Administrative Law Judge, in Room 7146, Department of HUD Building, 451 Seventh Street SW., Washington, D.C. on June 8, 1977 at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410 on or before May 10, 1977.

5. The Respondents are hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the suspension of the Statement of Record, herein identified, shall continue until vacated by order of the Secretary, pursuant to 24 CFR 1720.155.

This Notice shall be served upon the Respondents forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: April 5, 1977.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-11893 Filed 4-25-77;8:45 am]

Office of the Secretary

[Doc. No. N-77-506]

PRIVACY ACT OF 1974

Final Amendments of Notice of Systems Records

AGENCY: Department of Housing and Urban Development.

ACTION: Final notice of amendments of systems of records.

SUMMARY: This notice adopts amendments to HUD's Systems of Records un-

der the Privacy Act. The notice adds a routine use applicable to the system of records designated HUD/DEPT-34 (Pay and Leave Records of Employees) for disclosures to State and local taxing authorities concerning compensation to employees for personal services. It also adds a specific exemption applicable to the system of records designed as HUD/DEPT-15 (Equal Opportunity Housing Complaints), which will allow HUD to withhold records compiled and maintained for the purpose of enforcing Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968.

EFFECTIVE DATE: Immediately on publication.

FOR FURTHER INFORMATION CONTACT:

Harold Rosenthal, Departmental Privacy Act Officer, (202) 755-5192.

SUPPLEMENTAL INFORMATION: On October 8, 1976, the Department of Housing and Urban Development published at 41 FR 44557 certain proposed amendments to its Notice of Systems of Records pursuant to the Privacy Act of 1974, P. L. 93-579, 5 U.S.C. 552a. Public comments were invited and were to be submitted by November 8, 1976. No comments were received. Accordingly action is being taken to finalize this notice of systems of records.

The Department has determined that an Environmental Impact Statement is not required with respect to this notice. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, Washington, D.C.

It is hereby certified that the economic and inflationary impacts of this notice have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, the Department of Housing and Urban Development adopts the following amendments to its Privacy Act Systems of Records:

1. HUD adopts the routine uses of system HUD/DEPT-34 to read as follows:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry on its Government-wide personnel functions.

2. HUD adopts the specific exemption for system HUD/DEPT-15 to read as follows:

Systems exempted from certain provisions of the Act:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of this sub-section is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

For the convenience of the public, the Department is republishing the two systems of records, as amended, in their entirety as follows:

HUD/DEPT-34

System name:

Pay and Leave Records of Employees.

System location:

Department Central Office.

Categories of individuals covered by the system:

HUD employees.

Categories of records in the system:

Name, Social Security number and employee number, grade, step and salary; organization, retirement or FICA data as applicable; Federal, State and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuances of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry on its Government-wide personnel functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual, machine-readable and magnetic media.

Retrievability:

Name of employee; Social Security Number.

Safeguards:

Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

Retention and disposal:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Records Schedules of GSA.

System manager(s) and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 7th Street NW., Washington, D.C. 20410.

Notification procedure:

For inquiry about existence of records, contact the Privacy Officer at Headquarters, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at Headquarters. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Officer at the appropriate location (a list of all locations is given in Appendix A); (ii) in

relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

HUD/DEPT–15

System name:

Equal Opportunity Housing Complaints.

System location:

Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Department's Central Office. For a complete listing of these, with addresses, see Appendix A.

Categories of individuals covered by the system:

Individuals filing housing discrimination complaints; individuals, officials, and organizations complained about; managers; grant or project applicants; builders; developers; contractors; appraisers; property owners; mortgagors; candidates for positions; witnesses; attorneys; individuals in disaster and EO files, Titles VI, VIII and IX complainants. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system:

Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; marketing activity; complaints under Titles VI, VIII and IX; conciliation files, correspondence; affidavits; complaint status reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: used for investigation, preparing litigation, and monitoring compliance by non-federal EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records kept in lockable desks and file cabinets.

Retrievability:

Usually retrievable by name of complainant and, in some instances, by case file number.

Safeguards:

Offices are locked at night and access to files during the day is limited to authorized personnel. Files are locked.

Retention and disposal:

HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Center for an additional five years.

System manager(s) and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Notification procedure:

For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Officer at the appropriate location (a list of all locations is given in Appendix A); (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Record source categories:

Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

Systems exempted from certain provisions of the act:

Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of this sub-section is exempted from the notice, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (3)(1), (e)(4)(G), (H), and (I), and (f) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

Issued at Washington, D.C., on April 19, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77–11944 Filed 4–25–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 4062]

CALIFORNIA

Opening of Land Subject to Section 24 of the Federal Power Act

APRIL 18, 1977.

Pursuant to the order of the Federal Power Commission DA–1122 issued December 2, 1976, and by virtue of the authority contained in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) (1970), as amended, and in accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, issued January 21, 1977 (42 FR 3901), as amended, it is ordered as follows:

1. The Commission finds that the value of the following described land, withdrawn in Power Site Classification No. 115, will not be injured or destroyed by conveyance subject to the provisions of section 24 of the Federal Power Act.

HUMBOLDT MERIDIAN

POWER SITE CLASSIFICATION 115

T. 7 N., R. 5 E.,
Sec. 20, E½E½NW¼SW¼.
The area described aggregates 10 acres in Humbodlt County.

2. The State of California has waived its preference right of application for highway rights-of-way on material sites afforded it by section 24 of the Federal Power Act.

3. The land shall be made immediately available for consummation of a pending Forest Service exchange application CA 711, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and subject to the provisions of section 24 of the Federal Power Act, supra.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77–11971 Filed 4–25–77;8:45 am]

[R27]

CALIFORNIA

Order Providing for Opening of Public Lands

APRIL 18, 1977.

1. In exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g), the following-described lands have been reconveyed to the United States:

MOUNT DIABLO MERIDIAN

T. 30 S., R. 35 E.,
Sec. 31, All.

T. 30 S., R. 36 E.,
Sec. 31, E½.
T. 31 S., R. 36 E.,
Sec. 1, Lots 3, 4, 5, 6, 11, 12, 13, and 14, and SW¼;
Sec. 11, NE¼, E½NW¼, and S½.
T. 31 S., R. 35 E.,
Sec. 31, All;
Sec. 33, All;
Sec. 35, All;
Sec. 36, All.
T. 32 S., R. 35 E.,
Sec. 1, All;
Sec. 3, All;
Sec. 5, All;
Sec. 7, All;
Sec. 9, All;
Sec. 11, All;
Sec. 17, All;
Sec. 19, All.

The areas described aggregate 9,642.43 acres.

2. The above lands are located in Kern County, approximately 16 miles northeast of Tehachapi, and were acquired for the purposes of consolidating the public lands and providing for multiple use management of all the resources.

3. The United States does not have jurisdiction as to the minerals in the following described land as the mineral rights were not reconveyed by exchange:

MOUNT DIABLO MERIDIAN

T. 31 S., R. 35 E.,
Sec. 36, All.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open (except as provided in paragraph 3 hereof) to the operation of the public land laws, including the mining laws (30 U.S.C., Ch. 2) and the mineral leasing laws. All valid applications received at or prior to 10 a.m., May 31, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77-11970 Filed 4-25-77; 8:45 am]

[R 2295]

CALIFORNIA

Order Providing for Openings of Lands

APRIL 19, 1977.

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and pursuant to the authority delegated by the State Director (37 FR 491, January 12, 1972) as amended, and pursuant to the determination of the Federal Power Commission in DA 1095, California, April 21, 1971, it is ordered as follows:

1. Pursuant to DA 1095 the Commission finds that the Power Projects numbered 125, 966 and 1209 described below are no longer needed for power and are vacated.

SAN BERNARDINO MERIDIAN, CALIFORNIA

POWER PROJECT 125

T. 2 N., R. 8 W.,
Sec. 5, lots 3, 4, 5, 6, 11, 12, N½SW¼, SE¼SW¼, W½SW¼SW¼;
Sec. 6, lots 9, 10, 13, 14, E½SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼;
Sec. 7, lots 1, 2, 3, 4, E½NW¼, E½SW¼;
Sec. 18, lots 1, 2, E½NW¼.

T. 3 N., R. 8 W.,
Sec. 32, lots 1, 2, 3, 4, N½, N½S½;
Sec. 33, N½NW¼, SW¼NW¼.
T. 2 N., R. 9 W.,
Sec. 12, SE¼SE¼;
Sec. 13, N½, SW¼;
Sec. 14, all;
Sec. 15, SE¼;
Sec. 21, N½SE¼, N½S½SE¼;
Sec. 22, N½, SW¼, N½SE¼, SW¼, SE¼.

The area described aggregate approximately 3,921 acres.

POWER PROJECT 966

T. 1 N., R. 9 W.,
Secs. 6, 7.
T. 2 N., R. 9 W.,
Secs. 4, 5, 8, 17, 18, 19, 29, 30, 31, 32.
T. 3 N., R. 9 W.,
Secs. 29, 32, 33.
T. 1 N., R. 10 W.,
Secs. 12, 14.
T. 2 N., R. 10 W.,
Secs. 19, 20, 21, 22, 23, 24.

Portions of the above described sections aggregate approximately 146 acres.

POWER PROJECT 1209

T. 2 N., R. 9 W.,
Sec. 19.
T. 2 N., R. 10 W.,
Secs. 18, 19, 20, 21, 22, 23, 24.

Portions of the above described sections aggregate approximately 58 acres.

2. As found in DA 1095, the Commission offered no objection to the cancellation of PSC No. 79 by the U.S.G.S. pursuant to its publication of notice (36 FR 22190), to the extent that it affects the following described lands:

SAN BERNARDINO MERIDIAN

T. 2 N., R. 9 W.,
Sec. 21, lot 2.

All lands within 50 feet of the marginal limits of the canals, pipelines, tunnels, or other power structures of H. W. O'Melveny, trustee, as shown on a right-of-way map approved by the Secretary of the Interior, June 23, 1897, or of the Electric Power Co. of Los Angeles as shown on a right-of-way map approved by the Secretary of the Interior, April 9, 1904, or of their successors in interest within the following described tracts:

T. 2 N., R. 8 W.,
Sec. 7, NW¼NE¼;
Sec. 15, S½S½NW¼SW¼, and SW¼SW¼;
Sec. 16, NW¼SW¼ and S½S½;
Sec. 17, NW¼NE¼, S½NE¼, NE¼NW¼ and NE¼SE¼;
Sec. 18, N½NE¼;
Sec. 21, NE¼NE¼.
T. 1 N., R. 9 W.,
Sec. 5, SW¼NW¼ nd NW¼SW¼;
Sec. 6, lots 1 and 2, S½NE¼, N½SE¼, and SE¼SE¼;
Sec. 7, lot 2, NE¼NE¼, SE¼NW¼NE¼, N½SW¼NE¼, SE¼NE¼NW¼, N½SE¼NW¼, SE¼NE¼SW¼, and E½SE¼SW¼.
Sec. 18, lot 1 and NE¼NW¼.
T. 2 N., R. 9 W.,
Sec. 4, lots 4, 5, 11, and 12, N½SW¼, and SW¼SW¼;
Sec. 5, lot 1;
Sec. 8, E½NE¼;
Sec. 9, NW¼NW¼, S½N½, and N½SE¼;
Sec. 10, NW¼SW¼ and S½SW¼;
Sec. 15, W½NE¼, N½NW¼, and SE¼NW¼;
Sec. 17, S½NW¼ and W½SW¼;
Sec. 18, lot 4, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, NW¼NW¼, S½N½, NE¼SW¼, and N½SE¼;
Sec. 21, lots 1 to 4, inclusive;
Sec. 28, NE¼NW¼;
Sec. 29, E½NE¼, NE¼SE¼, and SW¼SE¼;
Sec. 31, NE¼SE¼ and S½SE¼;
Sec. 32, N½SW¼ and SW¼SW¼.
T. 3 N., R. 9 W.,
Sec. 31, lots 2 and 3, NE¼SW¼, and N½SE¼;
Sec. 32, NW¼SW¼ and S½S½;
Sec. 33, SW¼SW¼.
T. 1 N., R. 10 W.,
Sec. 11, E½SE¼;
Sec. 12, S½N½ and NW¼SW¼.
T. 2 N., R. 10 W.,
Sec. 11, N½SE¼ and SE¼SE¼.
Sec. 13, SW¼NE¼, NW¼, W½SE¼, and SE¼SE¼;
Sec. 14, NE¼NE¼.
T. 3 N., R. 10 W.,
Sec. 25, N½SE¼ and SW¼SE¼;
Sec. 36, NW¼NE¼.

The area described aggregates approximately 323 acres.

The State of California has waived its preference right of application for highway right-of-way or material sites afforded it by section 24 of the Federal Power Act.

At 10 a.m. on May 31, 1977, the aforedescribed lands, all of which lie within the boundaries of the Angeles National Forest shall be open to such disposition as may be made of National Forest lands.

All lands not otherwise withdrawn or reserved have been open to applications and offers under the mineral leasing laws and to location under the U.S. Mining Laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning these lands should be addressed to the Bureau of Land Management, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

WALTER P. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-11980 Filed 4-25-77;8:45 am]

[Wyoming 58829]

WYOMING

Application

APRIL 15, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Company of Wyoming, Green River, Wyoming filed an ap-

plication for a right-of-way to construct a 4 inch natural gas pipeline for the purpose of transporting natural gas across the following described national resource lands:

SIXTH PRINCIPAL MERIDAN, WYOMING

T. 18 N., R. 98 W.
Sec. 22, NE¼SE¼, S½S½;
Sec. 24, S½N½.

The pipeline will serve as a lateral line to transport natural gas from Texaco No. 3 well in section 24, Township 18 North, Range 98 West in Sweetwater County, Wyoming, to a point on Stauffer Chemical Company of Wyoming's six-inch gasline in section 21, Township 18 North, Range 98 West.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-11972 Filed 4-25-77;8:45 am]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Bureau of Land Management, Curtis V. McVee, State Director, 555 Cordova Street, Anchorage, Alaska 99501.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To conduct nesting raptor habitat inventories on national resource lands in Alaska; includes peregrine falcon habitat.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Louis D. Jurs
Bureau of Land Management
555 Cordova St.
Anchorage, AK 99501

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6'2" WEIGHT: 200
DATE OF BIRTH: 2/7/41
COLOR HAIR: Brown COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED: 907-277-1561
SOCIAL SECURITY NUMBER: 569-52-2466
OCCUPATION: Wildlife Biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
USDI; Bureau of Land Management

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION:
Management of public lands of the United States
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Curtis McVee, State Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Various Alaska locations, including the northwest Arctic slope and the Kuskokwim River watershed.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
Have approval of Alaska Fish and Game

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 5/23/77

11. DURATION NEEDED: 4 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Detailed description of proposed work is attached

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not type): Curtis V. McVee
Curtis V. McVee, State Director
DATE: 2/28/77

3-200
(8/74)

STATE OFFICE,
Anchorage, Alaska,
January 17, 1977.

MEMORANDUM

To: Area Director, U.S. Fish and Wildlife Service, Anchorage, Alaska.

From: State Director, Bureau of Land Management.

Subject: Endangered Species Permit Request.

As part of BLM's ongoing wildlife inventory effort on Alaska's national resource lands, we plan to continue our nesting raptor survey work during the upcoming summer season. This will be a continuation of the work conducted during 1975–76.

As before, methodology will include aerial reconnaissance to determine presence/absence of nesting raptors, and ground surveys to determine species and nesting productivity. Most of the ground work would be accomplished by raft or riverboat as many of the nesting cliffs border navigable streams. It may be necessary to discharge firearms or use other audio devices to cause birds to take flight for identification purposes.

Field investigations will be carried out by two BLM personnel or contract personnel. Investigators will be competent biologists with expertise in avian biology. They will work under the supervision of our State Office wildlife biologist.

Another phase of our summer field operations will include project evaluations and general inventory work.

During the fall of 1976, artificial nest structures were placed at Sagwon Bluffs. A short evaluation survey (one or two days) to determine use of these structures will be necessary. This work will be carried out by the Fairbanks District wildlife biologist.

In addition, general wildlife inventories will be conducted in a number of locations. While these are not specifically aimed at raptors, the chance of encounter is always present. Biologists performing this work would merely note the occurrence of the birds and their location. No intensive investigations would be made.

The following table summarizes the locations and work covered by this request:

Location(s)	Work performed	Investigators
(1) Northwest Arctic: a. Utukok River b. Kokolik River c. Ridges and cliffs of North Slope Uplands.	Aerial reconnaissance by fixed or rotary wing aircraft to determine presence of nesting raptors. Ground surveys with spotting scopes, rafts, etc. to determine species present and productivity of same. May involve discharge of firearms/loud audio devices to cause birds to take flight for inventory and identification, especially on large cliffs. Some climbing may be required.	Avian biologists (2) hired or contracted by BLM under supervision of state biologist.
(2) Kuskokwim River watershed: a. Main Kuskokwim River b. George River c. Tatlawiksuk River d. Nixon River e. Takotna River f. E. Fk. Kuskokwim River g. Cheeniktnuk River h. Oskawalik River i. Molokuk River		
(3) Portage Habitat Mgt. area	General wildlife inventory	District biologists.
(4) Tangle Lakes/Delta River area	do	Do.
(5) Denali Highway	do	Do.
(6) Gulkana River	do	Do.
(7) Sagwon Bluffs of Sagavanirktok River	Evaluation of artificial nest structures; visual survey only.	Do.
(8) Middle Yukon River	General inventory for development of habitat management plan.	Do.
(9) Alaska pipeline corridor—Fairbanks North.	do	Do.

All raptorial birds encountered will be surveyed and catalogued, including, but not limited to:

Arctic peregrine falcon, *Falco peregrinus tundrius.*
American peregrine falcon, *F. p. anatum.*
Bald Eagle, *Haliaeetus leucocephalus.*
Golden Eagle, *Aculla chrysaetos.*
Gryfalcon, *Falco rusticolus.*
Merlin, *Falco columbarius.*
Red-tailed (Harlan's) Hawk, *Buteo jamaicensis harlani.*
Osprey, *Pandion haliaetus.*
Kestel, *Falco sparverius.*
Goshawk, *Accipiter sentillis.*
Rough-legged Hawk, *Buteo lagopus.*
Marsh Hawk, *Circus cyapcus.*

Owls, waterfowl, shorebirds, passerines, and other avian and mammalian wildlife will also be inventoried as they are encountered during the course of the raptor surveys.

In summary, then, the principal impacts anticipated will involve some harassment of birds at aeries during the fly-by period, and during the short time period nest locations are ground checked. No permanent damage to the birds, physically or behaviorally, is visualized.

Upon your approval, please forward this request to the Endangered Species Permit Office. The permit should be issued in the name of Mr. Curtis McVee, State Director.

With final permit approval, and in accordance with the proposed surface protection regulations for NPRA, we will submit a detailed work plan for that portion of the study taking place on the Reserve, for interagency/state review and comment.

New information generated by the entire study effort will be made available to those agencies needing the data.

Any questions concerning this application should be made to Mr. Lou Jurs, wildlife biologist, Division of Resources, Bureau of Land Management, 555 Cordova Street, Anchorage, AK 99501; phone 907–277–1561, extension 144.

Thank you for your assistance in this matter.

CURTIS V. MCVEE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2–711–

07; please refer to this number when submitting comments. All relevant comments received on or before May 26, 1977 will be considered.

Dated: April 20, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, United States Fish and Wildlife Service.

[FR Doc.77-11787 Filed 4-25-77;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following applications for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Knoxville Zoological Park at Chilhowee Park, P.O. Box 1631, Knoxville, Tennessee 37914, Guy L. Smith, III, Director.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Importation of two (2) female Asiatic lions, captive born, from Tierpark/Berlin East Germany, for the purpose of propagation.

3. APPLICANT, (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Knoxville Zoological Park
at Chilhowee Park
P. O. Box 1631
Knoxville, Tennessee 37914

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] M [ ] F [ ] W [ ] S [ ] M
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION: n/a

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION:
Municipal zoological park

6. ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.:
Guy L. Smith, III, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED:
n/a

7. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Knoxville Zoological Park
at Chilhowee Park
P. O. Box 1631
Knoxville, Tennessee 37914

8. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [X] YES [ ] NO
(If yes, list license or permit number(s))
1. 63 EL-1
2. PRT2-8
3. PRT-7-08-P-Z-NY
4. PRT 2-310

9. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of document)
See attached letter

10. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF:
$

11. DESIRED EFFECTIVE DATE: 4/1/77

12. DURATION NEEDED: indefinite

13. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED:
See attached letters verifying captive birth of specimens, that we are acquiring them legally from Tierpark/Berlin Zoo. Also see letters verifying price of species and delivery specifications. Also attached is supporting data required by the Endangered Species Act of 1973.

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): [signature]
DATE: 3/9/77

3-200
10-76
GPO 893-042

CITY OF KNOXVILLE, TENNESSEE,
MUNICIPAL ZOO, *March 9, 1977.*

DIRECTOR,
U.S. FISH AND WILDLIFE SERVICE,
Department of the Interior,
Washington, D.C.

DEAR SIR: The information immediately following represents an application to the Department of the Interior for the importation of an endangered species for the Knoxville Zoological Park at Chilhowee Park, P.O. Box 1631, Knoxville, Tennessee 37914, U.S.A., as required by the Endangered Species Act of 1973: specifically as indicated in paragraph 17.12, Section (b)(1), Part 17, for two (2) female Asiatic lions, *Panthera leo persica* (Meyer, 1826).

1. Name and address of the applicant: Knoxville Zoological Park at Chilhowee Park, P.O. Box 1631, Knoxville, Tennessee 37914.

2. The number of specimens and common and specific names (genus, species, subspecies) of each species or subspecies of each fish or wildlife to be imported:

Two (2) female Asiatic lions, captive born, *Panthera leo persica*, (Meyer, 1826); currently housed at the Tierpark Berlin/East Germany.

3. Complete statement of the purpose of such importation: Since its inception the Knoxville Zoological Park at Chilhowee Park has specialized in and is very successful in the propagation of large cats, genus *Panthera*. As well as being a cultural and educational facility, we earnestly accept our responsibilities to all wildlife, especially those species considered endangered. Whereas many zoological institutions have curtailed reproduction in their captive populations of large cats, ie *Panthera*, the Knoxville Zoological Park at Chilhowee Park is actively reproducing the following species:

a. Bengal tiger, *Panthera tigris;*
b. Black leopard, *Panthera pardus;*
c. American couger, *Felis concolor;*
d. Jaguar, *Panthera onca;* and
e. African lion, *Panthera leo.*

We are also actively trying to reproduce the Siberian tiger, *Panthera tigris altaica*, in which we have one (1) male and two (2) female specimens, which are now becoming sexually mature. The Knoxville Zoological Park at Chilhowee Park has been fortunate to have had the following reproductive rate in the last three (3) years, 1974 through 1976:

a. African lion, *Panthera leo*—21 births;
b. Bengal tigers, *Panthera tigris*—9 births;
c. Jaguar, *Panthera onca*—7 births;
d. Black leopard, *Panthera pardus*—4 births; and
e. Couger, *Felis concolor*—5 births.

Therefore, from five (5) species of large cats the Knoxville Zoological Park at Chilhowee Park has successfully reproduced all five (5) species, collectively producing forty-six (46) offspring.

It is our understanding that only two (2) other zoological institutions in the United States have these species in their collections as captive breeding stock, those being the Lincoln Park Zoo, Chicago, Illinois, and a zoo in the state of Colorado.

It has been arranged for the Lincoln Park Zoo in Chicago, Illinois to place one (1) male Asiatic lion, *Panthera leo persica* on a breeding loan to the Knoxville Zoological Park at Chilhowee Park. This would therefore permit the Knoxville Zoological Park to have one (1) male and two (2) female Asiatic lions, *Panthera leo persica*, from two (2) distinct and separate blood lines with which to assist in the propagation of this extremely endangered species. It is our considered opinion that this request be granted on the basis that a new blood line would be highly favorable to this species in terms of captive propagation in the U.S. zoological institutions. In fact, we consider it imperative!

4. If live fish and wildlife are involved, include a detailed description of the type, size and construction of the container, arrangements for feeding, watering and otherwise caring for the fish or wildlife in transit, and arrangements for caring for the fish or wildlife on entry into the United States:

The animals in question will be exported legally from the Scientific Department of Tierpark Berlin/East Germany, of the Deutshe Demokratische Republik.

The shipping containers, one for each specimen, will be 105 centimeters long, 55 centimeters wide and 65 centimeters high. Arrangements have been made within the containers for water during the specimens transit. Food will be provided to the specimens prior to air departure and upon arrival in New York. Mr. Guy Smith, III, Director of the Knoxville Zoological Park at Chilhowee Park will personally pick up and care for the specimens in transit to Knoxville, Tennessee.

The gross weight of the shipping containers will be 80 kilos each. Shipment will be made on a Thursday with Interflug (D.D.R. Airlines), flight I.F. 250 to Praque/C.S.S.F., with the Czechoslovakian Airlines flight O.K. 600 from Praque to New York, U.S.A. Arrival time will be at 17.40 hours on the same Thursday.

It is not possible to provide a photograph of the shipping containers, but we can assure you and your office that the crates will be of sufficient strength to ensure the specimens containment and adequate ventilation, etc.

We cite the international reputation of the institution and the director of Tierpark Berlin, in terms of providing every possible consideration for the specimens well being during transit. Every effort will be made to satisfy all requirements to ensure a safe arrival of the specimens.

5. The address and complete description of the facilities where such fish or wildlife will be kept:

The two (2) female Asiatic lions, *Panthera leo persica*, will be housed in an open-air enclosure at the Knoxville Zoological Park at Chilhowee Park, P.O. Box 1631, Knoxville, Tennessee 37914, in the United States of America, and will reside specifically in the quarters provided for this species.

The Asiatic lion facilities will provide the following features necessary for their proper captive management:

a. The denning area was specifically designed to provide the following—night quarters, cubbing facilities, feeding and watering equipment, and an upper-level platform to avoid excessive exposure to sun, etc.

b. The exhibit yard itself, measuring sixty (60) square feet of land surface will provide soil (grassed) areas as well as a section of a sand substratum. The circumference of the enclosure is 240 feet. The height of the enclosure wall is 12 feet with an additional 4 foot overhang. Shrubbery is provided on the outer portion of the enclosure wall to provide windbreaks and a feeling of security.

The enclosure wall itself is of Behlan wire, 2" × 4" mesh which is coated with black paint of a non-lead variety which is non toxic. The exhibit is further furnished with logs and appropriate live plant material.

c. In terms of security, entry into the exhibit is through two (2) distinct and separate doors, both of which are secured by a keyed lock.

d. All dens are provided with sleeping platforms and feeding and watering equipment. Heating the denning areas is provided by electric heating fixtures. In case of electrical failure backup portable heating units are available.

e. Routine cleaning, disinfecting, and other husbandry details will be provided by a specifically trained keeper, who already has past experience with large cats. Supervision of the specimens will come under the General Curator and staff Zoologist, twenty-four (24) hour observation will be conducted by our staff of animal technicians. All veterinary needs will be conducted by the staff veterinarians of the new School of Veterinary Medicine at the University of Tennessee, Knoxville, Tennessee 37916. The veterinary staff there is comprised of some thirty (30) veterinarians, all of which specialize in the various aspects of veterinary medicine.

6. A statement, if applicable, of the applicants qualifications and previous experience is caring for and handling captive wildlife:

The animal population at the Knoxville Zoological Park at Chilhowee Park is under the direct supervision of the Director, Guy L. Smith, III; the Assistant Director, Mark Rowles; the General Curator, John Fleming; the Zoologist, James Dattilo; the Curator of Reptiles and Birds, Johnny Arnet; and the Head Animal Technician, Keith Dayhuff. All of these individuals have Biology or Zoology degrees or have from five (5) to fourteen (14) years of experience in captive animal management.

7. A copy of contract or other arrangements under which such fish or wildlife is to be imported, showing the name and address of the seller or consignor, date of contract, contract price, number and weight (if available), and description of items:

A copy of the letter to Mr. Guy L. Smith, III from G. Van Den Brink, B. V. should supply the above information as well as a copy of a telegram stating the price of the two specimens, from and to the agove mentwo specimens, from and to the above mentioned parties.

8. A certification: I hereby certify that the foregoing information is complete and accurate to the best of my knowledge and belief. I understand that the information is submitted for the purpose of obtaining an exemption from the requirements of The Endangered Species Conservation Act of 1969 (83 stat. 275) and that any false statements herein may be subject to the criminal penalties of 18 U.S.C. 1001.

9. The signatures of the applicants: See below.

Your consideration of the foregoing will be very much appreciated.

Sincerely,

GUY L. SMITH, III,
Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-684-C07; please refer to this number when submitting comments. All relevant comments received on or before May 26, 1977 will be considered.

Dated: April 20, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-11786 Filed 4-25-77;8:45 am]

Geological Survey

MOBIL-CONSOL PRONGHORN MINE

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the U.S. Geological Survey (USGS), Department of the Interior, has commenced the preparation of a draft environmental impact statement (EIS) to evaluate the impacts of Federal approval of the proposed Mobil-Consol Pronghorn mine in Campbell County, Wyoming. The EIS will cover the proposed surface mining and reclamation plan for a new mine to be located on a portion of existing Federal coal lease No. W-23929, owned by the Mobil Oil Corporation. The mine will be operated by the Consolidation Coal Company.

A multi-disciplined task force is being established to prepare the statement. The draft environmental statement (DES) will be circulated for public review, and comments received will be considered in the preparation of the final environmental statement (FES). The final statement will be considered by the Secretary of the Interior in making his decision on approval of the proposed Pronghorn mining and reclamation plan.

A public meeting on the proposed Federal action and EIS will be held at 7 p.m. on May 4, 1977, at the Campbell County Park and Recreation Center, 1000 Douglas Highway, Gillette, Wyoming. All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement are invited to express them at the public meeting or submit them to the Director, U.S. Geological Survey, 108 National Center, Reston, Virginia 22092. Comments and views should be received on or before June 1, 1977.

Dated: April 20, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-11945 Filed 4-25-77;8:45 am]

[Phosphate Land Classification Order Utah No. 7]

UTAH

Phosphate Land Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

SALT LAKE MERIDIAN, UTAH

PHOSPHATE LANDS

T. 2 S., R. 20 E., unsurveyed
Sec. 25, NE¼SE¼;
Sec. 34, S½;
Sec. 35, S½NE¼, SE¼NW¼, S½;
Sec. 36, E½NE¼, W½SW¼, SE¼SW¼, E½SE¼.

T. 3 S., R. 20 E.,
Sec. 1, lots 1, 3, and 4, SE¼NE¼, S½NW¼, NE¼SW¼, W½SW¼, E½SE¼;
Secs. 2, 3, and 10;
Sec. 11, N½, NE¼SW¼, W½SW¼, E½SE¼;
Sec. 12;
Sec. 14, W½NW¼, NW¼SW¼;
Sec. 15.

T. 2 S., R. 21 E., in part unsurveyed
Sec. 10, SE¼SW¼, SE¼;
Sec. 11, W½SW¼;
Sec. 12, NE¼NE¼, S½N½, E½SW¼, SE¼;
Sec. 13, lots 1 to 4, inclusive, N½N½;
Sec. 14, lots 1 to 3, inclusive, NE¼NE¼, NW¼, W½SW¼;

Sec. 15, lots 1 and 2, NE¼, S½NW¼, SW¼, N½SE¼;
Sec. 16, S½NE¼, SE¼NW¼, S½;
Sec. 17, SE¼SE¼;
Sec. 20, NE¼, NE¼SW¼, S½SW¼, SE¼;
Sec. 21, lots 1 to 3, inclusive N½NE¼ SW¼NE¼, W½, W½SE¼;
Sec. 22, lots 1 to 5, inclusive, NW¼NW¼;
Sec. 23, lots 2 to 5, inclusive, and lots 7, NE¼NW¼;
Sec. 24, lots 7 to 8, inclusive;
Sec. 25, lot 1;
Sec. 26, lots 1 to 4, inclusive;
Sec. 27, lots 1 to 5, inclusive, S½SW¼, SW¼SE¼;
Sec. 28, lots 1 to 3, inclusive, W½NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 29;
Sec. 30, lots 1 to 8, inclusive, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 31 to 35, inclusive;
Sec. 36, lots 1 to 6, inclusive, S½NW¼, SW¼, W½SE¼, SE¼SE¼.

All or parts of the following mineral surveys included in Phosphate Reserve No. 24, Utah No. 3: Mineral Survey 6911; Mineral Survey 6912; Mineral Survey 6913; Mineral Survey 6914.

T. 3 S., R. 21 E.,
Sec. 1, lots 1 to 6, inclusive, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Secs. 2 to 8, inclusive;
Sec. 9, lots 1 to 4, inclusive, NW¼NE¼, E½W½;
Sec. 10, NE¼NE¼;
Sec. 11, NE¼NE¼, NW¼;
Sec. 16, lots 1 and 2;
Sec. 17, N½, NE¼SW¼, N½SE¼;
Sec. 18, N½NE¼, NE¼NW¼.

T. 2 S., R. 22 E., in part unsurveyed
Sec. 1, S½S½;
Sec. 2, S½S½;
Sec. 3, S½S½;
Sec. 4, SE¼SW¼, SE¼SE¼;
Sec. 7, lots 1 to 4, inclusive, E½W½, SE¼;
Sec. 8, lots 3 and 4, S½SW¼, SW¼SE¼;
Sec. 9, lots 1 to 4, inclusive;
Sec. 10, lots 1 to 4, inclusive;
Sec. 11, lots 1 to 4, inclusive;
Sec. 12, lots 1 to 7, inclusive;
Sec. 13, lots 1 to 4, inclusive;
Sec. 17, lots 1 to 5, inclusive, NW¼NE¼, N½NW¼;
Sec. 18, lots 1 to 5, inclusive, N½NE¼, NE¼NW¼;
Sec. 22, lot 1;
Sec. 23, lots 1 to 6, inclusive;
Sec. 24, lots 1 to 9, inclusive, SE¼SW¼, SW¼SE¼;
Sec. 25, lots 1 to 12, inclusive, NW¼NE¼, SW¼SW¼;
Sec. 26;
Sec. 27, lots 1 to 4, inclusive, S½N½, S½;
Sec. 28, lots 1 to 5, inclusive, S½S½;
Sec. 29, lots 1 to 3, inclusive;
Sec. 31, lots 1 to 9, inclusive;
Sec. 32, lots 1 to 8, inclusive, NE¼, N½SE¼;
Secs. 33 to 35, inclusive;
Sec. 36, lots 1 to 6, inclusive, W½NW¼, SE¼NW¼, SW¼;
H.E.S. 40, 41, 42, and 43.

All or parts of the following mineral surveys included in Phosphate Reserve No. 24, Utah No. 3: Mineral Survey 6907; Mineral Survey 6908; Mineral Survey 6909; Mineral Survey 6910; Mineral Survey 6911; Mineral Survey 6912; Mineral Survey 6778.

T. 3 S., R. 22 E.,
Sec. 1, lot 4;
Sec. 2, lots 1 to 4, inclusive, SW¼NW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½, N½S½;
Sec. 4, lots 1 to 6, inclusive, SW¼NE¼, S½NW¼, N½SW¼, NW¼SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, SW¼, N½SE¼;
Sec. 6, lots 1 to 6, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

T. 2 S., R. 23 E.,
Sec. 7, lots 1 to 4, inclusive, S½NE¼, SE¼;
Sec. 8, S½N½, S½;
Secs. 17 to 20, inclusive;
Sec. 30, lots 1 to 4, inclusive, W½E½;
Sec. 31, lots 1 to 4, inclusive, W½NE¼, NW¼SE¼.

NONPHOSPHATE LANDS

T. 2 S., R. 20 E., unsurveyed
Sec. 27, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 34, N½;
Sec. 35, SW¼NW¼.

T. 3 S., R. 20 E.,
Sec. 1, SE¼SW¼, SW¼SE¼;
Sec. 11, SE¼SW¼, W½SE¼;
Sec. 13;
Sec. 14, NE¼, E½NW¼, NE¼SW¼, S½SW¼, SE¼;
Secs. 22 to 26, inclusive;
Sec. 27, lots 1, 2, and 3, W½NE¼, NE¼NW¼;
Sec. 35, N½NE¼, SE¼NE¼;
Sec. 36, N½, N½SW¼, SE¼SW¼, SE¼.

T. 4 S., R. 20 E.,
Sec. 1, lots 1 and 2, SE¼NE¼.

T. 2 S., R. 21 E., in part unsurveyed
Sec. 8, S½S½;
Sec. 9, SW¼SW¼;
Sec. 14, E½SW¼, W½SE¼;
Sec. 16, NW¼NE¼, NE¼NW¼, W½NW¼;
Sec. 17, N½, SW¼, NE¼SE¼, W½SE¼.
Sec. 18, lots 7 and 8, NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 19;
Sec. 20, NW¼, NW¼SW¼;
Sec. 23, lots 1 and 6, NW¼NE¼;
Sec. 30, NW¼NE¼, NE¼NW¼.

T. 3 S., R. 21 E.,
Sec. 1, lot 7;
Sec. 9, NE¼NE¼, S½NE¼, SE¼;
Sec. 10, W½NE¼, SE¼NE¼, W½, SE¼;
Sec. 11, W½NE¼, SE¼NE¼, SW¼, N½SE¼, SW¼SE¼;
Sec. 12, N½NE¼, NW¼;
Sec. 14, NW¼NE¼, NW¼, NW¼SW¼;
Sec. 15;
Sec. 16, lots 3 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 17, W½SW¼, SE¼SW¼, S½SE¼;
Sec. 18, lots 1 to 4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 19 to 21, inclusive;
Sec. 22, W½NE¼, W½, W½SE¼, SE¼SE¼;
Sec. 27, N½NE¼, SW¼NE¼, W½, W½SE¼;
Secs. 28 to 32, inclusive;
Sec. 33, lots 2, 3, and 4, N½, N½S½;
Sec. 34, NW¼, NW¼SW¼.

T. 4 S., R. 21 E.,
Sec. 4, lot 4;
Sec. 5, lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, NW¼SW¼;
Sec. 6, lots 1 to 6, inclusive, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼.

T. 3 S., R. 22 E.,
Sec. 1, lots 2 and 3, S½NW¼;
Sec. 2, S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼, NW¼SE¼.
Sec. 3, S½S½;
Sec. 4, lot 7, S½SW¼, SW¼SE¼;
Sec. 5, S½SE¼;
Sec. 6, lot 7;
Sec. 7, lots 1 and 2, NE¼, E½NW¼;
Sec. 8, N½N½, SW¼NW¼;
Sec. 9, N½N½.

T. 2 S., R. 23 E.,
Sec. 5, S½;
Sec. 6, lot 6, S½SE¼;
Sec. 7, N½NE¼;
Sec. 8, N½N½.

The area described aggregates about 72,923 acres, more or less, of which about 50,251 acres are classified as phosphate lands, and about 22,672 acres are classified as nonphosphate lands.

Dated: April 1, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc.77-11876 Filed 4-25-77;8:45 am]

Office of Hearings and Appeals

[Doc. No. M 77-159]

ALROSHA COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Alrosha Coal Company, Inc., 1100 Hamilton National Branch Building, Knoxville, Tennessee 37902, has filed a petition to modify the application of 30 CFR 77.1605, loading and haulage equipment; installations, to its Alrosha Coal Company, Inc., Mine, located in Anderson County, Tennessee.

The substance of Petitioner's statement is as follows:

1. Petitioner is engaged in the underground mining of coal and maintains a roadway of about 2 miles between its coal mine and the state highway. This roadway is the subject of this petition.

2. The modification of the regulation is necessary for the safe and confident operation of the coal mine. The alternate methods specified will at all times guarantee no less than the measure of safety and protection afforded to the miners, to others and to the property and to equipment at Petitioner's mine as does the regulation sought to be modified.

3. There are two other coal mines presently operating in the vicinity of Petitioner's mine which also use the subject roadway and will benefit by the granting of the relief sought.

4. Copies of this petition have been served upon and furnished to the representative of the Petitioner's miners.

5. The alternate method of accomplishing the purpose of the regulation sought to be modified is as follows:

(a) A daily inspection of all coal-hauling vehicles shall be made and any defects shall be corrected before the vehicle is put into service. A record of the inspection and repair on each vehicle shall be kept and maintained by a supervisory employee.

(b) All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

(c) Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

(d) A traffic system shall be put into use for these roads requiring that loaded vehicles have the right-of-way on the highway side of the road regardless of their direction of travel.

(e) Warning signs shall be posed designating curves, steep grades where should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.

(f) All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

(g) All haulage vehicles shall have: original manufacturer's brakes; and an emergency (parking) braking system.

(h) Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

(i) On roads that afford only one traffic lane, a minimum width of 12 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc.77-11986 Filed 4-25-77;8:45 am]

[Doc. No. M 77-146]

J & H COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), J & H Coal Co., Inc., 113 North Webb Avenue, Whitesburg, Kentucky 41858, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 Mine, located in Letcher County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that having canopies installed on its equipment creates a hazard to the operators.

2. Petitioner's equipment consists of the following: one (1) Paul's roof bolting machine—height 28 inches; and two (2) AR4 Elkhorn scoops—height 28 inches.

3. The No. 1 Mine is in the Hazard No. 4 Rider Seam which ranges in height from 29 to 40 inches. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contribute to the difficulty of using canopies. By installing canopies on the equipment Petitioner is limiting the vision of the operators of the equipment, which creates a hazard to them as well as to other employees in the mine.

4. Petitioner feels that since the equipment operators' vision is limited and because of the position required to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc.77-11987 Filed 4-25-77;8:45 am]

[Doc. No. M 77-149]

LOONEY & FIELDS COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Looney & Fields Coal Co., Route 1, Box 219, Elkhorn City, Kentucky 41522, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 A-7 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. This petition is in reference to canopies on haulage equipment and roof bolting and loading machines. These consist of 2-188 loading machines and 1-88 Long Air Dox loading machine, 1 face drill, 1 Paul's roof bolter, 1 Acme roof bolter and 3 Porter buggys.

2. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

3. The mine is in the Elkhorn seam and ranges from 38 to 50 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such manner as to prevent them from getting against the roof and possibly destroying roof support. This only allows a 23-inch vertical operating compartment and limits the vision of the equipment operator. This creates a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc.77-11988 Filed 4-25-77;8:45 am]

[Doc. No. M 77-150]

PONTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pontiki Coal Corporation, Box 57, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Pontiki No. 1 Mine, located in Martin County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner requests a modification of the mandatory safety standard with respect to the below-listed equipment used in or to be used in the Pontiki No. 1 Mine: Joy 21SC shuttle car, present minimum coalbed—41 inches; floor to top of canopy—38 inches.

2. Canopies have been reduced to the height listed above. With this height there is very little, if any, vision left for the operator. Also, Petitioner feels that it is creating a hazard for the shuttle car operator himself, since the canopies have been lowered level with the loading bed. The operator is in an uncomfortable position and at times exposes himself to hazards, which are created by the lowered canopy.

3. Petitioner feels at this time, under present conditions, that the canopies on its Joy 21SC shuttle cars create a greater hazard, than any benefits to be gained by their use.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc.77-11989 Filed 4-25-77;8:45 am]

[Doc. No. M 77-151]

PONTIKI COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pontiki Coal Corporation, Box 57, Lovely, Kentucky 41231, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Pontiki No. 2 Mine, located in Martin County, Kentucky.

The substance of Petitioner's statement is as follows:

1. The equipment for which Petitioner asks the waiver is as follows: one Schroeder coal drill; one Lee-Norse roof bolting machine; one S & S scoop; one 14 BU Joy loading machine; and one 15 BU Joy cutting machine.

2. Petitioner's equipment is only about 7 to 8 inches lower than the overall seam height of about 48 inches. Also, Petitioner plans to use header boards to aid in its roof support.

3. Petitioner feels that, in mining, a cab or canopy on its equipment would so restrict the operators' vision that hazards would be created. Petitioner feels that the hazards would exceed any benefits to be gained.

REQUEST FOR HEARING OR COMMENT

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc.77-11990 Filed 4-25-77;8:45 am]

[Doc. No. M 77-145]

STAR CRAFT COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Star Craft Coal Co., Box 2781, Pikeville, Kentucky 41501, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's haulage equipment consists of two Kersey 944 tractors, one Elkhorn scoop, AR4, one roof bolting machine, Galis 3500, one Joy 14BU10 loading machine and one Joy 15RU cutting machine.

3. The No. 1 Mine is in the lower Elkhorn Seam and ranges from 44 to 52 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from getting against the roof and possibly destroying roof support. This only allows a 23-inch vertical operating compartment which limits the vision of the equipment operators and creates a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operators' vision is limited and because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accident which may arise.

5. The representative of the miners feels that canopies would be unsafe because the top runs up and down and the equipment will just clear the roof now.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 26, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

APRIL 14, 1977.

[FR Doc77-11991 Filed 4-25-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 15, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by May 3, 1977.

JERRY L. ROGERS,
Chief, Office of Archeology and Historic Preservation.

CALIFORNIA

Sacramento County

Sacramento, *Van Voorhies House*, 925 G St.

CONNECTICUT

Fairfield County

Greenwich, *Strickland Road Historic District*, Strickland Rd. and Mill Pond Cir.

Hartford County

Hartford, *Buckingham Square District*, Capitol Ave., Linden Pl., Main and Buckingham Sts.

Hartford, *Second Church of Christ*, 307 Main St.

Windsor Locks, *Pinney, David, House and Barn*, 58 West St.

IDAHO

Nez Perce County

Lewiston vicinity, *Nez Perce Snake River Archeological District.*

ILLINOIS

Adams County

Quincy, *Morgan-Wells House*, 421 Jersey St.

Fulton County

Canton vicinity, *Orendorf Site.*

Massac County

Mermet vicinity, *Bremer Mounds and Village Site.*

Monroe County

Waterloo, *Peterstown House*, 275 N. Main St.

Wayne County

Sims vicinity, *Mayberry Mound and Village Site.*

White County

Manule vicinity, *Hubele Mounds and Village Site.*

Winnebago County

Rockton vicinity, *Macktown Historic District*, W of Rockton on Pecatonica River.

KENTUCKY

Boyle County

Danville, *Trinity Episcopal Church*, 320 W. Main St.

Jefferson County

Louisville, *Courier-Journal Building*, 405 S. 4th St.

Woodford County

Versailles vicinity, *Offutt-Cole Tavern*, N of Versailles on U.S. 62 at jct. of Old Frankfort Rd.

MASSACHUSETTS

Franklin County

New Salem, *New Salem Common Historic District*, S. Main St.

Middlesex County

Tyngsboro vicinity, *Tyng, Col. Jonathan, House*, 80 Tyng Rd.

Norfolk County

Norfolk vicinity, *The Warelands*, 103 Boardman St.

Plymouth County

Brockton, *Kingman, Gardner J., House*, 309 Main St.

Worcester County

Milford, *Milford Town Hall*, 52 Main St.

North Oxford vicinity, *Barton, Clara, Homestead*, SW of North Oxford on Clara Barton Rd.

Petersham vicinity, *Gay Farm (Negus Hill)*, S of Petersham off Nichewaug Rd.
Sturbridge, *Sturbridge Common Historic District*, Main St. between Hall Rd. and I–86.

NEW JERSEY

Essex County

West Orange, *St. Mark's Episcopal Church*, 13 Main St.

Somerset County

Basking Ridge, *Coffee House*, 214 N. Maple Ave.

NEW MEXICO

Colfax County

Raton, *Raton Downtown Historic District*, roughly bounded by Rio Grande, Clark, 1st and 3rd Sts.

NEW YORK

Albany County

Albany, *St. Mary's Church*, 10 Lodge St.

Hamilton County

Blue Mountain Lake, *Blue Mountain House Annex*, NY 30.

Schuyler County

Montour Falls, *Montour Falls Historice District*, Genesee and Main Sts.

OREGON

Harney County

Frenchglen vicinity., *Oregon Central Military Road*, 35 mi. S of Frenchglen.

PUERTO RICO

Guayama, *Casco Antiguo de Guayama*, Plaza de Guayama and environs.

TENNESSEE

Knox County

Mascot vicinity, *Chesterfield*, N of Mascot off Old Rutledge Pike.

WEST VIRGINIA

Kanawha County

Charleston, *East End Historic District*, roughly bounded by the Kanawha River, East Ave., Brooks, Washington, Quarrier, and Lee Sts.

[FR Doc.77–11579 Filed 4–25–77;8:45 am]

PUBLIC INVOLVEMENT IN SERVICE'S PLANNING PROCESS

Availability of Draft Guideline

The National Park Service hereby publishes notice of availability of a draft guideline for public involvement in the Service's planning process. The Director, National Park Service, will approve the guideline upon completion of public review and comment and appropriate action pursuant thereto.

The guideline provides the basis for structuring public involvement programs for the full range of planning activities and underscores the Service's commitment to effective public involvement in planning and management. It provides guidance in a wide spectrum of subject areas, including development of program strategies, use of various public involvement techniques, and allocation of responsibilities.

Copies of the guideline are available from the Director, National Park Service, Interior Department, 18th and C Streets, NW., Room 1214, Washington, D.C. 20240. Interested persons are asked to provide their comments to the same address. Comments will be accepted until June 10, 1977.

Dated: April 19, 1977.

GARY EVERHARDT,
Director,
National Park Service.

[FR Doc.77–11912 Filed 4–25–77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–32]

DOT MATRIX IMPACT PRINTERS AND SOLENOIDS AND PRINT HEAD ASSEMBLIES

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on March 14, 1977, and an amendment to the complaint on March 28, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Centronics Data Computer Corp., Hudson, New Hampshire 03051, alleging that unfair methods of competition and unfair acts exist in the importation of dot matrix impact printers into the United States, or in their sale, by reason of the alleged coverage of the solenoids and print head assemblies thereof by claims 1 and 4 of U.S. Letters Patent 3,690,431. In addition, the complaint alleges unfair methods of competition and unfair acts in the misappropriation of complainant's trade secrets and confidential and proprietary information relating to the manufacture of said solenoids and print head assemblies. The complaint further alleges that the effect or tendency of each of the unfair methods of competition and unfair acts or both of them is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests both temporary and permanent exclusion from entry into the United States of the imports in question.

Having considered the complaint and the amendment to the complaint, the United States International Trade Commission, on April 7, 1977, determined that the complaint was properly filed and therefore has, that same day, ordered—

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint, the amendment to the complaint and the evidence adduced in this proceeding, there is a violation or reason to believe that there is a violation of subsection (a) of this section in the importation of

(i) Print head assemblies for dot matrix impact printers,

(ii) Solenoids forming a part of such print head assemblies, and

(iii) Dot matrix impact printers containing such print head assemblies

into the United States, or in their sale, by reason of (A) such solenoids and assemblies allegedly being covered by claims 1 and 4 of the U.S. Letters Patent 3,690,431 and such importation not being authorized by the patent owners and (B) alleged misappropriation of trade secrets and confidential and proprietary information related to the manufacture and assembly of print head assemblies and solenoids for dot matrix impact printers, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint, the amendment to the complaint, and this notice are to be served:

FOREIGN MANUFACTURER

Mannesmann-Pracisionstechnik GmbH, D-7900 Ulm, Postfach 29 69, Germany.

DOMESTIC IMPORTERS

SCI Systems, Inc., 8600 Memorial Parkway, S.W., Huntsville, Alabama 35802.
Data + Technik, 24 Avon Circle, Needham Heights, Massachusetts 02194.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer; and

(4) That, for the purpose of the investigation so instituted, H. L. Weisberg, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, is hereby named as Commission investigative attorney.

Responses must be submitted by the parties in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, Apr. 27, 1976). Pursuant to §§ 210.16 (d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response may be subject to the penalties described in § 210.21(d) of the Commission's Rules of Practice and Procedure.

The complaint and amendment to the complaint are available for inspection by interested parties at the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and in the New

York City office of the Commission, 6 World Trade Center.

By order of the Commission:

Issued: April 21, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-11960 Filed 4-25-77;8:45 am]

[Investigation No. 337-TA-33]

LIGHT SHIELDS FOR SONAR APPARATUS

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on March 24, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Lowrance Electronics, Inc., 12000 East Skelly Drive, Tulsa, Okla. 74128, alleging that unfair methods of competition and unfair acts exist in the importation of certain sonar apparatus incorporating light shields into the United States, or in their sale, by reason of the alleged coverage of such light shields by all claims of U.S. Letters Patent No. 3,747,413. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests that the imports in question be excluded from entry into the United States until the expiration of U.S. Letters Patent No. 3,747,413.

Having considered the complaint, the United States International Trade Commission, on April 18, 1977, ordered—

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint and the evidence adduced in this proceeding, there is a violation of subsection (a) of this section in the unauthorized importation of—

(i) Certain light shields for sonor apparatus, and

(ii) Sonar apparatus incorporating such light shields into the United States, or in their sale, by reason of such light shields' and sonar apparatus' allegedly being covered by one or more of the claims of U.S. Letters Patent No. 3,747,413, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint and this notice are to be served:

DOMESTIC IMPORTER

SeaDeep International, Inc., 820 Ritchie Highway, Severna Park, Maryland 21146.

FOREIGN MANUFACTURER

Arai & Co., Inc., 41-1 Chome, Kanda-cho, Chikusa-ku, Nagoya, Japan.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer; and

(4) That, for the purpose of the investigation so instituted, Steven K. Morrison, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named as Commission Investigative Attorney.

Responses must be submitted by the parties in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, April 27, 1976). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response may result in the application of the penalties described in § 210.21(d) of the Commission's Rules of Practice and Procedure.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission Building, Washington, D.C., and in the New York City Office of the Commission, 6 World Trade Center.

By order of the Commission,

Issued: April 21, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-11959 Filed 4-25-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Doc. No. 76-33]

ALMAR PHARMACY

Hearing

Notice is hereby given that on August 16, 1976, the Drug Enforcement Administration, Department of Justice, issued to Almar Pharmacy, Carnegie, Pennsylvania, on Order to Show Cause as to why the Drug Enforcement Administration Registration No. AA5944928 issued to the above-named retail pharmacy pursuant to Section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on Tuesday, May 3, 1977, in Courtroom No. 3, U.S. Court of Claims, 717 Madison Place, NW., Washington, D.C.

Dated: April 20, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc.77-11909 Filed 4-25-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Meeting

The regular spring meeting of the Business Research Advisory Council will be held at 9:30 a.m., May 25, 1977, at the New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C., Room N-5437 (A, B, and C). The agenda for the meeting is as follows:

1. Chairman's Opening Remarks.
2. Commissioner's Remarks.
3. Committee Reports: (a) Occupational Safety and Health; (b) Wages and Industrial Relations; (c) Consumer and Wholesale Prices; and (d) Manpower and Employment.
4. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523-1559.

Signed at Washington, D.C., this 18th day of April 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-11793 Filed 4-25-77;8:45 am]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON WAGES AND INDUSTRIAL RELATIONS

Meeting

The BRAC Committee on Wages and Industrial Relations will meet at 1 p.m., May 18, 1977, at the General Accounting Office Building in Room 4454, 441 G Street NW., Washington, D.C. The agenda for the meeting is as follows:

1. Work in Progress: (a) Program developments since the last meeting.
2. New Work: (a) Response to President's Committee on Federal Pay; (b) Research proposals—the Fair Labor Standards Act; and (c) Study of pension benefit amounts.
3. Special Issues: (a) Estimates of COLA clause effects on settlements.
4. Planning Issues.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523-1559.

Signed at Washington, D.C., this 19th day of April 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-11792 Filed 4-25-77;8:45 am]

OCCUPATIONAL INFORMATION

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement of the National Occupational Information Coordinating Committee, which is composed of the Commissioner of Education, the Administrator of the National Center for Education Statistics, the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, see FR Doc. 77-11880, issued by the Committee, which appears as Part II of this issue.

Employment and Training Administration

OCCUPATIONAL INFORMATION

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement of the National Occupational Information Coordinating Committee, which is composed of the Commissioner of Education, the Administrator of the National Center for Education Statistics, the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, see FR Doc. 77-11880, issued by the Committee, which appears as Part II of this issue.

LEGAL SERVICES CORPORATION

EQUAL OPPORTUNITY INSTRUCTION

Complaint Review Procedure

APRIL 11, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996*l*. As a condition for approval of its grant, each recipient must give assurance to the Corporation that, "it will not discriminate on the basis of race, color, religion, sex, age or national origin against (1) any person applying for employment or employed by the applicant with respect to any personnel action proposed or taken concerning the applicant or employee; or (2) any person seeking participation in, or the benefits or proceeds of the program or programs supported in whole or part by [its] grant."

Pursuant to Section 1008(e) of the Legal Services Corporation Act, the Director of the Office of Equal Opportunity of the Legal Services Corporation hereby publishes the following Instruction.

COMPLAINT REVIEW PROCEDURE

A. PURPOSE

Any person adversely affected by a decision of any LSC recipient program (the "Program") on a complaint of discrimination against that person based on race, religion, color, sex, age, marital status, national origin, physical handicap, political affiliation, or any other basis prohibited by law, may request a review of the decision by the Director of Equal Opportunity at:

Legal Services Corporation, 733 Fifteenth Street, NW., No. 700, Washington, D.C. 20005, Telephone 202-376-5100.

Programs are required to notify complainants of their right to appeal adverse decisions to the Corporation.

The Program's own procedure for consideration and review of a decision by the Program must be exhausted prior to a request for review by the Director of Equal Opportunity.

B. REVIEW REQUESTS PROCEDURE

Each request shall be in writing and signed by the complainant; and shall specifically state the grounds of the complaint, the Program's decision of the complaint, the date the decision was received by the complainant, and the reasons review is being sought. A copy of the complaint and all relevant documents shall be enclosed.

The request for review must be made within 15 days after receipt of the Program's decision.

C. REVIEW

Upon receipt of a request, the Director shall undertake a review to determine whether:

a. The Program had a valid complaint procedure in effect at the time the complainant submitted his or her complaint;

b. the provisions of the procedure were fully complied with in addresing the complainant's grievance; and

c. the decision is substantially supported by the evidence presented.

D. DECISION

If the Director finds that the Program did not have a valid complaint procedure in effect at the time that the complaint was made or that the provisions of a valid complaint procedure were not fully complied with in processing the grievance, the grievance shall be returned to the Program for consideration in accordance with a valid complaint procedure.

If the Director finds that the decision is not substantially supported by the evidence presented, the Director may require the Program to reconsider the grievance, or, if the Director finds that the grievance is substantially supported by the evidence presented then the Director may require the Program to take action to redress the grievance.

Comment: If the complainant has filed a complaint with the EEOC or other appropriate enforcement agency before requesting review, the Director may withhold his or her decision until the agency action is completed.

E. PROHIBITION

No person shall be penalized, disciplined or subjected to any reprisal because he or she submitted a request to review the disposition of a complaint of discrimination.

Effective date: This Instruction shall become effective May 26, 1977.

CHARLES WHITE,
Director of Equal Opportunity.

[FR Doc.77-11865 Filed 4-25-77;8:45 am]

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

MEETING

APRIL 22, 1977.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App I (Supp V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Monday and Tuesday, May 16-17, 1977. These sessions will be open to the public and will be held in Room 4832 of the U.S. Department of Commerce Building, 14th Street Between Constitution Avenue and E Street, NW., Washington, D.C., beginning at 9 a.m. on both days.

The Committee consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Public Law 92-125, on August 16, 1971, as amended. Its duties are to (1) undertake a continuing review of national ocean policy, coastal zone management and the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before 30 June of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purpose of the National Oceanic and Atmospheric Administration.

The Agenda will include the following topics:

MAY 16, 1977

0900 Opening Remarks.
0915 Private and Federal Port Development Issues—Robert H. Wardwell, Office of Port and Intermodal Development, MARAD, and
0945 Richard L. Schultz, Executive Vice President, American Association of Port Authorities.
1030 Review of material for NACOA Sixth Annual Report.
1700 Adjournment.

MAY 17, 1977

0900 Opening Remarks.
0915 Review of material for NACOA Sixth Annual Report (continued).

Adjournment at approximately 1330.

The public is welcome at these sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225,

Washington, D.C. 20230. The telephone number is 377-3343.

DOUGLAS L. BROOKS,
Executive Director.

[FR Doc.77-12114 Filed 4-25-77; 9:00 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE RESEARCH GRANTS PANEL

Six Meetings; Correction

APRIL 21, 1977.

Meetings of the Advisory Research Grants Panel on May 16, 17, 19, 20, 23 and 26, 1977, to review applications for the Translations Program submitted to the National Endowment for the Humanities for projects beginning after September 1, 1977, were announced in FEDERAL REGISTER, Vol. 42, pages 20520-1, April 20, 1977. Each announcement is hereby corrected to state that I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) (instead of 5 U.S.C. 552 (b)).

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-11942 Filed 4-25-77;8:45 am]

National Endowment for the Arts

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 National Council on the Arts will be held on May 13-14, 1977, from 9 a.m. to 6 p.m., and May 15, 1977, from 9:30 a.m. to 1 p.m., in the Presidential Room, Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on May 13-14, from 9 a.m. to 2:30 p.m., and May 15, from 9:30 a.m. to 11:30 a.m., on a space available basis. Accommodations are limited. The agenda for these sessions will include discussions of Literature, Music, Federal-State and Museum Program guidelines; Work Experience Internship Program; long-range plannng; a National Assembly of State Arts Agencies report; and other Federal agencies and the arts.

The remaining sessions of this meeting, on May 13-14 from 2:30 p.m. to 6 p.m. and on May 15 from 11:30 a.m. to 1 p.m., are for the purpose of Council 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 March 17, 1977. These sessions may be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-11917 Filed 4-25-77;8:45 am]

NATIONAL COUNCIL ON THE HUMANITIES ADVISORY COMMITTEE

Meeting

APRIL 19, 1977.

Pursuant to the Provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington, D.C., on May 12-13, 1977.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., 1st Floor Conference Room, Washington, D.C. The majority of the proposed meeting on May 12, 1977, and the afternoon session on May 13, 1977, will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy. Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the committee.

The session of the meeting which will be open to the public on May 12, 1977 is listed below:

12:45-2 — Presentation — Bicentennial State and Local Histories—William Alderson, Director, American Association for State and Local History; Gerald George, Managing Editor, American Association for State and Local History; and Joe B. Frantz, Author of the Texas State History.

The morning session on May 13, 1977, will convene at 9:30 a.m. and will be open to the public. The agenda for the morning session will be as follows:

MINUTES OF THE PREVIOUS MEETING REPORTS

A. Summary of Recent Business and Introduction of New Staff Members.
B. Chairman's Grants.
C. Application Report.
D. Gifts and Matching Report.
E. Challenge Grants.
F. State Humanities Programs.
G. American Issues Forum—Final Report.
H. Fiscal Year 1978 Appropriations and Supplemental Appropriation Request for Fiscal Year 1977.
I. Federal Reorganization.
J. Evaluation.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory committee Management Officer, Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-11943 Filed 4-25-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974—REPORTS ON NEW SYSTEMS

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period April 4, 1977 through April 15, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

FEDERAL RESERVE SYSTEM

SYSTEM NAME: Municipal Securities Principal and Municipal Securities Representative records.

REPORT DATE: March 24, 1977.

POINT-OF-CONTACT:

Mr. Theodore E. Allison, Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, D.C. 20551.

SUMMARY: The report proposes a system of records to monitor compliance with professional qualifications requirements for municipal securities principals and representatives.

DEPARTMENT OF DEFENSE

SYSTEM NAME: Library Authorized Patron File.

REPORT DATE: March 31, 1977.

POINT-OF-CONTACT:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1000 Independence Avenue SW., Washington, D.C. 20314.

SUMMARY: The report proposes a system of records to be used to control "cir-

culation and patron access" to the library at the U.S. Air Force Academy.

DEPARTMENT OF AGRICULTURE

SYSTEM NAME: Rejected Applications.

REPORT DATE: April 4, 1977.

POINT-OF-CONTACT:

Mr. Douglas S. Wood, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250.

SUMMARY: This system provides documentation of rejected applications for crop insurance and related correspondence between applicants and the Federal Crop Insurance Corporation.

DEPARTMENT OF DEFENSE

SYSTEM NAME: Skill Qualification Test.

REPORT DATE: April 12, 1977.

POINT-OF-CONTACT:

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, 1000 Independence Avenue SW., Washington, D.C. 20314.

SUMMARY: This proposed system is intended to replace the Military Occupational Specialty Test as part of the training and evaluation of Army enlisted personnel.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-11969 Filed 4-25-77;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 April 20, 1977 (44 U.S.C. 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(s), 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.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru 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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Purchasers' Questionnaire for Metal-Walled Above-Ground Swimming Pools from Japan Investigation, (TA-1921-165), single time purchasers of metal-wall swimming pools, Evinger, S. K., 395-3710.

Producers' Questionnaire for Metal-Walled Swimming Pools From Japan Investigation (No. AA1921-165), single time producers of metal-walled above-ground swimming pools, Evinger, S. K., 395-3710.

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Social Security Administration, Survey of Disabled Children Receiving Supplemental Security Insurance Benefits, SSA-3517, single time, parents or rep. payee of disabled children receiving SSI, Human Resources Division, C. Louis Kincannon, 395-3532.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Quality Assurance Case Review Analysis Form, SSA-8508, on occasion, SSI beneficiaries selected for sampling, Human Resources Division, C. Louis Kincannon, 395-3532.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, National Survey of Crime Severity, Supplement to the National Crime Survey, NCS-201, and NCS 212, single time, members of households in 376 PSU's, George Hall, 395-6140.

DEPARTMENT OF LABOR

Employment and Training Administration, Weekly PSE Expansion Report, ETA-3, weekly, State and local agencies, Housing, Veterans and Labor Division, Strasser, A., 395-3532.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Request to be Selected as Payee, SSA-50, on occasion, individuals, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-12036 Filed 4-25-77;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 April 19, 1977 (44 U.S.C. 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 names of the agency sponsoring the proposed collection of information; the agency form number(s), if aplicable; 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.

Requests for extension which appear to raise no significant issues 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

National Oceanic and Atmospheric Administration, (a) Spiny Lobster Logbook (in English), (b) Cuaderno de Registro de Pesca Para la Langosta (in Spanish), other (see SF-83), captains of U.S. lobster boats fishing off south Florida, Maria Gonzalez, 395-6132.

DEPARTMENT OF LABOR

Employment and Training Administration, Special Mail Survey of Sponsors of WIN Programs, MT-1069, single time, WIN staff, housing, veterans and labor division, C. Louis Kincannon, 395-3532.

REVISIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Project Staff Survey Instrument, PH-2, annually, employees of the PHA's housing projects, Sunderhauf, M. B., 395-6140.

REVISIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research:

- Project Manager Survey Instrument, PH-3, annually, project managers of PHA housing projects, Sunderhauf, M. B., 395-6140.
- Board of Commissioners Survey Instrument, PH-6, annually, Chairman, Board of Commissions of PHA, Sunderhauf, M. B., 395-6140.
- Executive Director Survey Instrument, PH-5, annually, Executive Director of Public Housing Agency, Sunderhauf, M. B., 395-6140.
- Household Survey Instrument, PH-1, annually, residents of PHA's housing projects, Sunderhauf, M. B., 395-6140.

Housing Authority Staff Survey Instrument, PH-4, annually, employees of PHA's central office, Sunderhauf, M. B., 395-6140.

EXTENSIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Application for Assistance Under Section 214 of the Foreign Assistance Act of 1961, as Amended, AID-1010-2, on occasion, boards of directors of private organizations, Lowry, R. L., 395-3772.

EXTENSIONS

DEPARTMENT OF THE INTERIOR

Bureau of Mines:

- Tanker and Barge Shipments of Crude Oil and Petroleum Products, From P.A.D. District III, 6-1308M, monthly, petroleum companies, Marsha Traynham, 395-4529.
- Production of Other Finished Products at Petroleum Refineries, 6-1336-A, annually, petroleum refiners, Marsha Traynham, 395-4529.
- Shipments of Asphalts and Road Oils, 6-1329A, annually, companies who sell asphalt and road oils, Marsha Traynham, 395-4529.
- Value at Wells of Crude Oil Purchased, company report, 6-1326-A, annually, petroleum companies, Marsha Traynham, 395-4529.
- Stocks and Sales of Pig Tin (Importers, Brokers, Jobbers, and Dealers), 6-1133-M, monthly, importers, agents, brokers and dealers, Marsha Traynham, 395-4529.

EXTENSIONS

DEPARTMENT OF THE INTERIOR

Bureau of Mines:

- District V Monthly Petroleum Report Supplement, 6-1320-M, monthly, petroleum companies, Marsha Traynham, 395-4529.

Crude Petroleum Gathered From Leases in Selected States, 6-1309-M, monthly, petroleum companies, Marsha Traynham, 395-4529.

Slab Zinc, 6-1151-MA, monthly, consumers of Zinc, Marsha Traynham, 395-4529.

Lead (Secondary Smelter and Consumer Report), 61108-MA, monthly, consumers of lead, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 77-12037 Filed 4-25-77;8:45 am]

OHIO RIVER BASIN COMMISSION

KANAWHA RIVER BASIN

Comprehensive Coordinated Joint Plan; Availability of Report

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has completed a report summarizing the current Comprehensive Coordinated Joint Plan (CCJP) for the Kanawha River Basin portion of the River Basin. The Report currently is being reviewed by the Governors, and the head of each Federal agency, and each interstate agency, from which a member of the Commission has been appointed.

Views, comments and recommendations on the CCJP are requested by July 13, 1977. Copies are available on request to the Ohio River Basin Commission, 36 E. Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-11968 Filed 4-25-77;8:45 am]

SCIOTO RIVER BASIN

Comprehensive Coordinated Joint Plan; Availability of Report

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has completed a report summarizing the current Comprehensive Coordinated Joint Plan (CCJP) for the Scioto River Basin portion of the Ohio River Basin. The Report currently is being reviewed by the Governors, and the head of each Federal agency, and each interstate agency, from which a member of the Commission has been appointed.

Views, comments and recommendations on the CCJP are requested by July 13, 1977. Copies are available on request to the Ohio River Basin Commission, 36 E. Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-11979 Filed 4-25-77;8:45 am]

POSTAL SERVICE

COMPUTER PROGRAM RELATING TO COST SEGMENTS AND TABLE OF ATTRIBUTIONS

Availability and Conference

APRIL 18, 1977.

Notice is hereby given that the Postal Rate Commission will make available to the public a computer program and certain related material, developed by its Office of Planning and Operations, which replicate the cost attributions to the various cost segments made by the Commission in Docket No. R76-1. The computer program and accompanying material (in hard copy form) will be placed in the Docket Room of the Commission and will include: (1) a written description of the system; (2) schematics of the system; (3) data bases, including distribution keys from the Opinion and Recommended Decision of the Commission in Docket No. R76-1; and (4) a program listing. The program, which was developed for use by individuals with minimal computer experience, will be made available on April 25, 1977. Thereafter a conference will be held on April 28, 1977, at which time the Commission staff will discuss the computer program and accompanying material with the public. The April 28 conference will commence at 9 a.m. and will be held in the Commission's conference room, Suite 500, 2000 L Street, NW., Washington, D.C. 20268.

It is anticipated that following the filing of the next request of the Postal Service for changes in rates and fees, the Commission staff will make appropriate changes in the program on the basis of data contained in the request. The revised model will thereafter be made publicly available so that participants will have an opportunity to examine the "ripple effect" of any change in either the level of attributable costs or the distribution keys utilized to attribute costs.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-11992 Filed 4-25-77;8:45 am]

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

ANNUAL SELECTION MEETING

Pursuant to section 10(a)(2) of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Annual Selection Meeting for the President's Commission on White House Fellowships will be held at 1 p.m. until 10 p.m. on May 20-22, 1977, at Airlie House in Warrenton, Virginia.

The Annual Selection Meeting is part of the screening process of the White House Fellowships program. During the three-day meeting the thirty-seven White House Fellow National Finalists will be interviewed by the members of the Presidential Commission. At the conclusion of this meeting, the Commission recommends to the President fourteen to twenty of these National Finalists to serve as White House Fellows. On May 23, 1977, the President will announce the 1977-78 class of White House Fellows.

It has been determined by the Chairman of the Civil Service Commission that due to the very nature of the screening process where personnel records and confidential character references must be used which, if revealed to the public, would constitute a clear invasion of an applicant's privacy, the content of these meetings falls within the provisions of section 552b(c)(6) of title 5 of the United States Code and that these meetings will be closed to the public.

W. LANDIS JONES,
Director.

[FR Doc.77-11958 Filed 4-25-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1292; Amendment No. 1]

CALIFORNIA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 11301), is amended by extending the date for physical damage until the close of business on June 17, 1977, and for economic injury until the close of business on January 16, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 18, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-11887 Filed 4-25-77;8:45 am]

CASPER DISTRICT ADVISORY COUNCIL

Meeting; Change of Date

The Small Business Administration Casper District Advisory Council has changed the date of its public meeting from 9:30 a.m., Friday, May 6, 1977, at the Champagne Room of the Ramada Inn, Capser, Wyoming to 9 a.m., Friday, May 20, 1977, in the Fort Casper Room of the Holiday Inn, Casper, Wyoming, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Jerry S. King, District Director, U.S. Small Business Administration, P.O. Box 2839, Casper, Wyoming 82602, 307-265-5550, Extension 5266.

Dated: April 19, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77-11884 Filed 4-25-77;8:45 am]

DES MOINES DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Des Moines District Advisory Council will hold a public meeting at 10 a.m., Friday, May 27, 1977, at the Des Moines Golf and Country Club, Des Moines, Iowa, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present. For further information, write or call J. Harold Sears, District Director, U.S. Small

Business Administration, 210 Walnut Street, Des Moines, Iowa 50309, 515–862–4567.

Dated: April 19, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77–11885 Filed 4–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1315]

ILLINOIS

Declaration of Disaster Loan Area

Williamson County and adjacent Counties within the State of Illinois constitute a disaster area because of physical damage resulting from flash flooding on March 28, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 13, 1977, and for economic injury until the close of business on January 13, 1978, at:

Small Business Administration, Branch Office, Illinois National Bank Building, One North Old State Capitol Plaza, Springfield, Illinois 62701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 13, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77–11888 Filed 4–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1316]

MICHIGAN

Declaration of Disaster Loan Area

The County of Eaton, Kalamazoo and adjacent counties, within the State of Michigan, constitute a disaster area because of physical damage caused by tornado which occurred on April 2, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 14, 1977, and for economic injury until the close of business on January 13, 1978 at:

Small Business Administration, District Office, 477 Michigan Avenue, McNamara Bldg., Detroit, Michigan 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 15, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–11889 Filed 4–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1318]

NEW HAMPSHIRE

Declaration of Disaster Loan Area

The area of 15th and Sullivan Streets in the City of Claremont in Sullivan County, New Hampshire, constitutes a disaster area because of damage resulting from a fire which occurred on March 23, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 20, 1977, and for economic injury until the close of business on January 19, 1978, at:

Small Business Administration, District Office, 55 Pleasant Street, Concord, New Hampshire 03301.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 19, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–11890 Filed 4–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1319]

NEW YORK

Declaration of Disaster Loan Area

The Counties of Otsego, Rensselaer, Saratoga and adjacent counties within the State of New York, constitute a disaster area as a result of damage resulting from excessive rainfall and snow runoff which occurred March 12 through March 20, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 14, 1977, and for economic injury until the close of business on January 13, 1978 at:

Small Business Administration, District Office, Federal Building, Room 1073, 100 South Clinton Street, Syracuse, New York 13202.

or other locally announced locations.

Dated: April 15, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77–11891 Filed 4–25–77;8:45 am]

[Declaration of Disaster Loan Area No. 1314]

OHIO

Declaration of Disaster Loan Area

The County of Jefferson and adjacent counties, within the State of Ohio, constitute a disaster area because of physical damage resulting from heavy rains and flooding on April 2 through April 3, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 13, 1977, and for economic injury until the close of business on January 13, 1978 at:

Small Business Administration, District Office, AJC Federal Building, Room 317, 1240 East Ninth Street, Cleveland, Ohio 44199.

or other locally announced locations.

Dated: April 13, 1977.

ROGER H. JONES,
Acting Administrator.

[FR Doc.77–11892 Filed 4–25–77;8:45 am]

[License No. 05/05–5109]

SC OPPORTUNITIES, INC.

Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that SC Opportunities (licensee) 1112 7th Avenue, Monroe, Wisconsin 53566 was licensed by the Small Business Administration on January 16, 1976, to operate as a small business investment company pursuant to the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

On September 8, 1976, the licensee provided equity financing to SCO New Orleans, Inc. (SCON) a small business concern, SCON is a Delaware corporation operating a Swiss Colony franchise store in New Orleans, Louisiana.

SCON is an associate of the licensee since SCON was owned by SC America, Inc. (SCA), a Wisconsin Corporation. Mr. Ray Kubly, Mr. Robert Soderholm and Mr. Michael Kubly, all stockholders of the licensee, own more than 10 percent each of the stock of SCA. 51 percent of the stock of SCON was sold to Mr. Ray Rathle and 49 percent of the stock was acquired by licensee for $4900. On September 13, 1976, licensee also provided financing to SCON in the form of a note in the amount of $14,473 bearing interest at the rate of 9.5 percent annually.

The transaction falls within the purview of § 107.1004 of the regulations because the financing was used to acquire property from an associate of the licensee.

Notice is hereby given that any person may submit to SBA written comments no later than May 11, 1977, on this financing. And such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in New Orleans, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 19, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77–11883 Filed 4–25–77;8:45 am]

WASHINGTON, D.C. DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration, Washington, D.C. District Advisory Council will hold a public meeting at 10 a.m., Monday, May 23, 1977, in Suite 250, Executive Building, 1030—15th St. NW., Washington, D.C. 20417, to discuss such matters as may be discussed by members, staff of the Small Business Administration, or others present. For further information, write or call Leon J.

Bechet, District Director, at the above address, 202–653–6965.

Dated: April 19, 1977.

ANTHONY S. STASIO,
Acting Assistant Administrator for Advocacy and Public Communications.

[FR Doc.77–11886 Filed 4–25–77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM–7/59]

SHIPPING COORDINATING COMMITTEE

Meeting

An open meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. on Thursday, May 12, 1977, in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to discuss preparations for the 38th Session of the Council of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London May 23–27, 1977. Agenda items to be covered at the meeting include:

Status of the IMCO Convention (IMCO Membership);

Consideration of the Reports of the subsidiary organs of the Council:

Report of the Legal Committee.

Report of the Committee on Technical Cooperation.

Report of the Facilitation Committee.

Headquarters facilities and accommodations: Report on progress achieved since the 37th Session of the Council.

Work program and budget for the tenth financial period 1978–79.

Preparations for the Tenth Regular Session of the Assembly.

Requests for further information on the meeting should be directed to CAPT Donald C. Hintze, United States Coast Guard. He may reached by telephone at 202–426–2280.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

APRIL 14, 1977.

[FR Doc.77–11881 Filed 4–25–77;8:45 am]

[Public Notice CM–7/60]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 2 p.m. on Thursday, May 19, 1977, in Room 7426 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 18th Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), scheduled to be held in London during September 12–16, 1977. In particular, the working group will discuss the following topics:

Code of Safety Requirements for Mobile offshore drilling units.

Operational standards for shipboard radio equipment.

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft.

Matters relating from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, United States Coast Guard. He may be reached by telephone at 202–426–1345.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

APRIL 20, 1977.

[FR Doc.77–11882 Filed 4–25–77; 8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on May 16, 1977, at 10 a.m., the San Diego Regional Office Station Committee on Educational Allowances shall at 2022 Camino del Rio North, San Diego, California 92108 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Security Training Institute, 2223 El Cajon Blvd., San Diego, California 92104 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: April 12, 1977.

HERBERT R. RAINWATER,
Director,
VA Regional Office.

[FR Doc.77–11967 Filed 4–25–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 375]

ASSIGNMENT OF HEARINGS

APRIL 21, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 54444 Sub 6, Main Express & Storage Co. now being assigned July 11, 1977 (1 week) at Madison, Wisconsin in a hearing room to be later designed.

No. 36432 (Sub-No. 1), Fresh Fruits and Vegetables, Transcontinental Eastbound, now being assigned for continued Prehearing Conference on June 1, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB 1 Sub 34, Chicago and North Western Transportation Company Abandonment Between Norfolk, Nebraska and Winner, South Dakota, In Madison, Pierce, Antelope, Knox and Boyd Counties, Nebraska and Gregory and Tripp Counties, South Dakota now being assigned July 12, 1977 (9 days) at Norfolk, Nebraska in a hearing room to be later designated.

MC 134755 (Sub-80), Charter Express, Inc., now being assigned June 14, 1977 (1 day) at Omaha, Nebraska, in a hearing room to be later designated.

MC 123872 (Sub-56), W & L Motor Lines, Inc., now being assigned June 15, 1977 (1 day) at Omaha, Nebraska, in a hearing room to be later designated.

MC 140829 (Sub-14), Cargo Contract Carrier Corp., now being assigned June 16, 1977 (2 days) at Omaha, Nebraska, in a hearing room to be later designated.

MC 113678 (Sub-640), Curtis, Inc., now being assigned June 20, 1977 (1 day) at Omaha, Nebraska, in a hearing room to be later designated.

MC 142491 (Sub-1), D & E Transport, Inc., now being assigned June 21, 1977 (2 days) at Omaha, Nebraska, in a hearing room to be later designated.

MC 110563 (Sub-191), Coldway Food Express, Inc., now being assigned June 23, 1977 (2 days) at Omaha, Nebraska, in a hearing room to be later designated.

MC 720 Sub 16, Bird Trucking Co., Inc. now being assigned July 12, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 127042 Sub 177, Hagen, Inc. now being assigned July 14, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 114273 Sub 261, CRST, Inc. now being assigned July 18, 1977 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 140134 Sub 7, Caldarulo Trading Co. now being assigned July 19, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 111321 Sub 203, Jones Truck Lines, Inc. now being assigned July 21, 1977 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 125820 Sub 8, Elk Valley Freight Line, Inc. now being assigned June 1, 1977 (3 days) at Fayetteville, Tennessee and will be held in the Board Room of the Lincoln County Bank, 302 East College Street.

MC 114632 (Sub-86), Apple Lines, Inc. and MC 135936 (Sub-18), C & K Transport, Inc., now being assigned July 6, 1977 (1 day) at Omaha, Nebraska, in a hearing room to be later designated.

MC 124774 (Sub-97), Midwest Refrigerated Express, Inc.; MC 124774 (Sub-98), Midwest Refrigerated Express, Inc.; MC 139850 (Sub-6), Four Star Transportation, Inc.; MC 139999 (Sub-16), Redfeather Fast Freight, Inc. and MC 142239 (Sub-3), Washington Transportation Co., now being assigned July 7, 1977 (2 days) at Omaha Nebraska, in a hearing room to be later designated.

MC 114569 (Sub-156), Shaffer Trucking, Inc.; Mc 133689 (Sub-93), Overland Express, Inc. and MC 142431 (Sub-2), Waymar Transport Corp., now being assigned July 11, 1977 (2 days) at Omaha, Nebraska, in a hearing room to be later designated.

MC 57697 (Sub-No. 6), Lester Smith Trucking, Inc., MC 61592 (Sub-No. 394), Jenkins Truck Line, Inc., MC 74321 (Sub-No. 125), B. F. Walker, Inc., MC 82841 (Sub-No. 199), Hunt Transportation, Inc., MC 83539 (Sub-No. 439) C & H Transportation Co., Inc., MC 100666 (Sub-No. 329), Melton Truck Lines, Inc., MC 109397 (Sub-No. 345), Tri-State Motor Transit Co., MC 124947 (Sub-No. 49), Machinery Transport, Inc. and MC 140241 (Sub-No. 8), Blake Transport, Inc., now being assigned for continued hearing on June 13, 1977 (2 weeks), at the Trave-Lodge South, 161 West Sixth Street, Salt Lake City, Utah.

MC 113678 Sub 629, Curtis, Inc. now assigned June 8, 1977 at Minneapolis, Minnesota is cancelled, application dismissed.

MC 127811 Sub 8, Brynwood Transfer, Inc. now being assigned June 8, 1977 (1 day) at Minneapolis, Minnesota in a hearing room to be later designated.

MC-F 12872, East Texas Motor Freight Lines, Inc.—Purchase (Portion)—Transamerican Freight Lines, Inc., MC 41432 Sub 148, East Texas Motor Freight Lines, Inc. and MC 10761 Sub 281, Transamerican Freight Lines, Inc. now being assigned May 17, 1977 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 114569 (Sub-161), Shaffer Trucking, Inc.; MC 124896 (Sub-19), Williamson Truck Lines, Inc.; MC 134105 (Sub-17), Celeryvale Transport, Inc.; MC 134755 (Sub-85), Charter Express, Inc.

MC 134755 (Sub-86), Charter Express, Inc.; MC 134983 (Sub-4), Mid Continent Trucking Company; MC 139379 (Sub-1), Les Mathre Trucking, Inc.; MC 139379 (Sub-2), Les Mathre Trucking, Inc. and MC 139973 (Sub-9), J.H. Ware Trucking, Inc., now being assigned July 13, 1977 (3 days) at Omaha, Nebraska, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11961 Filed 4-25-77;8:45 am]

[Notice No. 376]

ASSIGNMENT OF HEARINGS

APRIL 21, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

No. 36515, Arizona Electric Power Cooperative, Inc. v. Atchison, Topeka & Santa Fe Railroad & Southern Pacific Transportation Co., now being assigned for continued Prehearing Conference on June 7, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C., instead of No. 36515, Arizona Electric Power Cooperative, Inc. v. The Denver and Rio Grande Western Railroad Company, et al. and No. 36530, Bituminous Coal, Cameo, Colo., to Cochise, Ariz.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11962 Filed 4-25-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 21, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before May 11, 1977.

FSA No. 43352—*Joint Rail-Water Container Rates—Ace Lines—Ace Lines Limited.* Filed by Ace Lines, Ace Lines Limited, (No. 1), for itself and interested rail carriers. Rates on general commodities, from rail carriers terminals on the U.S. Atlantic and Gulf Coast ports, to ports in Australia and New Zealand.

Grounds for relief. Water competition.

Tariff. Ace Lines tariff No. 1, I.C.C. No. 1, F.M.C. No. 6.

Rates are published to become effective on May 20, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11963 Filed 4-25-77;8:45 am]

[Notice No. 157]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 26, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. Part 1132:

No. MC-FC 77056. By application filed March 31, 1977, J. A. GRIMM & WHEELING MOTOR EXPRESS, INC., 2995 Grand Avenue, Pittsburgh, PA 15225, seeks temporary authority to transfer the operating rights of Dorothy H. Loughman, an individual, d.b.a WAYNESBURGH-PITTSBURGH LOCAL EXPRESS, R.D. No. 1, Sycamore, PA 15364, under section 210a(b). The transfer to J. A. GRIMM & WHEELING MOTOR EXPRESS, INC., of the operating rights of Dorothy H. Loughman, an individual, d.b.a. WAYNESBURGH-PITTSBURGH LOCAL EXPRESS, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11965 Filed 4-25-77;8:45 am]

[Notice No. 158]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 26, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 C.F.R. 1132:

No. MC-FC 77093. By application filed April 19, 1977, AJL, INC., 26013 13th SE, Space No. 37, Kent, WA 98431, seeks temporary authority to transfer the operating rights of Mayo C. Robison, an individual, d.b.a. LUMBER TRUCKING SERVICE, 943 South Nebraska, Seattle, WA 98108, under section 210a(b). The transfer to AJL, INC., of the operating rights of Mayo C. Robison, an individual, d.b.a. LUMBER TRUCKING SERVICE, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11966 Filed 4-25-77;8:45 am]

[Notice No. 2]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Trans-American Van Service, Inc., MC-22254 -83	MC-22254 -80	Aug. 30, 1976
Schneider Transport, Inc. MC-51146 -407	MC-51146 -407	Sept. 13, 1976
River Trails Transit Lines, Inc., MC-58522 -9	MC-58522 -10	Mar. 8, 1977
Tri-State Transport, Inc., MC-57315 -23	MC-57315 -24	Aug. 9, 1976
D.b.a. General Motor Lines, MC-58549-22	MC-58549 -21	July 2, 1976
Mutual Transportation, Inc., MC-92068 -15	MC-92068 -14	May 17, 1976
Mutual Transportation, Inc., MC-92068 -16	MC-92068 -17	Mar. 18, 1977
Svennson Freight Lines, Inc., MC-96784 -6	MC-96784 -5	Dec. 13, 1975
Barber Transportation Co., MC-97699 -46	MC-97699 -44	Feb. 10, 1977
Pre-Fab Transit Co., MC-107295 -758	MC-107295 -757	May 12, 1976
Western-Commercial Transport, Inc., MC-116063 -141	MC-116063 -142	July 12, 1976

Temporary authority application	Final action or certificate or permit	Date of action
G. G. Parsons Trucking Co., MC-117427 -73	MC-117427 -74	Sept. 29, 1976
Tiona Truck Line, Inc., MC-118535 -71	MC-118535 -72	May 14, 1976
Marshall Service, Inc., MC-123274 -5	MC-123274 -4	Feb. 28, 1977
Richard Dahn, Inc., MC-124004 -38	MC-124004 -39	Apr. 6, 1977
Florida Rock & Tank Lines, Inc., MC-126736 -89	MC-126736 -77	Jan. 21, 1977
B. & B. Motor Lines, Inc., MC-127100 -14	MC-127100 -15	Mar. 25, 1977
Pinto Trucking Service, Inc., MC-128383 -26	MC-128383 -30	Feb. 23, 1974
Pinto Trucking Service, Inc., MC-128383 -49	MC-128383 -41	Sept. 13, 1974
Coyote Truck Line, Inc., MC-136318 -37	MC-136318 -38	Nov. 16, 1976
R. G. Stanko Express, Inc., MC-138522 -2	MC-138522 -1	Dec. 3, 1976
Northern Express, Inc., MC-138574 -3	MC-138574 -2	Aug. 11, 1976
William G. Brown, MC-139404 -5	MC-139404 -6	Dec. 1, 1976
J. P. Montgomery, Inc., MC-140024 -63	MC-140024 -53	Aug. 23, 1976
General Transfer Co., MC-141056 -1	MC-141056 -2	Dec. 10, 1976
Atlas Warehousing Co., MC-141150 -1	MC-141150 -2	Nov. 3, 1976
Countrystyle, Inc., MC-141365	MC-141365 -1	May 11, 1976
Collins & May Trucking Co., Inc., MC-142116 -1	MC-142116 -2	Mar. 25, 1977

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11964 Filed 4-25-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

1

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10 a.m. April 28, 1977.

PLACE: 2033 K Street, 5th Floor Hearing Room.

MATTERS TO BE CONSIDERED: Planning and Zero-Base Budgeting, CFTC Objectives, Resource Allocation and Priorities.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey.

[S-240-77 Filed 4-22-77;10:38 am]

2

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Friday, April 29, 1977, at 10 a.m. a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

1. Salary structure adjustment at the Federal Reserve Bank of Minneapolis.
2. Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observation because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552b (c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452-3204.

Board of Governors of the Federal Reserve System.

Dated: April 21, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-230-77 Filed 4-21-77;4:03 pm]

3

AGENCY HOLDING THE MEETING: Foreign Claims Settlement Commission [F.C.S.C. Meeting Notice No. 5-77].

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

DATE, TIME AND SUBJECT MATTER

Wednesday, May 4, 1977, 10:30 a.m., Consideration of Hungarian Claims.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579. Telephone: 202-653-6156.

Dated at Washington, D.C., on April 20, 1977.

FRANCIS T. MASTERSON,
Executive Director.

[S-231-77 Filed 4-21-77;4:03 pm]

4

AGENCY HOLDING THE MEETING: Indian Claims Commission.

TIME AND DATE: 10:15 a.m., May 4, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 60-A, *Makah*
Docket 100-B-1, *Klamath and Modoc*
Docket 182-A, *Fort Sill Apache*
Docket 272, *Creek*
Docket 342-G, *Seneca*

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street, N.W., Washington, D.C. 20006. Tel. 202-653-6184.

[S-241-77 Filed 4-22-77;10:33 am]

federal register

TUESDAY, APRIL 26, 1977

PART II

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

■

INTERAGENCY AGREEMENT

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

INTERAGENCY AGREEMENT

ACTION: Notice.

SUMMARY: Published below is an Interagency Agreement of the National Occupational Information Coordinating Committee. The National Occupational Information Coordinating Committee has been established with the general purpose of improving coordination and communication and cooperation in the development of an occupational information system designed to meet the common occupational information and data needs of the vocational education programs and employment and training programs at national, State, and local levels.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1976 (Pub. L. 94-482) Section 202(a) amends the Vocational Education Act of 1963 and establishes a National Occupational Information Coordinating Committee. An Interagency Agreement of the National Occupational Information Coordinating Committee specifying the purpose and designed to activate working arrangements was signed by the four statutory members March 2, 1977. The Committee, as specified in the Act, is composed of the Commissioner of Education, the Administrator of the National Center for Education Statistics, the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics.

Dated: April 21, 1977.

R. E. ALLYN,
Staff Director, National Occupational Information Coordinating Committee.

INTERAGENCY AGREEMENT OF THE NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

The Vocational Education Act of 1963, Section 161(b), as amended by the Education Amendments of 1976, Title II, Section 202(a), establishes a National Occupational Information Coordinating Committee (NOICC). The members of this Committee are the Commissioner of Education, the Administrator of the National Center for Education Statistics, the Commissioner of Labor Statistics, and the Assistant Secretary of Labor for Employment and Training.

The National Occupational Information Coordinating Committee replaces the Occupational Information Coordinating Committee established August 22, 1975 and adds the Administrator of the National Center for Education Statistics, Department of Health, Education, and Welfare.

Specifically, the Office of Education and the National Center for Education Statistics of the U.S. Department of Health, Education, and Welfare, and the Bureau of Labor Statistics and the Employment and Training Adminstration of the U.S. Department of Labor agree to carry out the intent of Congress as set forth in Section 161(b) of the Act, as amended.

The parties agree to the following paragraphs:

1. The NOICC in the use of program data and employment data will improve coordination between and communication among vocational education and employment and training program administrators, planners, researchers, and other trainers. These efforts will be directed toward assuring the availability and systematic use of uniform program and occupational information and employment data. To this end a system will be designed so that accurate comparisons can be made from State to State and, whenever possible, will include reporting of data by labor market areas within the State for purposes of planning and program development.

2. The NOICC will develop and implement by September 30, 1977 an occupational information system to meet the common occupational information and data needs of the vocational education programs and employment and training programs at the national, State, and local levels. This system will include data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and standardized occupational classifications.

3. The NOICC will assist each State's Occupational Information Coordinating Committee (SOICC) as required by law and as specified in Federal rules and regulations formulated and approved by NOICC.

4. NOICC will utilize funds for national activities in improving coordination and communication, designing and implementing an occupational information system (OIS), and funding SOICC activities required to implement an occupational information system that will meet the needs for planning and operating programs of the State Board for Vocational Education and administering agencies under the Comprehensive Employment and Training Act (CETA) of 1973.

5. The NOICC will determine the purposes for which disbursement of funds are to be made consistent with fulfilling the requirements of the Act. In addition, the NOICC will determine the amount of funds required to annually carry out its functions. A formal budget request, to support NOICC's activities, based on such estimates, will be submitted by the Office of Education.

6. The signatories, the four statutory members of NOICC, agree that each will delegate authority to a person on his or her staff to act as a member of a Technical Steering Group.

7. The Technical Steering Group will, in accordance with Memorandums of Understanding agreed to by the members of the NOICC, carry out the functions assigned to it.

[FR Doc.77-11880 Filed 4-25-77;8:45 am]

federal register

TUESDAY, APRIL 26, 1977
PART III

ENVIRONMENTAL PROTECTION AGENCY

■

COAL MINING POINT SOURCE CATEGORY

Effluent Limitations Guidelines for Existing Sources

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 716-4]

PART 434—COAL MINING POINT SOURCE CATEGORY

Effluent Limitations Guidelines for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 13, 1976, the Environmental Protection Agency promulgated effluent limitations guidelines and proposed additional effluent limitations guidelines and new source performance standards for the coal mining point source category. The rule promulgated today establishes final effluent limitations guidelines for the coal mining point source category and includes a number of major changes and clarification to the earlier rule making which reflect comments received on the earlier rule making as part of public participation in EPA's rule making procedures. These effluent limitation guidelines will be incorporated in National Pollutant Discharge Elimination System permits issued by the Federal EPA or by States with approved programs.

EFFECTIVE DATE: April 26, 1977, to be fully complied with by July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. Schaffer, Director, Effluent Guidelines Division (WH-552), Environmental Protection Agency, Washington, D.C. 20460. (202/426-2576.)

SUPPLEMENTARY INFORMATION:

SUMMARY OF PROCEDURAL BACKGROUND

The Environmental Protection Agency today promulgates final effluent limitations guidelines for the coal mining point source category. On October 17, 1975, the Agency published interim final and proposed regulations for this point source category. (40 FR 48830.) The interim final regulations announced in that publication controlled only the pH of the effluent. The standards proposed at that time were with respect only to pretreatment for existing sources and presented only general requirements.

On May 13, 1976, the Agency published additional interim final effluent limitations guidelines, and proposed additional new sources performance standards for this point source category. 41 FR 19832 and 41 FR 19841. These interim final regulations expanded the list of pollutants which dischargers must control. The regulations published in interim final form included, for all four subparts of Part 434, limitations based upon the use of best practicable control technology currently available.

The proposed new source performance standards covered Subpart A (coal preparation plant subcategory) and Subpart B (coal storage, refuse storage, and coal preparation plant ancillary subcategory). 41 FR 19841. Effluent limitations guidelines based upon the use of best available technology economically achievable were proposed for all four subparts. Finally, pretreatment standards for new sources were proposed for subparts A and B. As noted above, the regulations promulgated today address only the use of best practicable control technology currently available—that technology and those regulations which must be implemented by July 1, 1977, pursuant to section 301 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1311.

The Agency is not promulgating pretreatment standards for this point source category at this time nor does it intend to promulgate such standards in the future, because there are no known situations in which such standards would be applicable. Should information become available which indicates that there is a need for such standards, they will be issued. The regulations based upon best available technology economically achievable also are not being promulgated today because the Agency has embarked on a major effort to publish these regulations (which must be implemented by 1983) with requirements for control of a large number of priority water pollutants. Since the Agency intends to restudy this industry extensively with respect to priority water pollutants and the 1983 level of technology and since the permits which would incorporate this technology will not be written in the near future, it was deemed more reasonable to promulgate the revised BAT limitations at one time rather than publish effluent limitations guidelines now which must be revised within one or two years. These regulations do not include final new source performance standards; these standards will be announced in the near future in the FEDERAL REGISTER. At that time the Agency will also propose new source performance standards for those subcategories for which new source standards have not been proposed.

SUMMARY OF RULE AND OUTLINE OF MAJOR CHANGES

The regulations promulgated today incorporate several revisions to the interim final effluent limitations guidelines published on May 13, 1976. For the most part, these changes were brought about by consideration of the substantial number of comments received from industrial and environmental groups. These comments are summarized in detail in the Appendix to this preamble. However, several major points were raised which will be addressed in this preamble. Although the agency did not receive criticism with respect to the organization of the regulations, the Agency's own review indicated that a reorganization of the subparts was necessary to eliminate certain of the ambiguities which existed in the May 13 publication. Also, there appeared to be substantial confusion over some of the definitions and these have been reorganized and to some extent, are revised. These are the major changes brought about by or considered for today's announcement:

1. *Reorganization of the subparts.* The interim final effluent limitations guidelines published on May 13, 1976 contained four subparts. The first subpart addressed preparation plant discharges; the second subpart addressed discharges from coal storage, refuse storage and coal preparation plant ancillary areas. And the third and fourth subparts addressed discharges from active mining operations. Each subpart contained a section setting forth specialized definitions for that subpart. Many of the specialized definitions were the same for several of the subparts and thus it was decided that it would be more readable to convert subpart A into a presentation of definitions which apply throughout Part 434. The previous subpart A covered coal preparation plants, and, as noted below, the Agency has decided to combine Subparts A and B into the Subpart B presented today.

In addition, Subpart B, as presented today, is further subdivided, in order to provide a distinction between acid and alkaline water and to be consistent with regulations pertaining to mine drainage.

2. *General definitions.* The term "active mining area" has been defined to clearly state with respect to surface mines, that these effluent limitations guidelines (and new source performance standards to be promulgated soon) do not apply once grading has been completed to return the earth to the desired contour and once reclamation work has begun. The previous definition was confusing in that it spoke of reclamation work being "commenced" or "completed". There is a new definition, for coal preparation plant associated areas. This term is defined to mean the area around the coal preparation plant which was previously included in the ancillary areas subject to previous Subpart B. Thus, the new Subpart B includes the areas previously subjected to both subparts A and B.

3. *Discharges from coal preparation plants.* Perhaps the strongest criticism of the interim final regulations published on May 13, was with respect to the requirement of no discharge from coal preparation plants. Many coal mining companies submitted comments to the Agency. They strongly suggested that there was a misconception as to the facts of operation of coal preparation plants, and that when the Agency and its contractor concluded that a coal preparation plant had a closed cycle system they were mistaken in most instances. The industry contentions were that even when a coal preparation plant is designed to recycle water, there are points in the system and occasions when discharges are necessary. Close examination of this problem revealed that there was very little disagreement as to the fundamental facts of operation of a coal preparation plant and that by simply combining Subparts A and B and imposing the restrictions that were previously applied to Subpart B, to the new subpart, the problem

could be resolved with no increase in environmental degradation. Simply stated, it was found by the Agency after careful inspection that there are virtually no coal preparation plants which are not surrounded by areas subject to the previous subpart B effluent limitations guidelines, and that with the provision in the previous § 434.12(c), allowing for a discharge of waste water from a coal preparation plant when that waste water is combined for treatment with the discharges from facilities covered under other subparts of Part 434, owners and operators of coal preparations plants would not in practice be subject to a "no discharge" standard, but rather would be subject to the limitations applied to previous Subpart B. This is because the common form of operation of a coal preparation plant and associated areas is to have a common pond or series of ponds and treatment facilities for all the discharges and runoffs from those facilities. It was found that consideration of a coal preparation plant without the surrounding associated or ancillary areas is an unrealistic approach. With the qualifications noted below in the discussion of manganese, the limitations which are applied to coal preparation plants and associated areas under the new § 434.22 are the same effluent limitations that governed discharges from coal storage, refuse storage, and coal preparation plant ancillary areas in the previous regulations and which, as explained above, were in fact the limitations which would have governed discharges from coal preparation plants previously subject to subpart A.

Note should be made that regulations for preparation plants and associated areas have been divided into two groups, one for acidic and one for alkaline wastes. EPA's Office of Enforcement is preparing guidance for dischargers who have questions as to which group they belong.

4. *Exemption for discharges resulting from extraordinary volumes due to precipitation events.* Another area in which there was substantial comment was with respect to the exemption for discharges from coal mining facilities which result from unusual precipitation events. The effluent limitations guidelines provide that any untreated overflow, increase in volume of a point source discharge of discharge from a by-pass system from facilities designed, constructed and maintained to contain or treat the discharges from the facilities and areas covered by the various subparts, which discharges would result from a 10-year, 24-hour precipitation event, shall not be subject to the limitations set forth in those subparts, to the extent of the overflow. See, eg., § 434.22(c). This does not mean that only after a rainfall equalling or exceeding the 10-year, 24-hour precipitation event may untreated effluent be discharged. It means that after a precipitation event or other cause (snowmelt, for example) which forces an overflow, by-pass, or increase in the volume of point source discharge from a facility designed, constructed and maintained to contain or treat the amount of water which will result from the 10-year, 24-hour, precipitation event, the overflow, by-pass or increase in volume of the point source discharge shall be permitted. The 10-year, 24-hour, precipitation event, a figure which for each geographical area of the country, can be found in the text noted in § 434.11(h).

Several representatives of coal mining companies objected to this exemption provision as implying that, especially with respect to surface mining operations, the operators would be required to maintain an unnecessarily large retention structure. However, none of the coal mining companies submitted information which demonstrated that the construction or maintenance of these structures is unreasonable. To the contrary, the investigation by the Agency into the reasonableness of this requirement revealed that a retention structure sufficient to contain a 10-year, 24-hour storm event is relatively small, that the 10-year, 24-hour storm event is a widely used engineering design criteria which has been adopted for other purposes in this and other industries for many years. The United States Department of Interior, in comments on the interim final effluent limitations guidelines, suggested that certain changes be made in those regulations, but did not criticize the use of the 10-year, 24-hour precipitation event as a design criteria for an overflow exemption.

In light of the many comments with respect to the 10-year, 24-hour rainfall event exclusion, EPA consulted with the Office of Coal Mine Health and Safety, Mining Enforcement and Safety Administration of the Department of Interior. Representatives of that office stated that the 10-year, 24-hour rainfall event in virtually all situations is a lesser rainfall than would occur during the rainfall event utilized by that office as the minimum design criteria for impoundment facilities. The lowest design criteria is a 6-hour maximum precipitation event, the highest is a "maximum precipitation event." For the Pittsburgh area, a 10-year, 24-hour precipitation event is about 4 inches, a 6-hour event is slightly greater than 4 inches, and a maximum precipitation event is about 26 inches.

Under 30 CFR Part 77, which presents the Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, plans for the design, construction and maintenance of structures which impound water, sediment or slurry (above a certain size) are required to contain many details of the structure. The actual size will depend on several factors, including area to be served and downstream risk. Among the specific requirements of 30 CFR 77.216-2(a) are the following:

(10) A statement of the runoff attributable to the probable maximum precipitation of 6-hour duration and the calculations used in determining such runoff.

(17) A certification by a registered engineer that the design of the impounding structure is in accordance with current, prudent engineering practices for the maximum volume of water, sediment, or slurry which can be impounded therein and for the passage of runoff which would result from the designated precipitation event; or, in lieu of the certification, a report indicating what additional investigations, analyses, or improvement work are necessary before such a certification can be made, including what provisions have been made to carry out such work in addition to a schedule for completion of such work.

From a review of the relevant regulations and design guidelines and from discussions with representatives of the appropriate Federal regulatory agencies, EPA is confident that the impoundment facilities needed to comply with the regulations promulgated today are reasonable, and that there is no additional danger caused by implementation of these regulations. Should any evidence be submitted to the Agency to indicate that the impoundment facilities needed to meet these regulations would necessitate construction of a structure which would violate safety standards set out by a State or Federal Agency, EPA will consider the granting of a variance on an expedited basis. Under no circumstances will an owner or operator be required to violate applicable safety standards in order to meet these regulations. If difficulty arises in more than isolated instances, consideration will be given to amendment of these regulations. It must be emphasized, however, that the State and Federal authorities with whom EPA has consulted on this matter uniformly concluded that no safety issues are raised by the use of a 10-year, 24-hour storm event as a design criteria.

It must be emphasized that the regulations for the coal mining point source category do not require any specific treatment technique, construction activity, or other process for the reduction of pollution. The effluent limitations guidelines merely state a final limitation on the amount of pollutants which may be discharged from this industry, and allows for an excursion from the normal requirements when there is a discharge from a facility properly designed to contain a large precipitation event.

While there has been criticism of the 10-year, 24-hour formula used by the Agency, the few alternatives suggested by the environmental groups and industry are substantially less satisfactory. For example, the suggestion that discharges from containment facilities be allowed regardless of effluent limitations, when the rainfall in inches is equal to or greater than

$$\frac{\text{the duration of the storm in minutes}}{100} + 0.2,$$

is impractical. The duration of a storm has no close relationship to the quantity of water which falls during the storm or to the ability of a containment facility to gradually treat and discharge the water (these facilities are designed to allow relatively clean water to escape). It is also unclear as to what would be considered a storm. Also, it is difficult to conceive of a workable enforcement scheme which relies on measurement of a storm, when the exact time of the initiation of the storm or rainfall event may be unclear. It would require an owner or op-

erator to carefully note the time when any rainfall begins. It is also apparent that under the formula proposed by several of the coal mining companies, discharges without limitation on pollutants would be allowed quite often during the year, and for rainfall events which can hardly be termed unusual. Indeed, the use of the formula above may well continue the problem of periodic environmental degradation to receiving streams which results from the flushing of pollutants in coal mining areas into those streams.

Another formula which was suggested by several coal mining companies would allow for uncontrolled discharges from facilities which are designed to maintain a volume of water equal to or exceeding the volume resulting from the inches of rainfall equivalent to

$$\frac{\text{the time of the rainfall event expressed in hours}}{5}$$

Because this formula also places reliance on the duration of time of the storm rather than on the containment facility and the volume of water which must be contained, it is inappropriate for use in these water pollution regulations. Moreover, this formula, like the alternative formula suggested above, would allow discharges in situations where the rainfall is substantially less than would be considered an unusual precipitation event. The effect of the alternative formula suggested by the coal mining companies would be to convert the 10-year, 24-hour provision presently in the regulations into a fairly routine allowance on discharges without restrictions on the quantities of pollutants, rather than an excursion provision, as presently exists. Also, neither suggestion by the industry would allow for discharges caused by sudden snowmelts, since these would not be considered precipitation events under the suggested formulae.

Use of a provision such as § 434.22(b), which allows for the release of waste water when there is an unusual precipitation event, is not restricted solely to the mining extraction industries; such an allowance, excursion, or exemption has been used in several other industries in which the major source of pollution results from rainfall runoff. For example, when attempting to control the discharges of highly polluting wastes from feedlot operations, the regulatory authority must necessarily consider the feasibility of containing large quantities of rainfall runoff. These considerations were raised during the consideration of the Federal Water Pollution Control Act Amendments of 1972 ("FWPCA") and there is prominent mention of the 10-year, 24-hour storm event as a realistic method of addressing the problem. In debate on the predecessor bill to the FWPCA, Senator Dole noted to Senator Muskie some of the practices which are used in the State of Kansas to contain pollutants from feedlots; the following dialogue ensued:

(Mr. Dole) Retention basins and other devices can be employed to accommodate any normal runoff from feedlots, but as a practical matter it is impossible to construct retention structures to handle the runoff from extreme rainfall conditions which could statistically be expected to occur. For instance, in Kansas the maximum probable precipitation resulting from a storm occurring in a 24-hour period within a 10-square mile area is 24 to 28 inches. Such a torrential downpour has never occurred, but the statistical probability of its happening shows that it is entirely impractical and unfeasible to expect a feedlot operator to contain all the runoff associated with it. But the bill would seem to set such a requirement.

The question which I pose is: To what extent does the zero discharge requirement of the pending bill impose on feedlot operators a requirement for providing for containment of runoff resulting from the maximum probable 24-hour storm?

Mr. Muskie. As we understand the application of the zero discharge requirement as it relates to runoff from feedlots, containment facilities must be provided for feedlots which would provide complete control for the runoff resulting from the 24-hour storm to be experienced once in a 10-year period.

This would involve 3 inches of runoff water over the area concerned.

"A Legislative History of the Water Pollution Control Act Amendments of 1972,: Library of Congress Research Service, (93rd Cong., 1st Sess.) at 1298.

5. *Limitations on dissolved iron.* Several coal mining companies objected to the requirements of previous § 434.32 that limited the discharges of both total iron and dissolved iron. Commenters, particularly the Peabody Coal Company and the National Coal Association, pointed out that there is little value in monitoring total iron and dissolved iron in that the former test will incorporate the pollutants measured in the latter analysis. The Agency has carefully considered the benefits to be derived from requiring an analysis of dissolved iron as well as total iron and has concluded that while there may be some small incremental protection provided by monitoring for both, in the vast majority of cases the total iron analyses will adequately demonstrate the potential for environmental degradation which results from the presence of the iron in the effluent. Accordingly, the Agency has deleted the requirement that dissolved iron be monitored in discharges from point sources within the acid or ferruginous mine drainage subcategory

6. *Limitation on discharge of manganese.* Several coal mining companies objected to the effluent limitations contained in the May 13 interim final regulations with respect to manganese. The objections essentially contended the requirement of maintaining a pH of 6–9 was inconsistent with the requirement of obtaining a manganese level as set forth in those limitations because manganese can only be reduced when the pH is at 9 or slightly above 9. To a lesser extent, the companies contended that there is no need for a manganese standard at all. The Agency has reviewed all the data available on the question and has concluded that an operator or owner can indeed obtain the mandated manganese levels while at the same time meeting the 6–9 pH requirements, but the Agency concedes that the manganese is only removed at the high end of the allowed pH range. Accordingly, included in these regulations is a provision which allows the State or Federal NPDES writer to adjust the required pH level when the application of neutralization and sedimentation treatment technology continues to result in inability to comply with the manganese limitations set forth in these effluent limitations guidelines. See e.g., § 434.22(d). Of course, the adjustment of pH can be made only to the extent that it is necessary to allow for compliance with the manganese limitation.

A second objection to the interim final manganese effluent limitations is that according to commenters, manganese is a relatively minor pollutant and therefore the Agency should not be emphasizing the control of this pollutant. While the effluent limitations guidelines do not attempt to control troublesome water pollutants on the basis of toxicity or receiving water quality criteria, it is important to note that manganese has been designated a pollutant of concern by several reputable scientific bodies. According to the National Academy of Sciences and National Academy of Engineering, in "Water Quality Criteria 1972" (Washington, D.C. 1972), "Manganese is objectionable in public water supplies because of its effect on taste . . . staining of plumbing fixtures, spotting of laundered clothes, and accumulation of deposits in distribution systems." As noted in "Quality Criteria for Water", U.S. Enviromental Protection Agency, (Washington, D.C. 1975) the presence of low concentrations of iron in addition to the concentrations of manganese may intensify the adverse effects of manganese. It is well known that manganese is often present with iron concentrations in the effluent from coal mining operations.

7. *Monitoring method for metal analysis.* Additional objections to manganese and iron limitations state that the analytical procedure used to develop the data base for the limitations contained in the interim final limitations guidelines is inconsistent with the methods used for monitoring purposes. In order to get results which correlate with the regulations promulgated, monitoring samples shall be analyzed in accordance with the procedures required by 40 CFR Part 136, "Guidelines Establishing Test Procedures for the Analysis of Pollutants," using a soft digestion. Therefore, the same procedures used in the technical studies on which the regulations are based will be used to monitor the effluent.

8. *Western Coal Mines.* The Effluent Guidelines Division of EPA has received a substantial body of information from EPA Region VIII (located in Denver, Colorado) with respect to the limitations on discharges from coal mines in the Western United States. Representatives of that Region believe more stringent numbers are appropriate in light of actual experiences with those mines. These data appear to support effluent limitations guidelines for a num-

ber of parameters significantly more stringent than the limitations announced today. The reasons for the apparent ability of Western coal mines to discharge pollutants in less concentration than is the case of Eastern coal mines are many, and certainly include the relatively more even topography of Western coal mines, the emphasis on recycle of relatively scarce water supplies, and the relatively lower concentration of pollutants in the geologic formations being exploited. The Agency is undertaking a thorough evaluation of the information being supplied from permit-granting authorities in the Western United States. It is anticipated that consideration will be given to proposal of a separate subcategory with respect to all pollutant parameters for those coal mining operations located in the Western United States which have attributes such that they are able to meet more stringent effluent limitations.

The Agency has determined not to promulgate national TSS limitations for mines in some Western States. Until national limitations guidelines are published which address Western mines and TSS, NPDES permit writers shall calculate TSS restrictions utilizing the same discretion and with the same deference to statutory factors as they have in the past. It is the policy of the Environmental Protection Agency that if any discharger has received a final NPDES permit which calls for compliance with limitations more stringent than those later published in the FEDERAL REGISTER, the discharger is still obligated to meet the terms of the final permit. Thus, whether a discharger has a final State or final Federal NPDES permit calling for more stringent discharge controls that operator will not be permitted to rely on today's promulgation of effluent limitations guidelines to obtain modification of that permit.

9. *Extend the applicability of effluent limitations guidelines to all point sources at surface coal mines until release of the reclamation bond by an appropriate state agency.* By use of the definition "active mining area" effluent limitations guidelines do not apply to discharges from areas affected by surface coal mining after these areas have been graded. Environmental groups have stated that the applicability of effluent limitations guidelines should be extended to cover discharges from areas affected by surface coal mining up to the time these areas are released from their reclamation bond by an appropriate state agency. To support this position these groups have submitted reports which show that the most critical period for water pollution abatement is during the period of reclamation and revegetation of areas affected by surface coal mining.

As noted in Appendix B of this rulemaking, Technical Summary and Basis for Regulations, the Agency recognizes that there is water quality degradation caused by discharges from areas affected by surface coal mining and that discharges from areas that have been graded but have not been reclaimed or revegetated can cause more severe pollution than discharges from areas included under this regulation.

EPA is conducting an intensive analysis of available information with respect to the water pollution which originates in surface mines undergoing revegetation and reclamation. When the Agency has had an adequate opportunity to review this information, it may propose extending coverage of effluent limitations guidelines or new source performance standards to cover the period of revegetation.

10. *General Environmental Benefits to be Obtained by Regulations of Coal Mine Discharges.* The effluent limitations guidelines promulgated today are technology standards and are not designed with precision to obtain designated water quality levels in the streams and other receiving water bodies into which coal mining discharges flow. However, there has been general criticism of the coal mining regulation voiced by representatives of the industry, to the effect that the technology-based standards may not be needed in light of the benefits (or lack of benefits) which will accrue if dischargers are forced to comply with the limitations. It is impossible in this preamble to summarize the many works that have been written on the environmental effects of coal mining and coal mining discharges. However, even by examining a small portion of those works and focusing on only one Regional area, one can appreciate that significant environmental benefits will accrue should reduction in coal mining pollutant loadings be achieved.

One of the most respected studies of the effects of coal mining discharges is presented in "Acid Mine Drainage in Appalachia," a Report by the Appalachian Regional Commission (Washington, D.C. 1969). This report was sent to the President by direction of the Appalachian Regional Development Act, as amended, incorporated the views of many respected experts, and included the advice and assistance of members of the National Research Council of the National Academy of Scientists-National Academy of Engineering. The conclusions of "Acid Mine Drainage" demonstrate the effect of just one of the pollutant parameters controlled by these effluent limitations guidelines upon just one area of the United States, the Appalachian region. That study concluded:

> About 10,500 miles of streams in eight states of the Appalachian Region are affected by mine drainage. These streams are polluted by increased amounts of acids, sediment, sulfate, iron and hardness of which the most significant pollutant is acid.

The study documented many of the direct economic costs resulting from acid mine pollution but noted that "the general environmental and aesthetic degradation of affected areas, the destruction of a aquatic life, and the deterrence to water based recreation caused by acid mine drainage might well exceed these other more readily measured costs." Users of water in the Appalachian Region who are affected by the introduction of acid into the water supplies of that region include operators and owners of industrial plants, utilities, barges and tow boats, and municipal water supplies; and the officials of public agencies with responsibilities for highway culverts and bridges. The direct annual economic impact on navigation on the portions of the Monongahela River open to navigation was estimated in the 1969 report to be $1,370,000. For the municipal water supplies of Pittsburgh, it was estimated that there would be an annual savings of approximately $480,000 were the acid mine problem to be substantially abated.

The effect of acid mine drainage on fishing resources is well known. The recreational use of water is affected significantly by pH levels of 5 or lower; swimming is pre-empted by levels of pH 4 or lower. The pH of streams must reach a level of 6.0 for there to be maintenance and growth of the fishery in warm water. In a cold water stream there will be full production of the fishery at a pH at 6.0 and maintenance and growth at pH 5.5–6.0.

As emphasized above, the analysis of benefits which result from the control of acid mine drainage in the Appalachian Region addresses merely one of the pollutants controlled by these regulations and with respect to only one of the major coal mining areas in the United States. The Agency has collected and studied a large amount of material relating to the general environmental benefits which would result from the implementation of these regulations. EPA has concluded that there will be significant benefits, both indirectly and directly to users of the waterways affected by coal mining pollution, if compliance with these regulations is accomplished.

ECONOMIC ANALYSIS

The report, "Economic Impact of Effluent Guidelines Coal Mining," indicates that the promulgated rules are not expected to affect significantly prices, production or capital availability. Therefore, little effect is expected on industry growth, employment, local economies or the balance of trade. Copies of this document are available through the National Technical Information Service, Springfield, Virginia 22151.

The economic impact report satisfies the requirements for an Economic Impact Analysis even though the Environmental Protection Agency has determined that this regulation does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A–107.

The report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance standards for the Coal Mining Point Source Category," May 1976, details the analysis undertaken in support of these regulations and is available for inspection in the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C. 20460, at all EPA regional

offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations. An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Effluent Guidelines Division, Washington, D.C. 20460, Attention: Distribution Officer, WH-552.

In addition, Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program, write to EPA, Office of Analysis and Evaluation, WH-586, 401 M St. SW., Washington, D.C. 20460.

Dated: April 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart A—General Definitions

Sec.
434.10 Applicability.
434.11 General definitions.

Subpart B—Coal Preparation Plants and Associated Areas

434.20 Applicability.
434.21 (Reserved).
434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.
434.31 (Reserved).
434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

Subpart D—Alkaline Mine Drainage Subcategory

434.40 Applicability; description of the alkaline mine drainage subcategory.
434.41 (Reserved).
434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

AUTHORITY: Secs. 301, 304(b), Federal Water Pollution Control Act, as amended, (33 U.S.C. 1311, 1314(b)).

Subpart A—General Definitions

§ 434.10 Applicability.

Except as provided specifically in this subpart A and in other subparts of this Part 434, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this Part 434. The general definitions set forth in this subpart A apply to all subparts of the Part 434.

§ 434.11 General definitions.

(a) The term "acid or ferruginous mine drainage" means mine drainage which before any treatment either has a pH of less than 6.0 or a total iron concentration of more than 10 mg/l.

(b) The term "active mining area" means a place where work or other activity related to the extraction, removal, or recovery of coal is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

(c) The term "alkaline mine drainage" means mine drainage which before any treatment has a pH of more than 6.0 and a total iron concentration of less than 10 mg/l.

(d) The term "coal mine" means an active mining area, including all land and property placed upon, under or above the surface of such land, used in or resulting from the work of extracting coal from its natural deposits by any means or method, including secondary recovery of coal from refuse or other storage piles derived from the mining, cleaning, or preparation of coal.

(e) The term "coal preparation plant" means a facility where coal is crushed, screened, sized, cleaned, dried, or otherwise prepared and loaded for transit to a consuming facility.

(f) The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, slurry ponds, drainage ponds, coal refuse piles, and coal storage piles and facilities.

(g) The term "mine drainage" means any water drained, pumped or siphoned from a coal mine.

(h) The term "ten-year 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable re-occurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, and subsequent amendments, or equivalent regional or rainfall probability information developed therefrom.

Subpart B—Coal Preparation Plants and Associated Areas

§ 434.20 Applicability.

The provisions of this subpart are applicable to discharges from coal preparation plants and associated areas, including discharges which are pumped, siphoned or drained from coal storage, refuse storage and coal preparation plant ancillary areas related to the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite and anthracite.

§ 434.21 [Reserved].

§ 434.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence o other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from that point source normally are acidic prior to treatment.

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH	Within the range 6.0 to 9.0.	

(b) The following limitations establish the concentration of pollutants, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from that point source normally are alkaline prior to treatment.

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
TSS	70.0	35.0
pH	Within the range 6.0 to 9.0.	

(c) Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed, and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitations in paragraph (a) of this section will be achieved.

(e) Where discharges from coal preparation plants and associated areas are combined for treatment or discharge with wastewater from sources within other subcategories in this point source category, the concentration of pollutants allowed to be discharged in the combined discharge shall not exceed the concentration of pollutants which would be allowed under the respective limitations applicable to that subcategory (or subcategories). Where a parameter (manganese or total iron as examples) is subject to different limitations under different subparts, the more stringent limitation applies.

Subpart C—Acid or Ferruginous Mine Drainage Subcategory

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.31 [Reserved]

§ 434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are sound to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70.0 [1]	[1] 35.0
pH	Within the range 6.0 to 9.0.	

[1] These TSS effluent limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

(b) Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed, and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

(d) Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth in paragraph (a) of this section, the permit issuer may allow the pH level in the final effluent to be exceeded to a small extent in order that the manganese limitations in paragraph (a) of this section, will be achieved.

Subpart D—Alkaline Mine Drainage Subcategory

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

§ 434.41 [Reserved]

§ 434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the concentration of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

[In milligrams per liter]

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Iron, total	7.0	3.5
TSS	70.0 [1]	[1] 35.0
pH	Within the range 6.0 to 9.0.	

[1] These TSS effluent limitations shall not apply to discharges from coal mines located in the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. In these States, TSS limitations shall be determined on a case-by-case basis.

(b) Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed, and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

(c) Drainage which is not from an active mining area shall not be required to meet the limitations set forth in paragraph (a) of this section as long as such drainage is not commingled with untreated mine drainage which is subject to the limitations in paragraph (a) of this section.

APPENDIX A—LEGAL AUTHORITY

(1) EXISTING POINT SOURCES

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedural innovations, operating methods and other alternatives. The regulation herein sets forth effluent limitations guidelines, pursuant to sections 301 and 304(b) of the Act, for the coal preparation plant and associated areas subcategory (Subpart B), the acid or ferruginous mine drainage subcategory (Subpart C) and the alkaline mine drainage subcategory (Subpart D) of the coal mining point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Coal Mining Point Source Category," May 1976, provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

APPENDIX B—TECHNICAL SUMMARY AND BASIS FOR REGULATIONS

This Appendix summarizes the basis of final effluent limitations guidelines for existing sources to be achieved by the application of best practicable control technology currently available.

(1) GENERAL METHODOLOGY

The effluent limitations guidelines set forth herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which is existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

(2) Summary of conclusions with respect to the coal preparation plants and associated areas (Subpart B), and the acid or ferruginous mine drainage subcategory (Subpart C) and the alkaline mine drainage subcategory, (Subpart D) of the coal mining point source category.

(i) *Categorization.* For the purpose of studying waste treatment and effluent limitations the coal mine point source category was initially subcategorized by the established Standard Industrial Classification (SIC) groups applicable to the coal mining industry. These SIC groups were then further subdivided by: geographic location of the mine, type of mine (surface or deep), and size of mine (annual tonnage); all based on anticipated variations in raw waste water. After statistical analysis of the data obtained during the study it was determined that based on waste treatment the coal mining point source category should be divided into three discrete subcategories based on the origin of the waste water, i.e., waste water from the mining activities and waste water from the coal preparation activities, or mining services activities. Waste water was further subdivided by the characteristics of the effluent (acid or alkaline).

(1) *Subpart B—Coal Preparation Plants and Associated Areas.* The provisions of this subpart are applicable to discharges from coal preparation plants and associated areas, including discharges which are pumped, siphoned or drained from coal storage, refuse storage and coal preparation plant ancillary areas related to the cleaning or beneficiation of coal of any rank including but not limited to bituminous, lignite and anthracite.

(2) *Subpart C—Acid or Ferruginous Mine Drainage.* The provisions of this subpart are applicable to acid or ferruginous mine drainage resulting from the mining of coal of any rank, including but not limited to bituminous, lignite, and anthracite.

(3) *Subpart D—Alkaline Mine Drainage.* The provisions of this subpart are applicable to alkaline mine drainage resulting from the mining of coal of any rank including but not limited to bituminous, lignite, and anthracite.

(ii) *Waste characteristics.* The raw waste characteristics of coal preparation plant process water (Subpart B) are highly dependent upon the particular process or recovery technique utilized in the operation. Process techniques generally require an alkaline media for efficient and economic operation; therefore process water does not dissolve significant quantities of the constituents present in the raw coal. The principal pollutant present in coal preparation plant process water is suspended solids. In preparation plants cleaning coal fines, process water contains less suspended solids than process water at coal preparation plants which do not clean or recover coal fines.

The raw waste characteristics of the waste water discharged from the actual coal mining activities themselves vary significantly. The chemical characteristics of raw mine drainage are determined by local and regional geology of the coal, associated overburden, and mine bottom. Raw mine drainage ranges from grossly polluted to drinking water quality. Major differences were observed between the two classes of raw mine drainage (1) acid or ferruginous, and (2) alkaline,

which are generally representative of geographic areas.

Acid or ferruginous mine drainage (Subpart C) can be characterized as raw mine drainage, requiring neutralization and sedimentation, which is acid with high iron concentrations and varying concentrations of other metal ions including aluminum, manganese, nickel, and zinc, plus varying concentrations of total suspended solids. Alkaline mine drainage (Subpart D) can be characterized as raw mine drainage of generally acceptable quality, not requiring neutralization, but possibly requiring sedimentation to reduce concentration of suspended solids.

Effluent limitations guidelines and standards of performance are established to control pollutant parameters which are chosen primarily on the following criteria: (1) Pollutants are frequently present in coal mine point source discharges in concentrations deleterious to aquatic organisms; (2) technology exists for the reduction or removal of the pollutants in question; and (3) research data indicate that certain concentrations of pollutants are capable of disrupting an aquatic ecosystem. The following were identified as the pollutants in coal mine drainage, and preparation plants and associated areas wastewater discharges; acidity, iron, manganese, aluminum, nickel, zinc, and suspended solids.

Several other waste water constituents were considered including: total dissolved solids, sulfates, fluorides, strontium, and ammonia. Effluent limitations have not been proposed for ammonia sulfates, fluoride, and strontium because best practicable control technology is not currently available for their removal. Total dissolved solids concentrations in coal mine discharges approach levels capable of disrupting an aquatic ecosystem, but economically feasible technology for achieving substantial reductions in dissolved solids levels does not exist at this time.

(iii) *Origin of waste water pollutants.* Coal preparation plants fall into three general stages, based on degree of cleaning and unit operations. Stage 1 consists of crushing and sizing which are basically dry processes and do not produce a waste water discharge. Stage 2 consists of primary crushing, sizing, gravity separation of coarse coal, dewatering of clean coal and refuse, and removal of coal and refuse fines from process waters. Stage 3 consists of crushing, sizing, gravity separation of all sizes, of coal, secondary separation of coal fines or froth flotation, dewatering of clean coal and refuse, heavy media recovery when required, thermal drying of clean coal, and removal of coal and refuse fines from process water. Stages 2 and 3 coal preparation plants use water in the beneficiation processes. Fine coal and mineral particles are suspended in the coal preparation plant process waters, and some minerals associated with the coal and its impurities are dissolved in the coal preparation plant's process water. Additional waste water of a non-contact nature may result from boiler blowdowns and non-contact cooling waters such as bearing cooling water.

The waste water situation evident in the mining segment of the coal industry is unlike that encountered in most other industries. Water enters mines via precipitation, ground water infiltration, and runoff where it may become polluted by contact with materials in the coal, overburden material, or mine bottom. Except for dust control and fire protection, water is not used in the actual mining of coal in the U.S. at the present time. Waste water handling and management is required, and is a part of most coal mining methods or systems to insure the continuance of the mining operation and to improve the efficiency of the mining operation. This waste water is discharged from the mine as mine drainage. Mine drainage may be polluted and require treatment before it can be discharged to navigable waters. In addition to handling and treating often massive volumes of waste water during actual mining operations or coal loading, coal mine operators are faced with the same burden during idle periods. Mine drainage may continue indefinitely after all mining operations have ceased if proper mining methods and control technology are not employed, or even increase in intensity after mine closure if proper mine drainage control technology is not employed. Control of mine drainage after mine closure or abandonment is not included in this final regulation although techniques are described in the Development Document, referenced below, which can control or ameliorate mine drainage after mine closure and all activities associated with the mine have ceased.

Water enters preparation plant associated areas such as coal storage and refuse storage, via precipitation, wash down, and runoff, where it comes into contact with coal or coal refuse. The wastewater discharges from coal preparation plants and associated areas contain pollutants similar to the pollutants discharged by the mine served by the preparation plant. As with the coal mining segment of the industry, waste water handling from coal preparation plants associated areas continues during idle periods; and may continue indefinitely from refuse storage after preparation plant closure if proper control technology is not employed, although these control technologies are not required as part of these final regulations.

The wastewaters from the actual mining and the coal preparation plants and associated areas of the coal mining industry are essentially unrelated to production quantities. Therefore, raw waste loadings are expressed in terms of concentration rather than units of production.

(iv) *Treatment and control technology.* Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is the best practicable control technology currently available. Although it is legally permissible to base effluent limitations on in-process changes, the technology used as the basis for this regulation is end-of-pipe treatment only.

Waste water control technology includes techniques employed before, during and after the actual mining operation to reduce or eliminate adverse environmental effects resulting from waste water discharges from coal mine point sources. Control technology as discussed in the Development Document, referenced below, has been categorized as to control technology related to surface mining, underground mining, and coal preparation.

Surface mine pollution control technology is divided into two major categories—mining technology (specific mining techniques) and final waste water pollution control technology (reclamation of land areas disturbed by mining). Although these surface mine pollution control technologies are addressed in the development document, referenced below, they are not included as part of this final regulation, but may be used to reduce the volume and expense of waste water treatment required during operations and reduce or eliminate adverse environmental effects after activities associated with the mine have ceased.

Underground mine pollution control technology is divided into methods of reducing water influx into mine workings, and preplanned flooding on mine closure. The reduction of water influx into underground mines can reduce the volume and expense of waste water treatment during operations, though it is not required by this final regulation. While it has been demonstrated that preplanned flooding on deep mine closure can reduce or control water pollution after mine closure it is not included as part of this final regulation.

Coal preparation pollution control technology is divided into surface water control and final waste water pollution control technology at preparation plant refuse disposal areas (reclamation). While reclamation of preparation plant refuse disposal areas has been demonstrated as control technology which ameliorates this aspect of pollution from mining, it is not required as part of this final regulation.

That water quality degradation may be caused by discharges from areas affected by mining during a time period which is not included under this regulation is recognized by the Agency. In many cases the pollution from these areas is more severe than that from the active area included in this regulation. The Agency is considering possible application of section 208 of the Act (Best Management Practices) which will address in detail control technologies to be used toward the amelioration of these aspects of coal mining related pollution and will be providing guidance to control this facet of the pollution problem. As noted in the preamble to the regulations promulgated today, EPA also is conducting an intensive analysis of data which may lead to extension of coverage of these regulations, or of new source performance standards.

Waste water treatment technology is categorized in the Development Document, referenced below, as to treatment technology for coal preparation plant process waste water and associated areas point source discharges and treatment technology for the two classes of mine drainage. Coal preparation plant process waste water treatment consists primarily of clarification techniques for suspended solids removal including thickeners, flocculation, settling basins, vacuum filtration, and pressure filtration.

Treatment technology for acid or ferruginous mine drainage includes flow equalization, acidity neutralization and precipitation of insoluble metal hydroxides, ferrous iron oxidation, and suspended solids removal. Surface holding ponds or underground sumps are employed to equalize the flow of mine drainage before treatment. Mineral acidity in the raw mine drainage is neutralized with an alkali, usually hydrated lime, which removes iron, manganese, and other soluble metals through the formation of their insoluble hydroxides. When iron is present in raw mine drainage in the ferrous form, usual practice is to provide aeration facilities for oxidation to the ferric state. Suspended solids are formed as a result of the chemical treatment. Both earthen settling basins and mechanical clarifiers are used for removal of suspended solids. It was observed that total iron is one of the most commonly analyzed constituents of acid or ferruginous mine drainage, and iron reduction is generally representative of the overall effectiveness of the neutralization process. It has been demonstrated that, with total iron removed to within 3.5 mg/l, total aluminum, total nickel, and total zinc are removed to within the limits suggested in the preamble to 40 CFR Part 434 (40 FR 48830). Therefore, total aluminum, total nickel, and total zinc are not included in the limitations guidelines of this regulation for acid or ferruginous mine drainage.

Treatment technology for alkaline mine drainage generally consists of solids removal in settling ponds. Some alkaline mine drainages may require no treatment to meet this regulation. It has been demonstrated that natural aeration in settling ponds can reduce total iron concentrations in alkaline mine

drainages from over 3 mg/l to less than 3 mg/l. Alkaline mine drainage was observed to have low concentrations of other metal ions. Therefore, the pollutant parameters included in the alkaline mine drainage subcategory of 40 CFR Part 434 (40 FR 48830) have been revised to include only total iron, total suspended solids and pH.

Solid waste control must be considered. Best practicable control technology as known today, requires disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to insure long-term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (e.g. impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(v) *Cost estimates for control of waste water pollutants.* The estimated capital investment required for coal mining facilities to meet effluent guidelines should be no more than 132 million dollars and on a per ton basis may cost up to 42 cents per ton of designed annual capacity for BPT depending on size, location and type of mine. Annual operating costs of effluent treatment facilities inclusive of capital charges are estimated to be less than 90 million dollars and may range up to 28 cents per ton for BPT. The estimated investment cost to meet BPT for coal preparation plants is 52.5 million dollars or approximately 41 cents per ton of annual design capacity. Annual costs of treatment inclusive of capital charges for the preparation plants and associated areas are estimated to be less than 7 cents per ton of prepared coal. The above estimates are based on the assumption that no treatment facilities are presently in place.

(vi) *Energy requirements and nonwater quality environmental impacts.* Energy requirements for compliance with these final and proposed effluent limitations guidelines are low. The main use of energy is for pumps, mixers, and control instruments. Wherever feasible, gravity flow is used in coal preparation plants and mine drainage treatment facilities. Mine dewatering is considered an inherent part of the mining method or system.

Inherent to coal preparation is the major problem of solid waste disposal which also can be a source of air pollution. The amount of additional waste and resultant air pollution produced as a result of these regulations is insignificant relative to that already present; consequently, a minimal impact is expected.

(vii) *Economic impact analysis.* These guidelines will require a total investment of no more than 132 million dollars for BPT. Annual costs are estimated to be less than 90 million dollars for BPT. Prices of raw coal are expected to rise between 0 and 28 cents per ton as a result of BPT. Prepared coal prices will increase no more than 7 cents in 1977. Prices will not rise immediately to cover compliance costs. In the interim net revenues are expected to be reduced by no more than 2.9 percent for coal mines and 5.7 percent for coal preparation plants and associated areas. These profitability decreases are not expected to result in closures of mines or preparation plants. Some closures of marginal establishments existing under unique circumstances may result from the guidelines.

The impact of these regulations on employment, local economies, industry growth and the balance of trade is not expected to be significant.

Executive Orders 11821 (November 27, 1974) and 11949 (December 31, 1976) require that major proposals for legislation and promulgation of regulations and rules by agencies of the executive branch be accompanied by a statement certifying that the economic impact of the proposal has been evaluated.

OMB Circular A-107 (January 28, 1975) prescribes guidelines for the identification and evaluation of major proposals requiring preparation of inflationary impact certifications. The Administrator has directed that all regulatory actions which are likely to result in annualized costs in excess of $100 million will require certification.

The economic impact of these regulations has been considered in accordance with Executive Orders 11821 and 11949. Projected effects of the regulations on prices and economics of the industry as summarized above have been reviewed by the Agency.

Appendix C—Summary of Public Participation

Prior to this publication, factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of interim final rule making for the coal mining point source category published October 17, 1975 (40 FR 48830) and interim final rulemaking published on May 13, 1976 (41 FR 19832), and in the notice of public review procedures published October 6, 1973 (38 FR 21202). In addition, each regulation as promulgated in interim final form was supported by two other documents: (1) the document entitled "Development Document for Interim Final Effluent Limitation Guidelines and New Source Performance Standards for the Coal Mining Point Source Category" and (2) the document entitled "Economic Impact of Interim Final Effluent Guidelines on the U.S. Coal Mining Industry." These documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of interim final rulemaking.

Prior to the publication of the notice of interim final rulemaking (40 FR 48830) a development document was distributed to federal agencies, all state and territorial pollution control agencies, industry trade associations and conservation organizations. Comments on that report were solicited. The major comments received and the Agency's response were described in the notice of interim final rulemaking (40 FR 48830).

Interested persons were again invited to participate in the rulemaking by submitting written comments following the publication of the promulgated interim final regulation (41 FR 19832).

Summary of Comments

The following responded to the request for written comments contained in the notice of interim final rulemaking: Reclamation & Engineering Services, Inc.; Old Ben Coal Company; Island Creek Coal Company; West Virginia—Citizen Action Group; Peabody Coal Company; The Pittston Coal Company; Bethlehem Steel Corporation; Kentucky Coal Association, Inc.; Consolidation Coal Company; Save Our Cumberland Mountains; National Coal Association; The Valley Camp Coal Company; American Electric Power Service Corporation; U.S. Environmental Protection Agency, Region VIII; U.S. Department of Interior.

Commenters suggested that the effluent limitations guidelines remain applicable to point sources in this category until (in the case of surface mines) release of the reclamation or revegetation bonds. Also, there was suggestion that, with respect to both surface and deep mines, regardless of the nature of activity on the mining property and whether or not performance bonds are involved, the effluent limitations guidelines be applicable as long as there is a point source pollution problem.

There is no question that pollution often continues to result from coal mines which have ceased active operation. Indeed, in some cases, when a mining area is no longer subject to regular supervision, the pollutants in the discharges may increase. However, EPA does not today extend coverage of these effluent limitations guidelines to include inactive areas or those areas undergoing revegetation or reclamation. This is not to say that point sources discharging pollutants may not be covered by NPDES permits; it means only that national effluent limitations guidelines do not apply. The Agency is conducting an intensive analysis of data with respect to water pollution created during the revegetation stages, and may in the future propose extension of coverage. With respect to closed mines and abandoned mining areas the Agency does not intend to issue effluent limitations guidelines because regulation of such point sources is not amenable to production oriented effluent limitations guidelines.

Several commenters request the basis and rationale for the following statement from the Federal Register, page 19837, first paragraph: "Effluent limitations have not been proposed for ammonia, sulfates, fluoride and strontium because the levels observed in coal mine wastewater discharges generally do not warrant concern."

The above statement, quoted from 40 FR 19837, may be misleading. Pollutant parameters such as ammonia, sulfates, fluoride and strontium do warrant concern but best practicable control technology is not currently available for the removal of these pollutants. Therefore, there is no way to require treatment for removal of these parameters with today's BPT regulations. These parameters shall be reconsidered during the BAT technical study.

A commenter states that the character of discharge waters and treatment technologies are affected by geologic, hydrologic and climatic factors so that mines operating in different geological areas will have different discharge water characteristics. The commenter suggests the establishment of limitations on a geographical basis.

The Agency considered the subcategorization of the coal mining category as described in the Development Document. In that study, it was determined that two distinct classes of raw mine drainage existed (Acid or Ferruginous and Alkaline). These two classes of wastewater are based on wastewater treatment technology required, but reflect regional and local geologic conditions. This industry categorization consists of two large regions. Region I, states or areas characterized by acid or ferruginous raw mine drainage, is comprised of Maryland, Pennsylvania, Ohio and northern West Virginia. Isolated mines or areas in Western Kentucky and along the Illinois-Indiana border also exhibit acid or ferruginous raw mine drainage. Region II includes all the remaining coal producing areas which exhibit predominantly alkaline raw mine drainage.

Statistical analysis of all raw mine drainage obtained during the field program substantiated the categorization based on the chemical characteristics of the raw mine drainage. Based on this information, it was

determined that there was no need for further industry categorization of the coal mining industry other than by raw mine drainage characteristics. However, as noted in the preamble, EPA is reviewing data with respect to Western coal mines to determine if a separate subcategory should be established for coal mines in that area.

Design criteria for treatment facilities (e.g., liners for settling basins) was requested by a commenter in order to avoid contamination of surface and ground water.

The function of these effluent limitations guidelines is not to present design criteria for equipment needed to comply with the regulation; however, background documents to these regulations and the substantial technical resources of EPA's Regional Offices may be consulted to obtain information on the proper construction of settling basins.

Commenters recommended promulgation of effluent limitations for known toxic substances under the authority of section 307(a) of the Federal Water Pollution Control Act (FWPCA).

The Agency has embarked on a major effort to identify toxic water pollutants in effluents resulting from coal mining operations, and to examine available pollution control technology which can substantially remove those pollutants. At the conclusion of those studies EPA may propose section 307(a) toxic water pollutant standards or may address the problems in the context of revised effluent limitations guidelines. Until it has data available to support section 307(a) standards, the Agency does not intend to act under that section.

A commenter suggests the exemption of BPT requirements for plants which do not have the required technology in place in time to meet the July 1, 1977 statutory compliance date.

This comment necessarily is limited to coal mining category point sources which do not have the final NPDES permits, because final NPDES permits are not affected by the promulgation of these effluent limitations guidelines. The ability of the Administrator to consider the physical difficulties of installing the equipment by July 1, 1977, necessary to meet these effluent limitations and guidelines, is limited. The factors set forth in section 304(b)(1)(B) of the Act do not include consideration of the time necessary for installation, and the legislative history of the relevant sections of the Act is likewise devoid of consideration of this factor. The reasonableness of the technology underlying BPT levels is inherently based on the possibility of installing the technology regardless of the proximity to the July 1, 1977 date. The contention that the statutory deadline should be dispositive in deriving these effluent limitations guidelines is particularly inappropriate in the coal mining industry because (1) the technology needed to meet the BPT levels is not sophisticated and is widely practiced; (2) the BPT levels and underlying technology were presented to the industry well over two years prior to the date of this publication; and (3) even if a facility must initiate implementation of BPT technology, the time needed to bring about full compliance is relatively short. The Agency has announced an enforcement policy which applies to dischargers who do not have final NPDES permits. This policy allows the use of a compliance schedule which requires the attainment of BPT levels at some point beyond July 1, 1977, when there hs been good faith efforts to meet the July 1, 1977, date and when there have been delays in the issuance or resolution of NPDES permits. A more thorough explication of this policy appears in "Environment Reporter," Number 6, June 11, 1976, "Current Developments" at 241–246.

Commenters request the inclusion of railroads and the area surrounding the mine portal as part of the definition of an active mine area.

The terms "active mining area", "coal mine" and "coal preparation plant associated areas" are defined in § 434.11 clearly to include point source discharges resulting from the area near the mine portal.

A commenter recommended changing the term quantity to concentration. This would be a more accurate representation and avoid confusion, as limitations are expressed as milligrams per liter.

The appropriate changes are reflected in today's publication.

Commenters state that data from the Draft Development Document indicates some alkaline mine drainage may contain manganese and dissolved iron in quantities above those limitations established for acid drainage. Limitations for these two parameters are requested.

Manganese is not found to be a significant problem in alkaline mine drainage. Manganese removal is obtained at the higher pH levels found in alkaline drainage, by the manganese being precipitated out of solution. Thus, it was concluded that separate limitations for manganese are unnecessary. Limitations for dissolved iron are being deleted from these regulations for reasons explained in the preamble.

Commenters believed that the cost of compliance estimations are incorrect due to their being based on analytical techniques, used to develop base line regulatory data, which are improper. A commenter adds that samples analyzed for the EPA regulations, were not digested by the procedure required by law.

The analytical methods used by the contractor in analyzing waste water samples obtained during the study were those as specified in the FEDERAL REGISTER, Part 136, dated October 16, 1973. This regulation provides a number of equivalent methods to be used in the analysis of waste water and under the parameters for iron and manganese, there is the availability of both colorimetric as well as instrumental methods for measurement. The contractor's choice of method was the use of atomic absorption spectral chromatography. Under the prescribed procedure the analyst has a number of choices which he may make according to the sample characteristic and type choices as to the need for either hard or soft digestion as well as the option for the direct aspiration of samples for determination. Therefore, the analyst has the option based on the individual sample type and character to make these determinations during his analytical work up. All measurements made during this contract were as those specified in the FEDERAL REGISTER and are in compliance with the Agency's accepted analytical procedures.

Commenters state that they may be unable to meet effluent limitations guidelines for total suspended solids (TSS). The claim made is that lime neutralization for acid mine drainage produces a calcium sulfate precipitate, which will increase the TSS during monitoring. Commenters recommend postponing a TSS standard until further EPA and ERDA studies are completed. Another position on the issue of TSS limits is that in certain areas the suggested limit is unattainable since high suspended solid loads already exist in streams.

However, one commenter asserts that the TSS limitations are too lenient, since permit data from the Regions indicates present compliance for several companies under more stringent TSS limits.

Lime neutralization may increase the amount of total suspended solids in acid mine drainage. It is for this purpose that clarifiers are used as part of the treatment technology. Technical studies have demonstrated that the limitations for TSS can be met on a routine basis as substantiated by the data base for this regulation. In such cases where it can be shown that high suspended solid loads already exist in the intake stream of a plant, then the permit writer may adjust the limitations, for a discharge to the same stream.

Several commenters stated that Subpart B, Coal Storage Refuse Storage and Coal Preparation Plant Ancillary Area, is a non-point source discharge and should not be subject to effluent limitations guidelines.

These regulations apply only to point source discharges. If a pollution source is truly a non-point discharge, then it is not subject to these effluent limitations guidelines. But EPA's study of this industry indicates that most water pollution from coal storage, refuse storage and other areas around coal preparation plants is released through definite point sources.

A commenter asked for the addition of zinc limitation to the regulations, because zinc may not precipitate until pH 7.0 is reached and the regulations only require acid drainage to be neutralized to pH 6.0, so that zinc will not necessarily be removed. Another commenter suggests monitoring for nickel, zinc and aluminum, since these are not always reduced to tolerable levels when total iron is reduced to 3.5 mg/l.

Effective removals of aluminum, nickel and zinc were observed at all plants in the technical study. There were no observed values which exceeded the proposed daily maximum concentrations for nickel and zinc at any of the plants and at only one plant did aluminum values exceed the daily maximum limit. Consequently, it is concluded that well operated treatment plants have little problem in removal of these parameters. For the acid or ferruginous mine drainage subcategory, total aluminum, total zinc and total nickel are not listed as pollutant parameters because it has been demonstrated that with total iron removed to within 3.5 mg/l, total aluminum, total zinc and total nickel are removed to within the limits suggested in the preamble to the October 17, 1975 publication (40 FR 48830). The technical study being conducted for the BAT review will consider additional parameters for regulation.

A commenter recommends that a comprehensive study to determine stream conditions prior to mining be conducted before final standards are published.

Effluent limitations guidelines are based on treatment technology. Prior conditions have little effect on technology evaluation.

One commenter questioned whether EPA had fulfilled the requirements of Executive Order 11821 for inflationary impact statements.

An economic impact report entitled "Economic Impact of Interim Final and Proposed Effluent Guidelines, Coal Mining" was prepared in support of the regulations. The impact analysis performed examined costs of compliance, both capital and annual cost, the incidence of these costs, price effects, production effects, effects upon industry profitability, regional impacts, balance of payment effects, and employment effects.

The economic impacts were summarized in the preface to the regulations and in Appendix B—Technical Summary and Basis for Regulations under part (VII) Economic Impact Analysis. The impact analysis performed was in accordance with circular A–107 and the inflationary impact of these regulations was considered in accordance with Executive Order 11821.

One commenter questioned whether treatment costs per mine and total treatment

costs may have been understated. Using BPT capital costs per mine and preparation plant for the model large deep mine in the northern Appalachian region the commenter computed a compliance cost for this area of between $111 million and $375 million, with the majority of the broad range reflecting costs for closing the circuit for preparation plant water networks.

EPA attempted to prepare a worst case analysis for assessing the cost and economic impact of its regulations. EPA's estimates of the costs were developed by assuming that no treatment facilities were already in place even though it is known that most of the industry does treat effluents in order to comply with State and local requirements. Thus it is likely that individual mines will sustain a lower cost than predicted in the analysis.

EPA's estimates for mining compliance costs for a region are based upon a model plant approach. This approach can be illustrated by using the example of large deep mines in the Northern Appalachian region. The model plant produces approximately 1 million tons per year. The compliance cost for this mine (rounded to $400,000) is divided by the output to obtain the cost ($.40) per ton. Multiplying this figure by the tonnage produced by large deep mines in this region (147.9 million in 1973) gives a compliance cost for the region of less than $60 million.

EPA's estimates of coal preparation plant costs were similarly computed. Costs per ton were multiplied by the production of plants requiring closure of the water circuit to obtain compliance costs for the nation ($52.5 million). NOTE.—Northern Appalachia accounts for approximately 54 percent of the Nation's production of cleaned coal so preparation plant costs for this region could be expected to be much less than $52.5 million.

The commenter's approach to computing total cost for a region (multiplying the number of model plants in a region by the cost per model plant) can produce biased results. If, for example, one attempts to estimate the production for large deep mines in the Northern Appalachian region using the commenter's method, one would multiply 225 by the output of the model plant (1 million tons per year). This yields an estimated production of 225 million tons, an estimate over 50% higher than the actual production of 147.9 million tons in 1973.

Total compliance cost estimate using the commenter's methodology would show biases similar to those shown in production and plant statistics. It is because of this possibility of introducing biases into its analysis that the Agency did not use the commenter's approach in computing compliance costs but instead used its methodology.

One commenter questioned whether EPA's costs for treating surface drainage had underestimated the number of ponds and the area drained by these ponds. The commenter cited terrain and natural drainage as factors which can influence the number of ponds.

In computing compliance costs for surface mining operations, EPA used a model plant approach and assumed that no treatment is already in place. Treatment facilities were sized to accommodate drainage from the active mining area. It is assumed that mine operators will quickly return the land to final contour for reclamation at which time the area is no longer part of the active mining area. This prompt return to final grade represents both good mining practice and a way for the operator to minimize his costs of complying with the regulation.

EPA assumed that a new treatment pond for the active mining area would be built every six months, i.e. that the active mining area would be returned to final contour within this period. The active mining area was computed as the land area needed to extract the tonnage for the model plant, and based upon a given seam thickness (e.g. 60 inches) and recovery factor (e.g. 90 percent). The size of active mining area to be drained determines the size of the treatment facilities for the model plant.

Mine operators frequently make use of the fact that terrain can affect treatment costs. For example natural depressions in the ground may be used for treatment facilities. However, in estimating its costs for the treatment facilities EPA assumed the construction of a four-sided pond so that actual pond costs may be less than those estimated.

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TUESDAY, APRIL 26, 1977

PART IV

OFFICE OF MANAGEMENT AND BUDGET

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GRANTS AND CONTRACTS WITH CERTAIN NONPROFIT ORGANIZATIONS

Principles for Determining Cost

OFFICE OF MANAGEMENT AND BUDGET

GRANTS AND CONTRACTS WITH CERTAIN NONPROFIT ORGANIZATIONS

Principles for Determining Cost

This notice offers interested parties an opportunity to comment on a proposed Circular concerning principles for determining cost for grants and contracts with certain nonprofit organizations.

The proposed Circular is the product of an interagency study group under the leadership of the Federal Procurement Regulations staff of the General Services Administration. Its purpose is to provide one standard set of cost principles in place of existing principles issued by individual agencies which contain varying or conflicting requirements.

The Office of Management and Budget has, as yet, made no decisions with respect to the proposed principles. All interested parties are encouraged to make their views known. Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received on or before June 15, 1977.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

DRAFT

[Circular No. A--]

MAY , 1977.

To the heads of executive departments and establishments. Subject: Principles for determining cost for grants and contracts with certain nonprofit organizations.

1. *Purpose.*—This Circular provides principles for determining the cost applicable to work performed by nonprofit organizations other than educational institutions, hospitals, and State, local and Indian tribal governments under contracts and grants (including other agreements). The principles are designed to provide that the Federal Government bears its fair share of costs recognized under these principles, except where restricted or prohibited by law. The principles do not attempt to prescribe the percentage of Federal cost sharing or matching on contracts or grants. However, when such percentages are used, they shall be applied to the total cost of the project and arbitrary limitations shall not be placed on individual cost elements by Federal agencies. Any provision for profit or other increment above cost is outside the scope of this Circular.

2. *Application.*—These principles shall be used by all Federal agencies in determining the allowable costs of work performed by nonprofit organizations under grants, cost-reimbursement type contracts, and other contracts in which costs are used in the pricing, administration, or settlement of the contracts. The principles do not apply to construction, facility improvement, or equipment acquisition awards.

All cost reimbursement subawards, i.e., subgrants, subcontracts, etc., made under a grant or cost-reimbursement type contract and fixed price subawards in which costs are used in the pricing, administration or settlement of the awards are subject to those Federal cost principles appropriate to the subawardee organization and the type of award involved. Thus, if a subgrant or subcontract is with a nonprofit organization other than an educational institution, hospital, or State, local or Indian tribal governmental unit this Circular would apply; if a subcontract is with a commercial organization the commercial Contract Cost Principles and Procedures would apply; if a subgrant or subcontract is with an educational institution the cost principles for Grants and Contracts with Educational Institutions would apply; if a subgrant or subcontract is with a State or local government the cost principles for Grants and Contracts with State and local governments would apply.

3. *Policy.*—The uniform policies and standards included in the Attachments to this Circular replace the varying and sometime conflicting requirements that have been imposed by Federal agencies as conditions of grants and contracts.

The successful application of these principles requires development of mutual understanding between representatives of nonprofit organizations and of the Federal Government as to their scope, implementation, and interpretation. Each organization should be expected to employ sound management practices in the fulfillment of its obligations. Each organization possessing its own unique combination of staff, facilities, and experience should conduct its activities in a manner consonant with its own philosophies and objectives. Costs assigned to contracts and grants must be adequately documented.

4. *Definitions.*—(a) *Grant* means money or property provided in lieu of money paid or furnished by the Federal Government to recipients under programs that provide financial assistance or that provide support or stimulation to accomplish a public purpose. The term "grant" includes the term "other agreements" insofar as the term grant is used in the circular. The term "other agreement" does not include contracts which are required to be entered into and administered under procurement law and regulations. Grants and other agreements exclude (a) technical assistance programs, which provide services instead of money; (b) assistance in the form of general revenue sharing, loans, loan guarantees, or insurance and direct payments of any kind to individuals.

(b) *Non Profit Organization* is any corporation, trust, association, cooperative, or other organization which (1) is operated primarily for scientific, education, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term "nonprofit organization" excludes (i) educational institutions, (ii) hospitals, and (iii) State, local, and Indian tribal governments, (iv) those nonprofit organizations described in paragraph 5 below.

The charter or other legally binding authority for the existence of the organization must provide that (1) no part of the net earnings, properties, or other assets of the organization, on dissolution or otherwise, shall inure to the benefit of any private person, or individual including any member, employee, director, or trustee of the organization; and (2) on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation, or other organization formed and operated as a nonprofit organization or institution as the Board of Directors or Trustees may determine. Organizations which have tax exemptions as nonprofit organizations from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition. For purposes of this subpart, the terms nonprofit and not-for-profit as they are descriptively applied to organizations shall be considered synonymous provided the requirements of (a) and (b) of this paragraph are met.

5. *Exclusion of Some Non Profit Organizations.*—(a) Some nonprofit organizations (other than colleges and universities, State, local and Indian tribal governments, and hospitals) because of their size or scope of operations can be considered to be similar to commercial concerns for purposes of applicability of cost principles. Such nonprofit organizations may propose to operate under the cost principles and procedures applicable to commercial concerns. Whether or not proposed by the organization, the Office of Management and Budget will determine when such a nonprofit organization shall operate under the commercial cost principles. After determination is made that an organization shall operate under commercial cost principles it shall apply to all Government contracts and grants entered into by the organization on or after effective date of applicability to the organization.

(b) Aspects that will be considered before a determination that an organization shall operate under the commercial cost principles are:

(1) The organization proposes that it operate under the Commercial Cost Principles and Procedures.

(2) The organization historically has operated under or has utilized the commercial cost principles for the preponderance of its Government work.

(3) The organization competes to a significant extent for business that often is awarded to commercial concerns; i.e.; the nonprofit organization submits pro-

posals for contracts or applications for grants contending for the same Federal program support.

(4) The organization seeks and is awarded a fee (allowance over allowable costs) in most contract proposals, even though no part of its net earnings inures, or may lawfully inure, to any private shareholder or individual(s).

(5) The organization incurred costs for the performance of Government contracts, subcontracts, or grants in excess of $5 million in any one of its three preceding fiscal years.

(6) The organization is exclusively or substantially funded by the Federal Government, usually from an agency which has a special continuing or interdependent relationship and the agency considers commercial concern cost principles and procedures to be appropriate.

6. *Policies and Standards.*—The policies and standards promulgated by this Circular are set forth in the Attachments which are: Attachment A Principles for Determining Cost. Attachment B Standards for Selected Items of Cost.

7. *Responsibilities.*—Agencies responsible for administering programs that involve grants and contracts with the nonprofit organizations covered by this Circular shall issue the appropriate instructions necessary to implement the provisions of this Circular. Upon request all instructions implementing this Circular shall be furnished to the Office of Management and Budget. Agencies shall also designate an official to serve as the agency representative on matters relating to the implementation of this Circular. The name and title of such representative shall be furnished to the Office of Management and Budget not later than 1977.

8. *Inquiries.*—Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone 395-4773.

9. *Effective Date.*—The principles and standards in the attachments to this Circular will be applied as soon as practicable but not later than six months after the effective date of this Circular.

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ATTACHMENT A—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH OTHER NONPROFIT ORGANIZATIONS

A. *Basic Guidelines.*

1. *General criteria for the allowability of costs.*

To be allowable under a contract or grant, costs must meet the following general criteria:

(a) Be necessary and reasonable for the performance of the contract or grant and be allocable thereto under these principles;

(b) Conform to any limitations or exclusions set forth in these principles and procedures, applicable Federal laws, or other governing limitations as to types or amounts of cost items;

(c) Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the organization;

(d) Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances; and

(e) Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

2. *Reasonable costs.*—A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from contracts or grants awarded by Federal agencies. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the grant/contract;

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and grant/contract terms and conditions;

(c) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, and clients, the public at large, and the Government; and

(d) Significant deviations from the established practices of the organization which may unjustifiably increase the grant/contract costs.

3. *Allocable costs.*—(a) A cost is allocable to a particular cost objective, such as a grant/contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Government grant/contract if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(1) Is incurred specifically for the grant/contract;

(2) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

(b) Any cost allocable to a particular grant, contract, or other cost objective under these principles may not be shifted to other Federal grants or contracts to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the contract/grant.

4. *Advance understandings.*—Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit organizations which are diverse in nature or which receive a preponderance of their support from grants or contracts awarded by Federal agencies. In order to avoid a possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that organizations entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine.

5. *Applicable credits.*—(a) The term applicable credits refers to those receipt types or reduction of expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

(b) In some instances, the amounts received from the Federal Government to finance organizational activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the organization in determining the rates or amounts to be charged to Federal contracts or grants for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds.

B. *Composition of Total Cost.*—The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits.

C. *Direct Cost.*—1. A direct cost is any cost which can be identified specifically with a particular final cost objective; i.e., a particular grant or contract, project, service, or other direct activity of an organization. However, a cost may not be assigned to a grant or contract as a direct cost if any other cost incurred for the same purpose, in like circumstances, has

been allocated to a grant or contract as an indirect cost. Costs identified specifically with the grant or contract are direct costs of the grant or contract and are to be assigned directly thereto. Costs identified specifically with other final cost objectives of the organization are direct costs of those cost objectives and are not to be assigned to the grant/contract directly or indirectly.

2. Any direct cost of a minor dollar amount may be treated as an indirect cost for reasons of practicality where the accounting treatment for such cost is consistently applied to all final cost objectives.

(3) The costs of certain activities are not allowable as charges to Federal grants or contracts (see, for example, fund raising costs in para 21.) However, even though these costs are designated as unallowable for purposes of computing charges to grants and contracts, they nonetheless must be treated as direct costs and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs. In addition, the costs of following activities, when normal or necessary to the organization's mission, must also be treated as direct costs and be allocated their share of indirect costs if they meet the criteria stated in the previous sentence:

(a) Maintenance of membership rolls, subscriptions, publications, and related functions;

(b) Providing services and information to members, legislative or administrative bodies, or the public;

(c) Promotion, lobbying, and other forms of public relations;

(d) Meetings and conferences except those held to conduct the general administration of the organization;

(e) Maintenance, protection, and investment of special funds not used in operation of organizations;

(f) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.

(g) Other activities performed primarily as a service to members, clients, or the public.

D. *Indirect costs.*—1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Any direct cost of minor dollar amount may be treated as an indirect cost under the conditions described in C2. After direct costs have been determined and assigned directly to grants/contracts or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to a grant or contract as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a grant or contract as a direct cost.

2. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of costs which may be classified as indirect costs in all situations. However, typical examples of indirect costs for many nonprofit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

E. *Allocation of indirect costs and determination of indirect cost rates*

1. *General.*—(a) Where a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures.

(b) Where an organization has several major functions which benefit from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefiting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual grants, contracts, and other activities included in that function by means of an indirect cost rate(s).

(c) The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amount of effort it devotes to such activities as fund raising, public information and membership activities.

(d) Specific methods for allocating indirect costs and computing direct costs rates along with the conditions under which each method should be used are described below.

(e) The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year, but in any event, shall be so selected as to avoid inequities in the allocation of the costs.

2. *Simplified allocation method.*—(a) Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) segregating the organization's total costs for the base period as either direct or indirect, and (ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual grants and contracts. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where an organization has only one major function encompassing a numbeer of individual projects or activities, and may be used where the level of Federally supported work at an organization is relatively small.

(b) Both the direct costs and the indirect costs shall exclude capital expenditures and other unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described in C3 above.

(c) The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as major subcontracts or subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall also include the value of donated services under the conditions described in item 10. of Attachment B. The distribution base shall generally exclude participant support costs as defined in item 3 of Attachment B.

(d) Except where a special rate(s) is required in accordance with paragraph E5 below, the indirect cost rate developed under the above procedures is applicable to all grants and contracts at the organization. If a special rate(s) is required, appropriate modifications to the procedures shall be made in order to develop the special rate(s).

3. *Multiple allocation base method.*—(a) Where an organization's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefiting functions by means of a base which best measures the relative benefits.

(b) The groupings shall be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less precise methods.

(c) Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefiting functions. When an allocation can be made by assignment of a cost grouping directly to the area benefited, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Government and the organization. In general, any cost element or cost related factor associated with the organization's work is potentially adaptable for use as an allocation base provided (i) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages,

man-hours applied, square feet used, hours of usage, number of documents processed, population served, and the like) and (ii) it is common to the benefiting functions during the base period.

(d) Except where a special indirect cost rate(s) is required in accordance with paragraph E5 below, the separate groupings of indirect costs allocated to each major function shall be aggregated and treated as a common pool for that function. The costs in the common pool shall then be distributed to individual grants and contracts included in that function by use of a single indirect cost rate.

(e) The distribution base used in computing the indirect cost rate for each function may be total direct costs (excluding capital expenditures and other distorting items such as major subcontracts and subgrants), direct salaries and wages, or other base which results in an equitable distribution. The distribution base shall also include the value of donated services under the conditions described in item 10 of Attachment B. The distribution base shall generally exclude participant support costs as defined in item 31, Attachment B. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the distribution base identified with that pool.

4. *Direct allocation method.*—(a) Some nonprofit organizations, e.g., voluntary health and welfare organizations, treat all costs as direct costs except general administration and general expenses. These organizations generally segregate their costs into three basic categories: (i) general administration and general expenses, (ii) fund raising, and (iii) other direct functions (including projects performed under grants and contracts). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct costs to each category and to each grant, contract, or other activity using a base most appropriate to the particular cost being prorated.

(b) This method is acceptable provided each joint cost is prorated using a base which accurately measures the benefits provided to each grant/contract or other activity. The bases must be established in accordance with reasonable criteria, and supported by current data. This method should be used by organizations that use the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations.

(c) Under this method, indirect costs consist exclusively of general administration and general expenses. In all other respects, the organization's indirect cost rates shall be computed in the same manner as that described in paragraph E2.

5. *Special indirect cost rates.*—In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those different factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single grant or contract or it may consist of work under a group of grants or contracts performed in a common environment. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. When a particular segment of work is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used provided it is determined that (1) the rate differs significantly from that which would have been obtained under E2, 3, and 4, and (2) the volume of work to which the rate would apply is material.

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ATTACHMENT B STANDARDS FOR SELECTED ITEMS OF COST

A. *Purpose and Applicability.*—Sections 1 through 51 provide standards to to be applied in establishing the allowability of certain items of cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern.

1. *Advertising costs.*—(a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel when considered in conjunction with all other recruitment costs, as set forth in para. 41; (2) the procurement of goods and services for the performance of the grant/contract; or (3) the disposal of scrap or surplus materials acquired in the performance of the grant/contract.

(c) Advertising costs other than those specified above are not allowable.

2. *Bad debts.*—Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Bid and proposal costs.*—(Reserved.)

4. *Bonding costs.*—(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Compensation for personal services.*—(a) *Definition.*—Compensation for personal services includes all remuneration paid currently or accrued by the organization for services of employees rendered during the period of grant/contract performance (except as otherwise provided in paragraph (h) below). It includes, but is not limited to, salaries, wages, directors' and executive committee members' fees, incentive awards, fringe benefits, pension plan costs, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differentials.

(b) *Allowability.*—Except as otherwise specifically provided in this paragraph the costs of such remuneration are allowable to the extent that:

(1) Total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the organization consistently applied to both Government and non-Government activities; and provided that

(2) The charges for work performed directly under Government grants/contracts and for other work allocable as indirect costs under such grants/contracts are determined and supported as hereinafter provided in this paragraph.

(c) *Reasonableness.*—(1) When the organization is predominantly engaged in activities other than those sponsored by the Government, compensation for employees on Government sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the organization's other activities.

(2) When the organization is predominantly engaged in Government activities, and in cases where the kind of employees required for the Government activities are not found in the organization's other activities, compensation for employees on Government work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the organization competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.*—In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.*—Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to members, trustees, directors, associates, officers, or members of the immediate families thereof. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an organization's compensation policy resulting in a substantial increase in the organization's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other activities of the organization or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The organization's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) *Unallowable costs.*—Costs which are unallowable under other paragraphs of this Attachment shall not be allowable under this paragraph solely on the basis that they constitute personal compensation.

(g) *Fringe benefits.*—(1) Fringe benefits in the form or regular compensation paid to employees during periods of authorized absences from the job, such as annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.

(2) Fringe benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, pension plan costs see paragraph (h) below), and the like, are allowable provided such benefits are granted in accordance with established organization policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular grants or contracts and other activities in a manner consistent with the pattern of benefits accruing to the individuals or group of employees whose salaries and wages are chargeable to such grants or contracts and other activities.

(h) *Pension plan costs.*—(1) Costs of the organization's pension plan which are incurred in accordance with the established policies of the organization are allowable, provided:

(i) Such policies meet the test of reasonableness;

(ii) The methods of cost allocation are not discriminatory;

(iii) The amount assigned to each fiscal period is determined in accordance with generally accepted accounting principles as prescribed in Accounting Principles Board Opinion No. 8 issued by the American Institute of Certified Public Accounts; and

(iv) The costs assigned to a given fiscal period are funded within six months after the end of that period.

(2) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406) are allowable. Late payment charges on such premiums are unallowable.

(3) Excise taxes on accumulated funding deficiencies and prohibited transactions of pension plan fiduciaries imposed under the Employee Retirement Income Security Act are unallowable.

(i) *Incentive compensation.*—Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.

(j) *Severance pay.*—See para. 45.

(k) *Training and education expenses.*—See para. 49.

(l) *Support of salaries and wages.*—(1) Charges to grants and contracts for salaries and wages, whether treated as direct costs or allocated as indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to grants and contracts must be supported by time or effort distribution reports as prescribed in subparagraph (2) below.

(2) Reports reflecting the distribution of the time or effort of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to grants or contracts. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose effort is expended on two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by nonprofit organizations to satisfy these requirements must meet the following standards:

(i) The reports must reflect an after-the-fact determination of the actual time or effort expended by each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to grants or contracts.

(ii) Each report must account for the total effort for which the employee is compensated and which is required in fulfillment of his obligations to the organization.

(iii) The reports must include a certification signed by the individual employee, or by a responsible supervisory official having first-hand knowledge of the activities performed by the employee, that the distribution of time or effort represents a reasonable estimate of the

actual work performed by the employee during the periods covered by the reports.

(iv) The reports must be prepared at least monthly and must coincide with one or more pay periods.

(3) Charges for the salaries and wages of nonprofessional employees, in addition to the supporting documentation described in subparagraphs (1) and (2) above, must also be supported by records indicating the total number of hours worked each day maintained in conformance with Department of Labor regulations implementing the Fair Labor Standards Act (29 CFR Part 516). For this purpose, the term "nonprofessional employee" shall have the same meaning as "nonexempt employee," under the Fair Labor Standards Act.

(4) Salaries and wages used in meeting cost sharing or matching requirements on grants and contracts must be supported in the same manner as salaries and wages claimed for reimbursement from sponsoring agencies.

6. *Contingencies.*—Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

7. *Contributions.* — Contributions and donations by the organization to others are unallowable.

8. *Depreciation and use allowances.*—(a) Compensation for the use of buildings, other capital improvements, and equipment on hand may be made through use allowances or depreciation. However, except as provided in paragraph (g) below a combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.).

(b) The computation of use allowances or depreciation shall be based on the acquisition cost of the assets involved. The acquisition cost of an asset donated to the organization by a third party shall be its fair market value at the time of the donation.

(c) The computation of use allowances or depreciation will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides; and

(3) Any portion of the cost of buildings and equipment contributed by or for the organization in satisfaction of any Federal cost sharing or matching requirement subsequent to the effective date of this Circular.

(d) Where the use allowance method is followed, the use allowance for buildings and improvements (including land improvements such as paved parking areas, fences, and sidewalks) will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost.

(e) Where the depreciation method is followed, the period of useful service (useful life) established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular program area, and the renewal and replacement policies followed for the individual items or classes of assets involved. The method of depreciation used to assign the cost of an asset (or group of assets) to accounting periods shall reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions of its useful life than in the later portions, the straight-line method shall be presumed to be the appropriate method. Depreciation methods once used shall not be changed unless approved in advance by the cognizant Federal agency. When the depreciation method is introduced for application to assets previously subject to a use allowance, the combination of use allowances and depreciation applicable to such assets must not exceed the total acquisition cost of the assets. Gains and losses on the disposition of depreciable property shall be included as credits or charges to appropriate cost groupings in accordance with paragraph 17(b).

(f) When the depreciation method is used for buildings, a building's shell may be segregated from each building component (e.g., plumbing system, heating and air conditioning system, etc.) and each item depreciated over its estimated useful life; or the entire building (i.e., the shell and all components) may be treated as a single asset and depreciated over a single useful life. When the use allowance method is used for buildings, the entire building must be treated as a single asset; the building's components cannot be segregated from the building's shell. The two percent building use allowance limitation must be applied to all parts of the building. The two percent limitation, however, need not be applied to equipment which is merely attached or fastened to the building but not permanently fixed to it and which is used as furnishings or decorations or for specialized purposes (e.g., dentist chairs and dental treatment units, counters, laboratory benches bolted to the floor, dishwashers, carpeting, etc.). Such equipment will be considered as not being permanently fixed to the building if it can be removed without the need for costly or extensive alterations or repairs to the building to make the space usablee for other purposes. Equipment that meets these criteria will be subject to the six and two-thirds percent equipment use allowance limitation.

(g) When the depreciation method is used for a particular class of assets, no depreciation may be allowed on any such assets that, under paragraph (e) above, would be viewed as fully depreciated. However, a reasonable use allowance may be negotiated for such assets if warranted after taking into consideration the amount of depreciation previously charged to the Government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the asset for the purpose contemplated.

(h) Charges for use allowances or depreciation must be supported by adequate property records and periodic inventories must be taken (a statistical sampling basis is acceptable) to ensure that the records are accurate. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained.

9. *Donated capital assets.*—See paragraph 8.

10. *Donated services received.*—(a) Donated or volunteer services may be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost.

(b) The value of donated services utilized in the performance of a direct cost activity shall be considered in the determination of the organization's indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) There is a basis for determining the fair market value of the services rendered;

(2) The aggregate value of the services is material; and

(3) The services are supported by the indirect costs incurred by the organization.

(c) The value of donated services may be used to meet cost sharing or matching requirements under the conditions described in Attachment E, Office of Management and Budget Circular No. A-110 (41 FR 32017, July 30, 1976). Where donated services are treated as indirect costs, indirect cost rates will segregate the value of the donations so that reimbursement will not be made.

(d) Fair market value of donated services shall be computed as follows:

(1) *Rates for volunteer services.*—Rates for volunteers shall be consistent with those regular rates paid for similar work in other activities of the organization. In cases where the kinds of skills involved are not found in the other activities of the organization, the rates used shall be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

(2) *Services donated by other organizations.*—When an employer donates the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and indirect costs) provided the services are in the same skill for which the employee is normally paid. If the services are not in the same skill for

which the employee is normally paid, fair market value shall be computed in accordance with subparagraph (1) above.

11. *Donated goods and space.*—(a) Donated goods; i.e., expendable personal property/supplies, and donated use of space may be furnished to an organization. The value of the goods and space is not reimbursable either as a direct or indirect cost.

(b) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in Attachment E, Office of Management and Budget Circular No. A-110 (41 F.R. 32017, July 30, 1976). The value of the donations shall be determined in accordance with Attachment E. Where donations are treated as indirect costs, indirect cost rates will segregate the value of the donations so that reimbursement will not be made.

12. *Employee morale, health, and welfare costs credits.*—The costs of house publications, health or first-aid clinics, and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the organization's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the organization. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

13. *Entertaining costs.* — Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see paragraphs 12 and 27).

14. *Equipment and other capital expenditures.*—(a) For purposes of paragraph (b) of this paragraph, the following terms have the meanings set forth below:

(1) "Equipment" means an article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. An organization may use its own definition provided that it at least includes all nonexpendable tangible personal property at defined herein.

(2) "Acquisition cost" means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective intransit insurance, freight, and installation shall be include din or excluded from acquisition cost in accordance with the organization's regular accounting practices.

(3) "Special purpose equipment" means equipment which is usable only for research, medical, scientific, or technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

(4) "General purpose equipment" means equipment which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make the msuitable for a particular purpose. Examples of general purpose equipment include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment.

(b) (1) Capital expenditures for general purpose equipment are unallowable except where such expenditures are specifically approved by the awarding agency as a direct cost.

(2) Capital expenditures for special purpose equipment are allowable as direct costs provided that the acquisition of items with a unit cost of $1,000 or more is approved by the awarding agency.

(c) Capital expenditures for land or buildings are unallowable except where such costs are specifically approved by the awarding agency as a direct cost.

(d) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable except where such costs are specifically approved by the awarding agency as a direct cost.

(e) Equipment and other capital expenditures are unallowable as indirect costs. However, see paragraph 8 for allowability of use allowances or depreciation on buildings, capital improvements, and equipment. Also, see paragraph 43 for allowability of rental costs for land, buildings, and equipment.

15. *Fines and penalties.*—Costs of fines and penalties resulting from violations of, or failure of the organization to comply with Federal, State, and local laws and regulations are unallowable except when incurred as result of compliance with specific provisions of the grant or contract or instructions in writing from the sponsoring agency.

16. *Fringe benefits.*—See paragraph 5(g).

17. *Gains and losses on disposition of depreciable property or other capital assets.*—(a) Except with respect to gains and losses from the sale, retirement, or other disposition of depreciable property which is covered in paragraph (b) of this paragraph, gains or losses of any nature arising from the sale or exchange of facilities, equipment, or other capital assets, including sale or exchange of either short or long-term investments, shall be excluded in computing contract or grant costs.

(b) (1) Gains and losses on the sale, retirement, or other disposition of depreciable property shall be included in the year in which they occur as credits or charges to the cost grouping(s) in which the depreciation applicable to such property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate cost grouping(s) shall be the difference between the amount realized on the property and the undepreciated basis of the property resulting from the depreciation method used in determining depreciation charges to Federal grants and contracts. However, in the case of gains, the amount of the credit shall be limited to the total depreciation included in the cost grouping(s) during the years in which Federal grants and contracts participated in such charges.

(2) Gains and losses on the disposition of depreciable property shall not be recognized as a separate credit or charge under the following conditions:

(i) The gain or loss is processed through a depreciation reserve account and is reflected in the depreciation allowable under paragraph 8.

(ii) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(iii) A loss results from the failure to maintain permissible insurance, except as otherwise provided in paragraph 20 (a) (3).

(iv) Compensation for the use of the property was provided through use allowances in lieu of depreciation in accordance with paragraph 8.

(3) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions shall be considered on a case-by-case basis.

18. *Idle facilities and idle capacity.*—(a) As used in this paragraph the words and phrases defined in this paragraph (a) shall have the meanings set forth below:

(1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the organization.

(2) Idle facilities means completely unused facilities that are excess to the organization's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. A multiple-shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(4) Costs of idle facilities or idle capacity are costs such as maintenance, repair, housing, rent, and other related costs; e.g., property taxes, insurance, and depreciation or use allowances.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet fluctuations in workload; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now

idle because of changes in program requirements, grantee/contractor efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subparagraph costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see para. 48 (b) and (e).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be idle facilities.

19. *Independent research and development.*— [Reserved.]

20. *Insurance and indemnification.*— (a) Insurance includes insurance which the organization is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the organization maintains in connection with the general conduct of its operations.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the organization in connection with the general conduct of its operations are allowable subject to the following limitations.

(i) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances.

(ii) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of management fees.

(iii) Costs of insurance or of any provisions for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the organization is liable for such loss or damage.

(iv) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and rates and premiums would have been allowed had insurance been purchased to cover the risks, except that provisions for known or reasonably estimated self-insured liabilities, such as liabilities for workmen's compensation, which do not become payable for more than one year after such provision is made, shall not exceed the present value of the liability, determined by using a rate of six percent compounded annually.

(v) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see Paragraph 5). The cost of such insurance when the organization is identified as the beneficiary is unallowable.

(3) Actual losses which could have been covered by permissible insurance (through the purchase of insurance or a self-insurance program) are unallowable unless expressly provided for in the grant or contract, except:

(i) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable;

(ii) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of operations, are allowable; and

(iii) Where an organization follows a consistent policy of expensing actual payments to employees for workmen's compensation or unemployment compensation, such costs will be allowable in the year of payment, provided that these costs are allocated to all activities of the organization.

(b) Indemnification includes securing the organization against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the organization only to the extent expressly provided in (a) (3) above.

21. *Interest, fund raising, and investment management costs.*—(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Fund raising and investment activities shall be allocated an appropriate share of indirect costs under the conditions described in para. C of Attachment A.

22. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the organization and its employees, including costs of labor management committees employee publications, and other related activities, are allowable.

23. *Losses on other grants or contracts.*—Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract. This includes, but is not limited to, the organization's contributed portion by reason of cost sharing agreements or any underrecoveries through negotiation of lump sums for, or ceilings on, indirect costs.

24. *Maintenance and repair costs.*— Costs incurred for necessary maintenance, repair, or upkeep of buildings and equipment (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life shall be treated as capital expenditures (see para. 14).

25. *Materials and supplies.*—The costs of materials and supplies necessary to carry out the contract or grant are allowable. Such costs should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the organization. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Icoming transportation charges may be a proper part of material cost. Materials and supplies charged as a direct cost should include only the materials and supplies actually used for the performance of the contract or grant, and due credit should be given for any excess materials or supplies retained, or returned to vendors.

26. *Meetings, conferences, and conventions.*—(a) Costs associated with the conduct of meetings, conferences, and conventions include the cost of renting facilities, meals, speaker's fees, and the like. But see para. 13, Entertainment Costs and para. 31, Participant support costs.

(b) To the extent that these costs are identifiable with a particular cost objective they should be charged to the objective to which they relate. See para. C of Attachment A. These costs are unallowable as a direct cost of grants and contracts unless approved by the awarding agency.

(c) Costs of meetings and conferences held to conduct the general administration of the organization are allowable.

27. *Memberships, subscriptions, and professional activity costs.*—(a) Costs of the organization's membership in civic, business, technical, and professional organizations are allowable.

(b) Costs of the organization's subscriptions to civic business, professional, and technical periodicals are allowable.

(c) Costs of employee attendance at meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, and other items incidental to such attendance.

28. *Organization costs.*—Expenditures, such as incorporation fees, broker's fees, fees to promoters, organizers or management consultants, for attorneys, accountants, or investment counselors, whether or not employees of the organization, in connection with (a) establishment or reorganization of an organization or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

29. *Overtime, extra-pay shift, and multishift premiums.* — Premiums for

overtime, extra-pay shifts, and multi-shift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature;

(b) When employees are performing indirect functions such as administration, maintenance, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

30. *Page charges in scientific journals.*—Page charges for scientific journal publication are allowable as a necessary part of research costs, where:

(a) The research papers report work supported by the Government;

(b) The charges are levied impartially on all research papers published by the journal, whether by non-Government or by Government authors; and

(c) The journals involved are not operated for profit.

31. *Participant support costs.*—Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects. These costs are allowable when approved by the awarding agency.

32. *Patents and copyright costs.*—(a) Costs of (1) preparing disclosures, reports, and other documents required by the grant or contract and of searching the art to the extent necessary to make such disclosures, (2) preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by Government grant or contract to be conveyed to the Government, and (3) general counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee agreements; are allowable (but see para. 35).

(b) Costs of preparing disclosures, reports, and other documents and of searching the art to the extent necessary to make disclosures, if not required by the grant or contract, are unallowable. Costs in connection with (1) filing and prosecuting any foreign patent application, or (2) any United States patent application with respect to which the grant or contract does not require conveying title or a royalty-free license to the Government, are unallowable (also see para. 44).

33. *Pension plans.*—See para. 5(h).

34. *Preaward costs.*—Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the written approval of the awarding agency.

5. *Professional and consultant service costs—legal, accounting, scientific, and other.*—(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the organization, are allowable, subject to (b), (c), and (d) of this para. when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors among others may be relevant:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service, considering the organization's capability in the particular area;

(3) The past pattern of such costs, particularly in the years prior to the award of Government contracts, and grants,

(4) The impact of Government contracts and grants on the organizations business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the organizations total business is such as to influence the organization in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government contracts and grants;

(6) Whether the service can be performed more economically by employment rather than contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government contracts and grants; and

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this paragraph retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

(d) Cost of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the contract or grant.

36. *Protection and security costs.*—Necessary expenses incurred to comply with Government security requirements or for facilities protection, including wages, uniforms, and equipment of personnel, are allowable.

37. *Public information services costs.*—(a) Public information services costs include the cost associated with pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(1) Inform or instruct individuals, groups, or the general public;

(2) Interest individuals or groups in participating in a service program of the organization;

(3) Provide stewardship reports to State and local government agencies, benefactor foundations, and associations, etc.; and

(4) Disseminate the results of sponsored and nonsponsored activities.

(b) If the costs incurred for any of these purposes are identifiable with a particular cost objective, they shall be charged to the objective to which they relate.

(c) Costs that are not identifiable with a particular cost objective shall be allocated as indirect costs to all benefiting activities of the organization.

(d) Public information services costs are unallowable as a direct cost of grants and contracts unless approved by the awarding agency.

38. *Publication and printing costs.*—(a) Publication costs include the costs of printing (including the processes of composition, plate-making, press work, binding, and the end products produced by such processes), distribution, promotion, mailing, and general handling.

(b) If these costs are not identifiable with a particular cost objective they should be allocated as indirect costs to all major activities of the organization.

(c) Publication and printing costs are unallowable as a direct cost of grants and contracts unless the publication and printing is required by the grant or contract or is approved by the awarding agency.

(d) The costs of page charges in scientific journals is addressed in para. 30.

39. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

40. *Reconversion costs.*—Costs incurred in the restoration or rehabilitation of the organization's facilities to approximately the same condition existing immediately prior to commencement of Government contract or grant work, fair wear and tear excepted, are allowable.

41. *Recruitment costs.*—Provided that the size of the staff recruited and

maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees (but see paragraph 42(c)) are allowable. Where the organization uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

42. *Relocation costs.*—(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee.

Relocation costs are allowable subject to the limitations described in paragraphs (b), (c), and (d) below provided that:

(1) The move is for the benefit of the employer;

(2) Reimbursement to the employee is in accordance with an established policy or practice consistently followed by the employer; and

(3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

(b) Allowable relocation costs for existing employees are limited to the following costs:

(1) The costs of transportation of the employee, members of his immediate family, and his household and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to a maximum period of 30 days, including advance trip time.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs together with those described in (4) of this paragraph (b) are limited to 8 percent of the sales price of the employee's former home.

(4) The continuing costs of ownership of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing up expenses), utilities, taxes, and property insurance.

(5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of cancelling and unexpired lease, disconnecting and reinstalling household appliances, and purchasing insurance against damages to personal property. The cost of cancelling an unexpired lease is limited to three times the monthly rental.

(c) Allowable relocation costs for new employees are limited to those described in (1) and (2) of paragraph (b) above. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within his control within 12 months after hire, the organization shall refund or credit such relocation costs to the Government. However, the costs of travel to an overseas location shall be considered travel costs in accordance with paragraph 51 and not relocation costs for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

(d) The following costs related to relocation are unallowable:

(1) Fees and other costs associated with acquiring a new home;

(2) A loss on the sale of a former home;

(3) Continuing mortage principal and interest payments on a home being sold; and

(4) Income taxes paid by an employee related to reimbursed relocation costs.

43. *Rental costs.*—(a) Subject to the limitations described in paragraphs (b) through (d) of this paragraph, rental costs are allowable to the extent that the rates are reasonable in light of such factors as rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

(b) Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the organization retained legal title to the property.

(c) Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the organization. For this purpose, a less-than-arms-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include those between (1) divisions of an organization, (2) organizations under common control through common officers, directors, or members, and (3) an organization and a director, trustee, officer, or key employee of the organization or his immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

(d) Rental costs under leases which create a material equity in the leased property are allowable only up to the amount that would be allowed had the organization purchased the property on the date the lease agreement was executed. For this purpose, a material equity in the property exists if the lease is noncancelable or is cancelable only upon the occurrence of some remote contingency and has one or more of the following characteristics:

(1) The organization has the right, during or at the expiration of the lease, to purchase the property at a price which at the inception of the lease appears to be substantially less than the probable fair market value at the time it is permitted to purchase the property (commonly called a lease with a bargain purchase option);

(2) Title to the property passes to the organization at some time during or after the lease period;

(3) The term of the lease corresponds substantially to the estimated useful life of the property; i.e., the period of economic usefulness to the legal owner of the property;

(4) The initial term is less than the useful life of the property and the organization has the option to renew the lease for the remaining useful life at substantially less than fair rental value; or

(5) The property was acquired by the lessor to meet the special needs of the organization and will probably be usable only for that purpose and only by the organization.

44. *Royalties and other costs for use of patents and copyrights.*—(a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the grant or contract are allowable unless:

(1) The Government has a license or the right to free use of the patent or copyright;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the organization;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of a grant or contract.

(c) In any case involving a patent or copyright formerly owned by the organization, the amount of royalty allowed should not exceed the cost which would have been allowed had the organization retained title thereto.

45. *Severance pay.*—(a) Severance pay also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by organizations to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes, in effect, an implied agreement on the organization's part, or (4) circumstances of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the organization's facilities; or, where the organization provides for a reserve for normal severances such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal serverances over a representative past period, and if amounts charged are allocated to all work performed in the organization's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

46. *Specialized service facilities.*—(a) The costs of services provided by highly complex or specialized facilities operated by the organization, such as automated data processing facilities, animal resource centers, and wind tunnels, are allowable provided the charges for the services meet the conditions of either paragraph (b) or (c) of this paragraph, and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under para. 5.

(b) The costs of such services when material in amount must be charged directly to applicable grants and contracts based on actual usage of the services on the basis of a schedule of rates or established methodology that (1) does not discriminate between federally and nonfederally supported activities of the organization, including usage by the organization for internal purposes, and (2) is designed to recover only the aggregate costs of the services. The costs of each service shall consist of both its direct costs and its allocable share of all indirect costs. Advance agreements pursuant to paragraph 7 are particularly important in this situation.

(c) Where the costs incurred for a service are not material they may be allocated as indirect costs.

47. *Taxes.*—(a) In general, taxes which the organization is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the organization directly or which are available to the organization based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, (2) special assessments on land which represent capital improvements, and (3) Federal income taxes.

(b) Any refund of taxes, interest, or penalties, and any payment to the organization of interest thereon, attributable to taxes, interest, or penalties which were allowed as grant or contract costs, will be credited or paid to the Government in the manner directed by the Government. However, any interest actually paid or accredited to an organization incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interst accrued over the period during which the organization had been reimbursed by the Government for the taxes, interest, and penalties.

48. *Termination costs.*—Grant and contract terminations generally give rise to the incurrence of costs, of the need for special treatment of costs, which would not have arisen had the grant or contract not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the other provisions of this subpart in termination situations.

(a) Common items. The cost of items reasonably usable on the organization's other work shall not be allowable unless the organization submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the organization, the awarding agency should consider the organization's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the organization shall be regarded as evidence that such items are reasonably usable on the organization's other work. Any acceptance of common items as allocable to the terminated portion of the grant/contract should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) Costs continuing after termination. If in a particular case, despite all reasonable efforts by the organization certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this subpart, except that any such costs continuing after termination due to the negligent or willful failure of the organization to discontinue such costs shall be considered unallowable.

(c) Loss of useful value. Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the organization;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency; and

(3) The loss of useful value as to any one terminated grant or contract is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the grant/contract bears to the entire terminated grant/contract and other Government grants/contracts for which the special tooling and special machinery and equipment was acquired.

(d) Rental costs. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated grant/contract less the residual value of such leases, if (i) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the grant/contract and such further period as may be reasonable and (ii) the organization makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the grant/contract, and of reasonable restoration required by the provisions of the lease.

(e) Settlement expenses. Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(i) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the grant or contract, unless the termination is for default of the organization (see § 1-8.604 (b) (1) or paragraph 4a of Attachment L, OMB Circular No. A-110 (41 F.R. 32030, July 30, 1976); and

(ii) The termination and settlement of subcontracts and subgrants;

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced for the grant or contract; and

(3) Indirect costs related to salaries and wages incurred as settlement expenses in subparagraphs (1) and (2) of this paragraph; normally, such indirect costs shall be limited to fringe benefits, occupancy cost, and immediate supervision.

(f) Subcontractor and subgrantee claims. Subcontractor/subgrantee claims, including the allocable portion of claims which are common to the grant or contract and to other work of the organization are generally allowable. An appropriate share of the organization's indirect expense may be allocated to the amount of settlements with subcontractors/subgrantees; provided, that the amount allocated is otherwise consistent with the basic guidelines contained in Attachment A. The indirect expense so allocated shall exclude the same and similar costs claimed directly or indirectly as settlement expenses.

4. *Training and educational costs.*—(a) Costs of preparation and maintenance of a program of instruction at noncollege level, including but not limited to on-the-job, classroom, and apprenticeship training, designed to increase the vocational effectiveness of employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise therefrom), and (1) salaries of the director of training and staff when the training program is conducted by the organization; or (2) tuition and fees

when the training is in an institution not operated by the organization; are allowable.

(b) Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the organization's own facilities, are allowable only when the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work, and are limited to:

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect costs of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution;

(5) Salaries and related costs of instructors who are employees of the organization; and

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year and only to the extent that circumstances do not permit the operation of classes or attendance at classes after regular working hours; otherwise such compensation is unallowable.

(c) Costs of tuition, fees, training materials, and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time education, including that provided at the organization's own facilities, at a postgraduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which the employee is now working or may reasonably be expected to work, and are limited to a total period not to exceed one school year for each employee so trained. In unusual cases the period may be extended (see paragraph 7).

(d) Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employee's salaries, subsistence, and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree-oriented curriculum, which are allowable only to the extent set forth in paragraphs (b) and (c) of this paragraph.

(e) Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the organization for training purposes are allowable to the extent set forth in paragraphs 24, 8, and 43, respectively.

(f) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

(g) Training and education costs in excess of those otherwise allowable under paragraphs (b) and (c) of this paragraph may be allowed to the extent set forth in an advance agreement. To be considered for an advance agreement, the organization must demonstrate that such costs are consistently incurred pursuant to an established training and education program, and that the course or degree pursued is relative to the field in which the employee is now working or may reasonably be expected to work.

50. *Transportation costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see paragraph 25). Where identification with the materials received cannot readily be made, transportation costs may be charged to the appropriate indirect cost accounts if the organization follows a consistent, equitable procedure in this respect.

51 *Travel costs.*—(a) Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel statuts on official business of the organization. Travel costs are allowable subject to paragraphs (b) through (f) of this paragraph, when they are directly attributable to specific work under a grant or contract or are incurred in the normal course of administration of the organization.

(b) Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the organization in its regular operations.

(c) The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitious routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(d) Necessary, reasonable costs of family movements and personnel movements of a special or mass nature are allowable, pursuant to paragraphs 41 and 42 subject to allocation on the basis of work or time period benefited when appropriate. Advance agreements are particularly important.

(e) Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

(f) When an amount for domestic travel is specified in the grant or contract, expenditures for such travel will not be allowed if they exceed the amount specified by more than 25 percent or $500, whichever is greater, except with approval of the sponsoring agency.

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

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federal register

TUESDAY, APRIL 26, 1977
PART V

FEDERAL ENERGY ADMINISTRATION

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DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for February 1977

FEDERAL ENERGY ADMINISTRATION

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for February 1977

In accordance with the provisions of 10 CFR 211.67 relating to FEA's domestic crude oil allocation program the monthly notice specified in § 211.67 (i) is hereby published.

Based on reports for February 1977 submitted to FEA by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico, application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d)(4), application of the entitlement adjustment for imports of No. 1 heating oil and No. 2 heating oil into PAD Districts I through IV provided in Special Rule No. 8, and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for February 1977 is calculated to be .267507.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of February 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .271480 of a barrel of deemed old oil.

The issuance of entitlements for the month of February 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of February 1977 at $8.53 which is the exact differential as reported for the month of February between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of February 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of February 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of February 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through January 1977 pursuant to 10 CFR 211.67(j)(1).

Pursuant to § 211.67(j)(2), the February 1977 installments of the amounts representing corrections for reporting errors for months prior to September 1975 are shown in a separate column in the listing contained in the Appendix. As set forth in the revised special correction notice issued on September 21, 1976, the total dollar amounts of the special corrections have been divided into eight substantially equal installments for reflection in each firm's entitlement position for each of the months July 1976 through February 1977, based on the particular month's entitlement price.

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by FEA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by FEA's Office of Exceptions and Appeals. Also set forth in this column are the adjustments for relief granted by the Office of Exceptions and Appeals for 1975, which adjustments are being reflected in monthly installments commencing with the September 1976 entitlement notice. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see Beacon Oil Company, et al, 4 FEA par. 87,024 (November 5, 1976).

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 18,138,262 barrels for February 1977. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 45,334,336 barrels.

The number of barrels of Nos. 1 and 2 heating oil and kerosene imported into PAD Districts I through IV eligible for entitlement issuances pursuant to Special Rule No. 8 for Subpart C (42 FR 9379, February 16, 1977) was 12,782,385. The entitlement value required to be awarded for each barrel of imported product under Special Rule No. 8 is $2.10, which for February is equal to .246190 of an entitlement. Accordingly, the total number of entitlements issued pursuant to Special Rule No. 8 is 3,146,894.

The total number of entitlements required to be purchased and sold under this notice is 23,511,428.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for February 1977 must be made by April 30, 1977.

On or prior to May 10, 1977, each firm which is required to purchase or sell entitlements for the month of February 1977 shall file with FEA the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of February. FEA has mailed the monthly transaction report forms for the month of February to reporting firms. FEA requests that firms which have been unable to locate other firms for required entitlement transactions by April 30, 1977 contact FEA at 202-254-6296 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to April 30, 1977, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed May 26, 1977.

Issued in Washington, D.C. on April 21, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL PAGE: 6

PORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
JOHNSON	0	135,526	0	8,217	-5,547	0	135,526
AAY	0	-23	0	0	-23	23	0
LIED	71,993	131,032	0	0	-62	0	59,039
ER-PETROFINA	1,430,692	1,277,134	0	0	56,757	153,558	0
ERADA-HESS	1,982,864	4,364,807	0	567,190	-27,546	0	2,381,943
OCO	10,668,712	7,854,044	0	128,227	-15,535	2,814,668	0
CO	418,211	421,602	0	0	-1,256	0	3,391
EX	0	-8	0	0	-8	8	0
CO	6,066,449	5,467,270	4,431*	56,641	-130,753	599,179	0
IZONA	61,664	54,096	16,577	0	320	7,568	0
AMERA	132,318	173,601	0	0	244	0	41,283
HLAND	1,509,808	2,706,002	0	0	-21,649	0	1,196,194
IATIC	0	100,159	0	102,820	-2,661	0	100,159
LANTIC-CEMENT	0	182	0	0	182	0	182
GSBURY	0	-4	0	0	-4	4	0
SIN	1,488	2,394	0	0	0	0	906
YOU	26,677	33,268	0	0	54	0	6,591
ACON	259,115	154,573	6,134	0	-4,795	104,542	0
LCHER	0	138,310	0	138,749	-439	0	138,310
-PETRO	10,965	138,946	0	0	0	0	127,981
UE-RIDGE	0	10,585	0	10,869	-284	0	10,585
H	0	352	0	0	-13	0	352
LUMET	82,158	138,460	0	0	-195	0	56,302
NAL	73,831	64,082	0	0	-1,244	9,749	0
RIBOU	81,830	112,833	0	0	96	0	31,003
STLE	0	39,498	0	39,741	-243	0	39,498
NTRAL	0	35,901	0	36,075	-174	0	35,901
AMPLIN	1,732,199	1,325,734	0	0	11,757	406,465	0
ARTER	800,322	583,974	110,972	0	11,360	216,348	0
RILLO	0	191,978	0	192,926	-948	0	191,978
TGO	3,403,097	2,063,112	0	0	-3,861	1,339,985	0
AIBORNE	44,190	56,298	0	0	16,287	0	12,108
ARK	271,148	856,714	0	0	-2,214	0	585,566
ASTAL	168,001	1,231,096	0	0	24,606	0	1,063,095
LONIAL	0	30,621	0	30,970	-349	0	30,621
N-ED	0	-2,023	0	0	-2,023	2,023	0
N-REF	0	52	0	0	52	0	52
NOCO	3,761,848	2,854,425	0	152,543	7,891	907,423	0
NSUMERS-POWER	0	-413	0	0	-413	413	0
RCO	0	1,436,452	237,029	140,933	-3,571	0	1,436,452
A-FARMLAND	453,415	582,823	0	0	-2,211	0	129,408
OSS	44,341	142,988	0	0	2,716	0	98,647
OWN	352,994	610,196	0	0	-1,964	0	257,202
YSTAL-OIL	167,093	145,703	0	0	-11,378	21,390	0
YSTAL-REF	1,838	45,003	0	0	-497	0	43,165
EPWATER	0	21,252	0	21,337	-85	0	21,252
LTA	301,029	321,392	-26,960***	0	744	0	20,363
MENNO	4,073	80,154	0	0	0	0	76,081
TROIT-ED	0	682	0	0	682	0	682
AMOND	575,384	445,627	0	0	3,794	129,757	0
LLMAN	0	2,460	2,460	0	0	0	2,460
RCHESTER	9,390	11,500	0	0	-53	0	2,110
M	71,756	167,653	0	0	125	0	95,897
-SEABOARD	0	116,337	0	117,243	-906	0	116,337
O	140,985	121,020	0	0	0	19,965	0
DY	32,316	133,217	0	0	63	0	100,901
GINGTON-OIL	0	-9,565	-10,056	0	491	9,565	0
GINGTON-OXN	0	-6	0	0	-6	6	0
M	0	-298	0	0	-298	298	0
ERGY-COOP	0	578,074	0	0	0	0	578,074
TERPRISE	0	-36	0	0	-36	36	0
ANGELINE	85,881	108,058	0	0	48	0	22,177
XON	12,871,287	10,709,102	0	997,732	-3,711	2,162,185	0
-SERVE	86,801	138,465	0	0	0	0	51,664
-FLETCHER	0	2	0	0	2	0	2
MARISS	207,221	325,448	0	0	-39	0	118,227
RMERS-UN	203,586	334,105	0	0	-209	0	130,519
ETCHER	8,490	168,875	-9,116	0	12,331	0	160,385

PORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
INT	8,501	9,886	0	0	-8	0	1,385
ORIDA-POWER	0	623	0	0	623	0	623
RY	35,411	85,910	0	0	-67	0	50,499
N-PORTLAND	0	-15	0	0	-15	15	0
TTY	1,468,377	1,247,199	0	0	-3,981	221,178	0
ANT	35,518	130,810	0	0	-170	0	95,292
BBS	0	-344	0	0	-344	344	0
BSON	504	1,544	0	0	0	0	1,040
ACIER-PARK	101,276	54,586	0	0	0	46,690	0
ADIEUX	47,929	140,498	0	0	234	0	92,569
ENROCK	11,977	135,035	0	0	0	0	123,058
LDEN-EAGLE	7,898	150,238	0	0	-2,400	0	142,340
LDEN-EAGLE-NY	0	1,999	0	0	1,999	0	1,999
LDKING	89,518	140,709	0	0	0	0	51,191
OD-HOPE	77,335	242,706	-532	0	-408	0	165,371
EAT-NORTHERN	0	-116	0	0	-116	116	0
AM	0	197,782	0	0	-2,066	0	197,782
LF	9,066,507	6,510,759	0	71,743	-11,414	2,555,748	0
LF-STS	49,029	139,046	0	0	67	0	90,017
RI	0	400,424	0	0	1,865	0	400,424
WARD	0	117,756	0	119,101	-1,345	0	117,756
WELL	474,971	312,875	0	0	1,065	162,096	0
DSON-OIL	31,563	222,927	0	0	0	0	191,364
INT	283,391	305,010	0	0	-464	0	21,619
SKY	649,165	649,580	269,437	0	415	0	415
DEPENDENT-REF	147,423	153,692	0	0	0	0	6,269
DIANA-FARM	47,025	198,164	0	0	-430	0	151,139
GER-OIL	1,840	139,767	0	0	0	0	137,927
TL-PAPER	0	70	0	0	70	0	70
VING	0	44,173	0	44,232	-59	0	44,173
M	203,591	202,376	79,041	0	-1,215	1,215	0
H-WHITE	0	-34	0	0	-34	34	0
NCO	22,759	34,023	0	0	0	0	11,264
NTUCKY	2,993	5,185	0	0	-28	0	2,192
RN	428,151	428,151	247,286	0	0	0	0
RR-MCGEE	1,163,798	1,358,237	0	0	25,424	0	194,439
CH	305,439	938,946	0	112,620	-2,009	0	633,507
-WATER	0	6,753	0	0	6,753	0	6,753
GLORIA	415,546	262,707	0	0	-67,831	152,839	0
KESIDE	10,789	58,357	0	0	-223	0	47,568
KETON	154,681	148,795	40,182	0	-5,886	5,886	0
TTLE-AMER	1,363,911	1,131,814	602,696	0	302	232,097	0
UISIANA-LAND	270,548	340,294	0	0	0	0	69,746
CMILLAN	35,202	153,359	0	0	-3,231	0	118,157
RATHON	3,923,836	3,729,367	0	0	-5,222	194,469	0
RION	198,878	198,116	0	0	-734	762	0
D-AMER	17,083	103,266	0	0	-299	0	86,183
D-TEX	12,211	111,489	0	0	163	0	99,278
DLAND	0	-10,443	-10,335	0	-108	10,443	0
BIL	6,918,203	5,888,960	0	121,685	-184,740	1,029,243	0
HAWK	439,146	434,902	45,223	0	786	4,244	0
NSANTO	396,710	291,852	0	0	-582	104,858	0
RRISON	8,620	135,135	0	0	2	0	126,515
UNTAINEER	6,119	5,571	0	0	5	548	0
RPHY	740,350	783,444	0	0	195	0	43,094
AMER-PETRO	49,782	123,674	0	0	-1,953	0	73,892
RRAGANSETT	0	-108	0	0	-108	108	0
TL-COOP	331,445	460,446	0	0	345	0	129,001
VAJO	336,760	343,786	51,570*	0	-1,684	0	7,026
W-EDGINGTON	550,856	365,279	145,397	0	0	185,577	0
W-ENGL-PETRO	0	575,541	0	578,947	-3,406	0	575,541
W-ENGL-POWER	0	-67	0	0	-67	67	0
WHALL	159,952	122,350	-6,143	0	88	37,602	0
WMAN	0	-60	0	0	-60	60	0
RCO	0	58	0	0	58	0	58
RTHEAST-PETRO	0	316,186	0	317,028	-842	0	316,186
RTHLAND	36,183	133,198	0	0	-48	0	97,015
RTHVILLE	0	427,671	0	428,392	-721	0	427,671

PAGE: 8

PORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
L-SHALE	2,071,339	1,207,316	0	0	-2,351	864,023	0
C	173,945	254,803	0	0	1,848	0	80,858
ANGE&ROCKLAND	0	60	0	0	60	0	60
NARD	81,619	190,902	0	0	0	0	109,283
SCO	0	-10,625	-14,967	0	4,342	10,625	0
TCHOGUE	0	81,224	0	81,496	-272	0	81,224
NNZOIL	540,842	397,696	0	0	-417	143,146	0
PCO	0	-892	0	0	-892	892	0
STER	117,396	217,047	0	0	0	0	99,651
TRO-HEAT-CT	0	47,716	0	48,254	-538	0	47,716
TRO-HEAT-PA	0	14,931	0	15,235	-304	0	14,931
SE	0	-438	0	0	-438	438	0
ILLIPS	2,403,526	2,346,897	0	0	92,996	56,629	0
ILLIPS-PR	0	97,272	0	97,272	0	0	97,272
ONEER	13,187	138,905	0	0	-5	0	125,718
TTSTON	0	233,796	0	234,823	-1,027	0	233,796
ACID	233,108	344,048	0	0	-1,201	0	110,940
ATEAU	166,956	148,970	0	0	-445	17,986	0
WERINE	92,378	362,826	28,568	0	253	0	270,448
IDE	140,300	256,276	0	0	-310	0	115,976
INCETON	19,811	86,250	0	0	0	0	66,439
ULEASE	0	-810	0	0	-810	810	0
AKER-ST	37,450	190,125	0	0	-1,684	0	152,675
MINGTON	0	-84	0	0	-84	84	0
CHARDS	0	134,212	0	0	0	0	134,212
CO	0	-45	0	0	-45	45	0
AD-OIL	0	35,504	0	0	-7	0	35,504
CK-ISLAND	476,151	341,460	-25,811	0	504	134,691	0
YAL	0	-129	0	0	-129	129	0
BER-TEX	21,032	144,031	0	0	-7,054	0	122,999
BRE-CAL	236,843	236,729	113,212	0	-114	114	0
GE-CREEK	2,097	3,273	0	0	-7	0	1,176
N-JOAQUIN	171,654	45,509	46,925	0	-1,416	126,145	0
ARS	0	-30	0	0	-30	30	0
MINOLE	5,594	129,875	0	0	-2,764	0	124,281
ELL	12,221,846	8,315,193	0	12,523	317,434	3,906,653	0
GMOR	3,003	102,760	0	0	1,669	0	99,757
ELLY	0	737	0	0	737	0	737
-HAMPTON	82,046	184,698	0	0	899	0	102,652
CAL	7,074,683	8,847,556	0	258,368	-5,337	0	1,772,873
CALEDISON	0	-82	0	0	-82	82	0
HIO	1,425,283	3,117,338	0	10,860	18,240	0	1,692,055
MERSET	14,688	42,304	0	0	-285	0	27,616
UNO	83,123	134,535	0	0	-141	0	51,412
UTHLAND	398,694	333,886	130,075	0	185	64,808	0
UTHWESTERN	60,968	60,031	0	0	0	937	0
RAGUE	0	98,787	0	98,787	0	0	98,787
EUART	0	280,765	0	281,587	-822	0	280,765
NLAND	-11,374	126,019	0	0	5,772	0	137,393
NOCO	4,857,874	3,951,147	0	0	-68,611	906,727	0
ANN	0	66,025	0	66,457	-432	0	66,025
RRICONE	0	-112	0	0	-112	112	0
UBER	0	-78	0	0	-78	78	0
NNECO	792,628	692,214	0	51,213	-47,373	100,414	0
SORO	877,087	657,404	0	0	3,188	219,683	0
XACO	10,258,778	8,725,860	0	712,070	37,383	1,532,918	0
XAS-AMERICAN	15,789	117,562	0	0	0	0	101,773
XAS-ASPH	18,672	139,812	6,544*	0	-6,546	0	121,140**
XAS-CITY	543,104	544,787	0	0	-26,750	0	1,683
AGARO	608,327	603,997	368,398	0	-5	4,330	0
E-REFINERY	0	-2,417	0	0	-2,417	2,417	0
RIFTWAY	24,166	120,617	0	0	-99	0	96,451
UNDERBIRD	109,637	150,351	0	0	-272	0	40,714
NKANA	18,722	107,494	0	0	-179	0	88,772
TAL-LEONARD	206,273	148,334	0	0	-1,753	57,939	0
ANS-OCEAN	0	129,418	0	0	0	0	129,418
C-CARIBE	0	64,171	0	64,171	0	0	64,171
ION-OIL	5,014,771	3,527,372	0	12,034	73,186	1,487,399	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	REQUIRED TO BUY	********** REQUIRED TO SELL
UNION-PETRO	0	107,514	0	107,514	0	0	107,514
UNION-TEXAS	0	210	0	0	210	0	210
UNTD-IND	9,031	46,800	0	0	50	0	37,769
UNTD-REF	172,478	393,479	0	0	-13,376	0	221,001
US-OIL	17,443	140,072	0	0	-448	0	122,629
USA-PETROCHEM	21,740	156,675	0	0	0	0	134,935
VA-COMMONWEALTH	0	43,233	0	43,233	0	0	43,233
VEN-FUEL	0	-83	0	0	-83	83	0
VICKERS	327,998	484,816	0	0	621	0	156,818
VULCAN	23,466	229,863	0	0	-114	0	206,397
WALLACE	0	10,698	0	10,698	0	0	10,698
WALLER	0	9,491	0	9,630	-139	0	9,491
WARRIOR	57,702	38,155	17,635	0	-4,671	19,547	0
WEBBER	0	165	0	0	165	0	165
WELLEN	0	-107	0	0	-107	107	0
WEST-COAST	37,244	54,403	-1,154	0	-2,316	0	17,159
WESTERN	76,128	143,540	0	0	6,524	0	67,412
WHALECO	0	10,723	0	10,759	-36	0	10,723
WICKETT	0	-5	0	0	-5	5	0
WINSTON	98,909	193,873	0	0	-10	0	94,964
WIREBACK	0	618	0	0	30	0	618
WITCO	75,164	160,982	0	0	-228	0	85,818
WYATT	0	323,851	0	324,504	-653	0	323,851
YETTER	0	691	0	0	-7	0	691
YOUNG	109,982	109,977	50,900	0	-5	5	0
TOTAL	132,547,461	132,547,461	2,515,618	7,087,449	0	23,511,428	23,511,428

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* Also includes entitlements issued to correct an error in this firm's special correction amount.

** This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

*** Reflects adjustments for 1975 exceptions relief as provisionally modified by FEA pending agency review consistent with court order. For discussion, see December entitlement notice, 42 FR 12133 (March 2, 1977).

[FR Doc.77-11924 Filed 4-21-77;2:19 pm]

federal register

TUESDAY, APRIL 26, 1977

PART VI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

SALMON FISHING

Fishery Management Plan for Commercial and Recreational Fisheries Off the Coasts of Washington, Oregon, and California

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon and California; Publication and Request for Comments

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Emergency regulations.

SUMMARY: This document sets forth emergency regulations implementing a fishery management plan prepared by the Pacific Fishery Management Council. Under the Fishery Conservation and Management Act of 1976, the Secretary of Commerce has determined that an emergency exists because the stocks of salmon off the coasts of Washington, Oregon and California are badly depleted and there is a need to increase the number of fish reaching the inshore waters during 1977.

DATES: Effective Dates: 12:01 a.m., on April 25, 1977 and shall remain in effect for 45 days; Comments on or before June 9, 1977.

ADDRESS: Send comments to: Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Washington. 206–442–1460.

SUPPLEMENTARY INFORMATION: Section 305(e) of the Fishery Conservation and Management Act of 1976, Pub. L. 94–265, 16 U.S.C., § 1801 et seq. (FCMA) authorizes the Secretary of Commerce (the Secretary) to promulgate emergency regulations implementing a fishery management plan (FMP) prepared by a Regional Fishery Management Council. Such emergency regulations shall remain in effect up to 45 days.

Pursuant to Title III of the Act, the Pacific Fishery Management Council has prepared and submitted to the Secretary a FMP for salmon off the coast of Washington, Oregon and California. A Draft Environmental Impact Statement (DEIS) was published on February 4, 1977 by the National Marine Fisheries Service. The Secretary of Commerce has found and determined that an emergency exists in the Pacific Coast Salmon Fishery because the uncontrolled and unmanaged fishing activity by domestic commercial and recreational fishermen would have a detrimental effect on the stock of these highly valuable species.

The regulations (1) provide that state laws which are consistent with the Plan and the regulations promulgated herein will continue to apply; (2) establish specific salmon management areas; and (3) describe for commercial fisheries, open seasons and areas, gear restrictions, size restrictions, vessel inspection and certificates and, in the case of recreational fisheries, certain catch and size limits. Publication of the emergency regulations also constitutes the notice of publication of proposed permanent regulations as required by section 305(a) of the FCMA.

As a consequence of that finding and determination that an emergency exists in the commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California, the Secretary of Commerce hereby invokes the emergency procedures authorized by section 305(e) of the Fishery Conservation and Management Act of 1976, and section 553(b) of the Administrative Procedures Act of 1976, 60 Stat. 237, as amended. Section 553(b) provides that an agency need not give formal notice of proposed rulemaking when the agency for good cause finds "* * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

In addition, the Secretary believes that formal notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest because the proposed regulations as they relate to the overall fishery generally conform to the 1976 regulations of the respective States.

I am publishing this document on behalf of the Secretary and the Associate Administrator for Marine Resources, at their request.

Dated: April 20, 1977 at Washington, D.C.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Sec.
661.1 Purpose.
661.2 Relation of State laws.
661.3 Definitions.
661.4 Salmon Fishery Management Areas.
661.5 Restrictions.
661.6 Penalties.
661.7 Emergency Regulations.
661.8 Commercial fishing.
661.9 Recreational fishing.
661.10 Treaty Indian Rights [reserved].

AUTHORITY: 16 U.S.C. 1801–1882.

§ 661.1 Purpose.

Regulations of this section apply to salmon taken seaward of Washington, Oregon and California, in the area over which the United States exercises exclusive fisheries management authority (the Pacific Council Management Area). However, these regulations do not apply to fishing conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol.

§ 661.2 Relation to State laws.

Regulations of this section implement the Pacific Regional Fishery Management Council's Fishery Management Plan for salmon fisheries of the Pacific Ocean pursuant to authority conferred by the Fishery Conservation and Management Act of 1976. These regulations recognize that State laws, otherwise valid pertaining to vessels registered under the laws of that State which are consistent with the Salmon Management Plan, including State landing laws, will continue to apply to the fisheries addressed in these regulations.

§ 661.3 Definitions.

(a) Act—Means the Fishery Conservation and Management Act of 1976, Pub. L. 94–265 (16 U.S.C. 1801–1882).

(b) Angling—Means fishing by means of a rod and/or line capable of being held in hand while taking the fish.

(c) Authorized Officer—Means: (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any enforcement agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) Commercial fishing—Means fishing for the purpose of sale or barter.

(e) Fishing—Means: (1) The catching, taking or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish; or

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish.

(f) Fishing vessel (or vessel)—Means any boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing.

(g) Land or landing—Means bringing fish to shore or off-loading fish from a fishing vessel.

(h) Recreational fishing—Means fishing for personal use.

(i) Salmon—Means any anadromous species of the family *Salmonidae* and genus Oncorhynchus, commonly known as salmon, including but not limited to:

Chinook (or King) salmon—*Oncorhynchus tshawytscha.*

Coho (or Silver) salmon—*Oncorhynchus kisutch.*

Pink (or Humpback) salmon—*Oncorhynchus gorbuscha.*

Chum (or Dog) salmon—*Oncorhynchus keta.*

Sockeye (or Red, Blueback) salmon—*Oncorhynchus nerka.*

(j) Salmon length—Means the shortest distance between the tip of the snout or jaw (whichever extends further) and the tip of the longest lobe of the tail, measured while the salmon is lying on its side, without resort to any force (including squeezing the tail) or mutilation of the salmon.

(k) Secretary—Means the Secretary of Commerce or a designee.

(l) Single/barbless hook—Means a hook with a single shank and point, with no secondary points or barbs curving or projected in any other direction.

(m) Troll gear—Means gear which consists of one or more lines used to drag lures behind a moving vessel, which lines originate from a spool or receptacle

fastened to the vessel, and the extension or retraction of which is directly to the spool or receptable without disengaging any gurdy or outboard arm from its fixed position on the vessel.

§ 661.4 Salmon fishery management areas.

(a) The Pacific Council Management Area shall be divided into the following management areas for the regulation of salmon fishing, with the following lateral limits:

(1) Management Area A—(i) Northern limit (United States-Canada) is a line connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(ii) Southern limit: 47°18'19" N. lat. (Point Grenville Light).

(2) Management Area B—(i) Northern limit: 47°18'19" N. lat. (Point Grenville Light).

(ii) Southern limit: 45°56.2' N. lat. (Tillamook Head Lighthouse).

(3) Management Area C—(i) Northern limits: 45°56.2' N. lat. (Tillamook Head Lighthouse).

(ii) Southern limit: 42°00'00" N. lat. (Oregon-California border).

(4) Management Area D—(i) Northern limit: 42°00'00" N. lat. (Oregon-California Border).

(ii) Southern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(5) Management Area E—(i) Northern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(ii) Southern limit: (United States-Mexico) is a line connecting the following coordinates:

32°35'22.11 N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(b) Any person fishing subject to these regulations shall be bound by the above described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

(c) The inner boundary of each Management Area is a line coterminous with the seaward boundaries of Washington, Oregon and California, and the outer boundary of each Management Area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

§ 661.5 Restrictions.

The following restrictions apply to all salmon fishing in Management Areas A, B, C, D, and E, except that the restrictions in these regulations shall not apply to fishing for pink and sockeye salmon pursuant to the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, north of 48°00'00" north latitude.

(a) No person shall use nets to fish for salmon except that a landing net may be used to bring hooked salmon on board a vessel.

(b) No person shall take any species of salmon.

(1) Which is less than the minimum size (measured in terms of the salmon's length as defined in § 661.3(j)) specified in these regulations;

(2) During closed seasons or in closed areas specified in these regulations;

(3) In numbers greater than any catch limit specified in these regulations; or

(4) By means of gear or methods prohibited by these regulations.

(c) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken in violation of the Act, these regulations, or any other regulation issued under the Act.

(d) No person shall possess on board a vessel any salmon taken in the Pacific Council Management Area for which a size limit is set forth in these regulations, in such condition that its size cannot be determined.

(e) No person shall fish while on a vessel which has aboard:

(1) Any salmon which is less than the minimum length for that species in the Management Area where the fishing is taking place; or

(2) Any species of salmon for which the season is closed in the Management Area where the fishing is taking place; or

(3) Any salmon in such condition that its size cannot be determined.

(f) No person, while on board a fishing vessel, shall mutilate or otherwise disfigure any salmon in a manner which extends its length to conform to any minimum size requirement specified in these regulations.

(g) No person shall: (1) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, these regulations, or any other regulation issued under the Act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in subparagraph (1) of this paragraph.

(3) Resist a lawful arrest for any act prohibited by these regulations; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any Act prohibited by these regulations.

§ 661.6 Penalties.

Any person or vessel found to be in violation of these regulations will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act.

§ 661.7 Emergency regulations.

The Secretary may issue emergency regulations, if and when needed, under section 305(e) of the Act, announced by publication of a notice in the FEDERAL REGISTER.

§ 661.8 Commercial fishing.

(a) *Open seasons and areas.* All open seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to commercial salmon fishing except for the following open seasons and areas:

(1) In Management Area A the open season for salmon fishing shall be as follows:

(i) the season for all salmon species, including chinook, shall begin on July 1, 1977, and terminate on September 15, 1977.

(ii) The season for chinook only, in addition, shall begin on May 1, 1977, and terminate on May 31, 1977.

(2) In Management Area B the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, including chinook, shall begin on July 1, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(ii) The season for chinook only, in addition, shall begin on May 1, 1977, and terminate on May 31, 1977.

(3) In Management Area C the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, including chinook, shall begin on June 15, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(ii) The season for chinook only, in addition, shall begin on May 1, 1977, and terminate on June 14, 1977.

(4) In Management Areas D and E the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, including chinook, shall begin on May 15, 1977, and terminate on September 30, 1977.

(ii) The season for chinook only, in addition, shall begin the day following publication of this notice at 0001 hours Pacific Standard Time and terminate on May 14, 1977.

(b) *Gear restrictions:* (1) Only troll gear shall be used for commercial salmon fishing while in the Pacific Council Management Area. However, in Management Areas D and E troll gear need not be

fixed to the vessel as specified in § 661.3 (m).

(2) Only single/barbless hooks shall be used for commercial salmon fishing before July, 1977, while in Management Areas A and B.

(c) *Size restrictions:* (1) No person shall take and retain any chinook salmon (*Oncorhynchus tshawytscha*) less than 26 inches in length in Management Areas A, B, C, D, and E while aboard a vessel used for commercial fishing.

(2) No person shall take and retain any coho salmon (*Oncorhynchus kisutch*) less than:

(i) 16 inches in length in Management Areas A, B and C; or

(ii) 22 inches in length in Management Areas D and E while aboard a vessel used for commercial fishing.

(d) *Vessel inspection and certification.* Any vessel subject to state held inspection, fishing in Management Areas A and B between July 1 and July 10, 1977, or in Management Areas D and E between May 15 and May 25, 1977, must have on board documentation of such inspection as may be issued by the state adjacent to such Management Area.

(e) No person shall take and retain any steelhead (*Salmon gairdnarii*) within the Pacific Council Management Area.

§ 661.9 **Recreational fishing.**

(a) *Open seasons and areas.* All seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to recreational salmon fishing except for the following open seasons and areas:

(1) In Management Areas A and B the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(2) In Management Area C the season shall open on May 1, 1977, and terminate on December 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area D the season shall be open the entire year.

(4) In Management Area E the season shall open on February 12, 1977, at 0001 hours Pacific Standard Time and terminate on November 12, 1977, at 2400 hours Pacific Standard Time.

(b) *Gear restrictions.* (1) No gear other than angling gear may be used for recreational salmon fishing.

(2) No person shall use more than one rod and/or line while fishing in Management Areas A, B and C.

(3) There shall be no limit on the number of rods and/or lines used for fishing in Management Areas D and E.

(c) *Size restrictions.* (1) In Management Areas A and B no person shall take and retain any chinook salmon less than 24 inches in length or any coho salmon less than 16 inches in length.

(2) In Management Area C there shall be no limit on the length of salmon which may be taken and retained.

(3) In Management Areas D and E no person shall take and retain any salmon less than 22 inches in length, except that one salmon per day may be less than 22 inches but not less than 20 inches in length.

(d) *Catch limits.* No person shall take and retain, or possess more than three salmon per day while in the Pacific Council Management Area.

§ 611.10 **Treaty Indian rights [reserved].**

[FR Doc.77-11927 Filed 4-25-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

FISHERY MANAGEMENT PLAN FOR COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, and the Pacific Fishery Management Council have jointly prepared a final environmental impact statement for the proposed implementation of the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), the plan has been prepared by the Pacific Fishery Management Council and requires approval by the Secretary of Commerce prior to its implementation.

Attention is drawn to the deletion of the word "Troll" from the title of the document as it appeared as a draft environmental statement. This was done to more clearly describe the scope of the document.

The environmental statement concerns a proposal to adopt and implement a fishery management plan for commercial and recreational salmon fisheries off the Coasts of Washington, Oregon, and California pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and establishes a program for their management. Upon approval, the plan will serve to manage salmon fishery resources off the Coasts of Washington, Oregon, and California for optimum yield and to allocate harvest among domestic fishermen. The plan recommends more restrictive ocean salmon fishery regulations during 1977 for waters off the Washington coast and Columbia River mouth as compared with those prevailing during 1976 and prior years.

Because of the urgent need for measures to regulate and conserve the ocean salmon fishery, the Secretary of Commerce has adopted his Fishery Management Plan on April 20, 1977, and intends to promulgate Emergency Regulations on April 25, 1977.

Copies of the final environmental statement are available for inspection at the following locations:

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Bldg. 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Northwest Regional Office, National Marine Fisheries Service, Lake Union Building, Room 210, 1700 Westlake Avenue, Seattle, Washington 98109.

Alaska Regional Office, National Marine Fisheries Service, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska 99801.

Southwest Regional Office, National Marine Fisheries Service, Room 2024, U.S. Customs Building, 300 South Ferry Street, Terminal Island, California 90731.

A limited number of copies are available from the Northwest Regional Office, National Marine Fisheries Service, 1700 Westlake Avenue, Seattle, Washington 98109.

This Notice of Availability is being published at the request of and in cooperation with the Pacific Fishery Management Council.

Dated this 19th day of April 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-11928 Filed 4-25-77;8:45 am]

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Approval of Fishery Management Plan and Request for Comments

Pursuant to section 304 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, 16 U.S.C. 1801 et seq.), (the Act), the Secretary of Commerce (the Secretary) is authorized to receive, review and approve a fishery management plan (FMP) prepared by a Regional Fishery Management Council, in the 200-mile fishery conservation zone (FCZ).

Pursuant to Title II of the Act, the Pacific Fishery Management Council has prepared and submitted to the Secretary a FMP for "Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California" (the "Plan"). In addition, a Final Environmental Impact Statement has been prepared concerning the FMP.

The Secretary of Commerce, by authority of section 305 of the Act, wishes to advise the public of the approval of the above mentioned salmon FMP and of the promulgation of regulations implementing the Plan.

The Plan, published in its entirety below, as required by sec. 305(a) of the Act, is intended to provide the basis for the conservation and management of the offshore salmon fishery for the States of Washington, Oregon, and California in the FCZ created by section 101 of the Act. The regulatory provisions adopted have the combined effect of primarily promoting the conservation and management of the chinook and coho salmon stocks which constitute the main species caught in the coastal ocean fisheries. This is accomplished essentially by a reduction of the commercial fishery north of Tillamook Head, Oregon through more restrictive ocean salmon fishery regulations during 1977 as compared to prior years. In the ocean waters south of Tillamook Head, and in all other salmon fisheries, the status quo is maintained by a regulatory pattern for 1977 which is similar to 1976 regulations of the Oregon and California coastal states.

This Salmon FMP is being implemented by emergency regulations (also published today in the FEDERAL REGISTER), as authorized by section 305(e) of the Act. Emergency regulations were promulgated after the Secretary found and determined that an emergency exists in the coastal commercial and recreational salmon fisheries of Washington, Oregon, and California.

Publication of the FMP also constitutes the notice of publication for the approved salmon plan and its proposed permanent regulations as required by section 305(a) of the FCMA.

Written data, views and comments concerning the Plan may be submitted to: Director, National Marine Fisheries Service, Washington, D.C. 20235. The Secretary of Commerce will consider all such data, views, and comments submitted on or prior to June 9, 1977, before final action is taken with respect to the Pacific Coast Salmon troll fishery plan and regulations pursuant to section 305(c) of the FCMA.

I am publishing this document on behalf of and at the request of the Secretary.

Dated this 20th day of April, 1977 at Washington, D.C.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

FISHERY MANAGEMENT PLAN FOR "COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA"

U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

SUMMARY SHEET

Environmental Impact Statement/Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California

( ) Draft (XX) Final Environmental Statement

Responsible Agency: Pacific Fishery Management Council

1. Name of Action: (XX) Administrative ( ) Legislative

2. Description of Action: The proposed action is to adopt and implement a fishery management plan for commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California under provisions of the Fishery Conservation and Management Act of 1976 (PL 94-265). The Act extends jurisdiction over fishery resources and establishes a program for their management. The purpose of the plan is to manage salmon fisheries off the coasts of Washington, Oregon, and California for optimum yield and to allocate harvest between domestic fishermen. The plan recommends significantly more restrictive ocean salmon fishery regulations during 1977 for waters off the Washington coast and Columbia River mouth as compared to those which prevailed during 1976 and prior years. For Oregon and California ocean waters south of Tillamook Head, a regulatory pattern similar to that of 1976 is recommended for continuance during 1977.

The high mobility of commercial trollers plus the significant harvest of some Washington, Oregon, and Idaho chinook salmon stocks by the ocean fishery off Southeastern Alaska, will require effective management coordination with the North Pacific Fishery Management Council. Further, results from international fishery negotiations with foreign governments, particularly Canada, will have important impacts on domestic salmon fisheries of Washington, Oregon, California, Idaho, and Alaska.

3. Summary:

(a) Environmental Impacts - The major impact on the resource of chinook and coho salmon will be to provide a more orderly ocean-harvesting system, to try to ensure that adequate numbers and races survive fishing mortalities, and, considering the causes and extent of natural mortalities, to reproduce themselves in accord with the environment available for their growth and survival. No changes in the physical environment are expected as a result of the plan. The disposal of waste (salmon viscera) at sea is considered, but is believed to be inconsequential; it will be even less under the plan because of reduced ocean catches. Although reduced overall ocean fishing rates are recommended for waters off the Washington coast and Columbia River mouth, resultant fisheries will still contribute, on a short-term basis, to inadequate spawning escapements for some stocks and races of salmon. These include low cycles for Puget Sound, Oregon coastal, and Washington coastal native coho stocks, plus runs of early chinook salmon to the Snake, Satsop, Chehalis, Queets, and Hoh rivers. The additional escapement of salmon from ocean fisheries will increase the proportion of salmon reaching inshore waters, where Treaty Indian fisheries have been allocated increased catches of salmon by Federal Court decisions.

(b) Adverse Environmental Impacts - The adverse environmental impact involves reduced fishing times and catches for the ocean commercial troll fishery, resulting in adverse economic impact to them and to directly-associated supporting industries, processors and coastal fishing communities.

4. Alternatives: Three types of alternatives to the present action were proposed:

(a) Less restrictive ocean fishing controls off the Washington coast and Columbia River mouth, and

(b) More restrictive regulations in the same area.

(c) No action.

5. Comments Requested: Comments have been requested and received from the following:

Department of Interior
Department of State
Environmental Protection Agency
States of Washington, Oregon, California, Idaho, and Alaska
Northwest Indian Fisheries Commission
North Pacific Fishery Management Council

6. Hearings

February 19, 1977 -- Seattle, Washington
February 19, 1977 -- Boise, Idaho
February 20, 1977 -- Astoria, Oregon
February 21, 1977 -- Charleston, Oregon
February 24, 1977 -- Eureka, California
February 25, 1977 -- San Francisco, California

7. Draft Statement to CEQ

8. Final Statement to CEQ

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1.0 STATEMENT OF THE PROPOSED ACTION

The Fishery Conservation and Management Act of 1976 (Public Law 94-265) provides for the conservation and management of fishery resources of the United States by establishing a Fishery Conservation Zone within which the United States has exclusive fishery management authority. This document is a combined environmental impact statement/fishery management plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California. The proposed action is set forth in detail in Chapter 2 of this document.

1.1 Need for the Fishery Management and Conservation Act

The need for this legislation arose because:

1. The fish off the coasts of the United States constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, recreational opportunities, economy, health and culture of the nation.

2. As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (a) certain stocks of such fish have been overfished to the point where their survival is threatened, and (b) other such stocks have been so substantially reduced in number that they could become similarly threatened.

3. Commercial and recreational fishing constitute a major source of employment and contribute significantly to the economy of the nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been severely damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of U.S. fishermen.

4. International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

5. Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

6. A national program for the conservation and management of the fishery resources of the U.S. is necessary to prevent overfishing, to rebuild over-fished stocks, to insure conservation, and to realize the full potential of the nation's fishery resources.

7. A national program for the development of fisheries which are under-utilized by U.S. fishermen, including bottomfish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

1.2 Objectives of Legislation

The overall objectives of the legislation are:

1. To take immediate action to conserve and manage the fishery resources found off the coasts of the U.S., and the anadromous species and Continental Shelf fishery resources of the U.S., by establishing (a) a fishery conservation zone within which the U.S. will assume exclusive fishery management authority over all fish, except highly migratory species of tuna, and (b) exclusive fishery management authority beyond such zone over certain anadromous species and Continental Shelf fishery resources;

2. To establish Regional Fishery Management Councils to prepare, monitor, and revise fishery management plans under circumstances (a) which will enable the states, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (b) which takes into account the social and economic needs of the States;

3. To implement, in accordance with national standards, fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

4. To promote commercial and recreational fishing under sound conservation and management policies; and

5. To encourage the development of fisheries which are currently under-utilized or not utilized by U.S. fishermen, including bottomfish off Alaska.

1.3 Legislative Mandates

1.3.1 Fishery Conservation Zone. The "fishery conservation zone" of the U.S. extends from a line coterminous with seaward boundary of each of the coastal states to an outer boundary drawn in such a manner that each point on it is 200 nautical miles from which the territorial sea is measured.

1.3.2 Scope of Authority. The United States will exercise exclusive fishery management authority over

1. All fish within the fishery conservation zone except highly migratory species;

2. All anadromous species of fish spawned in the fresh or estuarine waters of the United States throughout their migratory range beyond the fishery conservation zone except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone; and

3. All Continental Shelf fishery resources of the United States beyond the fishery conservation zone.

1.3.3 Fishery Management Programs. This legislation establishes a fishery management program for the United States which delegates responsibility to eight Regional Fisheries Management Councils to develop management plans for each fishery in their respective areas of concern. These fishery management plans must conform to specified national standards. Implementation and enforcement of these plans are the responsibility of the Federal Government.

1.3.3.1 Regional Council. The Pacific Council has assumed responsibility for preparation of the management plan for salmon fisheries off the coasts of Washington, Oregon, and California, recognizing that coordination with the North Pacific Fishery Management Council is required.

1.3.3.2 National Standards for Fishery Conservation and Management. Any fishery management plan prepared shall be consistent with the following national standards for fishery conservation and management:

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

2. Conservation and management measures shall be based upon the best scientific information available.

3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (a) fair and equitable to all such fishermen; (b) reasonably calculated to promote conservation; and (c) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fisheries resources, and catches.

7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

1.3.3.3 Content of Fishery Management Plans. Any fishery management plan which is prepared by any Council shall:

1. Contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are

   a. Necessary and appropriate for the conservation and management of the fishery; and

   b. Consistent with the national standards;

2. Contain a description of the fishery, including, but not limited to, the number of vessels involved and their location, the costs likely to be incurred in management, the actual and potential revenues from the fishery, the recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

3. Assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

4. Assess and specify:

   a. The capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3), and

   b. The portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and

5. Specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, and number of hauls.

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may

1. Require a permit to be obtained from, and fees to be paid to, the Secretary with respect to any fishing vessel of the United States fishing, or wishing to fish, in the fishery conservation zone, or for anadromous species for Continental Shelf fishery resources beyond such zone;

2. Designate zones where, and periods when, fishing shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

3. Establish specified limitations on the catch of fish (based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors), which are necessary and appropriate for the conservation and management of the fishery;

4. Prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

5. Incorporate the relevant fishery conservation and management measures of the coastal states nearest to the fishery;

6. Establish a system for limiting access to the fishery in order to achieve optimum yield; and

7. Prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

2.0 FISHERY MANAGEMENT PLAN

This management plan for the ocean salmon fisheries off Washington, Oregon, and California is a direct response to the Fishery Conservation and Management Act of 1976 (U.S. Public Law 94-265). The Act extends U.S. fisheries jurisdiction and establishes an exclusive management authority. It mandates preparation of management plans for each individual fishery unit, and the ocean salmon fisheries off Washington, Oregon, and California constitute one such fishery unit.

This plan is an initial step in developing a comprehensive management regime for salmon fisheries throughout the range of Pacific Fishery Management Council jurisdiction. It is designed to insure that the Council implements adequate controls to meet allocation requirements mandated by recent court decisions and pressing conservation needs for Washington and Columbia River system salmon stocks. It is envisioned that the plan will be modified as needed.

The ocean salmon fisheries off Washington, Oregon, and California are important, both in their direct economic value and their effect upon the resource and other salmon fisheries. These fisheries have been conducted by U.S. and Canadian trollers since around the turn of the century and by substantial numbers of U.S. recreational anglers since World War II. In Washington, treaty Indians have fished commercially in recent years under individual tribal regulations. The commercial fishery provides fresh, frozen, and cured salmon, all relatively high-priced prime products, to a receptive market over an extended period of time and provides employment to many small, independent businessmen. The sport fishery provides valuable recreational benefits. Canada is the only foreign nation currently documented, in formalized catch and effort statistics, as catching significant numbers of Pacific Coast salmon in a target-species fishery (troll) on salmon stocks originating in Washington, Oregon, California, and Idaho rivers. Other foreign countries have also taken salmon, albeit primarily as incidental catches made during trawl fishing, but the massive nature of past foreign fishing efforts off the coasts of Washington, Oregon, and California create serious concerns for salmon resources.

Canada has passed legislation establishing a fishery zone off her coasts. This became effective January 1, 1977; consequently, U.S. jurisdiction over its anadromous fish will not extend into these areas in accordance with PL 94-265.

Many of the facts upon which this plan is based were taken from five key references, a preliminary management plan plus four documents which were prepared specifically to serve the function of providing detailed back-up information for the plan. These documents are:

National Marine Fisheries Service
1977. Final Environmental Impact Statement/Preliminary Fishery Management Plan. Troll Salmon Fishery of the Pacific Coast. U.S. Dept. Comm. NOAA. 128 pp (mimeo).

O'Brien, Patrick
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2.1 Description of the Fishery

2.1.1 Fishing Areas (Figure 1). The Pacific Coast salmon troll fishery is a mobile fishery which extends from mid-California to Middleton Island in the Gulf of Alaska. It is conducted on feeding salmon intermingled from many parent streams. Many of the larger vessels also participate in crab and albacore fisheries and these efforts often account for a substantial percentage of such fisherman's income.

The California troll fleet fishes mainly off its own coast, but a few boats have fished as far north as the southern coast of Washington.

Although most of the Oregon salmon troll fleet fishes primarily off the coast of Oregon, some vessels, particularly larger ones, follow the salmon runs from northern California to northern Washington.

The Washington troll fleet fishes waters from northern California to Southeastern Alaska. Most of the catches by this fleet, however, occur off coastal Washington. Prior to the late 1960's, U.S. fishermen made substantial landings of both chinook (Oncorhynchus tshawytscha) and coho (O. kisutch) from waters north of the Strait of Juan de Fuca. Such landings have declined greatly in recent years.

Most of the salmon caught by the Canadian troll fleet are taken off the British Columbia coast but some Canadian boats also fish off Washington. A bilateral agreement between the U.S. and Canada, first signed in 1970, permitted salmon fishing since 1973 by Canadian troll vessels within the 3- to 12-mile zone in an area off the Washington coast north of approximately 48°N latitude.

Recreational fishing vessels are far less mobile, limited almost entirely to 1-day trips out of the major coastal ports.

2.1.2 Salmon Stocks. Chinook and coho salmon are the main species caught in the ocean salmon fisheries operating off Washington, Oregon, and California. The catch of pink salmon (O. gorbuscha) in odd-numbered years is also significant.

2.1.2.1 Chinook Salmon. Young chinook salmon generally tend to migrate predominantly northward on their feeding migrations and southward as maturing fish. Consequently, chinook salmon from the Sacramento-San Joaquin River systems contribute substantially to ocean fisheries as far north as southern Washington; northern California coastal chinook stocks also contribute to these same areas and somewhat to the north because they tend to migrate slightly farther north.

Figure 1. Generalized marine areas in which chinook and coho salmon originating in specified locations are taken in the ocean commercial troll and recreational fisheries.

The Columbia River chinook salmon stocks, particularly the lower river fall chinook, contribute heavily to the ocean fisheries off Washington and British Columbia. These lower river chinook do not migrate as far north as Alaska in any magnitude and thus do not appear in any substantial numbers in the Alaska troll catch. Other Columbia River chinook stocks, such as the spring, summer, and upper river fall runs, also contribute to the Washington ocean fishery and, to an even greater extent, to the British Columbia and Southeastern Alaska catches. It was the loss of upriver Columbia River chinook stocks (due to power dams) that had such an adverse effect on the troll catches off Southeastern Alaska. Some Columbia River chinook salmon also migrate southward on their feeding migrations and enter the Oregon and California ocean salmon fisheries.

Washington and Oregon coastal chinook stocks primarily contribute to the ocean fisheries off Washington, British Columbia, and Southeastern Alaska. A proportion of these runs are also harvested off Oregon and northern California.

Puget Sound chinook stocks exhibit the generally typical northward migration pattern, with minor exception; thus, these stocks contribute mainly to the ocean catches off British Columbia.

The Fraser River chinook stocks contribute much more heavily to the British Columbia and Southeastern Alaska ocean fisheries than they do to the Washington area fishery.

In terms of overall management area importance, the California ocean catch of chinook salmon comes mainly from California and Oregon coastal stocks. The Oregon ocean fishery operates mainly on Oregon coastal stocks, California stocks, and fish from the Columbia River. The Washington ocean chinook catches are mainly from Columbia River, Oregon coastal, Washington coastal, California, Puget Sound, and southern British Columbia stocks.

2.1.2.2 Coho Salmon. Coho salmon tend to be available as adults both northward and southward from their parent streams and tend to contribute most heavily to the more local fisheries. (1) Thus, California coho stocks are of minor importance to the ocean fishery north of Oregon. Columbia River and Oregon coastal coho stocks contribute mainly to the Oregon and California fisheries. The abundance of Oregon coastal coho stocks diminishes rapidly from south to north off the Washington coast. Although a sizable portion of the Columbia River coho stocks migrates southward from the Columbia as far as California on their feeding migration, Columbia River coho also contribute large numbers to the Washington ocean fishery. However, their abundance is relatively low north of Cape Flattery.

Washington coastal coho stocks seem to be found more to the north and contribute significantly to the fisheries off Washington and the west coast of Vancouver Island. A portion of these stocks migrate south and enter Oregon coastal fisheries. Puget Sound coho also contribute large numbers to the north coastal Washington and British Columbia ocean fisheries, with minor contribution to Oregon waters.

British Columbia stocks of coho, particularly from the Fraser River, contribute to the Washington ocean fisheries, but their abundance diminishes rapidly from north to south. They also contribute heavily to the British Columbia ocean catches.

Relative abundance of the various stocks shows that California ocean catches of coho salmon come primarily from Oregon coastal, Columbia River, and California stocks. The Oregon ocean catch is composed primarily of Columbia River, Oregon coastal, Washington coastal, and Puget Sound stocks. Coho salmon originating in Columbia River, coastal Washington, Puget Sound, southern British Columbia, and Oregon coastal streams are the primary contributors to the Washington ocean catch.

2.1.2.3 Pink Salmon. For pink salmon, the Fraser River stock, which is abundant in the odd-numbered years, has been the major contributor to the Washington, Oregon, and California ocean catches of pink salmon in recent years. Puget Sound pink salmon stocks occasionally make significant contributions to the ocean fishery.

2.1.3 Salmon Harvests and Values

2.1.3.1 Troll Fishery. The recent chinook catch by California trollers has shown some rather large fluctuations but there does not appear to be any definite trend in the landings. Since 1952, the catch has varied around 600,000 fish with a high of about 958,000 fish in 1956 and a low of 338,000 fish in 1967.

Coho troll landings in California averaged about 80,000 fish from 1952-57. The catch dropped to a low of only 13,000 coho in 1958 and stayed at a low level through 1960. Catches then began to rise steadily, due to increased Columbia River and Oregon coastal hatchery production, reaching 445,000 fish in 1966. Since 1966, the catch has shown some rather wide fluctuations from a low of 158,000 fish in 1972 to a high of 656,000 fish in 1974.

Pink salmon troll catches are very small in California, with the peak recorded catch of 30,000 fish occurring in 1967.

The catch of chinook salmon by the Oregon troll fleet was at its highest in the mid-50's. It then began to decline and reached its lowest level of 53,000 fish in 1962. Since then the trend of the catch has been upward and reached a peak of 363,000 fish in 1973.

The annual Oregon troll catch of coho salmon declined rapidly in the 1950's, and reached a low point of only 112,000 fish in 1960. Then the catch has increased markedly, especially after 1962, reflecting increased hatchery production. The Oregon catch reached a peak of 1.5 million coho in 1971, and subsequently fluctuated at a relatively high level.

Pink salmon are only caught in quantity by Oregon trollers in odd-numbered years, and even then the recorded catch is relatively small. The peak landing was 201,000 fish in 1967, with the next highest catch being 58,000 fish in 1969.

The catch of chinook salmon by the Washington troll fishery, although showing some rather large fluctuations, gradually increased from about 200,000 fish in 1935 to around 400,000 fish in the early 1950's. The catches then experienced a sharp decline to a low of only 96,000 fish in 1965. Since that time, the catches have been generally increasing and reached a recent peak of 353,000 fish in 1974. These statistics include a small (i.e., less than 2% of the

state's total troll landings) year-round tribal troll fishery by the Makah Indians centered in the vicinity of outer Juan de Fuca Strait.

The coho catch by Washington trollers is considerably more variable than the chinook catch. During the late 1930's and early 1940's the catches generally declined. They improved during the late 1940's and 1950's, fluctuating around 600,000 fish annnually. Since 1965, the overall trend of the catches has been generally upward with a record catch in 1971 of 1,264,000 coho salmon.

Pink salmon are caught by Washington troll fishermen primarily in the odd-numbered years. The catches began increasing in the early 1950's and reached a record catch of 630,000 fish in 1963. Following another good catch in 1967 of 381,000 fish, the catch has declined to less than 60,000 fish annually since 1967.

Not only have troll salmon catches been increasing, but the prices paid to fishermen also have risen dramatically. For chinook salmon, the average coast-wide price per pound increased from 25 cents in 1947 to 80 cents by 1972 and has continued to increase since that time. For example, average ex-vessel price for troll-caught chinook in Washington for 1975 was over $1.00 per pound, and final 1976 economic statistics will be even higher. For troll-caught coho salmon, from an ex-vessel price of 22 cents in 1947, the price increased to 68 cents per pound by 1972, and these coho prices also have continued to increase sharply since then. It should be pointed out that these prices are undoubtedly minimal since other factors such as bonuses, post-season settlements, etc., are not included.

While some of this price rise reflects price inflation in the national economy, troll salmon prices deflated by the wholesale price index rose, on the average, by over 2% per annum from the late 1940's to 1972.

2.1.3.2 Ocean Sport Fishery. In addition to extensive commercial troll salmon fisheries, there also are increasingly important ocean recreational fisheries harvesting stocks of Pacific Coast salmon. For example, the reported ocean sport catch of chinook in California increased from around 100,000 fish in the early 1960's to nearly 200,000 fish by the early 1970's. The California ocean sport catch of coho also has increased during this period, reaching a peak catch of about 77,000 fish in 1974.

In Oregon, the ocean sport fishery depends heavily on coho, with recent landings exceeding 300,000 fish in 1967, 1971, and 1974. Chinook catches were smaller averaging only about 43,000 fish per year in the last decade.

The ocean recreational catch of salmon in Washington has increased rapidly since 1952, sometimes exceeding the total marine sport salmon catch for all other Pacific Coast states and British Columbia combined. The ocean chinook catch has increased since 1952 at a rate of approximately 7,000 fish per year and reached a peak of 262,000 chinook in 1975 after a low of 38,000 fish in 1953. Washington's ocean coho fishery has increased from a low of 26,000 fish in 1962 to a high of 747,000 coho in 1971. The catches in 1972 through 1975 ranged from 471,000 to 594,000 coho.

Economists commonly evaluate sport fishing on the basis of value of the whole experience expressed as a dollar value per angler day for the average angler. Recent studies have indicated $22.00 to $28.00 (or higher) as the average value of an angler day in the Northwest salmon sport fishery.

Conversion to value per fish, required for management purposes, is not simply a matter of dividing days fished by fish caught. Empirical studies do not exist which permit making a completely reliable conversion.

2.1.4 Vessels and Gear Employed

2.1.4.1 Troll Fishery. Commercial salmon fishing in the ocean began as a hand line operation--a single line fished from a row boat. Power boats entered the fishery in the 1910's and these permitted more lines to be fished per boat. Power gurdies came into general use in the 1920's, allowing the use of steel fishing lines, heavier weights, and an increased number of lines. Aids to navigation, such as radio-telephones, direction finders, echo-sounders, automatic pilots, and radars, coupled with the larger, faster and more powerful vessels, have greatly increased the efficiency and mobility of the fleet.

Many of the present-day commercial vessels are combination boats which are used in more than one type of fishery (e.g., crab and albacore). Crab fishing normally occurs prior to or during the early portion of each salmon troll season. Fishing effort in each fishery is dependent upon the relative abundance and prices of salmon versus those for crab. The opportunity to take albacore normally commences in July and August, or subsequent to a substantial portion of the normal troll salmon season. Again, relative comparisons of abundance and prices influence the degree of fishing effort for each resource. The development of the albacore fishery was an important influence in shifting troll salmon fishing effort from late summer and fall to spring and early summer months.

There also has been a tendancy to build larger, more efficient vessels, particularly in the British Columbia fleet. However, there also has been a significant increase in the number of smaller vessels entering the troll fishery. Boats range in size from small 20-ft day boats to 60-ft-plus combination vessels capable of extended stays at sea. Large boats are frequently equipped with mechanical refrigeration. Most boats have two tall trolling poles which rise high above the mast, and two more may lie back from the bow. When fishing, these poles are dropped out and downwards, carrying stainless steel lines that are stretched almost straight down for 180 ft or more by large "cannon ball" weights of as much as 50 lb. Each line carries several lures, sometimes as many as 12 or more. When a fish strikes, the steel lines are reeled in on power-driven spools called "gurdies". The terminal gear used may be bait, plugs, spoons, or a combination of flashers and bait or plastic lures.

Today there are several thousand trollers fishing along the Pacific Coast, although it is difficult to get the exact numbers since licensing requirements vary with the different State management agencies. A number of boats are licensed in two or more states.

An estimated 1,300 boats were licensed by the State of Washington to troll for salmon in 1951. This increased to an estimated 1,722 vessels by 1964. From the mid-1960's through 1971, the fleet increased substantially, peaking at an estimated 5,600 boats in 1971. Unfortunately, this cannot be accurately documented since a vessel delivery permit was not automatically included with a troll license, being purchased separately. The total number of boats eligible to troll was less than the total for licenses plus permits since many individual boats purchased both. From 1972 on, a vessel delivery permit was automatically included with each troll license and the permit alone could be purchased separately. By this procedure, total boats eligible to troll equalled the sum of licenses plus separate permits. During the four seasons from 1972 through

1975, annual Washington boat totals were 3,518, 2,660, 3,260, and 3,136, respectively. Estimated number of days fished by this fleet ranged from 51,000 to 68,000 annually during the period of 1970 through 1975.

Oregon does not issue commercial fishing licenses for a particular type of fishery, so there is no accurate count on the number of Oregon trollers fishing. Nevertheless, the number of salmon landings by Oregon trollers increased markedly from 15,000 in 1965 to over 51,000 in 1974. Over 3,000 individual boats landed salmon in Oregon during 1975.

The number of troll salmon licenses for California is also not directly available, although the number of registered California commercial fishing vessels that landed salmon averaged around 2,000 in the late 1960's and then jumped from 2,865 in 1973 to 4,801 in 1975. A common measure of salmon fishing effort for California is the number of salmon landings. These have increased from 44,000 in 1965 to a peak of 56,000 in 1973.

The State of Washington presently has a moratorium on the issuance of new salmon licenses. Commencing in 1975, only those vessels which held a valid license during the period of January 1, 1970 and May 6, 1974, and which had caught and landed salmon during that period could be relicensed. Licenses, however, can be transferred from boat to boat or to new fishermen.

2.1.4.2 Ocean Sport Fishery. The sport fisheries off the Coasts of Washington, Oregon, and California are of a much more recent vintage, generally growing to significant, wide-ranging proportions only after World War II in ocean waters historically fished only by commercial fishermen. Prior to that time, sport catches generally occurred either in or just off various coastal river mouths during the period when runs of salmon were expected on their annual spawning migrations. The advent of larger, more seaworthy private boats with powerful, dependable engines, plus the rapid development of charter or party boat fleets, construction of small-boat basins, improvments in launching and moorage facilities, and increases in fishermen support industries, have combined to make recreational ocean fishing a major impact on salmon resources. Sophisticated navigational equipment and other electronic gear have been utilized by charter fishing craft as well as by commercial trollers and this, coupled with a distinct trend toward larger boats, has provided sportsmen with access to an ever-increasing percentage of the ocean waters inhabited by feeding chinook and coho salmon.

The fishing gear utilized by individual sport anglers varies widely, but generally consists of a single rod held by hand and/or rod holder with a single bait or artificial lure. (NOTE: California has no limit on the number of rods or gear during the commercial fishing season.) Two basic patterns of fishing are common, "mooching" and trolling. Mooching is fishing from a drifting craft, typically with bait, and is commonly practiced by many private craft and most larger charter boats. A variation is "motor mooching", where intermittent motor propulsion is utilized to improve the "action" of bait or lures. Trolling involves continual movement by individual craft at a somewhat constant rate of speed and is practiced by private craft as well as many smaller charter boats. This consistent gear movement within the water column necessitates use of much heavier weights and lines with various planing devices sometimes being employed to force the terminal gear downward. Accessories are often used which either release the heavy weights when a fish strikes or release the light fishing line from a heavier steel line utilized to carry the former to a desirable fishing depth.

Fishing effort is traditionally expressed in terms of angler participation as an "angler day" or "angler trip". Either term denotes a single day's sport fishing effort by one angler. Fishing success is commonly measured as catch per angler trip or day, and is the product of dividing the total salmon catch landed by the number of angler trips or days. For example, Oregon ocean sport fishermen averaged 337,000 angler trips per year during the 10-year period, 1966 through 1975. The overall fishery south of Tillamook Head averaged 0.81 salmon per trip during this period, while anglers fishing the Columbia River area averaged a higher 1.50 fish per trip for the same time span.

Formalized effort statistics are not normally maintained for actual numbers of individual private boats participating in the ocean recreational fisheries. Data on numbers of charter boats are generally available, however, due to various licensing or registration requirements within each individual state. For example, it is known that Oregon had at least 226 charter boats during 1975 and that the State of Washington licensed a total of 426 charter boats in 1976. A very high percentage of the latter operated from coastal fishing ports.

2.1.5 Impact of Foreign Fishery on Domestic Fishery Activities

2.1.5.1 Competition on Stocks. Canadian salmon fisheries, particularly commercial trolling, have a significant impact on domestic sport, treaty Indian, and commercial salmon fisheries. Stocks of U.S. salmon, in addition to being heavily exploited by Canadian trollers off the British Columbia coast and by Canadian seine and gill net fishermen in Juan de Fuca Strait, are also caught by Canadian trollers off the Washington coast where they are permitted to fish within the 3- to 12-mile area north of approximately 48°N latitude under a bilateral fishing agreement.

Canadian fishermen take over half of the total catch of ocean-migrant Puget Sound chinook salmon and about 40% of the total catch of Puget Sound coho. Also, Canadian trollers catch about one-third of the total catch of the fall chinook salmon reared in Columbia River hatcheries. Thus, the large catch by Canadian fleets has a tremendous impact on the fisheries of the U.S. All the escapement requirements have to be taken from that portion of the run returning to U.S. waters. In years of small runs, this requirement can sometimes eliminate any domestic fishing opportunity.

In areas off the U.S. coast, and to a limited degree off the Canadian coast, troll vessels from the two nations fish side by side. In these areas they directly compete for the salmon available. However, the catch by Canadian trollers off the U.S. coast is much greater than the catch off Canada by U.S. trollers. Furthermore, the catch off the U.S. coast by Canada has increased in recent years, whereas the catch off Canada by U.S. trollers has declined. For example, from 1960-62, a 3-year total of 120,000 chinook salmon, or 26% of the total catch of chinook salmon by U.S. trollers landing in the State of Washington, was caught off the west coast of Vancouver Island. By contrast, for the 3-year total of 1970-72, only 11,000 chinook were caught by U.S. trollers in these same areas and landed in the State of Washington. This amounted to less than 2% of the total Washington troll catch of chinook salmon. On the other hand, during 1960-62, Canadian trollers caught less than 1,000 chinook salmon off the Washington-Oregon coast; while from 1970-72, Canadian trollers caught a 3-year total of 163,000 chinook in the same area.

Coho catches by each country off the other nation's shores have shown a very similar trend, with Canadian troll salmon landings from the Washington and

Oregon coasts peaking at nearly 600,000 fish in 1970, and Washington catches off Canada gradually fading to insignificant proportions by the early 1970's. It should be noted that accuracy of catches discussed is dependent upon fishermen properly reporting their catch-origin areas to troll fish buyers.

The large catches of U.S. chinook and coho salmon by Canadians have made it increasingly difficult for some U.S. fisheries in inside waters to maintain any type of open season and still obtain the desired levels of spawning escapement. This problem is magnified even more by the obligation to allocate a proportion of the available catch to treaty Indian fisheries in line with recent U.S. Federal Court decisions.

Foreign trawling also has an impact on U.S. salmon stocks. Trawling, particularly by Soviet vessels, began off the Washington-Oregon-California coast in the mid-1960's. Other countries, including Japan, Poland, East Germany, West Germany, and Bulgaria, subsequently entered this fishery. The magnitude of foreign fishing depends on time of year, and it affects the salmon fishery in two ways. There is physical interaction of large foreign vessels competing for space in certain areas and during certain months with smaller U.S. salmon trollers. This occurs because hake, the primary target species of the foreign trawlers, and salmon often occur together apparently due to similarities in food habits. Some salmon are caught by the foreign trawl fishery. Specific effort by the foreign fleet to catch salmon has not been documented, but an incidental catch of both chinook and coho salmon is known to occur. Some incidental salmon catches were recorded by American observers on foreign vessels. Observations off Oregon of the number of salmon caught during 1975 and 1976 ranged from no salmon to 0.43 salmon per metric ton (2,205 lb.) of hake. Chinook was the principal salmon species caught by foreign trawlers. A rough approximation of salmon catches by foreign trawlers might be the mid-point of these observations (0.215 salmon per metric ton) times the recent average catch level of 200,000 metric tons annually. This would yield an incidental catch of 43,000 salmon per year off Washington, Oregon, and California. However, for 1977, the allowable hake catch for all foreign trawl fishermen will be substantially reduced from this 200,000 metric ton level and no retention of salmon will be permitted.

2.1.5.2 Implied Economic Consequences. The large catches of U.S. chinook and coho salmon by Canadian vessels has had serious economic impact on the fisheries of the U.S. in that they have greatly reduced the number of salmon available for capture by U.S. fishermen. These large catches of salmon by Canadian vessels, a substantial portion of the catches being hatchery fish produced at substantial cost to the U.S. taxpayer, have reduced the benefit/cost ratio (as it pertains to benefits to U.S. fishermen) for U.S. hatchery operations and consequently made it more difficult to gain public support for such operations. Nevertheless, resource enhancement in terms of artificial production and habitat improvement can still be conducted on a positive domestic benefit/cost ratio and is essential to the future well-being of U.S. domestic user groups, providing Canadian catches of U.S. salmon do not accelerate to an even higher level. Care must be exercised, however, in the selection of facility sites, release points, salmon stocks, juvenile size at liberation, and timing of releases in order to maximize benefits to U.S. domestic fisheries.

The broader implications of the salmon interception problem are summarized graphically in Figure 2.

2.1.6 Non-Target Species Mortalities. This is not a serious problem with the ocean salmon fishery. Although many other species, such as rockfish (genus Sebastes), lingcod (Ophiodon elongatus), and Pacific halibut (Hippoglossus stenolepis), may be caught by trollers and sport anglers, the magnitude of these catches, in most instances, is minor, both in relation to the ocean catch of salmon species as well as to the catch of the non-target species by other fisheries.

2.1.7 Fishery Management and Research

2.1.7.1 History. The earliest management involvement of Pacific Coast states was primarily in the form of documenting landings. Reliable statewide ocean salmon landing estimates were first published by California in 1916.

The first ocean salmon research that had significant management implications was not published until 1920. This work on salmon in Washington coastal waters demonstrated the rapid growth of "silvers" (coho) in their third summer and the advantage of delaying their capture until a larger size was reached.

Although tagging salmon at sea to study migration patterns was attempted in the early 1920's, it was not until the late 1930's and early 40's that significant information regarding ocean salmon movements was available.

Management agencies from the states of California, Oregon, and Washington have maintained specific and continuing research and management projects for the ocean salmon fishing since the 1940's. This work was solidified with the creation of the Pacific Marine Fisheries Commission (PMFC) in 1947 when the states of California, Oregon, and Washington entered into a compact with the consent of the 80th Congress of the United States.

One of the first undertakings of the Commission was the collection and publication of all available research data, statistics, and other facts pertinent to the marine fishing of the Pacific Coast states. Based on the data collected, the PMFC made recommendations for the regulation of the ocean troll fishery. These recommendations were subsequently adopted in substance by the member states.

The forum for coordinating both research efforts and ocean salmon fishery management has generally been the PMFC Salmon and Steelhead Committee. This Committee consists of knowledgeable project leaders and supervisors from each State agency.

Along with the tremendous increase in exploitation of ocean salmon stocks and as a result of continuing research by government agencies along the Pacific Coast, it became apparent that foreign fisheries created a tremendous impact upon U.S. salmon stocks. A prime example is the influence of Canadian troll catches on Puget Sound and Columbia River stocks.

There is a long history of cooperative research between the U.S. and Canada on salmon problems, as well as the exchange of statistical data. In the early 1960's, an Informal Committee on Chinook and Coho Salmon and a functional subunit--a technical working group--were established between the two countries and have provided a forum for planning and reviewing the results of the other country's research as well as an easily accessible route for the exchange of data.

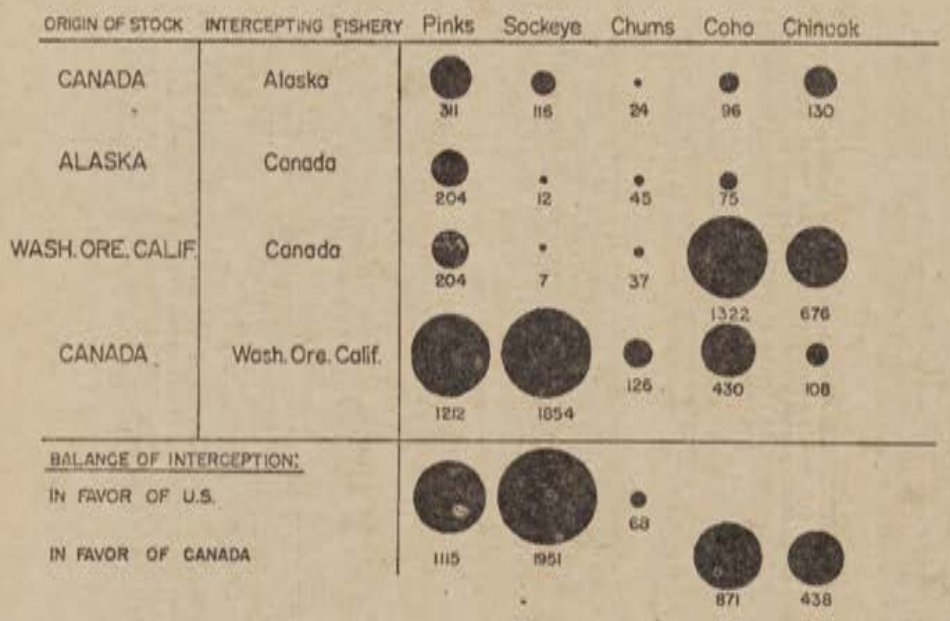

Figure 2. Interceptions of salmon by United States and Canadian fisheries. Average annual catches, 1964-1974 (1,000's of fish).

(Note: Average of U.S. and Canadian estimates and does not include salmon bound for streams which originate in Canada and flow through the Alaska Panhandle.)

2.1.7.2 Coordination with North Pacific Fishery Management Council. Significant numbers of chinook salmon originating in Washington, Oregon, and Idaho rivers are currently harvested by U.S. and Canadian commercial trollers operating in offshore waters adjacent to the coastline of Southeastern Alaska. Stocks involved include mainly those chinook salmon runs from the upper Columbia River system and Oregon and Washington coastal streams which still have significant numbers of 5-year-old fish in their spawning populations. The significant role of ocean fishing off Alaska on these stocks mandates close coordination between the North Pacific and Pacific Fishery Management Councils with respect to troll fishery chinook management. Further, changes in ocean fishery regulatory practices off either Alaska or off Washington, Oregon, and California would modify the coastwide distribution of troll fishing effort and must be carefully considered by both Councils.

Alaskan chinook and coho are not taken to any degree off Washington, Oregon, and California, and coho from these three southerly states are not present in any significant numbers off Alaska as adults.

2.1.7.3 Adjacent Waters Management. A close degree of coordination and general unity of purpose will be required in overall salmon resource management since the stocks involved commonly migrate across jurisdictional zones of domestic fishery management agencies as well as international boundaries. Specific and effective cooperation efforts by the Pacific Fishery Management Council must involve the following management authorities:

1. The International Pacific Salmon Fisheries Commission, Fisheries Service of Canada, State of Washington, and treaty Indian tribes for management of Puget Sound and southern British Columbia salmon stocks and fisheries.

2. The State of Washington and treaty Indian tribes for management of coastal Washington salmon stocks and fisheries.

3. The States of Washington, Oregon, and Idaho, treaty Indian tribes, and the Columbia River Compact for management of Columbia River system salmon stocks and fisheries.

4. The State of Oregon for management of coastal Oregon salmon stocks and fisheries.

5. The State of California for management of California salmon stocks and fisheries.

In all cases, coordinated management of salmon stocks must consider the habitat necessary to maintain and enhance the salmon resource on a continuing basis.

2.1.7.4 Regulation Evaluation. Proposed regulations will be evaluated by computerized analysis systems designed for that purpose. These are the Washington State Department of Fisheries-National Bureau of Standards Catch/Regulation Analysis Model (2) and the California Department of Fish & Game Salmon Fisheries Population Simulation Model.

Washington's operational management system has the capability to evaluate changes in ocean salmon fisheries by adjustments in seasons, size limits, fishing areas, effort levels, etc. Proposed changes presently can be contrasted with existing regulations for eight mixed stocks by area and fishery

in terms of numbers of fish taken, pounds landed, economic value of the catch, and fishing-related mortality losses. The computerized model presently contains 1975 recreational and commercial fishery economic data (3) as well as biological data on the following major stocks:

Puget Sound coho (4)
Columbia River coho (5)
Willapa Bay coho (6)
Grays Harbor coho (7)
Oregon coastal coho (8)
Southern British Columbia coho (9)
Lower Columbia River fall chinook (10)
Upper Columbia River fall chinook (11)

Biological data for each stock encompass estimates of ocean migration patterns (12), growth rates (13), age-class composition (14), maturation schedules (15), natural mortality rates (16), fishing-related mortality factors (17), and catch distributions (including average lengths and weights) and fishing rates by time, fishery, and geographical area (16).

This computerized model will soon be expanded to include other major salmon stocks such as Puget Sound chinook, Sacramento chinook, Oregon coastal chinook, upper Columbia and Snake River spring chinook, Fraser River chinook, and northern California coho.

The California model is oriented toward predicting the effects of regulation changes on catch and ocean escapement of chinook and coho. Biological data utilized include growth rates, age-class composition, natural mortality rates, fishing rates, fishing-related mortality factors, and catch by specified time intervals.

2.1.7.5 Provision of Basic Statistics. In order to provide the basic real time catch and effort data base necessary for achieving rational management of the ocean salmon fisheries, a coastwide data system will be achieved by expansion of the Washington Department of Fisheries' Auxiliary Fish Catch Record System (AFCRS). (19) This operational, on-line, computerized system successfully handled in-season catch add effort for all Washington salmon fisheries and the Oregon ocean sport fisheries during 1976. (20) Basic data are entered by common format from many agency sources to a central computer at the University of Washington and can be readily accessed in a variety of summary formats through the use of remote terminals. Data from the Oregon troll fishery as well as California and British Columbia ocean fisheries will be added to this system in 1977 as methods of providing real time catch and effort data are developed for each area. Remote terminal capabilities can be expanded to encompass any concerned fishery management agencies, and appropriate new summary formats will be developed as new management needs arise.

Specifically, the basic statistical data required are salmon catches (in numbers of fish by species, existing statistical catch area, time period, fishing gear, and user group) plus effort data (days fished or number landings for commercial fisheries, angler days for recreational fisheries).

2.1.7.6 Costs of Management. The high economic value and management complexities of salmon resources require that Pacific Coast fishery agencies expend significant portions of their resources for salmon management. For 1977, existing State and Federal programs can provide much of the work required for management needs. However, additional resources will be required for efficient management of the resources and the harvesting systems operating on them, especially for enforcement of the proposed regulations.

The expenses to date that have been incurred by the members of the planning team preparing this Ocean Salmon Fishery Management Plan, have totalled approximately $55,000. Direct expenses have been covered by a State-Federal Program contract with the Pacific Marine Fisheries Commission. Salaries for the members of the Team have been provided by their respective state and federal employing agencies.

The best estimate available at the present time of additional costs reasonably to enforce the Plan and its regulations is $450,000. This amount would support 248 Enforcement Agent-days, 660 hours of aircraft time for aerial patrols, and 120 vessel-days for surface patrols. Fishery enforcement personnel of the three coastal states and the National Marine Fisheries Service and personnel of the U.S. Coast Guard will cooperate in these patrol and enforcement actions. The specific contribution of each has not yet been established. These costs can be covered by (1) new appropriations, or (2) reprogramming of funds and efforts presently available. If additional funding cannot be provided from new money or reprogramming, then the level of enforcement will not be sufficient to handle adequately all of the anticipated problems.

No new domestic licenses, permits, or other forms of catch tax are proposed in the management plan above and beyond prevailing license and landing fee requirements of the individual states.

2.2 Status of Stocks

2.2.1 Condition of Salmon Resources

2.2.1.1 Chinook Salmon

The chinook salmon stocks in California have been severely depressed by changes in their freshwater environment (dams, water diversions, logging, pollution, road construction, etc.), and the stocks are at a much lower level of abundance than they were historically. There is some indication that the stocks are continuing to decline. For example, the average annual Sacramento River fall chinook escapement was estimated at 311,000 fish for the 5-year period 1953-57, and only 199,000 fish for the 5-year period 1965-69. For the same periods, escapements of the San Joaquin River fall run were 43,000 and 22,000 fish, respectively.

The Oregon coastal stocks of chinook also have been adversely affected by environmental changes (logging, fires, dams, pollution, etc.).

Many Columbia River chinook stocks are generally at a lower level of abundance than they were historically, and some of the upriver stocks have been lost completely because of dam construction. Furthermore, the spring and summer chinook runs to the Snake River have been declining since 1969. Escapement in 1974 and 1975 was dangerously low and below minimum escapement levels in most cases. This recent decline is attributed primarily to loss of juvenile salmon on their seaward migrations. The summer run escapements in recent years have been much lower than in the mid-1950's. The natural spawning upriver fall runs are down from earlier years and in some instances have not met escapement goals. Continuing efforts toward improved fish passage facilities, pollution control, and hatchery production give promise, however, of increasing chinook salmon runs in these areas as well as in the Willamette system and other lower Columbia River tributaries. Lower Columbia River stocks are already heavily augmented by hatchery production, and improved hatchery practices should

increase production of these fish even further.

A few coastal Washington chinook runs appear to be in fairly good condition. Increased fishing pressure and accelerated logging and industrial development have depressed many runs. Unless adequate steps are taken to protect the stream and estuary environment and to decrease ocean fishing mortality, continued declines can be expected. Certain races of fish, such as the early Satsop fall chinook and the spring and summer runs on the Queets and Hoh Rivers, are severely depleted.

For Puget Sound, the natural stocks of chinook are generally in a depressed state, whereas hatchery production continues to increase. Some continual degradation of the environment is to be expected although there are increasing efforts to minimize adverse effects on the stocks.

The chinook salmon stocks in British Columbia have not experienced the adverse effect on their environment to the same degree as the stocks to the south, but the escapement trend still appears to be slightly downward.

2.2.1.2 Coho Salmon

Annual coho production by California hatcheries is about 1 million yearlings. The majority of naturally-spawned coho are produced in streams north of San Francisco. California's north coast coho are secondary in importance when compared to that state's chinook run. Counts made at dams and weirs along the north coast show that coho escapement in recent years has been extremely variable.

For Oregon coastal coho stocks, production capacity, which declined as a result of early deterioration of watersheds, appears to have stabilized in most cases. Hatchery production is at a high level. Increased ocean fishing pressure stimulated by successful hatchery programs may have adversely affected some Oregon wild stocks.

For the Columbia River coho stocks, the escapement for the natural spawning early run fish is down, whereas the escapement to the hatcheries has increased. For late running coho, the trend of natural escapements is level to slightly down, with reduced escapements occurring in both 1973 and 1974.

The abundance of natural coho stocks in most Washington coastal and Puget Sound streams has decreased due to loss of spawning areas through logging, road building, gravel removal, dams, and pollution. Additionally, over-harvest has resulted in some natural runs not meeting escapement requirements in several recent years. Hatchery escapement and production have been increasing.

In general, coho salmon spawning areas in British Columbia continue to remain productive and stock levels relatively stable. Increased industrialization and pollution of the Fraser River could cause lower production.

2.2.1.3 Pink Salmon

Puget Sound pink salmon stocks are at a very low level of abundance and have been low since the large run in 1963. Fraser River pink salmon stocks experience rather wide fluctuations in abundance but have shown no significant trend, either upward or downward, in recent years.

2.2.1.4 Assessment of Future Status of the Resources

With prevention of further environmental degredation and overfishing, salmon stocks can be expected to continue producing sustained yields at or near the levels of recent years. Provision of improved spawning escapements for currently depressed stocks will aid in rebuilding them to harvestable levels and a modest incremental gain in total resource base can be expected. Large increases in future salmon abundance must, however, come from widespread habitat improvements to benefit natural production and/or major new artificial production facilities.

fish, annually to all U.S. and Canadian salmon fisheries. These coho stocks are from Puget Sound, southern British Columbia, Washington coastal, Columbia River, and Oregon coastal streams. Yields from all coho stocks present would be slightly higher.

In the absence of all U.S. and Canadian ocean fishing, it is conservatively estimated that the same level of Columbia River fall-run chinook salmon resources could yield a harvest of 22.3 million pounds annually (1.1 million fish), or nearly 5 million pounds more than is presently achieved with the existing combination of all ocean and "inside" fisheries on these stocks. Further, it is conservatively estimated that the same five coho stocks listed above could produce 35.0 million pounds annually (4.3 million fish) in the absence of any domestic or Canadian ocean fishing in all areas or over 4 million pounds more than is now produced with the current distribution of overall catches. The "conservative" connotation is utilized in both instances since the statistics utilized for this analysis were conservative in the case of both hooking mortality rates and magnitude of ocean "shaker" catches (17) but relatively liberal with respect to natural mortality rates (16). Both biases in combination produce the most favorable possible evaluation of ocean fishery yields when contrasted to fishing for mature adults.

A noted Canadian scientist, Dr. W. E. Ricker, recently examined some of these same data and concluded that "the increase in weight of total catch from discontinuing ocean trolling for Columbia River chinook salmon and increasing river fishing correspondingly is estimated tentatively as between 63 and 98%". (22)

Regardless of the exact level of loss, fishery scientists generally agree that the "costs" of having major ocean fisheries on chinook and coho amount to millions of pounds of lost salmon production annually. (16)(22)(23) The ratio of loss to potential yield is substantially less in the case of coho since virtually all fish are harvested in their third (i.e., final) year and, in comparison to chinook, the average date of harvest for adults is closer to the times when maximum size is attained.

Achieving maximum yield levels in pounds would require elimination of ocean troll and sport fishing and the taking of all fish at or near river mouths. This action would be required because rate of growth exceeds rate of natural mortality in the ocean. This plan deviates from MSY by maintaining ocean troll and sport fisheries, but recommends reduced fishing rates to provide increased availability of fish to "inside" fisheries and spawning escapements.

Net effect of these recommendations on certain major salmon stocks provides an example of the effect of modifying MSY to reflect economic and social (including legal) factors to achieve OY. The plan projects optimum yields (OY) of 18.0 million pounds for Columbia River fall-run chinook (4.3 million pounds less than MSY) and 31.3 million pounds for the five coho stocks described previously (3.9 million pounds less than MSY). The reasons for proposing a harvest of less than MSY are reflected in (1) the high recreational values; and (2) the higher market value per pound for troll relative to net-caught Columbia River fall chinook (due to both real and perceived quality differences and different market channels). Values under the plan include an estimated $19.9 million for Columbia River fall-run chinook ($6.2 million more than the MSY value of $13.7 million) and $43.5 million for the five coho stocks ($8.8 million more than the MSY value of $34.7 million)(24).

Other considerations involved in preserving ocean troll and sport fisheries to achieve OY are:

1. Availability of salmon over a longer annual time period and in greater variety with a troll fishery.

2.2.2 Estimated Maximum Sustainable Yield (MSY) and Optimum Yield (OY). Due to the annual variability experienced by salmon stocks, it is only possible to describe MSY for salmon as an average for a number of years. The normal management procedure is to set escapement goals by individual stock or aggregate of stocks for natural spawning and artificial production facilities. Management intent is then to permit any additional fish over and above these goals to be harvested. Pre-season predictions of expected run sizes subsequent to any ocean fishery interceptions are made for all major Washington and Columbia River salmon stocks to give fishermen and processors some idea of expected harvests and to provide fishery management agencies a basis for developing necessary regulatory controls. In practice, the ocean fisheries for chinook and coho salmon have never been actively managed in the context of either adjusting fishing rates up or down in response to similar fluctuations in salmon abundance or regulating the ocean fisheries to take a reasonably constant proportion of the fish actually available from year to year.

A good ocean catch can mean either a high abundance of salmon or a higher than normal fishing rate on an average run; an average catch can develop from a low catch rate on large runs, a high fishing rate on poor runs, or an average exploitation rate on average runs; and a poor ocean catch can result from a low catch rate on average runs or an average fishing rate on poor runs. The particular case for any specific year can only be evaluated after the fact when strengths of individual salmon runs returning to their respective streams of origin have been fully evaluated. With current technology, scientists lack a basis for accurately determining ocean fishing rates while the major ocean salmon fisheries are still in progress. Further, a high or low fishing rate on chinook salmon does not correlate with the same type of fishing rate on coho during a given season.

Since the entire methodology is imprecise, there is often considerable difference between pre-season run size predictions and actual stock abundance subsequent to ocean fishery interceptions. (21) For Washington and Columbia River salmon stocks, the highly efficient "inside" commercial net fisheries, plus a few river sport fisheries, have traditionally been closely monitored and regulated on a day-to-day basis to adequately harvest any levels of fish over and above needed escapement requirements. More recently, day-to-day management attention has been necessary for many of the new treaty Indian fisheries. The various "inside" fisheries have also borne virtually the entire brunt of restrictive measures deemed necessary to protect any depressed salmon runs. In some cases, there have not been enough fish reaching the spawning grounds to meet even minimum escapement requirements in spite of extensive closures of "inside" fisheries.

MSY for all individual chinook and coho salmon stocks found off the coasts of Washington, Oregon, and California at some time in their life history have not been calculated, but good approximations are available from the Washington State Department of Fisheries-National Bureau of Standards Catch/Regulation Analysis Model for most major stocks available as adults in the critical Washington coast-Columbia River mouth ocean management zone.

For example, Columbia River fall-run chinook (both upper and lower river) account for 70-75% of the ocean chinook catches made off Washington and these stocks currently provide an estimated average annual yield to all U.S. and Canadian salmon fisheries in all areas of 17.4 million pounds round weight, or nearly 1.3 million fish. Yields from all chinook salmon stocks found in this area would be about one and one-third times these amounts. An aggregate of five major coho stocks which account for over 95% of the ocean coho catch made off the Washington coast and Columbia River mouth currently yield an estimated 30.9 million pounds, or 4.8 million

2. Less dislocation and community impact than that which would follow immediate elimination of industries (troll fishery and charter boats) which form significant sectors of coastal employment alternatives.

3. Preservation of a life-style represented by troll fishing and charter boat operation; activities accessible with modest capital investments.

Factors justifying some significant transfer of fish to the inside fisheries and spawning escapements to achieve OY include:

1. Reduced catches of depleted fish stocks that will provide increased salmon production over the long-term.

2. Legal rulings that require certain quantities of fish to be provided for treaty Indian fisheries.

3. A reversal of past trends resulting in the brunt of conservation restrictions falling on inside fisheries in order to assure that adequate spawning escapements are provided.

Current technology and availability of data do not permit direct quantification of all these factors. Thus, final determination of OY reflects the professional judgments and experience of the working team who prepared the plan, the Scientific and Statistical Committee and the Council which also has been influenced by input from the Salmon Advisory Panel and the citizen input through public hearings. The concept of optimum yield recognizes explicitly the multiple objectives of fishery management that were included in the Fishery Conservation and Management Act of 1976. The Act requires that relevant biological, economic, and social factors must be considered in determining the "optimum" yield from a fishery which will provide the greatest overall benefit to the nation with particular reference to food production and recreational opportunities. The Act does not, however, specify precisely how various factors should be included or how they should be balanced against one another in the determination of optimum yield.

This fishery management plan represents OY for 1977 by recommending management policies that modify estimates of MSY and reflect all the criteria established by PL 94-265 to the extent that information is available and the state of the art permits.

2.3 Total Allowable Level of Foreign Fishing

The abundance of the stocks of U.S. Pacific Coast salmon that are available to the Washington, Oregon, and California ocean fisheries will vary considerably from year to year. At the highest conceivable level of present or future abundance they can be completely and adequately harvested by U.S. domestic fisheries.

Thus, there is no surplus of these stocks available for harvest by foreign fishermen. However, part of the fishery is affected by a reciprocal fisheries agreement between the Government of the United States and the Government of Canada. The agreement shall enter into force when both countries have notified the other that necessary internal procedures have been completed. This agreement provides that Canadian fishermen may continue to fish within a portion of the Fishery Conservation Zone until December 31, 1977. A 1973 reciprocal agreement, which expires by its own terms on April 24, 1977, is superceded upon the entry into force of the new Agreement. The terms specified in the new reciprocal agreement will apply to Canadian fishing in the U.S. Fishery Conservation Zone (see Appendix A).

2.4 Treaty Indian Fishing Rights

Treaties of the United States with a number of Pacific Northwest Indian tribes secure to the latter certain rights to take fish, including salmon, on their reservations and at their usual and accustomed fishing grounds outside those reservations. These treaties include the Treaty of Medicine Creek (10 Stat. 1132), Treaty of Point Elliott (12 Stat. 927), Treaty of Point No Point (12 Stat. 933), Treaty of Neah Bay (12 Stat. 939), Treaty of Olympia (12 Stat. 971), Treaty with the Yakimas (12 Stat. 951), Treaty with the Walla Walla et al. (12 Stat. 945), Treaty with the Nez Perces (12 Stat. 957), and Treaty with the Tribes of Middle Oregon (12 Stat. 963).

Indian tribes have management and regulatory jurisdiction over fisheries on their reservations. The Federal courts have also recognized certain degrees of tribal regulatory jurisdiction over their members' exercise of off-reservation treaty fisheries vis-a-vis the States in the Olympic Peninsula and Puget Sound drainage areas and adjacent offshore waters and in the Columbia River Basin.

PL 94-265 specifically requires that any fisheries management plan promulgated under that Act describe the nature and extent of Indian treaty fishing rights affected by the plan and be consistent with applicable law. The Indian treaties and the Federal court decisions construing them, including most particularly United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974), affirmed 520 F.2d 676 (9th Cir. 1975), cert. denied 423 U.S. 1086 (1976), and Sohappy v. Smith and United States v. Oregon and Washington, 302 F.Supp. 899 (D.Or. 1969), 529 F.2d 570 (9th Cir. 1976), are "applicable law" of the United States within the meaning of section 303(a) of PL 94-265.

These treaty fishing rights apply to all stocks of salmon under U.S. control or jurisdiction (including jurisdiction exercised by the States) that, absent prior interception, would pass through or be available at any of the treaty tribes' usual and accustomed fishing grounds wherever located. Currently, the rights have been expressly held to apply to Washington salmon stocks originating from Grays Harbor northward (plus other salmon stocks passing through the usual and accustomed fishing areas) and to all Columbia River system salmon stocks originating above Bonneville Dam.

Some of the treaty tribes have usual and accustomed fishing places in the Pacific Ocean areas to which their treaty rights are directly applicable. Specific Federal court adjudications of such places have been made in U.S. v. Washington for the following:

Makah Tribe: Marine waters extending from the Strait of Juan de Fuca "out into the ocean to an area known as Swiftsure and then south along the Pacific Coast to an area intermediate to Ozette Village and the Quileute Reservation". (384 F.Supp. at 364)

Quileute and Hoh Tribes: Tidewater and saltwater areas adjacent to the coastal area that includes the Hoh, Quillayute, Queets and Quinault Rivers and Lake Ozette. (384 F.Supp. at 359, 372)

Quinault Tribe: "Ocean fisheries....in the waters adjacent to their territory" which for fishing purposes includes the area form the Clearwater-Queets River system to Grays Harbor. (384 F.Supp. at 374)

The above listing is the most explicit guidance available to the Council. This is not to be considered a complete inventory of such usual and accustomed fishing grounds, with a potential existing for further definition of such rights for treaty Indians.

The Court emphasized, however, that the treaty fishing rights extended to "all usual and accustomed grounds and stations....where members of a tribe customarily fished from time to time at or before treaty times, however distant from the then usual habitat of the tribe...." (384 F.Supp. at 332) It said that the Northwest Indians "harvested fish from the high seas, inland salt waters, rivers and lakes". (384 F.Supp. at 352) It found that no complete inventory of such places could be compiled today but that the Findings of Fact (from which the above tribal data were taken) describe "some" of the areas wherein those tribes "are entitled to exercise their treaty fishing rights today". (384 F.Supp. at 353, 402) The parties may invoke the continuing jurisdiction of the Court to determine the location of fishing grounds "not specifically determined previously". (384 F.Supp. at 419).

No Pacific Ocean fishing areas have been adjudicated for any Washington, Oregon, or Idaho treaty tribes other than the four named above, and the Indians of coastal California have no treaty fishing rights. However, the Indians of the Hoopa Valley Reservation in California have established by judicial action their on-reservation rights to fish in the Klamath-Trinity River system.

The implementation of treaty fishing rights of Columbia River Indians for the next five years has been recently approved and decreed by the U.S. District Court of Oregon in United States v. Oregon and Washington (see Appendix B).

The treaty Indian catch has increased considerably in recent years but still has not reached the level of their treaty entitlement. To date, the burden of regulatory constraints needed to secure the Indian treaty rights under recent Federal court decisions has fallen almost entirely on non-treaty commercial net fishermen in internal state waters. Continuation of the current division of non-treaty catch may require severe curtailment or elimination of the following non-treaty fisheries: the August gill net fishery in the lower Columbia River for upper Columbia River fall chinook (25), the Grays Harbor gill net fishery for chinook and coho (26), and the Puget Sound purse seine and gill net fisheries for Puget Sound-origin chinook and coho (27). Further, other non-treaty net fisheries such as those on chum salmon (which are not caught in the ocean) might have to be severely curtailed or eliminated in the future as "equitable adjustments" for heavy non-treaty ocean troll and sport harvest of chinook and coho. The Federal courts have approved the concept of such adjustments to compensate the Indians for loss of opportunity on other runs.

2.5 Domestic Fisheries

A comparison of all chinook and coho stocks found off the coasts of Washington, Oregon, and California with major domestic fisheries shows the following:

Salmon stock origin	Major domestic fisheries				
	Commercial troll	Sport	Commercial nets	Treaty Indian	Total
California chinook	X	X			2
California coho	X	X			2
Oregon coastal chinook	X	X			2
Oregon coastal coho	X	X			2
Lower Col. R. spring chinook	X	X	X		3
Lower Col. R. fall chinook	X	X	X		3
Lower Col. R. coho	X	X	X		3
Puget Sound chinook	X	X	X	X	4
Southern Canadian chinook	X	X	X	X	4
Wash. coastal chinook	X	X	X	X	4
Upper Col. R. spring chinook	X	X	X	X	4
Upper Col. R. summer chinook	X	X	X	X	4
Upper Col. R. fall chinook	X	X	X	X	4
Puget Sound coho	X	X	X	X	4
Southern Canadian coho	X	X	X	X	4
Washington coastal coho	X	X	X	X	4
Upper Col. R. coho	X	X	X	X	4

NOTE: Some of the first seven stocks listed above may be intercepted while passing through usual and accustomed marine fishing areas of treaty Indians.

It will not be possible for equal ocean harvest rates to be applied to all the salmon stocks listed above without overfishing some, underfishing others, and/or eliminating several viable "inside" non-Indian fisheries currently managed by the States. There are no "perfect" geographical points for separating stocks supporting only major ocean fisheries (e.g., California chinook) from those also supporting a major commercial net fishery or significant inside recreational fisheries (e.g., Snake River system spring chinook). Likewise, there is no ideal separation point in the ocean for dividing stocks which are not required to support a treaty Indian fishery (e.g., lower Columbia River fall chinook) from those that are required to sustain Indian fishermen (e.g., upper Columbia River fall chinook). The two best areas for any alternatives which might be designed to achieve some degree of differential ocean fishing rates are probably Tillamook Head for chinook regulation changes and the southern Washington coast in the case of coho fishery considerations. Present ocean fishing rates are justified for some salmon stocks originating south of Tillamook Head.

2.6 Transfers to Canadian Fisheries

A series of possible measures to reduce U.S. ocean fishing rates on chinook and coho salmon has been considered by State management agencies for several years. Virtually all of the alternatives which might be implemented to increase overall resource yields and/or transfer more salmon to internal state waters have one major

flow--they also transfer varying but significant numbers of fish to Canadian salmon fisheries. In general, any new constraints on U.S. ocean fishermen will, in fact, result in a net transfer of salmon from the U.S. to Canada. A new treaty with Canada might provide methods for resolving these problems of salmon transfer between U.S. and Canadian fisheries.

2.7 Basis for Differential Domestic Harvest Options

The case for relatively high ocean fishing rates on California and Oregon coastal chinook and coho salmon stocks is certainly excellent since a large-scale reduction in ocean fishing off Oregon and California would produce an over-escapement in several major salmon runs due to an absence of major terminal fisheries capable of exerting the fishing rates required. (28)

In the case of Washington and Columbia River salmon runs, however, major stocks can be harvested by existing commercial, sport, and Indian fisheries operating in internal state waters. Specifically, these are commercial purse seine, gill net, and reef net fisheries in Puget Sound; gill net fisheries in Grays Harbor, Willapa Bay and the Columbia River below Bonneville Dam; freshwater recreational fisheries in rivers throughout the area; a marine sport fishery within Puget Sound; treaty Indian fisheries in all Washington waters from Grays Harbor northward; and treaty Indian fisheries above Bonneville Dam in the Columbia River system.

2.8 Recommended Ocean Salmon Fishery Regulatory Controls

2.8.1 Ocean Salmon Fishery Management Objectives

There is urgent need for action by the Fishery Management Council to control the ocean salmon fisheries in order to increase the ocean escapement of fish into many Washington, Oregon, and Idaho areas in 1977 for the following reasons:

1. Severe passage problems at mainstem Columbia River dams in conjunction with some ocean harvests are resulting in inadequate spawning escapements of Snake River spring and summer chinook salmon. (29) Certain Puget Sound (30) and coastal Washington (31) stocks are also severely depressed in spite of extensive closures applied to "inside" fisheries.

2. Current Federal court judicial interpretations have ordered the States of Oregon and Washington to provide treaty Indians with an opportunity to take 50% of the total U.S. harvest allowed on stocks of fish destined for treaty Indian usual and accustomed fishing areas.

In light of these considerations, limiting criteria of the present plan are:

1. The plan initially should be confined to management of chinook and coho salmon ocean fisheries.

2. Immediate regulation change considerations should be limited to ocean waters off Washington and Oregon north of Tillamook Head in order to comply with pressing judicial requirements mandating greater fishing opportunities to treaty Indian fishermen as well as the need to provide increased escapements of weakened stocks.

In view to the above, regulatory controls proposed in this ocean salmon fishery management plan should satisfy the following basic objectives:

1. Maintain optimum spawning stock escapements.

2. Reduce fishery-caused mortalities other than legal-sized fish caught and landed.

3. Fulfill Treaty-Indian fishery obligations

4. Provide for the fisheries specifically listed previously (Section 2.5) the continuing opportunity to harvest salmon.

The Council accepts the responsibility to allocate resources to meet these objectives.

Also, in meeting the primary objectives above, the following additional factors were considered:

1. Recognize that the yield of the salmon fishery includes food value, dollar value, recreational value, and certain sociological or cultural values and that all of these values must be considered in the regulation and management of the fisheries.

2. Optimize the sustained yield of chinook and coho salmon with due consideration of all these values.

3. Maximize the poundage yield to the commercial fishery by minimizing the taking in that fishery of chinook and coho salmon having significant remaining growth potential; however, recognize that desired yield to commercial fisheries requires not only a consideration of pounds produced, but also quality of the product as indicated by consumer demand and prices.

4. Recognize that the desired yield to the recreational fishery is primarily in the recreational value of the fishing experience, not solely in pounds produced, and therefore that optimum value does not necessarily require harvesting only mature fish. In addition, the recreation-motivated factors of the achievement of catching salmon, of providing salmon for the family table, and the basic use of the fish caught in the ocean recreational fishery for personal consumption were also considered.

2.8.2 Size Limits, Bag Limits, Fishing Season, Area Closures and Gear Restrictions

It is recognized that there is a considerable variability in pre-season forecasts of stock abundance, ocean fishing rates, and predicted impacts of new regulatory measures. Refinement of these pre-season expectations, such as through in-season analysis of catch and effort data, may indicate the need for emergency in-season changes in regulations. The authority of the Secretary of Commerce to enact such emergency regulations subsequent to appropriate Pacific Regional Fishery Management Council recommendations is authorized under this plan.

It is not known at this time if any emergency changes will be required during the 1977 ocean fishing season, but this additional management flexibility should be available to meet unforeseen circumstances. These might include the abnormally high ocean fishing rates on coho that occurred in 1976 (32), vulnerability of mature salmon to fishing in river-mouth areas because of low stream flows (33), further interpretation and clarification of presently undefined fishing rights of Treaty Indians, or Council recommendations for modification of fishing regulations.

Also, under this plan, fishing with nets for salmon would not be permitted in waters under Council jurisdiction. A specific regulation must be adopted to prohibit such action. Net fishing in the ocean has been banned since the late 1950's through an agreement between the government of the United States and the government of Canada.

2.8.2.1 Commercial Troll Fishery North of Tillamook Head. (Note: To be defined legally as a line due west, 270 degrees true, from Tillamook Rock Light.) The regular, all-species commercial troll fishery for salmon in this area should be set within the general framework of a July through mid-September fishing season. The primary species supporting this fishery are chinook and coho salmon, each requiring large expenditures for artificial production, habitat protection, and fishery management. In the case of chinook salmon, three categories of fish comprised about 90% of the commercial troll fishery landings from this area under past regulations (i.e., pre-1977). Their comparative size and growth in pounds round weight are as follows:

Chinook Salmon Average Round Weight

Month	Immature 3-year-old fall-run fish	Mature 3-year-old fall-run fish	Mature 4-year-old fall-run fish
April	5.1	7.7	14.1
May	6.1	9.2	15.9
June	7.1	10.7	17.8
July	8.1	12.3	19.6
August	9.1	13.8	21.5

From these basic facts, it is obvious that the first group (immature 3's) should not be harvested commercially. Most of these fish became the "smalls" (less than 8 lb. dressed weight) of past troll fishery landings but their retention could be substantially reduced by application of a 28-inch total length minimum size restriction. This change would also virtually eliminate any retention of immature spring- and summer-run chinook in their third year. The latter two fall-run groups (mature 3's and 4's) should be taken commercially but at a time when they approach a reasonable percentage of their maximum size. The earlier in the year their capture occurs in the ocean, the more potential yields from the overall resource are sacrificed. These fish should be harvested commercially mainly during the period from July through mid-September. After this period, most mature chinook have emigrated from ocean waters and all sizes of fish remaining to be caught run heavily to immatures. Historically, spring-and summer-run chinook stocks comprised a much greater proportion of the troll catch, and this provided some logical basis for a longer ocean troll season. By the early 1970's, however, fish with the "sub-2" scale type indicative of the 1 year of freshwater rearing (typical to these spring and summer stocks) had declined to only about 5% of the Washington and Columbia River mouth ocean catch on an annual basis.

Coho salmon present a similar problem. Off Washington and the Columbia River mouth the ocean catch is predominantly 3-year-old maturing fish. Average round weights for the past Washington troll fishery were as follows:

Coho Salmon Average Round Weight

Month	Average round weight
June	5.5
July	6.6
August	7.9
September	8.8

It does not make much sense to be imposing a heavy commercial fishery on this species during June when they still have considerable growth potential.

By mid-September, many of the coho have emigrated from ocean waters. This is particularly true for stocks of hatchery origin which can generally withstand a much higher overall fishing rate than native fish. In addition, many of the 2-year-old immature coho present in the ocean have grown to a large enough size to be hooked on normal troll gear, and the desirability of a commercial fishery at this time is further diminished. Historically, many trollers off the Washington coast concentrated on chinook salmon until mid- or late July, and the problem of taking large quantities of half-grown coho was not manifested. As chinook abundance declined in ocean waters, however, troll effort gradually shifted to coho in June and early July. A July troll opening for both species should reverse this process to some extent since initial July chinook abundance in the ocean would substantially exceed that which prevailed under the past April 15 season openings.

There would be serious problems associated with immediate adoption of the short troll season described above. Basically, large fishing, processing, and support industries have developed for several generations under much more liberal regulatory controls. In addition, many of the potential resource "savings" which might be achieved through unilateral adoption of more restrictive ocean fishing controls for U.S. domestic fisheries would be transferred to Canadian salmon fishermen. Obviously, there is some justification for not making any ocean fishery changes unless Canada does something of a similar nature. A further complication would be shifts in U.S. trolling effort to ocean waters with more liberal seasons (California, Oregon and/or Alaska) with the resultant greater impact on salmon stocks and fishermen in those areas. Finally, a major reduction in only the troll fishery would result in a transfer of salmon to the ocean recreational fishery if it continued unchecked by new regulatory constraints.

Several additional alternatives need consideration, at least in the context of short-range fishery management goals:

1. A June 15 season opening for both chinook and coho merits consideration, particularly if Canadian and Oregon coastal seasons for coho continue to begin on this same mid-June date. A June commercial coho fishery in the ocean would continue the harvest of fish with a high remaining growth potential and continue the "status quo" with respect to ocean fishing rates, but problems with shifts in commercial troll fishing effort and transfers to Canadian fishermen would be alleviated.

2. A troll chinook fishery of limited duration could be scheduled prior to either June 15 or July 1. This should occur no earlier than May 1 in order to protect maturing upper Columbia River spring chinook present in the ocean until about May 1 and to prevent any large-scale early season harvest of mixed chinook stocks with high remaining growth potentials.

   Continued early season commercial ocean fishing for chinook salmon is not, however, in the best long-term interest of the salmon resources. The chinook poundage yields which are sacrificed, plus hooking mortality losses on small chinook and coho, cannot be continually supported as sound resource management.

   In its strictest interpretation, "conservation" obviously applies to early season restrictions since additional protection would be afforded several depressed upper Columbia River and Washington coastal spring and summer chinook runs. Reductions in commercial troll fishing times

and the increased chinook size limit would be fully justified on this basis alone. In the "wise use" connotation or broader meaning of conservation, more restrictive regulations can be further justified since they would increase poundage yields from existing harvestable salmon resources.

3. Prior to the coho troll season opening, trollers should be required to use barbless single hooks on all terminal gear. Barbless hooks will improve the survival rate of "shaker" coho salmon taken incidentally yet still take chinook as efficiently as barbed hooks.

4. In spite of No. 3 above, substantial numbers of dead and badly wounded coho will still be brought to the surface on troll hooks during any early chinook season. An incidental pre-season landing allowance for coho, possibly expressed as a percentage of each troller's chinook poundage, might generate significant economic yields from this apparent loss.

5. If any troll fishery for chinook (or all species except coho) is allowed prior to either June 15 or July 1, all vessels could be inspected and certified in port prior to any regular season opening for coho salmon. This enforcement technique could effectively inhibit illegal ocean troll fishing for coho before the prescribed season opening date.

6. Subsequent to mid-September, a limited commercial troll fishery could be provided off the southern Washington coast and Columbia River mouth. In this area, the late season problem with "shakers" is not nearly as serious as commonly encountered in northern Washington waters. Further, substantial numbers of harvestable late-run Columbia River hatchery coho are still available off southern Washington subsequent to mid-September. The open area should be no further north than Point Grenville, however, to achieve some degree of protection for naturally spawning Washington coastal stocks.

7. Another option is small area closures of ocean waters in the immediate vicinity of river mouths. These localized closures have long been advocated as an effective means for protecting specific salmon stocks but in actual fact, chinook and coho salmon from each river system are taken in ocean fisheries over a wide range in both time and geographic area. River mouth closures can only protect each stock from a small fraction of the overall ocean fishing pressure but may still have viable management potential in some specific instances. An example would be protection of depressed Washington coastal chinook or coho stocks by late-season river mouth closures. In the case of ocean waters off the Columbia River mouth, a "sanctuary area" total closure would only impact the ocean recreational fishery to a significant degree, not most commercial trollers, and salmon runs to the Columbia would only be increased slightly. Closures surrounding the mouths of smaller Washington coastal rivers would also impact mainly recreational anglers, as well as a few small-boat trollers, depending on timing and areas.

8. A limited entry plan which would exclude a large number of troll vessels which did not land at least 1,000 lb. of salmon in one or more past seasons could be implemented. This would, however, affect only those boats which, in aggregate, land 5% of the total Washington coast and

Columbia River mouth troll salmon harvest. Up to 60% of all licensed boats would be eliminated but the overall impact would be slight since about half of this potential 5% "savings" would be caught by the remaining fleet.

Any of the above regulatory alternatives adopted should also be applied as minimum standards for any Canadian troll salmon fishery which might still be allowed to operate within U.S. jurisdiction.

Specific troll regulation proposals north of Tillamook Head for 1977 are:

1. An all-species commercial troll season from July 1 through September 15.

2. Required use of barbless, single hooks on all terminal troll gear during any early season chinook fishing prior to July 1.

3. A 28-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho (34), and no minimum size limit for other salmon species.

4. Mandatory vessel inspection and certification to begin in port within 48 hours prior to the July 1 all-species season opening, with the States of Oregon and Washington being responsible for implementation of this program in their respective jurisdictions.

plus

Option A

1. A 1-month early chinook season from May 1 through May 31.

2. No late season troll fishing after September 15.

or

Option B

1. A 1-1/2 month early chinook season from May 1 through June 14.

2. A late season all-species troll fishery from September 16 through October 31 south of Point Grenville on the Washington coast.

2.8.2.2 Commercial Troll Fishery South of Tillamook Head. Off Oregon and California, salmon stocks are harvested by commercial and recreational ocean fisheries. Except for a limited Indian on-reservation fishery on the Klamath-Trinity River system in California, there are no existing commercial salmon net fisheries south of the Columbia River. Thus, management options for taking any desired quantities of harvestable salmon escaping the ocean fisheries are quite limited. Further, for practical purposes, Oregon coastal and California salmon stocks are not involved in meeting court allocation requirements. Present ocean fishing rates are justified for some salmon stocks originating south of Tillamook Head. However, an assessment of appropriate harvest levels with respect to the importance and condition of wild salmon stocks and potential optimum yield of all salmon stocks originating south of Tillamook Head should be completed within one year.

For 1977, it is recommended that 1976 California and Oregon commercial troll fishery regulations be adopted for the ocean waters south of Tillamook Head.

Specific troll regulation proposals south of Tillamook Head for 1977 are:

	Waters off Oregon	Waters off California
Minimum size limits	26 inches for chinook, 16 inches for coho, None for other salmon	26 inches for chinook, 22 inches for coho, None for other salmon
Chinook season	May 1-Oct. 31	April 15-Sept. 30
Coho season	June 15-October 31	May 15-Sept. 30
Vessel certification (Note: See No. 4 of troll regulation proposals for north of Tillamook Head.)	None south of Tillamook Head	Beginning May 13

These short-term recommendations should not be construed as a total fulfillment of PL 94-265 through simple continuance of existing regulatory controls. Basic issues must be resolved, however, before more appropriate regulatory controls can be formally considered. These include:

1. The ability of trollers to avoid coho during early-season chinook fishing off northern California and southern Oregon, as well as the actual need for this chinook fishery.

2. Spawning escapement requirements for California and Oregon coastal streams.

3. The ability to "recapture" potential savings generated from various alternate ocean fishery regulatory controls.

4. Limited entry and/or a salmon license moratorium.

2.8.2.3 Recreational Salmon Fishery North of Tillamook Head. Regulations for sport anglers in this area should be viewed in the context of changes from 1975 season statutes since several more restrictive rules were adopted by the States of Washington and Oregon for the 1976 fishery.

For 1977, one option would be to delay the ocean sport fishing season until the Saturday nearest May 1, a change of 2-3 weeks from the 1975 opening on the second Saturday in April. This would provide protection for depressed upper Columbia River spring chinook runs. While these fish constitute only a small percentage of any early season ocean chinook catch, this delay would result in additional escapement of spring chinook into the Columbia River. Fishing pressure on depleted Columbia River summer chinook runs would also be reduced somewhat by this delay in season opening date.

Secondly, increasing the minimum size limit on chinook salmon from the 20-inch standard of 1975 and prior years to 24 inches total length would improve quality of ocean sport fishing. It should reduce fishing effort on schools of small, immature chinook, particularly in the vicinity of the Columbia River mouth. Under past regulations, substantial numbers of 20- to 24-inch fish were retained and even greater numbers of sub-20-inch fish were hooked and released. This resulted in a significant reduction in numbers of fish which would be available later at a larger size. This change would also reduce fishing pressure on depleted runs of Columbia River spring and summer stocks as well as depressed Washington early chinook runs.

For coho salmon, a minimum size limit reduction from 20 inches to the current troll fishery minimum of 16 inches in length would permit retention of virtually all adult coho taken in their third and final year of life. The past 20-inch limit resulted in "sorting" of coho during early weeks of the sport fishery and adult fish under 20 inches had to be released. This less-restrictive regulation would also allow anglers to keep mature 2-year-old "jack" coho taken during late summer and fall months. These fish are mainly between 16 and 20 inches in length.

Additional regulatory alternatives include the following:

1. A reduction in the daily bag limit from three to two salmon. Yields in the sport fishery are primarily the recreational benefits derived, not simply the fish caught. If there was no significant decline in angler satisfaction and participation levels with a two- versus three-fish daily bag limit, then the third fish allowed anglers in past seasons would prove to have been of relatively little real economic value. In this case, there would be some justification for "saving" these fish and transferring them to other fisheries, where a greater net economic benefit would be derived. If, however, a reduction in the daily bag limit from three to two fish resulted in a substantial decline in recreational benefits then, in fact, the third fish in each angler's daily bag limit becomes quite valuable. (35)

2. A delay in the ocean sport fishing season off Washington and the Columbia River mouth until early or mid-June has some merit with respect to the additional protection that could be afforded depressed upper Columbia River and Washington coastal spring and summer chinook stocks. Since yields are expressed in recreational opportunities and satisfactions, not total poundage, other valid arguments applicable to delaying the ocean commercial fishery do not readily apply.

3. River mouth closures or "sanctuary areas" would have some limited fishing management applications. They would, however, be subject to the same general constraints already described in Section 2.8.2.1.

4. An annual salmon bag limit restriction for sport anglers could produce some reduction in total sport catch. (36) These fish would then be made available to other sport, commercial, and Indian salmon fishermen or to spawning escapements of depressed stocks. To evaluate merit of such a proposal, a basic judgment must be made as to management objectives. Are fishery resources to be managed for the "average" sportsman, who commonly takes only a few fish fish per year, or for all sportsmen, including those with salmon angling as their primary avocation?

5. A moratorium on charter boat licenses should be considered if there is judged to be a need for limiting ocean sport effort for salmon. A moratorium of this type would not fully stabilize recreational fishing effort since the trend has been toward continually building larger boats capable of carrying more passengers. Further, such a moratorium would not check the growth of fishing effort by anglers in private craft.

6. A final option would be to impose a salmon fishing license in Washington. A "duck stamp" format (as opposed to a "normal" license) would minimize administrative costs. A modest license fee would probably not serve as an effective fishing effort deterrant. Progressively higher fees could be considered for the small percentage of anglers taking large quantities of salmon each season, or a license fee could apply only to individual wishing to take over a prescribed number of fish annually.

Specific ocean sport fishery regulation proposals north of Tillamook Head for 1977 are:

1. A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.

2. A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.

3. A gear limitation of one rod per fisherman.

4. Adoption of current possession limits, annual limits and gear restrictions of the States of Oregon and Washington, respectively.

plus

Option 1

Commercial troll fishery regulations for north of Tillamook Head as proposed in Option A (see troll regulation proposals for north of Tillamook Head)

and

A three-fish daily sport bag limit

or

Option 2

Commercial troll fishery regulations for north of Tillamook Head as proposed in Option B (see troll regulation proposals for north of Tillamook Head)

and

A three-fish daily sport bag limit

or

Option 3

Commercial troll fishery regulations for north of Tillamook Head as proposed in Option 2 (see troll regulation proposals for north of Tillamook Head)

and

A two-fish daily sport bag limit

2.8.2.4 Recreational Salmon Fishery South of Tillamook Head. Recreational fishing in this area is subject to many of the same factors applicable to the region's commercial troll fishery (see Section 2.8.2.2). For this reason, it is recommended that 1977 personal-use angling regulations for California and the Oregon coast south of Tillamook Head mirror those enacted by the respective State agencies for 1976 fisheries.

Specific ocean sport fishery regulation proposals south of Tillamook Head for 1977 are:

Season

Oregon: May 1-December 31

California: North of Tomales Point - all year

South of Tomales Point - Saturdays closest to the dates of February 15 through November 15

Size Limits (all species)

Oregon: No size limit

California: 22 inches (exception, see daily limit)

Gear

Oregon: One rod

California: In accordance with existing State regulations (including no limit on number of rods or gear during the commercial fishing season)

Daily Limit (applicable to waters both outside and inside the 3-mile limit)

Oregon: Three fish

California: Three fish (two must be greater than 22 inches; one may be between 20 and 22 inches)

2.8.3 Summary of Regulatory Options North of Tillamook Head

Option 1

Commercial Troll

1. An all-species commercial troll season from July 1 through September 15.

2. Required use of barbless, single hooks on all terminal troll gear during any early season chinook fishing prior to July 1.

3. A 28-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho (34), and no minimum size limit for other salmon species.

4. Mandatory vessel inspection and certification to begin in port within 48 hours prior to the July 1 all-species season opening, with the States of Oregon and Washington being responsible for implementation of this program in their respective jurisdictions.

5. A 1-month early chinook season from May 1 through May 31.

6. No late season troll fishing after September 15.

Ocean sport

1. A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.

2. A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.

3. A gear limitation of one rod per fisherman.

4. Adoption of current possession limits, annual limits and gear restrictions of the States of Oregon and Washington, respectively.

5. A three-fish daily sport bag limit.

Option 2

Commercial troll

1. An all-species commercial troll season from July 1 through September 15.

2. Required use of barbless, single hooks on all terminal troll gear during any early season chinook fishing prior to July 1.

3. A 28-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho (34), and no minimum size limit for other salmon species.

4. Mandatory vessel inspection and certification to begin in port within 48 hours prior to the July 1 all-species season opening, with the States of Oregon and Washington being responsible for implementation of this program in their respective jurisdictions.

5. A 1-1/2 month early chinook season from May 1 through June 14.

6. A late season all-species troll fishery from September 16 through October 31 south of Point Grenville on the Washington coast.

Ocean sport

1. A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.

2. A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.

3. A gear limitation of one rod per fisherman.

4. Adoption of current possession limits, annual limits and gear restrictions of the States of Oregon and Washington, respectively.

5. A three-fish daily sport bag limit.

Option 3

Commercial troll

1. An all-species commercial troll season from July 1 through September 15.

2. Required use of barbless, single hooks on all terminal troll gear during any early season chinook fishing prior to July 1.

3. A 28-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho (34), and no minimum size limit for other salmon species.

4. Mandatory vessel inspection and certification to begin in port within 48 hours prior to the July 1 all-species season opening, with the States of Oregon and Washington being responsible for implementation of this program in their respective jurisdictions.

5. A 1-1/2 month early chinook season from May 1 through June 14.

6. A late season all-species troll fishery from September 16 through October 31 south of Point Grenville on the Washington coast.

Ocean sport

1. A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.

2. A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.

3. A gear limitation of one rod per fisherman.

4. Adoption of current possession limits, annual limits and gear restrictions of the States of Oregon and Washington, respectively.

5. A two-fish daily sport bag limit.

2.9 Predicted Impacts of Potential Regulatory Options

To evaluate potential changes in overall salmon catch distributions and resource yields, predicted impacts on major stocks found in the critical Washington coastal-Columbia River mouth management area were examined via computer analysis techniques. The predominant Columbia River fall-run chinook stock, which comprises about 75% of ocean chinook catches made in this area, plus an aggregate of coho salmon stocks which account for over 95% of the coho catches, were examined by the Washington State Department of Fisheries-National Bureau of Standards Catch/Regulation Analysis Model. Predicted results for a number of alternate regulatory strategies were carefully reviewed prior to development of specific proposals for 1977.

Obviously, any such predictions should only be construed as an approximation of what might be expected to happen, on the average, over a period of time. Possible changes in fishing effort and seasonal fishing patterns are especially difficult to quantify in advance, particularly since the ocean salmon fisheries do not have a history of active management and associated technical data base. Several factors are inherent in all combinations of options examined and the following received serious consideration in decisions concerning regulatory proposals for 1977:

1. Any reduction in only the U.S. recreational or commercial ocean fishery will produce a transfer of salmon to the other fishery which will continue unchecked by new regulatory constraints.

2. Any meaningful overall restriction of U.S. ocean fisheries will provide additional salmon to Canada's ocean fisheries as well as increased returns to rivers of origin within the U.S. Some new limitations on Canadian salmon interceptions would be needed to prevent this transfer.

3. Effects of two or more regulatory changes are not additive but must be evaluated in terms of impact as a combination.

4. Transfers from domestic ocean fisheries to "inside" fisheries will nearly always increase total poundage yields from existing salmon resources.

5. Any differentials in coastwide ocean fishing seasons would produce redistributions in troll fishing effort and effects must be considered.

A detailed technical analysis of specific regulatory proposals for 1977 indicates the following expected changes from the average situation prevailing during the 5-year period, 1971-1975 (Note: Differences for Options 1, 2, and 3 of specific regulation proposals for 1977 are shown separately in parentheses.)

1. Harvestable numbers of fall chinook returning to the Columbia River system would increase by (Options 1 and 3 - 34%; Option 2 - 29%). Total run size (catch plus escapement) would increase by (Options 1 and 3 - 20%; Option 2 - 17%). These levels would permit fulfillment of treaty Indian fishing rights, and also permit the Columbia River Compact to provide a viable August non-Indian gill net fishery below Bonneville Dam on upper river stocks (Columbia River fall chinook are the dominant stock in the Washington coast-Columbia River mouth area where more restrictive ocean fishing measures are proposed for 1977).

2. Run size increases of similar magnitude would be expected for Washington coastal fall chinook, and the ban on April fishing would protect Columbia River spring chinook in their final year. The reduction in early season commercial fishing time prior to July 1 (when most Columbia River summer chinook have entered the river) would amount to (Option 1 - 1-1/2 months; Options 2 and 3 - 1 month) or (Option 1 - 60% less fishing time; Options 2 and 3 - 40% less fishing time) than the 2-1/2 month troll season for 1975 and prior years. The significant reductions in both early and late season fishing time, plus increased minimum size limits, would also benefit several currently depressed Washington coastal early chinook stocks. In some of these stocks, the additional fish are needed to bolster spawning escapements, at least for a temporary period while they are rebuilding to harvestable levels.

3. Small reductions in ocean fishing rates on Canadian, Puget Sound, Oregon coastal and California chinook stocks would occur but these would have only a minimal effect on overall management of these resources. Any reduction in fishing rates off Washington for the latter two stocks would be counterbalanced to some extent by an expected increase in ocean fishing off Oregon and possibly California.

4. The U.S. commercial troll fishery north of Tillamook Head would sustain reductions of (Option 1 - 42%, 31%, and 28%; Option 2 - 36%, 24%, and 21%; Option 3 -35%, 23%, and 20%), respectively, for factors of numbers of chinook landed, pounds landed, and catch dollar value. Potential dollar loss would be less than either numbers of fish or pounds due to the higher price per pound paid for larger fish. Average size of individual fish landed would increase by approximately 19% (all options) and overall hooking mortality losses of "shakers" would be reduced by (Option 1 - 11%; Options 2 and 3 - 6%).

5. The ocean sport fishery north of Tillamook Head would sustain a (Options 1 and 2 - 22%; Option 3 - 31%) reduction in numbers of chinook caught, but the poundage loss would be less than that percentage due to a 1-1/2-pound increase in average size of sport chinook landed. Hooking mortality losses would change by (Options 1 and 2 - plus 9%; Option 3 - minus 9%).

6. Major coho salmon stocks contributing to ocean fishery catches in the Washington coast-Columbia River mouth area would show varying results from proposed 1977 regulatory controls. Harvestable numbers of Puget Sound coho reaching U.S. "inside" waters would increase by (Options 1 and 2 - 7%; Option 3 - 9%) with an emphasis toward later, natural spawning stocks due to the troll closure after mid-September. During low-run cycles, State management would be directed toward utilizing these additional fish for spawning escapement requirements. Southern British Columbia coho runs would increase in a similar manner with some of the ocean fishery "savings" being taken in northern Puget Sound commercial net fisheries. Washington coastal coho runs would show the largest percentage increases in returning harvestable numbers, averaging (Option 1 - 18%; Option 2 - 12%; Option 3 - 15%), but varying by area and run timing. Late-running native stocks from Grays Harbor tributaries and Olympic Peninsula rivers would receive the most protection. Again, some potential savings would be transferred to needed spawning escapements during low-run cycles. Harvestable coho runs to the Columbia River and Oregon coastal streams would increase by (Option 1 - 5% and 8%; Option 2 - 2% and 0%; Option 3 - 17% and 8%), respectively.

7. The U.S. commercial troll fishery north of Tillamook Head would sustain reductions in coho harvests amounting to (Option 1 - 20%, 18%, and 15%; Option 2 - 18%; 15% and 12%; Option 3 - 16%, 12% and 9%), respectively.

for the factors of numbers of fish, pounds landed, and dollar value of the catch. Again, potential dollar loss would be less than either of the other two factors because larger fish move through market channels with higher prices per pound. In the case of both chinook and coho, U.S. troll losses shown could be reduced by increasing fishing effort during remaining open fishing periods north of Tillamook Head or, in the case of individual boats, by shifting efforts to California, Oregon, and/or Alaska. This would increase fishing rates and yields in these areas although the opportunity to troll off Alaska would be confined to boats which qualify under that state's limited-entry program.

8. The ocean sport fishery coho salmon catches north of Tillamook Head would change by (Options 1 and 2 - plus 11%; Option 3 - minus 8%) with the new regulations proposed. These changes would result from the combination of expected shifts in sport fishing effort from chinook to coho due to the larger chinook minimum size limit, the greater abundance of coho available due to a delay in the troll season opening date, and, in the case of Option 3, the prevailing daily bag limit. The coho size limit reduction would be of secondary importance. For the combined ocean sport catch of chinook and coho, no change would be expected with Options 1 and 2 since the loss of small chinook would be counterbalanced by increased coho catches.

9. For all U.S. and Canadian fisheries harvesting salmon stocks that are present at some time off the Washington coast, the proposed ocean fishing regulatory changes north of Tillamook Head would result in a total poundage yield increase of (Option 1 - 1.3 million pounds; Option 2 - 1.0 million pounds; Option 3 - 1.4 million pounds) annually from existing levels of chinook and coho salmon resources. This occurs primarily because chinook and coho would be caught at a larger average size. Three types of catch shifts are involved: (a) from early to later in the ocean fishing season for maturing chinook and coho; (b) from immature chinook to mature fish taken one or two seasons later in the ocean; and (c) from ocean fisheries to "inside" fisheries. Additional benefits would be derived by increasing spawning escapements to begin rebuilding currently depressed native salmon stocks.

10. The aggregate of Canadian salmon fisheries participating in the harvest of these stocks will benefit from these increased yields even though one specific element, the troll fishery off the U.S. coast, will have to fish under somewhat more restrictive regulations than prevailed in the past.

A limited number of social and economic reports were available to the Council within the time frame available. It is the judgment of the Council that the best information available to the team was used, recognizing that the plan should be improved in this area as more socioeconomic information becomes available.

SUMMARY OF EXPECTED CHANGES FROM THE AVERAGE SITUATION PREVAILING DURING THE 5-YEAR PERIOD, 1971-1975, BY 1977 REGULATORY OPTIONS

Element	Option 1	Option 2	Option 3	Council Adopted CA
Chinook				
Returns to terminal areas				
Harvestable numbers of fall chinook returning to the Columbia River system	+34%	+29%	+34%	+23%
Total fall chinook run size to the Columbia River system	+20%	+17%	+20%	+14%
Commercial impact				
Early season commercial troll fishing time north of Tillamook Head prior to July 1	-60%	-40%	-40%	-60%
Numbers of chinook for troll fishery north of Tillamook Head	-42%	-36%	-35%	-23%
Pounds of chinook for troll fishery north of Tillamook Head	-31%	-24%	-23%	-20%
Catch value of chinook for troll fishery north of Tillamook Head	-28%	-21%	-20%	-18%
Average size of individual chinook for troll fishery north of Tillamook Head	+19%	+19%	+19%	+ 4%
Chinook hooking mortality losses for troll fishery north of Tillamook Head	-11%	- 6%	- 6%	-20%
Sport impact				
Number of chinook for sport fishery north of Tillamook Head	-22%	-22%	-31%	-23%
Chinook hooking mortality losses for sport fishery north of Tillamook Head	+ 9%	+ 9%	- 9%	+ 9%
Coho				
Returns to terminal areas				
Harvestable numbers of coho returning to Puget Sound	+ 7%	+7%	+ 9%	+ 7%
Harvestable numbers of coho returning to Washington coastal streams	+18%	+12%	+15%	+12%
Harvestable numbers of coho returning to the Columbia River system	+ 5%	+ 2%	+17%	+ 2%
Harvestable numbers of coho returning to Oregon coastal streams	+ 8%	No change	+ 8%	No change
Commercial impact				
Numbers of coho for troll fishery north of Tillamook Head	-20%	-18%	-16%	-18%
Pounds of coho for troll fishery north of Tillamook Head	-18%	-15%	-12%	-14%
Catch value of coho troll fishery north of Tillamook Head	-15%	-12%	- 9%	-12%
Sport impact				
Numbers of coho for sport fishery north of Tillamook Head	+11%	+11%	- 8%	+11%

2.10 PACIFIC FISHERY MANAGEMENT COUNCIL ACTION ON REGULATORY OPTIONS

The Pacific Fishery Management Council during public meetings on March 17-18, 1977, in Seattle, Washington considered and adopted this Environmental Impact Statement and Fishery Management Plan for "Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California."

A variety of specific regulatory provisions were considered. A summary of those adopted are as follows:

Regulations North of Tillamook Head

Commercial Troll

a. An all-species commercial troll season from July 1 through September 16.
b. Required use of barbless, single hooks on all terminal troll gear during any early season chinook fishing prior to July 1.
c. A 26-inch total length minimum size limit for chinook salmon, 16-inch total length minimum size limit for coho and no minimum size limit for other salmon species.
d. Mandatory vessel inspection and certification to begin in port within 48 hours prior to the July 1 all-species season opening, with the States of Oregon and Washington being responsible for implementation of this program in their respective jurisdictions.
e. A one-month early chinook season from May 1 through May 31.
f. A late season all-species troll fishery from September 16 through October 31 south of Point Grenville.
g. Unlawful to possess steelhead.

Ocean Sport

a. A general all-species season from the Saturday closest to May 1 (April 30 in 1977) through October 31.
b. A 24-inch total length minimum size limit for chinook salmon, a 16-inch total length minimum for coho, and no minimum size limit for other salmon species.
c. A gear limitation of one rod per fisherman.
d. Adoption of current possession limits, annual limits, and gear restrictions of the States of Oregon and Washington, respectively.
e. A three-fish daily sport bag limit.

Regulations South of Tillamook Head

Commercial Troll

	Waters off Oregon	Waters off California
Minimum size limits	26 inches for chinook, 16 inches for coho, None for other salmon	26 inches for chinook 22 inches for coho, None for other salmon
Chinook season	May 1 - Oct. 31	April 15 - Sept. 30
Coho season	June 15 - Oct. 31	May 15 - Sept. 30

Vessel certification (Note: See No. d of troll regulation proposals for north of Tillamook Head.)	None south of Tillamook Head	Beginning May 13
Steelhead	Unlawful to possess steelhead	

Ocean Sport

Season

Oregon: May 1 - December 31

California: North of Tomales Point - all year

South of Tomales Point - Saturdays closest to the dates of February 15 and November 15

Size Limits (all species)

Oregon: No size limit

California: 22 inches (exception, see daily limit)

Gear

Oregon: One rod

California: In accordance with existing State regulations (including no limit on number of rods or gear during the commercial fishing season)

Daily Limit

Oregon: Three fish

California: Three fish (two must be greater than 22 inches; one may be between 20 and 22 inches.

2.11 Data on Ocean Commercial and Recreational Salmon Fisheries to be Supplied to the Secretary

The pertinent data which shall be submitted to the Secretary with respect to the Ocean Salmon Fisheries shall include the following: Fishing gear involved, by type and quantity; Catches, by species, number and/or weight; Fishing effort expended, by gear-type, user-group and with respect to time and management areas (as defined in this plan); and such other information pertinent to the evaluation of the management plan in meeting the requirements of the Act. Such data will be furnished in accordance with regulations published by the Secretary as may be deemed necessary.

3.0 RELATIONSHIPS OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES, AND CONTROLS

3.1 Relation of Proposed Action to Coastal Zone Management Programs and Land-Use Plans and Controls

Although administration of the Fishery Management Plan is effected outside the boundaries of California, Oregon, and Washington, the potential exists that the Plan could have direct affect on the coastal zones of the three states.

The Coastal Zone Management Act of 1972 requires Federally planned, conducted, or supported activities directly affecting the coastal zone of a state be consistent to maximum extent practicable with that state's Coastal Zone Management program if the program has been approved by the Department of Commerce. To date, only the State of Washington has an approved State Management Program. Each state with an approved program will be notified of the Plan at the earliest practicable time and will be consulted to determine whether the Plan is consistent with the approved Coastal Zone Management program.

3.2 Shoreline Uses

Salmon trollers require parking, boat moorage, service facilities, and fish receiving facilities. The offshore U.S. recreational fishery on salmon requires extensive automobile parking areas, boat launching and moorage facilities and customer service facilities such as motels and restaurants. Both groups require safe small-boat harbors. No additional facilities should be required because of this plan and no significant reduction or abandonment or alteration of existing facilities will be required. Neither rescue nor enforcement requirements are likely to result in any significant change in needs for land bases or facilities that would affect Washington's coastal zone management plan. No other impacts on coastal zone areas could be identified.

4.0 PROBABLE ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION

4.1 Physical Effect

No change in impact on the physical environment is expected from continuing or modifying the existing ocean salmon fisheries. Ocean fishermen currently dress their catch at sea and salmon offal is discarded into offshore waters. This processing would continue under the plan. Most of this disposal, estimated at 1.5 million pounds of salmon viscera annually would be in an area off the U.S. coast inside or easterly of the 200-meter depth curve. This organic material rapidly re-enters the oceanic food chain.

4.2 Biological Effects

4.2.1 Fishing on Mixed Stocks. Chinook, coho, and pink salmon from various areas, including many U.S. streams, are harvested by ocean commercial troll and recreational salmon fisheries. It is not possible to protect totally some stocks and harvest others by regulating the U.S. domestic ocean fisheries alone. All of the escapement for spawning must come from that portion of the run returning to U.S. waters. In years of small runs, ocean harvests on mixed stocks can eliminate domestic fisheries in internal state waters, as well as result in a low abundance of spawning fish. This proposed action will reduce fishing effort on mixed stocks, and will help provide more fish to areas where management can better be conducted on the basis of discrete stocks and increase escapements and future production.

4.2.2 Size of Fish Harvested. The ocean salmon fishery harvests fish while they are still actively growing. Although regulations establish minimum size limits for the salmon, most fish are still harvested with significant remaining growth potential.

The catch and release of undersized or out-of-season fish also results in a "hooking mortality" loss. For the commercial troll fishery, this loss has been estimated by various agencies to be from 15% to 30% of the fish hooked and released. This loss further reduces the pounds of salmon that could be recovered from the resource if they were harvested when they reached full maturity.

4.3 Social and Economic Effects

There are major social and economic effects which may be expected to result from the proposed actions. They are as follows:

1. Due to the provision of an increase in harvestable numbers of fall chinook reaching the Columbia River system and the predicted increase in total run, the numbers of salmon from which to accommodate treaty Indian fishing rights will be increased.

2. The projected increase mentioned in No. 1 above should provide for a viable August gill net fishery below Bonneville Dam on upper Columbia River stocks. This will contribute to the maintenance of the social and economic systems involved in that fishery.

3. The proposed action may result in some temporary shifts of fishing effort and associated catches from the coast of Washington to the coasts of California and Oregon, and possibly to Alaska. This will have an impact on the local economies of these states, and on the communities whose fishermen may shift their geographical base.

4. The combined coho and chinook catch in the ocean recreational fishery north of Tillamook Head (Options 1 and 2 - would not significantly change; Option 3 - would be moderately reduced). For Options 1 and 2, this will preserve the existing viability of the recreational activities and enterprises.

5.0 UNAVOIDABLE ADVERSE EFFECTS

Regulatory alternatives that are available to accomplish the ocean salmon fishery management objectives described in Sections 1.1, 1.2, and 2.8.1 of this document will result in certain ocean fishery catch reductions. A detailed technical analysis, described in Sections 2.1.7.4 and 2.9 for Options 1, 2 and 3 of the specific regulatory proposals for 1977, as well as the plan actually adopted by the Council (CA), all four of which are summarized in the table on page 42, indicates that the following adverse effects to certain persons or groups, relative to a 1971-1975 base period, would be predicted.

1. Small reductions would occur in ocean fishing harvests on Canadian, Puget Sound, Oregon coastal, and California chinook stocks; reductions off Washington for the latter two stocks may be partially counter-balanced by increases off Oregon and California.

2. North of Tillamook Head ocean catch reductions of (Option 1 - 42%, 31%, and 28%; Option 2 - 36%, 24% and 21%; Option 3 - 35%, 23%, and 20%; CA - 23%, 20%, and 18%), respectively, in numbers of chinook landed, pounds landed, and dollar value would be experienced by commercial fishermen.

3. A reduction of (Options 1 and 2 - 22%; Option 3 - 31%, CA - 23%) in numbers of chinook caught in the ocean sport fishery north of Tillamook Head would occur, but poundage loss would not be as great due to the increase in size of fish landed. Hooking mortality losses for chinooks would change by (Options 1, 2, and CA - plus 9%; Option 3 - minus 9%).

4. Reductions in ocean coho harvests by the commercial troll fishery north of Tillamook Head amounting to (Option 1 - 20%, 18%, and 15%; Option 2 - 18%, 15%, and 12%; Option 3 - 16%, 12%, and 9%; CA - 18%, 14%, and 12%) respectively, in numbers of fish, pounds landed, and dollar value would occur.

5. In the case of Option 3, the ocean sport fishery north of Tillamook Head would experience a coho salmon catch reduction estimated at 8% annually.

The aforementioned reductions would initially result in adverse economic impacts on the fishermen, processors, and communities within which fishery-related industries reside. However, over the longer term, effects of improved management and conservation practices should rebuild the fishery stocks initially affected, to offset any losses incurred. The major benefits which offset these impacts have been previously described (Section 2.9).

Continuous monitoring and analyses of the salmon fisheries will be carried out to monitor total harvests and to determine the effects of the regulatory measures adopted. In the event that undue effects occur on any segment of the fishery or are greater than those currently predicted, the regulatory measures could be revised to compensate for such effects.

6.0 ALTERNATIVES TO THE PROPOSED ACTION

6.1 More Restrictive Ocean Salmon Fisheries

One alternative recommendation would be to prohibit ocean troll fishing prior to July 1 within U.S. jurisdiction off Washington and the Columbia River mouth.

This alternative would further increase the U.S. commercial net, treaty Indian, and freshwater recreational catches of salmon, as well as bolstering spawning escapements of depressed stocks. The increase would be the result of salmon "saved" by restricting domestic ocean salmon fishing. Some of these salmon, however, would migrate into Canadian waters and be caught there.

The disadvantage of this action is that the troll fishery off the Washington coast and Columbia River mouth would be drastically curtailed. Existing fishermen would lose a major portion of their source of livelihood or have to shift their efforts to Oregon, California, and Alaskan ocean waters. Additional fishing pressure on other salmon stocks would result. Large segments of the commercial buying, processing, and marketing industry would face elimination. Business for many commercial support industries would be severely curtailed or eliminated. The immediate imposition of this alternative would have such a drastic effect on the industry that it was not considered further at this time.

6.2 Less Restrictive Ocean Salmon Fisheries

A second alternative would be to increase the level of ocean fishing rates. Such actions would expand ocean fisheries off the U.S. coast at the expense of other U.S. "inside" fishermen and increase the potential for over-exploitation on specific major salmon stocks. Such action would, on balance, be inconsistent with the mandates of PL 94-265. This alternative was not considered further since some weaker stocks are already being over-fished and more liberal regulations would make it even more difficult to provide for proper conservation of the salmon resources.

6.3 No Action

Without some regulatory action by April 15, 1977, on the ocean salmon fisheries, it is likely that a regulatory void will exist in these fisheries. Such a void will have an adverse biological impact on the salmon stocks on which the ocean fisheries are based, and adverse economic and social impacts on the fisheries directed at the same stocks when they subsequently migrate into the territorial and inside waters of Oregon, Washington, and Idaho. Past experience with these fisheries indicates that, without a management plan, there is a potential for a disruptive fishery on these stocks, including the inability for managing agencies to provide for inshore fisheries and to ensure adequate escapements for spawning purposes.

Further, this action would probably result in continued or increased legal proceedings to compel either the Council or the States, or both, to insure fulfillment of Indian treaty obligations. There would be increased disruption of the

fisheries and violent clashes between fishermen and enforcement authorities resulting from such legal confrontations.

7.0 RELATIONSHIP BETWEEN LOCAL SHORT-TERM USE OF THE ENVIRONMENT AND MAINTENANCE OF LONG-TERM PRODUCTIVITY

The short-term effect of the proposed action is to permit increases in escapement of the affected salmon stocks to "inside" fisheries and spawning grounds. For the long term, assuming coordinated management by the "inside" entities having management jurisdiction, the action, if continued, should result in increased productivity.

8.0 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

No irreversible commitments of resources will result from the implementation of this management plan which has been set in motion by the passage of the Fishery Conservation and Management Act of 1976. The management plan basically outlines modifications to existing ocean salmon management procedures. Implicit in the implementation of this management plan is the periodic monitoring of the catch to provide data for management decisions. Short-term irretrievable commitments of public funds can be identified. Irretrievable commitments can be generally defined as the use or consumption of resources that are neither renewable nor recoverable for subsequent use.

Biological Resources - No loss of aquatic flora or fauna populations has been identified. Periodic monitoring of the catch is required and the current management plans are flexible and could be changed if adverse impacts appeared.

Land Resources - No irreversible or irretrievable commitments of land resources have been identified in the proposed management plan.

Water and Air Resources - No irreversible or irretrievable commitments of water or air have been identified.

9.0 REFERENCES AND NOTES

1. The ocean migrations of immature coho appear, however, to be much more extensive than indicated by the recovery of marked adult fish in the various fisheries. See: Loeffel, Robert E. and William O. Forster. 1970. Determination of movement and identity of stocks of coho salmon in the ocean using the radionuclide zinc-65. Oreg. Fish. Comm. Res. Pap., Vol. 2, No. 1: 15-27.

2. Johnson, Frederick C. 1975. A model for salmon fishery regulatory analysis. Second Interim Report. Nat. Bur. of Stand. Rept. 75745, NBS Proj. 2050571, 28 pp. (mimeo).

An additional report is in preparation and will provide a detailed listing of basic data employed as well as actual examples of model analysis results.

3. The following average 1975 Washington ex-vessel commercial fish prices were utilized in the analysis:

Price Per Pound, in Dollars

District	Chinook salmon		Coho salmon	
Puget Sound	Nets: 0.92	Troll: 1.08	Nets: 1.02	Troll: 0.85
Grays Harbor	Nets: 0.94	Troll: 1.02	Nets: 1.04	Troll: 0.77
Willapa Harbor	Nets: 0.89	Troll: 0.99	Nets: 0.97	Troll: 0.76
Columbia River	Nets: 0.61	Troll: 0.93	Nets: 0.91	Troll: 0.76

Troll fishery prices were converted to a round weight basis, and catches in non-Washington fisheries were assigned prices of the nearest district.

Recreational fishery values were based on a $28.00 per-fish overall average weighted to reflect the higher observed value of larger fish in the following manner: $13.00, $24.00, $35.00, $45.00 and $56.00 per fish for 0-4 lb., 4-8 lb., 8-12 lb., 12-16 lb., and 16-100 lb. salmon, respectively.

4. Based on current stock size as applied to a composite of 11 marked 1964, 1965, and 1966 brood year experimental groups as recovered in the 1967, 1968, and 1969 fisheries and escapements.

5. Based on current stock size as applied to a composite of six marked 1965 and 1966 brood year experimental groups as recovered in the 1968 and 1969 fisheries and escapements.

6. Based on current stock size as applied to a composite of two marked 1965 and 1966 brood year experimental groups as recovered in the 1968 and 1969 fisheries and escapements.

7. Based on current stock size as applied to a composite of four marked 1964 and 1965 brood year experimental groups as recovered in the 1967 and 1968 fisheries and escapements.

8. Based on current stock size as applied to a composite of four marked 1965 and 1966 brood year experimental groups as recovered in the 1968 and 1969 fisheries and escapements.

9. Current stock size based on a 65:35 ratio of Puget Sound:southern British Columbia coho in the Strait of Juan de Fuca. Ocean catch distribution assumed to be equal to Puget Sound coho and terminal area catches based on actual catches of Canadian coho in U.S. northern Puget Sound fisheries and Canada's Fraser River commercial fishery.

10. Based on current stock size as applied to a composite of 16 marked 1961 through 1964 brood year experimental groups as recovered in the 1963 through 1969 fisheries and escapements.

11. Based on current stoek size as applied to a mixture of 50% lower Columbia River fall chinook (see No. 10 above), and 50% of a composite of four marked 1961 through 1964 brood year Kalama River experimental groups as recovered in the 1963 through 1969 fisheries and escapements. No experimental data base for naturally spawning upper Columbia River fall chinook

were available but the age composition of these fish as returning adults is similar to the Kalama River stock. This implies a comparable ocean catch distribution pattern.

12. Based primarily on an analysis of adult fish tagging experiments in the ocean. To simulate a stock correctly, it is essential to properly evaluate the "sub-stocks"; e.g., Puget Sound coho moving northward and feeding off the west coast of Vancouver Island versus those moving southward to areas off the Washington coast. Each sub-stock is not equally available to all ocean fisheries harvesting the overall stock.

13. Growth is reflected in monthly average fork lengths in centimeters and is entered separately for each of the following groups: 3-year-old coho from each geographic area specified previously; 2-year-old immature chinook; 3-year-old immature chinook; 3-year-old mature chinook; 4-year-old immature chinook; 4-year-old mature chinook; and 5-year-old mature chinook.

14. All coho stocks were assumed to be harvested as 3-year-old maturing adults. Chinook age composition was based on actual catch and escapements of marked experimental groups as specified in Nos. 10 and 11.

15. Maturity by area and time based directly (Washington fisheries) or by extrapolation (non-Washington fisheries) from basic data provided in the following: Wright, S.G. and John Bernhardt. 1972. Maturity rates of ocean-caught chinook salmon. Pac. Mar. Fish. Comm. Bull. 8: 49-59.

16. For chinook salmon, an annual natural mortality rate of 0.342 was utilized for all age and maturity categories. This was derived from the average instantaneous rate (on a yearly basis) for nine studies cited in Table 25, page 48, of the following report: Cleaver, F.C. 1969. Effects of ocean fishing on 1961 brood fall chinook from Columbia River hatcheries. Fish. Comm. Oreg. Res. Rept. 1(1): 1-76.

Natural mortality rates significantly higher than the 0.342 rate were tested in both the Washington and California models and could not reproduce the age class composition and sex ratios actually observed in catches and escapements. The natural mortality rate could, however, be significantly lower than 0.342, particularly in the case of larger fish. For coho salmon, an annual natural mortality rate of 0.30 was utilized for fish in their third and final year to reflect a 10% rate during their 4-month period of primary harvest. The actual rate could be significantly higher or lower

17. Numbers of salmon hooked and released were derived from estimates by the fishermen themselves through voluntary troll salmon logbook programs and field interviews of sport anglers. Hooking mortality rates recommended in the following report were utilized: Wright, Sam. 1972. A review of the subject of hooking mortalities in Pacific salmon (Oncorhynchus). 23rd Annual Report (1970). Pac. Mar. Fish. Comm., pp. 47-65.

No additional losses were computed for fish taken by predators or unobserved losses of hooked fish.

18. Based on actual catches and escapements of marked fish experimental groups as specified in Nos. 4 through 11.

19. Pratt, David C. 1975. Anadromous fish catch record system (AFCRS). Wash. Dept. Fish. Prog. Rept., 35 pp. (mimeo)

20. Washington troll catch estimates by species are made on a weekly basis for five district-area categories (Puget Sound, La Push, Westport, Willapa, Columbia River) through field examination of "key buyer" landing records. Washington ocean sport effort data (angler trips) and catch estimates by species are made on a weekly basis for four ports (Neah Bay, La Push, Westport, and Ilwaco) by application of field sample data (anglers per boat for charter and private boats, catch by species per angler) to WDF and U.S. Coast Guard boat counts. Oregon ocean sport effort data (angler trips) and catch estimates by species are made on a bi-monthly basis for eight ports (Columbia River, Garibaldi, Depoe Bay, Newport, Florence, Winchester Bay, Coos Bay, Brookings) by application of field sample data (anglers per boat for charter, skiff and pleasure boats, catch by species per angler) to ODFW and U.S. Coast Guard boat counts.

21. Pre-season run size predictions for individual areas are commonly "updated" through analysis of catch and effort during the early portion of each run, test fishing, dam counts, early escapement indices, and/or other technical management tools. At this point, only restrictions on the inside fisheries can achieve the proper balance between total catch and escapement.

22. Ricker, W.E. 1976. Review of the rate of growth and mortality of Pacific salmon in saltwater and noncatch mortality caused by fishing. J. Fish. Res. Bd. Can. 33: 1483-1524.

23. See also: Henry, K.A. 1971. Estimates of maturation and ocean mortality for Columbia River hatchery fall chinook salmon and the effect of no ocean fishery on yield. Oreg. Fish. Comm. Res. Rept. 3: 13-27.

    Henry, K.A. 1972. Ocean distribution, growth and effects of the troll fishery on yield of fall chinook salmon from Columbia River hatcheries. U.S. Natl. Mar. Fish. Serv. Fish. Bull. 70: 431-445.

    Van Hyning, Jack M. 1973. Factors affecting the abundance of fall chinook salmon in the Columbia River. Oreg. Fish. Comm. Res. Rept. 4: 1-87.

24. Statistics cited are based on an analysis by the Washington State Department of Fisheries-National Bureau of Standards Catch/Regulation Analysis Model utilizing prevailing 1975 commercial ex-vessel prices and recreational fishery values. Value results shown are not, however, due entirely to economic factors. For example, 1975 average per pound prices for chinook salmon in the Columbia River were $0.84 for the non-treaty fishery below Bonneville Dam and $0.37 for the treaty Indian fishery above Bonneville Dam. The composite in-river price of $0.61 (see No. 3) is a reflection of actual catch distribution due to treaty Indian fishing rights, not economics.

25. The 1976 August gill net fishery in the Columbia River was shortest on record, with the catch of 28,000 chinook being only about one-quarter of both the 1975 catch (110,000 fish) and the recent 10-year (1965-1974) average of 104,000 chinook per year.

26. All commercial net, sport and treaty Indian fishing inside Grays Harbor was banned in 1976 from mid-August to late September to protect weak runs of early fall chinook. In addition, a combination of low stream flows, poor chinook and coho runs, and increased treaty Indian fishing resulted in the most restrictive non-treaty commercial net fishery on record. Resulting catches were only about one-half the recent 10-year mean for chinook salmon (7,000 fish versus a 12,000 average) and only one-quarter the 10-year mean for coho salmon (10,000 fish versus a 40,000 average).

27. Legal State-managed non-treaty commercial net fisheries specifically for Puget Sound-origin chinook and coho stocks in 1976 were limited to a single "target" species fishery for chinook in Bellingham Bay. No non-treaty commercial net fisheries for Puget Sound-origin coho were allowed in 1976 due to a combination of poor native coho runs requiring complete protection plus heavy prior non-treaty interceptions which precluded any further non-treaty fishing on harvestable hatchery stocks in terminal fishing areas.

28. An exception to this generalization would be Indian net fisheries on the Klamath and Trinity Rivers by the Yurok and Hoopa Tribes.

29. The drastic reductions that have been imposed on the inside Columbia River commercial fishery in order to achieve the necessary escapements of spring chinook can readily be seen in Figure 3.

    The escapement goal established in 1963 of 80,000-90,000 spring chinook past all commercial fisheries has been adjusted upward in recent years. In 1972, the States of Washington, Oregon, and Idaho agreed that 40,000 fish is the desired number of spring chinook needed above the uppermost dam in the Snake River to provide enough fish for natural and artificial propagation and also a viable sport fishery. In 1975, with no commercial or sport fishing allowed on the run, total escapement was 104,100 fish, and the count of 17,600 spring chinook at Lower Granite Dam was well below the desired goal.

    Spawning ground surveys in tributaries of the Snake River have been conducted annually to assess spawning success of wild escapement. In northeastern Oregon standard index streams, only 297 fish and 269 redds were observed; the lowest fish count since 1950 and the lowest redd count since 1958. In Idaho index streams, the redd count of 1,991 was second lowest in history. The lowest redd count occurred in 1974.

    Of races of chinook salmon present in the Columbia River, status of summer chinook is most precarious. As can be seen by Figure 4, numbers of summer chinook entering the river have continuously declined since 1957. The 1974 run was lowest on record.

    Escapement of summer chinook above all fisheries has declined in a manner similar to the run. Only twice since 1960 has escapement reached the desired goal of 80,000-90,000 fish.

    As with upriver spring chinook, the commercial fishery on summer chinook in the Columbia River has been curtailed drastically to try to protect escapement. Commercial harvest of summer chinook has been historically important. From 1938 to 1956, seasons were open annually, and an average of 1.1 million lb. (56,200 fish) was landed. From 1957 to 1963, an average

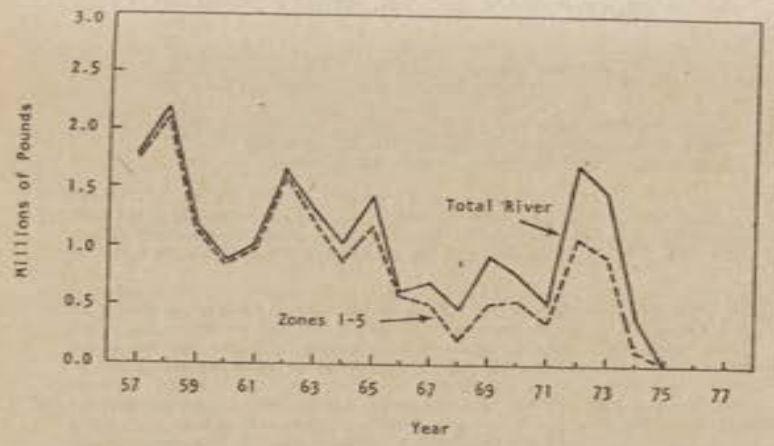

Figure 3. Columbia River spring season chinook landings, 1957-75.

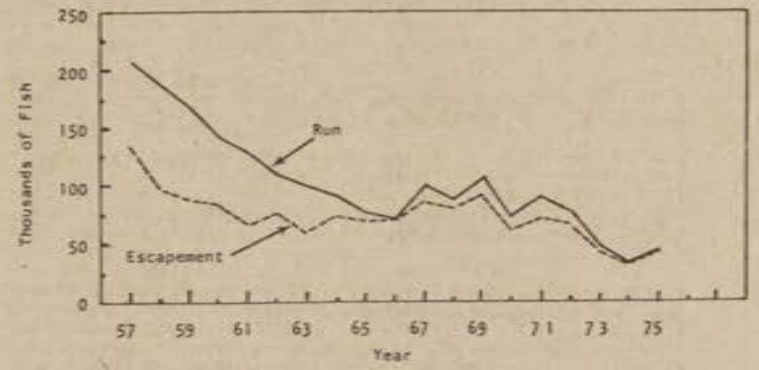

Figure 4. Estimated numbers of upper river summer chinook entering the Columbia River and escapement above the commercial fishery, 1957-75.

of 900,000 lb. (61,700) was landed commercially (Figure 5). However, run, escapement, and redd count values made it apparent that this race needed protection. When the 1964 run was predicted to fall below the escapement goal of 80,000-90,000 fish, the summer chinook season was closed. It has not re-opened since.

For additional facts on Columbia River salmon resources, see: Oregon Department of Fish and Wildlife, Washington Department of Fisheries. 1976. Status Report. Columbia River Fish Runs and Fisheries, 1957-1975. Vol. 2, No. 1: 74 pp.

Pacific Northwest Regional Commission. 1976. Columbia Basin Salmon and Steelhead Analysis. Summary Report, Sept. 1, 1976. 74 pp.

30. The following table documents Washington Department of Fisheries' spawning escapement goals and actual escapement projections in numbers of adult fish for naturally spawning coho salmon in Puget Sound during the 5-year period 1972-1976.

Production area	Spawning escapement goal	Actual escapements				
		1972	1973	1974	1975	1976 1/
Nooksack	5,500	2,000	4,000	6,000	4,000	3,000
Samish	3,000	1,000	1,000	2,000	1,000	1,000
Skagit	27,000	13,000	13,000	22,000	10,000 2/	5,000 2/
Stillaguamish	16,000	6,000	8,000	12,000	4,000 2/	4,000 2/
Snohomish	40,500	21,000	36,000	44,000	43,000 2/	39,000 2/
Lake Washington	17,000	6,000	7,000	15,000	5,000 2/	13,000 2/
Green	8,000	2,000	1,000	3,000	2,000	3,000
Puyallup	14,500	3,000	3,000	5,000	2,000	4,000
Nisqually	2,500	2,000	2,000	1,000	2,000 2/	1,000 2/
S. Sound & E. Kitsap	17,660	1,000	4,000	14,000	5,000 2/	7,000 2/
Deschutes	2,500	500	1,000	2,000	3,000 2/	2,000 2/
Hood Canal	33,000	7,000	25,000	40,000	12,000 2/	27,000 2/
Straits	8,980	2,000	5,000	5,000	2,000 2/	5,000 2/
Total	196,140	64,500	110,000	170,000	95,000	114,000

1/ Preliminary.

2/ These stocks received complete protection inside Puget Sound by total closures of all treaty and non-treaty commercial net fisheries on major migration routes throughout the normal "target species" coho salmon management period.

From the above, it is obvious that spawning escapement goals are not being met for major native coho stocks in spite of widespread inside net fishery closures.

31. For Washington coastal rivers, fishery managers cite the following specific examples of natural spawning escapement problems in 1975 and 1976:

Queets system: The spring-summer chinook run in 1975 had an estimated escapement of only 300 fish. The Indian on-reservation catch was 333 fish and escapement goal for this run is 1,000. For 1976, estimated escapement and total on-reservation Indian harvest were similar. The 1975 fall chinook escapement to the Clearwater River, a

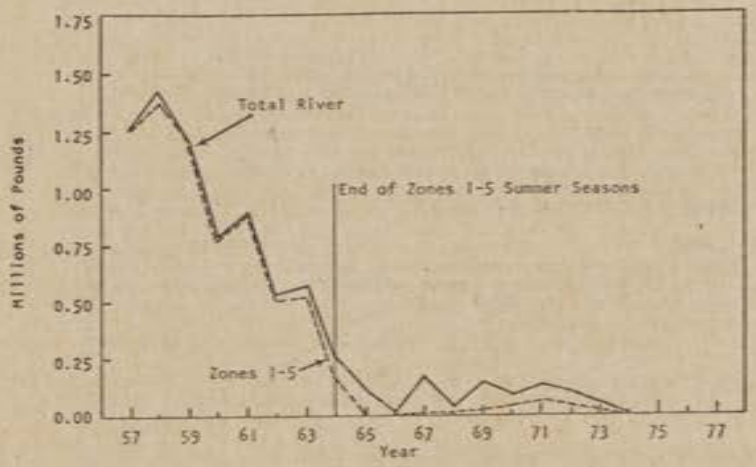

Figure 5. Columbia River summer season chinook landings, 1957-75.

Queets tributary, was estimated at 1,248 fish by the Fisheries Research Institute, University of Washington, while the escapement goal was 1,728. In 1976, the Clearwater River fall chinook escapement dropped to 984. Coho escapement in 1975 was only 630 fish, far below the escapement goal of 4,633. In 1976, coho escapement improved to 1,256 fish, but was still far less than that required for adequate seeding of juvenile coho rearing areas. Both the chinook and coho runs are fished by on-reservation Indian net fisheries. The coho run would have been well below escapement needs even without this additional impact.

Quillayute system: The 1975 native coho spawning escapement was estimated to be 8,000 fish, failing to meet the escapement goal of 11,000. Both on- and off-reservation Indian net fisheries harvested fish from this run. The native spring-summer chinook escapement was between 500 and 1,000 fish, also below the escapement goal of 2,100. Indian fishing took 300-400 fish from this stock. In 1976, native coho escapements improved only slightly over 1975 levels. The native spring-summer chinook run was comparable to 1975. Again, both on- and off-reservation Indian fisheries were conducted. Native chinook escapements would have been below desired levels even if river fisheries had not existed.

Chehalis system: Adequate escapements of early run fall chinook were achieved in 1975 only by complete closure of all commercial, Indian, and sport fisheries in the Grays Harbor region from mid-August to late September. Despite similar closures in 1976, escapement of this early fall chinook run was far below the needed level. Coho escapements to Grays Harbor tributaries were considerably below normal in both 1975 and 1976.

Hoh system: Spring and summer chinook runs in the Hoh River system have shown a drastic decline in recent years. Catches in 1975 and 1976, respectively, were approximately 450 and 700 chinook. This was approximately 1/2 to 1/3 of catches achieved by the Hoh River Indian fishery prior to a stock decline which commenced in 1973. Spawning ground escapements have fallen far short of the 1,400 fish escapement goal. Even adding Indian catch to escapement in the past 2 years would fail to bring total run size entering the Hoh River up to escapement needs.

Managers also report the following problems with Washington coastal artificial production programs:

a. Soleduck Hatchery (WDF), 1975: Took all available coho eggs (707,000) but was still far short of program needs. Filled remaining program needs with Dungeness Hatchery (WDF) eggs. Past history with transfers of Puget Sound eggs to coastal areas shows a substantially lower survival rate to adults. (Run subject to treaty Indian on- and off-reservation fisheries.)

b. Simpson Hatchery (WDF), 1975: Took 988,000 eggs and passed only 1,179 fish upstream for natural spawning. Filled remain-

ing program needs with Willapa Hatchery (WDF) fish. [Run subject to non-treaty and treaty Indian off-reservation fisheries.)

Simpson Hatchery (WDF), 1976: Took 2.9 million coho eggs (far short of the 4.8 million program need), and very few coho were passed upstream for natural spawning.

c. Cook Creek Hatchery (USFWS), 1975: Was short of coho eggs in 1975 and was supplied by Puget Sound hatcheries (see problem under a. above). (Run subject to treaty Indian reservation fishery.)

32. Record coho catches totaling 2.2 million fish were made by trollers and sport anglers off the Washington coast during 1976, yet coho returns to inside waters ranged from below average to record lows.

33. In the past, low stream flows have occasionally caused milling problems for maturing adults off coastal river mouths and in coastal estuaries. A prolonged dry spell in Washington during 1958 even resulted in adults being taken in the ocean fisheries which exhibited pronounced spawning colorations and well-developed secondary sexual characteristics.

34. Any establishment of a higher minimum size limit such as the 20- or 22-inch standards of the past would not be justified and has no biological basis. Coho between 16 and 22 inches in length are either small maturing 3-year-old adults or maturing 2-year-old male "jack salmon". See: Wright, Sam. 1970. Size, age, and maturity of coho salmon in Washington's ocean troll fishery. Wash. Dept. Fish. Res. Pap. 3(2): 63-71.

35. During the 1975 ocean fishing season, Washington Department of Fisheries personnel conducted random interviews of recreational anglers at coastal fishing ports to determine if they were "satisfied" or "dissatisfied" on a specific day with their fishing experience. Number of salmon actually taken by each fisherman was also recorded. Results were as follows:

	Expressed satisfaction		Expressed dissatisfaction		Total number interviewed
Salmon catch	No.	Percent	No.	Percent	
No fish	259	63	155	37	414
One fish	197	83	39	17	236
Two fish	174	95	10	5	184
Three fish	317	99	2	1	319
				Total	1,153

The small difference in satisfaction levels between anglers taking two fish (95%) versus those taking three fish (99%) indicates that potential effort reductions due to a reduced bag limit would probably be minimal.

A two-fish bag limit was actually in effect in the ocean sport fishery beginning on June 15, 1974, but lasted less than one week due to a successful legal challenge in State court. Some impact on the fishery was evident, however, since angler trips declined slightly during the latter half of June when they are normally accelerating. Pre-trial publicity continuation of a three-fish daily-bag limit on the Oregon side of the Columbia

River and a serious national fuel shortage were three factors contributing to the observed decline.

36. During the 1975 sport salmon fisheries in Washington, statewide statistics show that an estimated 92,000 fish, or about 7% of the total catch of 1.4 million salmon, were taken by individual sport anglers who had previously taken at least 20 fish.

APPENDIX A

PERTINENT EXCERPTS ON OCEAN SALMON MANAGEMENT FROM "RECIPROCAL FISHERIES AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF CANADA"

Article II, No. 3

"3. Fishing by nationals and vessels of each party in the zone of the other shall continue in accordance with existing patterns, with no expansion of effort nor initiation of new fisheries."

Article V

"1. On the Pacific Coast, there shall be no fishing for salmon by nationals and vessels of either party in the zone of the other, except salmon taken by trolling beyond 12 nautical miles of the coast and salmon taken by trolling between 3 and 12 nautical miles in the area west of a line joining Bonilla Point and Tatoosh Island; north of a line projected due west from Carroll Island (latitude 48 degrees 00.3 minutes North, longitude 124 degrees 43.3 minutes West) and south of a line projected from Bonilla Point to latitude 48 degrees 29.7 minutes North, longitude 125 degrees 00.7 minutes West.

"2. Each party shall have the right to limit such fishing for salmon in its zone by nationals and vessels of the other to the same time periods as its nationals and vessels are permitted such fishing for salmon in the zone of the other."

Article VIII (except second sentence of No. 2)

"1. The two parties recognize that each shall manage fisheries within its jurisdiction within the terms of its domestic laws. They agree that in the application of their domestic laws they shall be guided by the following principles:

"a. preserving existing patterns of their reciprocal fisheries in keeping with the provisions of Article II; and

"b. in the case of reciprocal salmon fisheries, the interest of the state of origin in salmon spawned in its rivers."

"2. Regulations affecting the size limits, seasons, areas, gear, and by-catch of existing fisheries established by the management entities of either party and pertaining to the taking or possession of fish in its zone shall apply equally to the nationals and vessels of both parties in the zone."

"3. If either party proposes to introduce or alter any such regulations during the term of this Agreement, it shall notify the other party of the proposed regulatory measure as far in advance of its application as possible. At the request of either party, consultations shall be held expeditiously in order to review the proposed measure. In such consultations the parties shall be guided by the principles referred to in paragraph 1 above. Consultations on regulations respecting reciprocal salmon fisheries shall take place at the technical and official levels during the process of preparing such regulations, and, prior to their final approval and application, at the Secretarial or Ministerial level upon request of either party.

"4. Fishery conservation and management regulations other than those referred to in paragraph 2 above and those required for the implementation of this Agreement, shall not be applied by either party to vessels and nationals of the other fishing in its zone pursuant to this Agreement."

Article XI

"Each party agrees to waive for nationals and vessels of the other party fishing in its zone pursuant to this Agreement, permit and licensing requirements set forth in the respective domestic fishery laws of each country as applicable to foreign fishermen, provided that each vessel shall be clearly and conspicuously marked to indicate its name, nationality and home port."

Article XII

"1. Recreational fishing by vessels of each party in all waters of the other shall continue.

"2. Recreational fishing under this Agreement shall be conducted in accordance with applicable regulations and permit and licensing requirements imposed by the competent state, provincial and federal authorities, except that requirements for permits and licenses under the Fishery Conservation and Management Act of 1976, in the case of the United States, and the Coastal Fisheries Protection Act, in the case of Canada, shall be waived."

Article XIII

"The two parties agree to exchange appropriate fishery statistics on a timely and regular basis where necessary to permit an accurate determination to be made of the time at which an allocation or catch level referred to in this Agreement is reached, and otherwise to ensure the effective implementation of this Agreement."

Article XIV

"Each party shall allow access to its customs ports for nationals and vessels of the other party for the purposes of purchasing bait, supplies, outfits, fuel, and effecting repairs, unless more favorable access provisions are provided in other agreements in force between the two parties. Access under this provision is subject to general requirements regarding advance notice of port entry, availability of facilities, and the needs of domestic fishermen and flag vessels."

Article XV

"The two parties agree that cooperative fishery research and the exchange of fishery biological data and statistical information through existing institutional arrangements should continue and, where appropriate, be expanded."

Article XVI

"The two parties undertake to consult as necessary to ensure the harmonious implementation of this Agreement."

APPENDIX B

JAMES A. REDDEN
Attorney General of Oregon

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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA, Plaintiffs, vs. STATE OF OREGON, Defendant, and THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON; CONFEDERATED TRIBES & BANDS OF THE YAKIMA INDIAN NATION; CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION; and NEZ PERCE TRIBE OF IDAHO, Intervenors, and STATE OF WASHINGTON, Intervenor.	CIVIL NO. 68-513 MOTION

All parties hereby move this Court for an Order approving the Plan for Managing Fisheries on Stocks Originating from the Columbia River and its Tributaries Above Bonneville Dam, which is attached

hereto as Exhibit "A."

DATED February 28, 1977.

Respectfully submitted,

Beverly B. Hall
Assistant Attorney General
Attorney for Oregon Fish and Wildlife Department

Dennis Karnopp
Attorney for Warm Springs Tribe

James M. Johnson
Assistant Attorney General
Attorney for Intervenor State of Washington

Tim Weaver
Attorney for Yakima Indian Nation

George D. Dysart
Assistant Regional Solicitor
Of Attorneys for the United States of America

Robert C. Strom
Of Attorneys for the Nez Perce Tribe of Idaho

Sidney I. Lezak
United States Attorney
Of Attorneys for the United States of America

Douglas R. Nash
Attorney for Umatilla Tribe

IT IS SO ORDERED.

UNITED STATES DISTRICT JUDGE

A PLAN FOR MANAGING FISHERIES
ON STOCKS ORIGINATING FROM THE COLUMBIA RIVER AND
ITS TRIBUTARIES ABOVE BONNEVILLE DAM

The purpose of the plan shall be to maintain, perpetuate and enhance anadromous fish and other fish stocks originating in the Columbia River and tributaries above Bonneville Dam for the benefit of present and future generations, and to insure that the Nez Perce Tribe of Idaho, Confederated Tribes of the Umatilla Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakima Indian Nation, hereinafter called Tribes, having the right to fish based on a treaty with the United States are accorded the opportunity for their fair share of harvest, and to provide for a fair share of the harvest by nontreaty user groups.

This plan is based upon the unique circumstances relating to the Columbia River system and the parties hereto and does not necessarily have application in other fisheries.

The parties also recognize the substantial management problems resulting from the ocean harvest of mixed stocks of anadromous fish originating from the upper Columbia River and its tributaries and the wastage resulting from fishing on immature stocks. The parties will continue joint efforts to collect and gather data on this fishery and to reduce inefficient and wasteful harvest methods.

Due to environmental factors totally unrelated to the treaty or nontreaty fisheries, there has been a continual decline of some runs of anadromous fish in the Columbia River system. This trend could deprive not only the treaty Indians, but also other user groups of the opportunity to harvest anadromous fish. The parties pledge to work cooperatively to maintain the present production of each run, rehabilitate runs to their maximum potential and to work towards the enhancement and development of larger and additional runs where biologically and economically feasible.

(1) The managing fishery agencies shall make every effort to allocate the available harvest as prescribed in this agreement on an annual basis. However, because run size cannot always be accurately calculated until some lower fishery has taken place, annual adjustment of the sharing formulas for each species may be required to provide the appropriate shares between treaty and nontreaty users. If treaty and nontreaty users are not provided the opportunity to harvest their fair share of any given run as provided for in this plan, every effort shall be made to make up such deficiencies during the next succeeding run of the same race. Overall adjustments shall be made within a 5-year time frame.

(2) The treaty Indian tribes and state and federal agencies shall diligently pursue and promote through cooperative efforts the upriver maintenance and enhancement of fish

habitat and hatchery rearing programs, and so far as practicable, maintain present production of each run and to rehabilitate runs to their maximum potential.

(3) Hatchery salmon and steelhead released to maintain or restore runs above Bonneville Dam shall be shared pursuant to this plan.

(4) A technical advisory committee shall be established to develop and analyze data pertinent to this agreement, including but not limited to the following: calculated run size for all species of fish, ocean catches, escapement goals, catch allocation and adjustments, dam loss, habitat restoration, and hatchery rearing programs. Such a committee shall make recommendations to the managing fishery agencies to assure that the allocations in this agreement are realized. Members shall be qualified fishery scientists familiar with technical management problems on the Columbia River. The committee shall be comprised of representatives named by each of the three states, Oregon, Washington, Idaho, National Marine Fisheries Service, U. S. Fish and Wildlife Service and each of the Indian Tribes.

(5) Each party shall develop a catch record program that utilizes reliable statistical methods and effective enforcement procedures as developed by the committee. Indian tribes shall report on appropriate state forms for each species ceremonial, subsistence and any other catch not sold to state-licensed buyers. The states shall report and

make available to all interested parties treaty and nontreaty sport and commercial catch for each species. All the above reports shall be made within an agreed-upon time schedule.

(6) The states agree to enact or recommend for enactment by the Pacific Fisheries Management Council appropriate conservation regulations for the ocean fishery that will assure an efficient utilization of stocks and will provide for adequate escapement of mature fish into the Columbia River to achieve the goals and purposes of this plan. Marine regulations should attempt to harvest mature fish and reduce waste.

(7) Fish escapement totals, dam loss estimates, or other technical aspects of this agreement may be modified by mutual agreement to reflect current data. In the event that significant management problems arise from this agreement that cannot be resolved by mutual agreement, the parties agree to submit the issues to federal court for determination. In any event, the Court shall retain jurisdiction over the case of U. S. v. Oregon, Civil 68-513, (D.C. Or).

(8) The sharing formulas as set forth in this plan are based upon the premise that the marine area catches in U. S. controlled waters of fish originating above Bonneville Dam, other than fall chinook and coho runs, will be regulated by PFMC so as to be essentially de minimis portions of those runs. The parties acknowledge that if subsequent data should indicate that this premise is incorrect, these formulas may require revision.

(9) Regulations affecting treaty users which are enacted in conformity with this comprehensive plan shall be considered as complying with the court's decrees enunciated in U. S. v. Oregon, Civil No. 68-513, District of Oregon.

(10) Tribal members fishing pursuant to this agreement may employ only members of the Tribes, while exercising their treaty fishing rights.

(11) All fish numbers referred to in this agreement are adult fish.

(12) The sharing formulas contained herein for determining the treaty fishery share refer to those fish caught in the Columbia River below McNary Dam and any other inland off-reservation catch placed in commercial channels.

Except as provided in subparagraph 5 under Spring Chinook, neither treaty nor nontreaty non-commercial harvest in tributaries, or in the mainstem Columbia River above McNary Dam, shall be considered in the sharing formulas contained herein.

(13) Upon thirty days written notice by any party, after five years from date, this comprehensive plan may be withdrawn or may be renegotiated to assure that the terms set forth represent current facts, court decisions, and laws.

Fish Management Plans

A fish management plan has been adopted for those species of importance to assure future conservation of the resource and equitable sharing of the harvest between treaty Indians and nontreaty users. The formulas represent Available Fish for Harvest and may not reflect total catch if fishing effort is inadequate to harvest all available fish. All runs of fish described in this plan are those originating in the area of the Columbia River or its tributaries above Bonneville Dam.

Fall Chinook Salmon

The Columbia River fall chinook shall be managed under the following plan:

(1) Run size shall be determined by the number of fish entering the Columbia River which are destined to pass Bonneville Dam.

(2) Escapement of 100,000 fish above Bonneville Dam shall be subtracted from total in-river run size.

(3) Additional fish above escapement are available for harvest and shall be shared 60% by treaty fishermen and 40% by nontreaty fishermen.

(4) The states' goal is to manage the fisheries to provide and maintain a minimum average harvestable run size of 200,000 upriver fall chinook to the Columbia River.

(5) The 60% treaty share shall include mainstem ceremonial, subsistence, and commercial harvest as allocated by the Indian tribes. The 40% nontreaty share shall include in-river commercial and sport harvest as allocated by the appropriate agencies.

Spring Chinook

The Columbia River spring chinook shall be managed under the following plan:

(1) Run size shall be determined by the number of fish entering the Columbia River destined to pass Bonneville Dam.

(2) Spawning escapement goals shall be a minimum of 120,000 and 30,000 fish above Bonneville and Lower Granite Dams respectively.

(3) The states' goal is to manage the fisheries to provide and maintain a minimum average run size of 250,000 upriver spring chinook to the Columbia River.

(4) Treaty ceremonial and subsistence catch shall have first priority. These fisheries shall not exceed a catch of 2,000 fish on a run size of less than 100,000 fish; 5,000 on

a run size of between 100,000 and 120,000 fish; and 7,500 fish on a run size of between 120,000 fish and 150,000 fish. Treaty ceremonial and subsistence fishing for spring chinook with gillnets as well as other normal gear may occur, but such gillnet fishing shall be subject to a notification system similar to that presently used for ceremonial fishing. All catches shall be monitored cooperatively for the purpose of ascertaining the amount of the catch.

(5) On a run size of between 120,000 and 150,000 fish passing Bonneville Dam, the nontreaty fisheries are limited to the Snake River system and may harvest fish which are in excess of the 30,000 spawning escapement passing Lower Granite Dam. (Under average river flow conditions, 120,000 fish at Bonneville Dam will generally provide 30,000 fish at Lower Granite Dam and 150,000 fish at Bonneville Dam will generally provide 37,500 fish at Lower Granite Dam.)

(6) On a run size of more than 150,000 fish passing Bonneville Dam, all allocations as provided for in items 4 and 5 shall occur. All additional fish available for harvest below McNary Dam shall be shared 40 percent for treaty fishermen and 60 percent for nontreaty fishermen. If river passage conditions improve so as to provide more than 40,000 fish at Lower Granite Dam on run sizes of 150,000 fish or less, the 40 percent and 60 percent allocation may occur on a run size of less than 150,000 fish at Bonneville Dam.

Summer Chinook Salmon

Summer chinook salmon runs are precariously low and do not warrant any fishery at the present time, with the exception of a treaty subsistence, ceremonial, and incidental catch not to exceed 2,000 fish during the months of June and July.

The parties agree that if the run size increases a formula for sharing of the available harvest above present escapement goals for this race shall be similar to spring chinook.

Summer Steelhead

(1) Run size shall be determined by the number of fish entering the Columbia River destined to pass Bonneville Dam.

(2) The escapement goal to spawning grounds above Lower Granite Dam shall be a minimum of 30,000 fish. A run size of 150,000 fish at Bonneville Dam will provide for 30,000 fish at Lower Granite Dam.

(3) The treaty Indian mainstem fishery shall be limited to ceremonial, subsistence and incidental catch to other commercial fisheries. A minimum mesh restriction of 8 inches will be utilized to limit incidental catch.

(4) The Indian tribes recognize the importance of the steelhead stocks to recreational users and agree to forgo a target commercial fishery.

Sockeye Salmon

Sockeye salmon runs are precariously low and do not warrant any fishery at the present time, with the exception of a treaty subsistence, ceremonial, and incidental catch not to exceed 2,000 fish.

The parties agree that if the run size increases so as to provide harvestable quantities, such harvest shall be shared equally between treaty and nontreaty fishermen.

The parties recognize the importance of protecting summer chinook and summer steelhead stocks during the harvest of sockeye salmon. Incidental catch of summer chinook and steelhead shall be minimized by providing appropriate restrictions to the sockeye fishery.

Coho Salmon

Coho stock are in the treaty fishing area simultaneously with other species which currently need protection from fishing effort. Parties agree to use their best efforts to develop methods to maximize coho harvest while protecting those other species.

Shad

Shad runs have been sufficiently large to allow for unlimited harvest. However, because shad fisheries can take stocks of

salmon and steelhead that are below harvestable levels, new catch methods shall be pursued particularly by the Indians above Bonneville Dam to assure a sufficient catch of shad while minimizing the catch of other species. If escapement goals and catch formula must be established in the future, the committee shall compile the required data and make recommendations to the managing fisheries agencies.

Sturgeon

The population of sturgeon in the Columbia River appears residual above Bonneville Dam. The parties agree that the Indian tribes shall have a commercial fishery regulated by sound principles of conservation and wise use. A sport harvest may occur simultaneously for sturgeon above Bonneville Dam.

Winter Season

The treaty fishermen shall be allowed a mainstem commercial fishery for any species of fish between February 1, and April 1.

This comprehensive plan for managing anadromous fisheries on stocks originating from the Columbia River and its tributaries above Bonneville Dam is adopted by the undersigned this 25th day of February, 1977.

ROBERT W. STRAUB
Governor of Oregon

DIXY LEE RAY
Governor of Washington

CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

CONFEDERATED TRIBES & BANDS OF THE YAKIMA INDIAN NATION

UNITED STATES OF AMERICA

BY

JOHN HUGH
Special Assistant to the Secretary of the Interior

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

RICHARD A. HALFMOON, CHAIRMAN
NEZ PERCE TRIBE OF IDAHO

ALTA A. GUZMAN, SECRETARY
NEZ PERCE TRIBE OF IDAHO

APPENDIX C

January 12, 1977
San Diego, CA

Report to the Council by the Scientific and Statistical Committee on Review of the Salmon Management Plan, Draft No. 2

The SSC has reviewed Draft No. 2 of the PMP prepared by the Salmon Management Plan Development Team. The Team was present for a discussion of the review. We find that the Team has done an excellent job of preparing this document. The draft plan should be considered as a primary step in an approach toward a finished product. There appears to be sufficient information in the Plan for the Council to proceed, but the Council should be aware that the plan is not complete. We have a number of comments and questions regarding Draft No. 2 which will be incorporated in our minutes and transmitted to the Council and the Team. We are optimistic that the Team will be able to perfect the draft in the near future.

The list that follows indicates the major elements in the plan that the SSC feels require further consideration:

1. There is a need for additional documentation in the form of references, tables and graphs.

2. Further explanation for the lack of commonality of recommended regulations for the three states is required. Some examples are: different season and size limits in the different areas; inconsistent treatment of the treaty Indian question for the three states; and varying treatment of gear limitation.

3. There should be a more comprehensive discussion of the interactions of the Canadian and U.S. salmon fisheries, including Alaska.

4. Improved quantification of the amount of transfers among the fisheries should be developed.

5. There is a need for an enlarged discussion and analysis of the proposal to prohibit ocean salmon net fishing.

6. The plan should contain recommended regulations for chinook salmon fisheries that occur off Alaska on fish which originate in the other Pacific states.

7. Reorganization of the Management Objectives section and redefinition of the objectives are needed.

While the issues identified above can be addressed by the Team, significant deficiencies in the Plan with respect to economic data and analysis suggest the need for input from a panel of economic experts. We recommend that such a panel be established to provide immediate input to Draft 3 of the Plan. In addition to George Tanonaka and Richard Johnston who have already been identified, Gardner Brown from the University of Washington and Jack Richards from the National Marine Fisheries Service are suggested as members of this Panel.

The SSC will comment on the appropriateness of the recommended regulations when the above points are resolved.

The SSC will continue to work with the Salmon Plan Development Team in developing Draft No. 3 in line with the above comments.

APPENDIX D

SALMON ADVISORY PANEL REPORT
on
Draft No. 2, EIS/FMP for Commercial Troll and Recreational Salmon Fisheries
off the Coasts of Washington, Oregon, and California

INTRODUCTION.

At its January 1977 meeting in San Diego, the Pacific Regional Fishery Management Council approved Draft No. 2 of the "Environmental Impact Statement/ Fishery Management Plan (for) Commercial Troll and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California." The Council instructed the salmon advisory panel to prepare an "Advisory Panel Report" containing their recommendations regarding Draft No. 2, to be attached to the draft plan and to be part of the hearing process procedure for public testimony.

The following pages outline *Areas of Consensus* among the 22 salmon advisory panel members, and *Dissenting Opinions* from members representing (1) consumers; (2) purse seiners, gillnetters, and processors; (3) treaty Indian tribes; (4) recreational interests; (5) inland sport fishery; and (6) trollers.

AREAS OF CONSENSUS - General.

1. Canadian Treaty Negotiations. Panel members agree that Canadian treaties have to be addressed in an ocean salmon management plan, to insure that fish saved through curtailment of the American fishery are not caught in the Canadian fishery.

2. "Emergency Changes." Panel members desire clarification of the term "emergency changes" in the draft document.

AREAS OF CONSENSUS - Regulations.

1. Area South of Tillamook Head. Panel members concur with regulations proposed for the area south of Tillamook Head, which are identical to regulations imposed in that area in the past.

2. Area North of Tillamook Head. Panel members concur on the following regulations for the area north of Tillamook Head. Regulations in disagreement with the specific 1977 regulations proposed by the Working Team in the draft Management Plan are indicated by an asterisk.

   a. *Mandatory use of barbless hooks until the beginning of the coho season* to reduce mortality of coho caught incidentally in the chinook fishery. If this restriction proves successful, advisors may recommend a similar regulation for the area south of Tillamook Head.

   b. *A May 1st opening for the commercial chinook season.* There were no problems with the May 1st opening last year.

   c. *The need for mandatory hold inspection prior to the season opening* to eliminate incidences of vessels (particularly freezer boats) taking coho prior to the season opening. This regulation has been in effect very successfully in California for the past two years, and advisors concur it should be enacted coastwide.

   d. *An October 31st closing for the commercial chinook season.* This closing date was in effect last year and advisors see no reason for change.

   *e. *A closure of the area north of Umatilla Reef after September 15th,* to allow greater coho escapement into Puget Sound.

   *f. *A commercial size limit of 28" for chinook.* This size limit has been in effect for many years in California and Oregon, and is based on market conditions for fish of that size. Advisors feel there aren't enough data to justify a change in size limit from 26" to 28".

   *g. *A commercial size limit of 18" for coho.* Presently there is no minimum size limit for coho in the Canadian troll fishery. By imposing a minimum size limit for coho on the U.S. fishery, there would be better grounds for negotiating a bilateral agreement on minimum size limitations in the Canadian troll fishery. This size limit would also protect against the taking of smaller fish that have lower market value.

   *h. *References to an 8 lb. troll dressed weight for determining if fish are undersize* are impractical, *and should be deleted from the plan.*

   *i. *There is need for better coverage in the draft of water quality and habitat considerations and the council's role in trying to effect water and land use decisions which might impact on salmon resources and habitat.*

DISSENTING OPINION NO. 1
Joe Kahle, Consumer Representative

Consumers see Draft No. 2 as only a harvest plan for 1977, and hope that eventually the council will come up with a comprehensive management plan.

Consumers should be involved in the planning process. There is absolutely no concern with consumer affairs expressed in either draft plans.

DISSENTING OPINION NO. 2
Paul L. Anderson, Purse Seine Vessel Owners Association
Robert Christensen, Puget Sound Gillnetters Association
Les Clark, Columbia River Fishermen's Protective Union
Ted A. Smits, Association of Pacific Fisheries

Panel members representing purse-seining, gill-netting and processing interests agree as a group with the following recommendations, all of which disagree with the specific 1977 proposed regulations presented by the Working Team in the draft Management Plan.

Commercial Regulations

1. *A two-week closure of the chinook season;* season to run from May 1st to June 15th, and from July 1st to October 31st.

2. *A five-mile radius closure around the mouth of the Columbia River* for protection of immature stocks.

Recreational Regulations

1. *A sport fishing season from May 21th to September 15th, without closure.* Realizing that such a season would give sport fishermen the opportunity to fish during a period when the commercial season was closed, the following restrictions are proposed:

   a. A two-fish bag limit.

   b. No minimum size limit. The first two fish caught would be kept, thus reducing wastage through mortality of fish caught and released.

DISSENTING OPINION NO. 3.
Guy McMinds, Quinault Tribal Office

The treaty Indian tribes support the specific regulation proposals for 1977 as outlined in the draft plan. It is recommended, however, that the salmon Working Team study the possibility of sanctuaries around the mouths of coastal Washington streams to provide a more adequate escapement to treaty Indian fisheries on the coast.

The treaty Indian tribes reserve the right to comment on other aspects of the plan.

DISSENTING OPINION NO. 4
Edward P. Manary, Washington State Charter Boat Association

Representatives of recreational interests in Washington, Oregon, Idaho and California concur with the sport fishing regulations outlined in the draft salmon management plan with the single exception of the opening date of the recreational fishery. They propose the season north of the California line open on the last Saturday in April (April 30) instead of the first Saturday in May (May 7).

Recreational representatives are also in favor of a moratorium on the number of charter boats licensed in Washington.

Recreational fishery interests are opposed to the following alternative regulations which have been proposed by other members of the advisory panel:

1. *Any reduction of the bag limit* (either a two fish per day or a 20 fish per year restriction). Such a regulation would be discriminatory against recreational fishermen.

2. *A delayed season opening.* This would also discriminate against the sportsman.

3. *Establishment of nursery areas.* There are not presently enough scientific data available to justify the establishment of nursery areas.

4. *A 5-mile area closure around the mouth of the Columbia.* Such a closure would handicap small boat operators in getting to and from the fishing areas.

DISSENTING OPINION NO. 5
Norman Guth, Idaho Outfitters and Guides Association

Idaho sportsmen and commercial sport fishermen are basically in agreement with the regulations proposed in the draft ocean salmon management plan, and encourage adoption of the plan as soon as possible. They would also encourage regulation of the Columbia River fishery in such a way as to assure that those fish escaping the ocean fisheries will eventually make it to the spawning grounds in Washington, Oregon, and Idaho.

DISSENTING OPINION NO. 6
Bob Gay, Washington State Trollers
Zeke Grader, Pacific Coast Federation of Fishermens Associations

Trollers disagree that there is an "urgent need for action by the Fishery Management Council to control the ocean salmon fisheries" (Ref. draft plan. p. 23), and do not feel that major "native stocks are ... severely depressed." They would point out that curtailment of the troll fishery would result in more fish being caught in the Canadian troll and U.S. recreational fisheries, and that troll-caught fish are the most desirable on the market.

Trollers concur on the following recommendations, which disagree with the 1977 regulations proposed by the Working Team in the draft Management Plan.

1. *A chinook season from May 1st to October 31st with an area closure from Umatilla Reef north after September 15th.* California, Oregon, and Washington trollers are opposed to a June closure because (a) the facts do not justify such a closure, and (b) such a closure would create havoc in the commercial fishery.

2. *A coho season from June 15th, with an area closure from Umatilla Reef north after September 15th.* Oregon and Canadian seasons have opened on June 15th in the past. The area closure from Umatilla Reef north after September 15th would provide more escapement of coho into Puget Sound waters.

3. *Establishment of nursery areas* to protect against the take of undersize or immature fish.

4. *A moratorium on new vessels in Oregon and California, as well as Washington.* There are many more trollers in the fleet than there need to be, and this moratorium would gradually reduce the massive number.

The trollers expressed concern that sufficient time was not available to supply in-depth justifications for their recommendations.

APPENDIX E

SUMMARY OF WRITTEN AND ORAL COMMENTS
AND RESPONSES TO COMMENTS

Introduction

Well over 200 separate letters were received offering comments on the Draft Environmental Impact Statement/Fishery Management Plan. In addition, numerous comments and specific recommendations were made orally at the six public hearings held on the Plan. In light of this tremendous volume of input, it was not feasible, within the timeframe required, to respond individually to each separate comment. Consequently, the major specific comments by individuals and organizations have been grouped into more general issues which cover the areas of concern of more than one individual and a response to each of these general concerns has been prepared. In many cases the comments offered have been incorporated into the final draft of the Plan and are now treated in more detail in that document. Emphasis in this Appendix is placed on those comments which are in opposition of Council action and which have not been treated in the text of the Plan.

A listing of all individuals submitting written and oral comments is included in this Appendix. The numbers of comments received on each of the 31 general issues by the five commenting categories of Trollers, Associated or Dependent Businesses, Recreational Fishery Interests, Indian Representatives, and Other, are shown in the table at the end of this Appendix.

Comments and Responses

1. COMMENT: Fishery enhancement is a better alternative than the proposed Plan. Enhancement includes increased artificial production, as well as restoration of the environment which has suffered degradation and is a major cause in the decline of certain stocks.

RESPONSE: Increased enhancement by artificial production, as well as major efforts directed toward the multitude of environmental problems which beset the salmon resource, are certainly desirable goals, and the Council will consider this when developing a comprehensive salmon plan. However, fishery enhancement is a long-term and continuing effort while the proposed plan deals only with expected resource abundance in 1977. Additional fish from enhancement cannot be expected for at least three to five years and it may take ten years for significant gains in the overall resource base. In any event, the short-term objectives must be met by managing the fisheries in 1977 as proposed in this plan.

One of the major needs for the proposed regulations, for example, is to rebuild depleted stocks and thus ensure future fish production. Enhancement to increase fish production and management programs to achieve the

best use of existing stocks deal with related, but separate and distinct issues. Increased production will require that management programs achieve optimum yield. The recommendations in this plan relate to managing these resources to achieve optimum yield for 1977. The issues considered in arriving at these recommendations will have to be dealt with even when production is increased. The proposed plan responds to these issues to the extent that information is available for 1977. Additional modifications will be needed in the future, including a comprehensive plan that will include evaluation of proposals for enhanced production. Enhancement programs will increase, not reduce, the need for appropriate management policies.

2. COMMENT: The proposed plan will cause severe economic hardship to the troll fishery. Loss of June fishing will result in serious loss of total revenue. Trolling is already regulated by weather and needs no further curtailment.

RESPONSE: The losses to the troll fishery estimated in this plan probably project the worst possible impact on the troll fishery. It is expected that a number of events will occur to substantially reduce the direct adverse economic impact on the troll fishery. During closed seasons in one area, it is expected that vessels will shift to other areas that remain open. Market prices in general may tend to be better due to reduction in supplies normally available from areas that will be closed to fishing, and due to the larger size of fish eventually harvested. Finally, an increase in the fishing effort during the open periods will probably occur.

Reductions in numbers of fish, pounds and market value to fishermen have been projected for the troll fishery. Individual losses may vary substantially from this general pattern. Many fishing costs (e.g. fuel) will not be incurred during closed seasons and other costs (e.g. gear depreciation) may be reduced, thus the impact on net earnings by trollers generally will be less than the values projected in the plan. Some trollers may also participate in other fisheries or in nonfishing employment activities.

An important negative impact on the income of trollers will result, however, in spite of the modifying factors. Even though this may be less than currently estimated, it will be important, and is a major undesirable, but unavoidable, economic impact of this plan.

3. COMMENT: The reduction in fishing time proposed in the plan would result in increased hazard to trollers trying to make up for lost fishing time by fishing when weather or ocean conditions normally would prevent fishing.

RESPONSE: This is a judgmental problem which must rest with the individual fishermen. These same circumstances are experienced during years when abnormally high fish prices or low fish availability encourage increased fishing effort.

4. COMMENT: Ocean commercial trolling and ocean recreational fishing should be regulated consistently with regards to open seasons, minimum size limits, and terminal gear.

RESPONSE: We do not support the contention that commercial and recreational fisheries should be managed by identical seasons, size limits and gear restrictions. Each fishery has its own needs, motivations, and values and each should be managed on its own respective merits. The product of the troll fishery is fish and income while the fishing experience, itself, is an important consideration in recreational fishing. All available research results on this issue support the view that the average fish landed in the recreational fishery is worth more than the average fish landed by commercial gear. All available information indicates that a far greater loss in total benefits to the Nation would occur from restricting recreational fishing time than would be gained due to increased fish size and availability later in the season. There is no reason to expect that optimum yield will increase if the time available to the recreational fishery is reduced beyond that proposed in this plan.

5. COMMENT: A viable troll fishery provides some specific benefits such as a high quality product readily available to the consumer over an extended period of time.

RESPONSE: The plan recognizes that the troll fishery does provide a unique product of high quality to the consumer, and one of the stated objectives is to continue an economically viable ocean commercial fishery (Sec.2.8.1, Para. 4, No. 3) while at the same time increasing the production from the resource and meeting the other objectives cited.

6. COMMENT: Some sort of moratorium or limited entry program (either recreational or commercial) would be preferable to the regulations proposed in the plan.

RESPONSE: Control of total fishing effort may eventually be necessary to reduce potential ocean catch. However, there is presently not enough information available to evaluate the merit of this alternative.

7. COMMENT: The plan will impose economic hardships on businesses associated with the fishing industry.

RESPONSE: Some regional and business-category shifts in economic activity are likely as a result of the proposals in this plan. These have occurred in recent years as net fisheries were restricted to protect needed escapements to the spawning grounds. The impacts on employment and economic activity for coastal communities should be somewhat dampened in the future as total resource production is increased through improved management and subsequent enhancement. Little impact is likely in communities south of Tillamook Head as a result of the proposed plan.

8. COMMENT: Need more precise estimates on the shift of benefits to the recreational, "inside," and treaty-Indian fisheries.

RESPONSE: The estimates of shifts of benefits cannot be made precisely because of variability in magnitudes of salmon runs from year to year, and because it is not yet possible to predict run sizes precisely. Potential shifts from the troll fishery have been identified along with expected gains to ocean-recreational and "inside" non-Indian commercial and treaty-Indian fisheries. The actual reduction in troll catches may not be as serious as projected in the plan because of possible (1) shifts to other geographic areas when fishing is closed north of Tillamook Head; (2) additional fishing intensity when fishing is resumed north of Tillamook Head; and (3) increased effort from license holders who typically spend little time trolling for salmon. On the other hand, some trollers may shift to other fisheries as a result of this plan. The cited impact on projected total earnings by trollers is believed to be the worst possible situation the trollers might experience. The benefits to the inside, recreational, and treaty-Indian fisheries will be reduced to the extent that trollers are able to catch more fish than projected. The impact on the troll catch compared to that by other gear cannot be precisely predicted because of unknown, or only partially known, information. The proposed management plan has estimated these impacts to the extent that information is available. The plan also considers, in part, the fishery enhancement and management arrangements that have been made among various state, federal, and Indian Tribe entities; these arrangements have also, apparently, been developed in expectation that an ocean-fishery salmon management plan will be adopted by the Council.

9. COMMENT: The plan discriminates against the troll industry north of Tillamook Head.

RESPONSE: Section 2.7 of the plan presents basic reasons for different regulations north and south of Tillamook Head. The specific reasons for more restrictive regulations north of Tillamook Head, however, are given in Section 2.8.1.

Social and economic criteria have been considered in this management plan in the selection of the best regulatory options for the required adjustments in harvest rates between fisheries.

10. COMMENT: The emphasis in the plan on harvesting fish at larger sizes and/or in inside fisheries would disrupt established markets by causing changes in supply and price structures of troll-caught fish.

RESPONSE: Analysis of relevant market prices suggests that there will be no apparent loss due to reduced availability of smaller sized chinook salmon. This market demand will still be supplied by coho salmon and the smaller chinook that will continue to be available. Some processors may

have developed markets for smaller-sized salmon, but prices paid to fishermen do not reflect any advantage of small fish. The price advantage of larger fish suggests a greater market demand for this size which has not been met in the past.

11. COMMENT: A lack of documentation of effects of foreign fishing on the salmon resource, both in terms of catch and effects on forage organisms.

RESPONSE: The plan discusses estimates of previous exploitation levels by Canadian trollers and foreign trawlers in Section 2.1.5.1, including the problems associated with continued Canadian fishing on U.S. stocks under U.S./Canada fisheries agreements now in force. The Preliminary Management Plan (PM) for "Trawl Fishery of the Washington, Oregon and California Region," prepared by the National Marine Fisheries Service in January 1977, establishes permissable incidental salmon catch levels for foreign trawlers fishing within the 200-mile Fishery Conservation Zone at zero. No salmon caught can be kept. The PMP also prescribes a 20% observer level aboard foreign trawlers to monitor incidental catches. Fishing by foreign trawlers in the FCZ has been severely reduced in time, area, and level of catches.

We have no evidence that the foreign fishery affects levels of forage organisms in either a positive or negative manner relative to salmon, and at this time, do not consider this a problem with respect to the salmon resource.

12. COMMENT: The regulations proposed in the plan would result in a shift in troll effort from north of Tillamook Head to the south during the closed period in June.

RESPONSE: Undoubtedly, some shift of troll vessels to the south of Tillamook Head will occur in response to a June closure, but this accomplishes the stated purpose of the closure during this period - to remove effort from stocks of fish that are present primarily north of Tillamook Head. A large, long-term increase in fishing effort south of Tillamook Head, however, would be unacceptable and must be considered when the Council addresses management south of Tillamook Head.

13. COMMENT: There should be nursery area closures as a means of protecting immature fish.

RESPONSE: Concentrations of immature fish are known to occur in certain areas and at certain times. Unfortunately, in the area under consideration (north of Tillamook Head), the primary concentration of immature fish occurs right at the mouth of the Columbia River. Closure of this area would restrict sport fisheries almost exclusively. There are some management benefits derived from permitting this fishery to contunue.

14. COMMENT: Against requirement of barbless hooks.

RESPONSE: Studies have shown that barbless hooks will improve the survival rate of "shaker" coho salmon taken incidentally, yet will still take chinooks as efficiently as barbed hooks (Sec. 2.8.2) and (Sec. 9.0 reference 17).

15. COMMENT: Closures proposed in the Plan would "spread to other States."

RESPONSE: The fishery south of Tillamook Head will be examined during the coming year. It is expected that more restrictive regulations will be recommended, since several southern stocks of salmon appear to be in poor condition. Whether these regulations will be similar to those now proposed north of Tillamook Head is not known.

16. COMMENT: Reduced troll fishery is not consistent with Optimum Yield and the plan needs a better balance of biological, economic and sociological considerations.

RESPONSE: Optimum yield fishery management requires consideration of economic and sociological factors, as well as biological or technical objectives associated with conservation and productivity of the fish stocks. The proposed plan considers all of these factors on the basis of available information and recommends changes to achieve optimum yield and maximize benefits to the nation from these stocks.

17. COMMENT: Since part of the purpose of the Act is to protect U.S. fishermen from foreign fishing, it seems unfair for Canadians to get more fish and to continue to fish when U.S. fishermen cannot.

RESPONSE: One of the purposes of the Act is to develop "a national program for the conservation and management of fishery resources... to realize the full potential of the Nation's fishery resources." Thus, the total fishery resources of the Nation must be considered. The transfer to Canadians is an unfortunate local consequence of the regulations needed to achieve conservation and allocation objectives outlined in this salmon plan. Discussions are currently underway with Canada to resolve our mutual salmon problems and may provide better methods in the long run for resolving salmon transfers and other fishery problems between the two countries. The plan specifically stipulates that the Canadians observe the same regulations as U.S. fishermen when fishing in the U.S. zone. (Sec. 2.3, 2.6)

18. COMMENT: The Council should not allocate fish to the Treaty Indians in accordance with current directives.

RESPONSE: The Act specifically recognizes the need to account for Treaty Indian fishery rights in developing a management plan.

19. COMMENT: Changing the size limit of chinook from 26" to 28" unnecessary.

RESPONSE: The Council, in its action on the plan, decided not to increase the size limit of chinook north of Tillamook Head from 26" to 28".

20. COMMENT: Establish a 2-fish bag limit for recreational fishermen.

RESPONSE: Reducing the bag limit for recreational fishermen was considered under the plan as a method of shifting the impact of the needed management measures over more than one user group to achieve the desired objectives of the plan (Sec. 2.8.2.3., No.1). The Council decided not to reduce the bag limit.

21. COMMENT: The plan should include a landing allowance for incidentally-caught coho salmon during the early chinook season.

RESPONSE: This alternative is presented as number 4 under Section 2.8.2.1 of the plan. This alternative was not considered as a specific regulation option since it would not assist in meeting the stated objectives of the plan, particularly in view of abuses which have historically occurred with regulations of this type.

22. COMMENT: Plan should cover the entire range of the species.

RESPONSE: In view of the time constraint and the need to achieve certain short term objectives, the Council restricted this plan to the ocean salmon fisheries. Obviously, an overall management strategy must be developed before the resource is managed adequately. This plan is considered a first step toward the development of such a comprehensive plan.

In addition, the jurisdictional authority of the Council is limited, by the Fishery Conservation and Management Act of 1976, to the ocean areas seaward of the States' boundaries.

23. COMMENT: Numerous and various alternative regulations were recommended, including: (1) status quo (1976 regulations); (2) return to 1975 regulations; (3) no or shorter closed periods; (4) less restrictive terminal-gear requirements; and others.

RESPONSE: The reasons outlined in the Plan fully support a need for reduced ocean harvesting rates and preclude returning to past or less restrictive regulation patterns.

24. COMMENT: Numerous comments were received from Indian organizations and individuals concerning the need for the Council and its Plan to recognize Treaty Indian fishing rights and permit Treaty Indians to fish under regulations somewhat different from non-Indians.

RESPONSE: The Indian fishing rights issue has been the subject of extensive litigation in Federal Courts in the Pacific Northwest. Many of the complex issues have been considered by the Courts. These decisions and actions have guided the drafters of the Plan. Many issues remain unresolved.

The FMP recognizes that Indian Treaty fishing rights are affected by this Plan. The Pacific Council and Department of Commerce believe that the implementation of such rights remains a matter for further consideration.

25. COMMENT: The Plan is incomplete or is based on inadequate or inaccurate data. For example, the Scientific & Statistical Committee refused to comment on the Plan because it was incomplete.

RESPONSE: The Plan is based on the most reliable scientific and statistical information available. In some cases, more recent data are not included in the Plan, since comparable data for all categories were not available. The Plan is complete to the extent that information is available and that management decisions for the ocean salmon fisheries fall within the jurisdiction of the Pacific Fishery Management Council. The Scientific and Statistical Committee has commented on the adequacy of the proposed Plan.

26. COMMENT: A greater reduction of the early ocean fishing season would permit more chinook to reach upper river areas.

RESPONSE: The 60% reduction in the troll fishing season prior to July 1 was considered adequate at this time for protection of upriver (spring and summer) chinook salmon, consistent with a rational harvest in the ocean.

27. COMMENT: The Washington troll fishery catches relatively few salmon bound for Puget Sound spawning areas, and thus the plan will have little effect on required re-allocation of catches to Treaty Indians.

RESPONSE: The closure of waters north of Pt. Grenville after September 15 will provide some protection for Washington coastal river and Puget Sound coho stocks, thus increasing the proportions of these stocks that reach inside fishing waters and spawning grounds. Since many coastal river stocks are harvested by Treaty Indians in the Boldt Decision-case area, the reduction in ocean harvests of these stocks should increase fishing opportunities for Treaty Indians.

28. COMMENT: The recommendations in this Plan represent allocation of the catch among users and do not constitute fishery management.

RESPONSE: Fishery Management under the concept of optimum yield requires consideration of social and economic criteria. Consequently, fishery management and allocation of allowable catches among different users must be considered.

29. COMMENT: Plan favors part-time fishermen

RESPONSE: Most of the fishermen affected by this Plan are part-time salmon fishermen, in that they do not obtain their total earnings from salmon trolling. Additional income is usually derived either from other fishing or non-fishing activities. The proposed regulations in the Plan were not designed to favor part-time fishermen. All fishermen, whether part-time or full-time, will be faced with identical regulations.

30. COMMENT: The objectives of this Plan are inconsistent with other government programs such as the Capital Construction Fund.

RESPONSE: The troll salmon fisheries have been declared a conditional fishery with respect to the application of the Capital Construction Fund. As such, trollers may deposit monies in the fund, but restrictions are placed on the use of vessels constructed or purchased through these programs. Such restrictions on the use of the Capital Construction Fund and other NMFS financial assistance programs as they apply to conditional fisheries will not stimulate new or greater effort.

Accordingly, these programs do not appear to be inconsistent with the Plan's objective of reducing salmon effort.

31. COMMENT: The Plan will result in monopolistic market conditions, and destroy free enterprise and small business firms.

RESPONSE: The Plan will likely result in some shift among areas of activity of fishing firms and support industries. There is no reason, however, to expect that the market strength of the firms that gain will differ greatly from those that lose. There is no expected impact on the competitive or free enterprise nature of the firms or industries involved.

APPENDIX E

List of Individuals and Organizations Submitting Written Comments
(Names May Be Misspelled Due To Difficulties In Deciphering Signatures)

Aaker, Arnold C.
Abbott, David A.
Allen, Walter R. & JoAnn
Alstadt, John
Amos, Tom L.
Anderson, Leif
Anderson, M. G.
Andreani, Ronald
Applegate, Mille
Armstrong, Calvin
Aston, Diane

Bales, William
Barker, Charles
Bates, Ken
Beam, Chas. L.
Beasley, Dale
Beauchamp, Janice
Belgard, T. F.
Benton, James T.
Blakey, B. H.
Brandley, Donald
Breiwick, Lester
Brown, G. R.
Brown, Gary
Buffington, Milton J.
Bunkowski, D. D.
Buschi, Craig

Cadwell, David R.
Caldwell, Francis E.
Carpenter, Earl
Catching, John
Catterall, Richard
Chapman, David
Charlton, A. F.
Chera, Arlene
Claplanho, Ed
Clark, Les
Claypool, Mr. & Mrs. Henry
Claypool, Jonathan
Claypool, Marilyn
Cole, Bob
Cox, Larry R.
Curtis, Richard J.

Daniel, Richard
Deeter, Stanley B.
DeLaCruz, Joseph
DeLeo, Jean C.
DenHerder, Robert
Doney, Glenn P.
Dysart, George D.

Eaton, Clark
Elend, Raymond J.
Elmore, Bill
Elmore, Susan
Elwood, Greg & Sharon
Englesen, G. H.
Esarey, John E.
Esarey, Vickie
Esarey, Jon D.
Estabrook, Raymond E.
Evans, Gov. John V.

Finley, Carl M.
Fitzhugh, Mel
Flanagan, Pat
Forman, Jackie
Forsythe, James W. & Edna
Francis, Richard
Frank, Victor R.
Fry, Howard

Galloway, Dale S.
Gay, Robert F.
Ghera, Marian A.
Ghera, Roy H.
Gibson, Jack
Glavich, Ray
Gormley, W.
Gowdy, Lloyd
Grader, Zeke
Grauberger, David

Hager, Vernon
Halterman, John
Hamilton, Ben
Harper, Calvin
Haugen, Richard F.
Haugland, Richard L.
Hautala, Patricia
Haw, Frank

Hegg, Fred
Hinderer, Wallace H.
Hines, W. H.
Holland, Bert F.
Hopkins, Jackson D.
Horner, Charles R.
Hovis, Cockrill & Roy (Tim Weaver)
Hussey, Harvey
Hvatum, Ted

Ides, John

Jangord, Arnold O.
Jensen, Mrs. E. H.
Jensen, Harold R.
Johnes, Samuel A.
Judd, Russell E.

Kartak, Nancy
Kash Kash, Sam
Keller, Charles E.
Kelly, Harriet M.
Kimmel, Gail
Kimzey, Warren
Klopfenstein, Don
Klopfenstein, Inez
Knudsen, P. C.

Lamerson, Vince
Ledford, George
Lordahl, Mildred
Lundgren, Bob
Lyons, Ralph E.

Maahs, W.
MacDonald, Ann
MacKenzie, George
MacKenzie, Minerva
Manary, Edward P.
Martins, Frank
Mathews, Francis B.
Matlick, Thelma
Mawhorter, Richard
Mayhorn, Wm. L.
McDonald, Gerald
McMullen, George
Mead, Joseph A.
Meuret, Forrest L.
Miller, William R.
Mohler, Clifford E.
Moody, R. E.
Morrison, G. M.
Mulvihill, Daniel F.
Murphy, J. C.
Murtha, W. J.

Nikula, Robert W.
Noble, Richard E.
Norwood, N. Stephen

Oakes, Rex O.
Ohaks, Sonja
Oliver, Mr. & Mrs. Ronald
Ongstad, Harold S.

Pacific Coast Federation of Fishermen Association, Inc.
Pacific Coast Trailer Park Owners Assoc.
Pavelek, Henry
Peters, Glen O.
Peters, Keith D.
Peters, Larry W.
Peterson, Milton
Phelan, Myrtle
Platt, Charles
Polityka, Charles S.
Polom, Michael, Mrs.
Preston, N. A.
Pullen, Ronald

Rains, George R.
Reid, John
Richmond, Marilyn
Ritz, Ellen
Ritz, Offord C.
Ross, Robert L.
Rovdahl, Milton J.

Salmi, Elmer
Salmon Trollers Marketing Association
Santa Barbara Commercial Fisheries Assoc.
Schubert, Capt.
Seanborough, J. D.
Sears, Fred
Shore, Robert C.
Sheldon, R. N.
Silva, Michael K.
Skauge, Olaf

Smallsreed, Mr. & Mrs. C. J.
Smith, Alexandra
Smith, Mariellen
Smith, Ralph W.
Smith, Wm. L.
Sommers, Dorothy
Sommers, Harold
Sommers, Glenn W.
Sorensen, E. C.
Spangler, David E.
Spleen, Steve
Stair, Dan
Stampfli, K. A.
Steele, Bob
Stein, Earl
Stimson, Ralph R.
Strang, Capt. Duane
Swanson, Robert A.
Swithenbank, Joe

Teeters, A. R.
Thompson, A. H.
Thompson, Harvey E.
Todenhoft, Art
Turner, Ed
Turner, George J.

Vanderslik, John T.
Van Eeckhout, Tom
Vincent, Frederic

Wagar, Paul
Walker, Geoffrey
Wenner, Davis
White, Lyle A.
Wilson; Benjamin O.
Wood, Paul
Wood, Stan
Writer, Jerry D.
Wyatt, Russell

Yingst, John H.

Zucker, M.

List of Individuals Making Comments at Public Hearings

(Names may be misspelled due to transcription phonetics)

Hearings: (San Francisco)

Mr. Celieno
Mr. Wood
Mr. Carpenter
Mr. Mel Grimes
Mr. F. Martin
Mr. P. Flanagan
Mr. Larry Hansen
Mr. D. Abbott
Mr. R. Hagel
Mr. P. Batsford
Mr. Z. Grader
Mr. M. Wickliffe
Mr. Dick Hubbard
Mr. Bob Steel
Mr. Claude Appleton
Mr. Joe Rychetnik
Mr. Bill Grader
Mr. Lou Ferrari
Mr. Bert Hollins
Mr. Oscar Knudson
Mr. Kenneth Stever

Hearings: (Eureka)

Hugh Emanuel
Capt. Olie SKauge
Eddie O. Ritz
Ellery A. Marsh
Mark Winthers
George Turner
Ross Bragdon
Tom Peters
Richard Senger
John Gallow
John Hokman
Don Bradley
H.N. Christensen
Richard A. Lundblad
Judith C. Hokman
Mel Fitzhugh
John B. Mallory
Henry Claypool
John Hoine
Roger Adkins

Hearings: (Eureka) cont'd .

John Wolf
Mr. Van Arsdall
Vern Hager
Bill Maahs
Nelson Rossig
Mr. Bergani (phon.)
Murry Lion
Mr. Troyner (phon.)
Mr. Drake
Lawrie Lazio

Hearings: (Seattle)

Arthur Martin
Frank Haw
Jack Cotant
Robert Gay
Joseph L. Guedon
Mary Lu Engman
Guy McMinds
Oran Conklin
David N. Nelson
Archie Graham
Floyd A. Patnode
Charles Raleigh
Ed Manary
Mason D. Morisset
Richard Haugen
Sonja Ohaks
D. W. Potter
Randall Kary
John McCallum
George Lachner
Louis Dodd
Ed Rydman
Paul Thomas
John M. Ides
David Germain
David Cadwell
Ken Short
Roger Shearer
Jack Steen
Dale Beasley
A. J. VanDeventer
Dave Milholland
Bill Fleenor

Hearings: (Astoria)

Gerald Simmons
Ed Manary
Jack Maricovich
Walt Marchel
Ernie Summers
Dawn Fowler
Harold A. Sommers
Jon Englund
Dave Johnson
Walt Receconi
Russ Bristow
David R. Cadwell
Dennis Rydman
Ros Putman
Sam Devereaux
Ed Claplanho
Roger Shearer
Forrest L. Meuret
W. William Puustinen
Rober Finzer
Joe Burt
Clarence Crach

Hearings: (Charleston)

Dan Campbell
Ms. NaOma Aeder
Mr. Bob Hudson
Mr. Larry Tardaewether
Mr. Donald L. Root
Mr. Harold Wornath
Mr. Roger Pryce
Mr. Dick D'Archangel
Mr. Zaccariah
Mrs. Kathy Geddings
Mr. Bob Frazell
Mr. Sam Myers
Mr. Duane Leafdahl
Mr. Rod Nourse
Mr. Randall Pullin
Mr. Phil Cope

Hearings: (Boise)

Kelly Pearce
Allen Slickpoo
Norman H. Guth
Robert C. Strom

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	TROLLERS	ASSOCIATED OR DEPENDENT BUSINESSES	RECREATIONAL FISHERIES	INDIANS	OTHER (Includes Unknown)	TOTAL
1	83	7	5	1	15	111
2	88	7			5	100
3	2					2
4	33	3	1	2		39
5	24	2	1		4	31
6	23	6	4	4	1	38
7	15	31	1		2	49
8	7			2	1	10
9	61	11	9	1	3	85
10	6	2				8
11	44	3		1	1	49
12	13	2				15
13	4		3	3	1	11
14	22	1			2	25
15	5					5
16	7	1			3	11
17	42	3	4	3		52
18	21				1	22
19	19	3	1	4	6	33
20	3	1	6	4	1	15
21	1					1
22	24	2	1		5	32
23	55	12	7	6	13	93
24				21	1	22
25	42	4		2	5	53
26			1	4		5
27	1					1
28				1		1
29	2	1				3
30	28				2	30
31	6				1	7
						959

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