1976. On that date, the lease expired and Firm A chose not to renew the lease. Firm B did not attempt to open another retail sales outlet. Firm A occupied the site and immediately made preparations to convert the station to "self service" only, consistent with its overall marketing operations.

Firm C, an independent, non-branded wholesale purchaser-reseller of motor gasoline, operated one retail sales outlet of motor gasoline until June, 1974, when Firm C went out of business and closed the station. The building and land comprising the station's site were sold to Firm D, which planned to erect an office building on the site. Firm D razed the building in preparation for the new construction. However, after experiencing delays for several months in making final arrangements with contractors, Firm D abandoned its plans to erect an office building and instead built a service station which it now wishes to operate as a non-branded independent marketer. The station will offer the same services as the station formerly operated on the site by Firm C.

Issues. (1) After remodeling its five retail sales outlets and changing marketing operations, will Firm A be considered a new wholesale purchaser-reseller at each station site?

(2) After taking over the retail sales outlet from its former tenant and changing its marketing operations, will Firm A be considered a new wholesale purchaser-reseller at that station site?

(3) Is Firm D considered a new wholesale purchaser-reseller at the site formerly occupied by Firm C?

Ruling. Issue (1).—The Mandatory Petroleum Allocation Regulations state that

> [e]ach firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of [the motor gasoline allocation regulations] and, therefore, shall be a separate wholesale purchaser-reseller. 10 CFR 211.106(b)(1).

The regulations further provide that

> [a] wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet * * * if it vacates the site on which it conducts such business. 10 CFR 211.106(c)(1).

Whether a particular retail sales outlet has gone out of business depends upon the facts in each case. However, in those instances where as part of an overall plan to alter marketing techniques, a marketer changes its retail outlets from traditional service stations to high volume sales outlets only, the remodeled stations would not be considered "new" retail sales outlets. It is true that a self-service station may very well appeal to a different type of customer than one who frequents the traditional outlet. However, the fact that different customers will be attracted to the remodeled, high-volume station does not lead to the conclusion that a new business has been established at the site of the old station. Retail sales of motor gasoline were conducted prior to and after the change in marketing.

Therefore, the operator of such a retail sales outlet, such as Firm A, is deemed to be conducting an on-going business and is not a new wholesale purchaser-reseller at the site of the old station.

Because Firm A is not a new wholesale purchaser-reseller, it may not apply for assignment of a supplier and base period volume as provided by 10 CFR 211.12(e). Each remodeled outlet which Firm A operates is entitled to the same quantities of motor gasoline it had a right to purchase under the Mandatory Petroleum Allocation Regulations prior to the changeover to gasoline sales only method of operations.

If Firm A wishes to obtain greater quantities of motor gasoline to be offered for sale to the public, it may take two steps. It may purchase surplus motor gasoline under 10 CFR 211.10(g). Firm A should bear in mind that § 211.10(g)(5) restricts a supplier from distributing surplus product through its owned and operated outlets until the supplier's purchasers who are independent marketers have been afforded the opportunity to purchase surplus product in an amount determined in accordance with 10 CFR 211.10(g)(5).

Firm A may also under 10 CFR 211.13(e) seek an exception to FEA's regulations to provide an adjustment to base period use for each retail sales outlet. Requests for exception should be prepared in accordance with Subpart D of Part 205 (Administrative Procedures and Sanctions, 10 CFR 205.50 et seq.).

Issue (2).—The Mandatory Petroleum Allocation Regulations provide that

> * * * [w]henever a wholesale purchaser-reseller of motor gasoline] is deemed to have gone out of business * * * the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEA, after its predecessor vacates the premises. 10 CFR 211.106(e).

Thus, when Firm B's lease expired and Firm A succeeded Firm B on the site, Firm B's entitlement was transferred to Firm A. The transferee on the site may be engaged in a new business, but it is not a new wholesale purchaser-reseller for purposes of the Mandatory Petroleum Allocation Regulations, since it is considered to be the continuation of an already existing entity. The amount of the entitlement at the site does not increase upon transfer. Hence, the amount of Firm A's entitlement will be the same as what it would have been if Firm B were still operating the retail sales outlet. Firm A would not have a right to an increased entitlement simply because it plans to modify the marketing operation at the site. Modifying the mode of marketing does not change the nature of the business, which is the retail sale of motor gasoline. As previously discussed, Firm A could supplement its entitlement by purchasing surplus motor gasoline pursuant to 10 CFR 211.10(g) or by seeking an adjustment to its base period use in acocrdance with 10 CFR 205.50 et seq.

Issue (3).—The situation presented by Firm D is significantly different from that presented by Firm A. The intent of the parties was clearly to cease operations of a retail gasoline sales outlet on the site. Firm C went out of business; Firm D razed the building and initially intended to erect a new building for purposes completely unrelated to the retail sale of motor gasoline. A relatively long period of time passed before Firm D changed its intention and built a new station. Under these circumstances Firm D may apply for assignment of a supplier and base period use pursuant to 10 CFR 211.12(e). Assignment of a base period supplier and determination of the station's base period use will be made by FEA in accordance with the "Guidelines for Evaluation of Applications for Assignment of Supplier and Base Period Use to New Gasoline Retail Sales Outlets" (40 FR 20342; May 9, 1975).

As in the case of Firm A, Firm D may operate its new station using surplus product. Of course, Firm D would not establish any supplier/purchaser relationship with the supplier of surplus product, nor would Firm D establish a base period use if it relied on the purchase of surplus gasoline to operate its retail sales outlet without requesting the assignment of a base period supplier.

Dated: August 25, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-25416 Filed 8-26-76;11:14 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER A—GENERAL

PART 1017—PROCEDURES FOR SAFEGUARDING CONFIDENTIAL INFORMATION

Chemical Formulations for Consumer Products

Pursuant to section 6(a)(2) of the Consumer Product Safety Act (14 U.S.C. 2055(a)(2)), 16 CFR Part 1017, setting forth the Consumer Product Safety Commission's procedures for safeguarding certain confidential information, is hereby promulgated.

Section 6(a)(2) of the act reads in part as follows:

> All information reported to or otherwise obtained by the Commission or its representative under this act which information contains or relates to a trade secret or other matter referred to in 18 U.S.C. 1905 shall be considered confidential and shall not be disclosed, except that such information may be disclosed to other officers or employees concerned with carrying out this act or when relevant to any proceeding under this act.

The procedures described in Part 1017 below apply specifically to proprietary, product ingredient formula information reported to the Commission as required by its special order of August 21, 1975 (40 FR 36617). The information required by that special order is for the Commission's use in readily evaluating actual or potential hazards associated with the subject products or their composite ingredients. The procedures described below will also apply to formulae submitted in response to any future special orders issued by the Commission for the same purpose.

Because this addition to 16 CFR is intended solely to notify the public of procedures which have already been implemented within the Commission, notice and public procedure and a delayed effective date are considered unnecessary.

Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 6(a)(2), Pub. L. 92–573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2)), a new Part 1017 is added to Title 16, Chapter II, Subpart A, as follows:

Subpart A—[Reserved]

Subpart B—Chemical Formulations for Consumer Products

Sec.

AUTHORITY: Sec. 6(a)(2), Pub. L. 92–573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2).

Subpart A—[Reserved]

Subpart B—Chemical Formulations for Consumer Products

§ 1017.11 Purpose and scope.

The procedures set forth in this Subpart B describe the measures taken by the Consumer Product Safety Commission (the Commission) to ensure the confidentiality of proprietary chemical product formula information submitted, in any form, to the Commission voluntarily or pursuant to its special order of August 21, 1975 (40 FR 36617), or any similar special order.

§ 1017.12 Responsible officials.

(a) The Director of the Bureau of Biomedical Science, or the Director's designee, in concert with the Executive Director or his designee, is responsible for implementing and supervising the procedures of this Subpart B.

(b) The Bureau Document Control Custodian designated by the Director, Bureau of Biomedical Science, is responsible for keeping a logbook record that shall account for the proprietary information. The logbook record shall also show which employees are authorized to have access to the information and shall reflect each instance of access to the information.

(c) The Commission Security Officer designated by the Executive Director, is responsible for providing facilitative support to the Bureau of Biomedical Science for the physical security of the proprietary information and for assisting in regulating the use of proprietary information by other Commission employees outside the Bureau of Biomedical Science.

§ 1017.13 Internal Commission safeguards.

(a) *Personnel.* In accordance with the statutory restrictions imposed by section 6(a)(2) of the Consumer Product Safety Act, only Commission employees concerned with carrying out the Consumer Product Safety Act may be authorized to have access to the proprietary information. The Director, Bureau of Biomedical Science, shall determine on an individual basis which employees are so authorized and to what information the employees may have access. These determinations shall be communicated in writing to the Bureau Document Control Custodian and the Commission Security Officer.

(b) *Facilities and other measures.* (1) Proprietary information shall be kept in a combination lock safe within a security area in the Commission. Additional (backup) copies of the proprietary information shall be stored in a commercial bank vault. The Commission security area shall be a room or rooms that are locked and electronically monitored. Also, after regular business hours, the security area shall be periodically checked by a member of the Commission's building security force. Anytime a Commission employee who knows a combination to a safe leaves the employ of the Commission, the combination will be changed.

(2) Information may be removed from the safe or bank vault only by the Bureau Document Control Custodian or, in the Custodian's absence, by the Director of the Bureau of Biomedical Science or the Commission Security Officer. At no time shall such information be out of the immediate possession of the authorized employee; it may not be removed from the security area except as described in paragraphs (b)(3) and (c)(2) of this section or when being transferred to the bank vault. The information shall be returned to the Bureau Document Control Custodian by the close of business each day or whenever not under the direct surveillance of the authorized employee. The Bureau Document Control Custodian, in turn, shall return the information to the safe or bank vault. Only the Bureau Document Control Custodian or the Bureau Director may authorize making a copy of proprietary information. Any copy made shall be safeguarded in the same manner as required for the original material by this Subpart B and records shall be kept by the Bureau Document Control Custodian on each copy produced.

(3) Disposal or destruction of any form of the proprietary information shall be carried out in the presence of the Bureau Document Control Custodian, the Bureau of Biomedical Science Director or the Commission Security Officer. Disposal or destruction shall be done in a manner that allows no possible extraction or compilation of information contained therein. Records shall be kept of all materials destroyed.

(4) The Bureau Document Control Custodian shall maintain complete records on the use or disposal of proprietary information as specified in § 1017.12(b).

(c) *Computer processing.* (1) Processing of proprietary information shall be done only at a government or contract facility having security procedures that meet or substantially exceed the standards of the DHEW Information Processing Standards Publication No. 3, entitled "ADP System Security Required by the Privacy Act of 1974," dated July 24, 1975 (HEW TN–75.4).

(2) Magnetic tapes containing proprietary information shall be hand-carried by an authorized Commission employee to the appropriate computer facility, and all processing shall be done under that employee's supervision and in that employee's presence. After completion of the processing, no proprietary information shall remain in the computer.

(3) The Bureau Document Control Custodian shall maintain complete records on instances of computer processing of the material, citing the location of the facility, the employee witnessing the computer processing of the material, and the date and time.

§ 1017.14 Commission representatives' safeguards.

A representative of the Commission, whether another governmental entity or a private contractor, when collecting or processing proprietary information for the Commission, shall be subject to the procedures of this section. Before any entity may act as the Commission's representative for collecting or processing proprietary information, the following requirements must be met:

(a) *Facilities and other measures.* The Director, Bureau of Biomedical Science, and/or the Bureau Document Control Custodian and the Commission Security Officer shall inspect and approve in writing the proposed representative's facilities and control measures to ensure that they are adequate to safeguard the confidentiality of the proprietary information.

(b) *Computer processing.* The Director, Bureau of Biomedical Science, and the Bureau Document Control Custodian shall inspect and approve the computer processing methods of the proposed representative to ensure that they are adequate to safeguard the confidentiality of the proprietary information. Approval shall not be given unless the methods meet the standards described in § 1017.13(c)(1).

(c) *Personnel.* The Director, Bureau of Biomedical Science, and the Bureau Document Control Custodian shall take steps to ensure that any access to information by employees of a Commission representative is strictly controlled. If the representative is a private contractor, these steps shall include requiring each employee who is permitted to have access to the proprietary information to first execute an affidavit of nondisclosure. The

Commission Security Officer shall review records or affidavits relating to the use of proprietary information by Commission representatives sufficiently to ensure accuracy and completeness.

(d) *Subcontractors.* Use of a subcontractor by a Commission representative must have the approval, in writing, of the Director, Bureau of Biomedical Science, if the subcontractor will handle proprietary information. The Director, in concert with the Commission Security Officer, shall ensure that the requirement of paragraphs (a), (b), and (c) of this section are met as to each subcontractor.

(e) *Agreements.* Every agreement between the Commission and its representative and between the representative and a subcontractor which will handle proprietary information shall include provisions adequate to ensure that measures adequate to safeguard proprietary information are maintained.

(Sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(a)(2).)

Effective date. This new Part 1017 shall be effective on August 31, 1976.

Dated: August 27, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-25530 Filed 8-30-76;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 75N-0356]

PART 510—NEW ANIMAL DRUGS

Medicated Blocks

Correction

In FR Doc. 76-22225, appearing at page 32213 in the issue of Monday, August 2, 1976, the application approval date in the first paragraph reading "March 19, 1977" should read "February 28, 1977".

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants

On page 10592 of the FEDERAL REGISTER of March 11, 1976 there was published an interim rule revising 24 CFR § 570.406(b) and (c).

The revision describes the application requirements and the general criteria and review factors used to determine the innovative nature and the relative merit of applications for discretionary grants for innovative community development projects under section 107(a)(4) of the Housing and Community Development Act of 1974.

Interested persons were given 30 days in which to submit written comments, data and suggestions regarding the interim rule.

Environmental and economic and inflationary impact statements with respect to the interim rule remain applicable.

No substantive comments or objections have been received and the interim rule is hereby adopted without change and is set forth below.

Effective date: This regulation shall be effective August 31, 1976.

DAVID O. MEEKER, Jr.,
Assistant Secretary for Community Planning and Development.

1. 24 CFR 570.406(b) and (c) are revised to read as follows:

§ 570.406 Innovative projects.

* * * * *

(b) *Criteria for selection.*—(1) *General.* An innovative community development project may take any of several forms. It may be a product, a process, an organizational arrangement or a technique. The innovation should encompass a concept that is untried, unique, and/or advances the state of the community development art. Proposed projects which have been demonstrated before or are in use elsewhere at the present may be considered for demonstration if the application identifies and addresses the question of the special nature or circumstances surrounding the proposed project which would warrant its consideration for funding under Innovative Projects.

(2) *Review Factors.* Applications for funding will be evaluated by such criteria as:

(i) The overall technical merit of the proposed project including the specific impact of the innovation.

(ii) The unique capabilities, related experiences, facilities or techniques and the commitment which the applicant possesses and offers for achieving the objectives of the project.

(iii) The extent to which the identified problem is common to a substantial number of communities and the proposed approach can be adopted and replicated in a significant number of other community environments.

(iv) The availability of discretionary grant funding for innovative projects in light of competing needs.

(3) *Priority Programs.* In view of the national scope of Innovative Projects and limitations on the amount of funds for projects, HUD in announcing each annual program, shall establish areas of national significance which will be given priority consideration in the review of applications in the Innovative Projects and may utilize specific selection criteria enumerated in the announcement of the annual program in the review of applications and the award of grants in lieu of, or in addition to, the above criteria.

(c) *Application Requirements.* Applications shall be submitted to HUD's Office of Policy Development and Research in accordance with the directions provided in the annual program announcement. Applications shall be in a format approved by HUD and shall include the following:

(1) A brief letter of transmittal containing the signatures of the Chief Executive(s) of the Applicant and designated project leader who will be primarily responsible for execution of the project.

(2) A one page abstract of the project summarizing the proposal.

(3) A project narrative statement describing the nature of the problem, the goals and objectives of the project, the proposed solution, the resources to be used, the management plan, the tasks to be carried out, the plan for evaluation and such other elements as are necessary to describe applicant activities for other elements which may be required in priority programs.

(4) A proposed budget clearly showing the proposed expenditure of HUD funds.

(5) The certifications required by § 570.303(e) except for (4) and (6). In addition, the applicant must certify that citizens likely to be affected by the project, particularly low and moderate income persons, have been provided an opportunity to comment on the application.

* * * * *

[FR Doc.76-25427 Filed 8-30-76;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 663-76]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

United States Parole Commission

Correction

In FR Doc. 76-24360, appearing at page 35183 in the issue of Friday, August 20, 1976, the sixth line of the first full paragraph on page 35184 should read "Appeals Board and to designate one Commissioner to serve as Regional Commissioner in each re-".

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Minnesota Plan—Approval of Supplements

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans for the enforcement of State occupational safety and health standards which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On June 8, 1973, a notice was published

in the FEDERAL REGISTER (38 FR 15076) of the approval of the Minnesota plan and of the adoption of Subpart N of Part 1952 describing the plan and containing the approval decision. On April 28, May 30, June 30, and September 10, 1975, the State of Minnesota submitted supplements to its plan involving State-initiated changes (see Subpart E of 29 CFR Part 1953) and on June 30, 1975 the State submitted supplements involving the completion of several developmental steps (see Subpart B of 29 CFR Part 1953). On October 23, 1975, a notice was published in the FEDERAL REGISTER (40 FR 49581) concerning the submission of these supplements to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) and the fact that the question of their approval was in issue before him. In addition, on August 20 and October 21, 1975, and January 16, 1976, the State submitted supplements to its plan involving the completion of developmental steps and on January 19, 1976, the State submitted a copy of its amended occupational safety and health poster.

2. *Description of the supplements.* The supplement submitted by the State on April 28, 1975, concerned a revision of the State's personnel structure. Among other things, the State will change the number of personnel in the consultation program from three (3) to no more than one-fifth of the number of personnel in the enforcement section.

The supplement submitted on May 30, 1975, concerned a number of revisions to the State's compliance manual. The manual was revised to incorporate all State policy directives which were issued since the original manual was published, correct inaccuracies in the original manual and to reflect changes to that date which have been made in the Federal compliance manual.

The supplement submitted on September 10, 1975, concerned amendments to the Minnesota Occupational Safety and Health Act, Chapter 182, Minnesota Statutes Annotated, regarding employee discrimination complaints and violations. The first amendment, HF 161, amends section 182.669 of the Minnesota Statutes to provide that upon the completion of an employee discrimination complaint investigation, the Commissioner of the Department of Labor and Industry may bring an action in the district court of the State for appropriate relief. This amendment became effective on July 1, 1975. A second amendment, HF 661, which became effective on August 1, 1975, amends sections 182.652, Subdivision 12; 182.66, Subdivision 2; and 182.661, Subdivisions 1 and 3 of the Minnesota Statutes to provide for the following:

1. Expansion of the definition of a serious violation to include violations of standards not of a de minimus nature which resulted in a fatality;

2. Posting of penalty notices as well as the citation;

3. Posting of the citation and penalty notices for at least 15 days;

4. Requirement that a copy of the notices of citation and penalty be furnished to an employee representative and, in the case of a fatality, to the next of kin or a designated representative, if requested;

5. Right of employees to contest the citation, type of violation and penalty, in addition to the right to contest proposed abatement periods.

The supplements submitted by the State on June 30, and August 20, 1975, concerned the completion of a number of developmental steps. Most of the steps were reviewed and approved at the time of plan approval. However, the State's regulations concerning variance procedures, Chapter 23 of the Minnesota Occupational Safety and Health Code, had not been approved previously and were in issue before the Assistant Secretary. Among the developmental steps completed were the retraining of State personnel, public employee/employer seminars, the management information system and the implementation of enabling legislation.

The supplements submitted by the State on October 21, 1975, and January 16, 1976, concerned the completion of developmental steps. The developmental steps which were completed under the October 21, 1975, supplement concerned the promulgation of the Rules of Procedure of the Minnesota Occupational Safety and Health Review Commission (Chapter 20, Minnesota Occupational Safety and Health Code), and regulations concerning inspections, citations and proposed penalties (Chapter 21, Minnesota Occupational Safety and Health Code).

The supplement submitted on January 16, 1976, concerned a downward revision of the projected increase in personnel for fiscal year 1976 due to a lesser than anticipated increase of funding by the Minnesota legislature. Instead of increasing enforcement personnel by 17 as contemplated at the time of plan approval, the enforcement staff will be increased with the addition of 3 safety and health investigators, still meeting the Federal compliance staffing requirements for the State.

The State poster was revised and resubmitted on January 19, 1976. The State originally submitted a poster on January 27, 1975, which was approved by the Assistant Secretary on March 25, 1975 (40 FR 13211). In response to the legislative amendments described above, a provision was added to the State poster providing that citations and notices of proposed penalties must be posted at or near the place of alleged violation for 15 days or until the violation is corrected, whichever is later. In addition, the locations of the Minnesota area offices were listed on the revised poster.

3. *Issues.* No public comments were submitted concerning the supplements of April 28, May 30, and June 30, 1975. However, our review raised some issues concerning the compliance manual and the variance regulations. With regard to the compliance manual, the State provided for a two-day limit on the number of days an employer may be cited for failure to abate penalties. This provision was in sharp contrast to the Federal practice of having no specific limit on the number of days an employer may be penalized for failure to abate a violation. By letter dated May 20, 1976, from Russell B. Swanson, Deputy Commissioner of the Minnesota Department of Labor and Industry, to Irving Weisblatt, Director, Office of State Programs, the State agreed to remove the two-day maximum from the failure-to-abate penalties.

With regard to the variance regulations, it was found that the Minnesota regulations did not precisely track the Federal variance regulations of 29 CFR Part 1905 in that there appeared to be no provisions for employers to request a hearing on their variance applications, no requirement that the applicant state the address of the place of employment involved in a variance application and interim renewals of variance applications could be longer than is the case under Federal practice. Although State regulations do not have to be identical to those under the Federal program, they must be at least as effective as the Federal regulations in assuring worker protection while providing for variances from State standards. By letter dated February 23, 1976, from Russell B. Swanson, Deputy Commissioner, to Thomas E. Levenhagen, Associate Assistant Regional Director, the State addressed these criticisms by stating that the Minnesota Statute provides for hearings on variance applications, the need for information concerning the address of the establishment for which a variance is requested is obvious months for an interim order 123456v-o-and that a maximum period of six months for an interim order and for a maximum of one year for a temporary order with the possibility of two renewals would be provided.

Public comments were received from the Conwed Corporation, the FMC Corporation and the United States Steel Corporation concerning the legislative amendments under HF 661. There were no requests for a public hearing. The comments particularly objected to the revision to the definition of a serious violation to include any violation of a standard which is not of a de mimimus nature but which is the proximate cause of the death of an employee, the posting requirements for penalties and citations and the provision requiring that copies of citations and proposed penalties be issued to employee representatives and in the case of the death of an employee, to the next of kin of the employee, if requested. The comments objected to the revision of the definition of a serious violation on the grounds that it would have an ex post facto result, that citations and penalties should result from violations observed by a competent inspector rather than an automatic provision based upon an occurrence and that the revision would serve no useful purpose.

In addition, the comments were critical of the requirement concerning the posting of proposal penalties and the 15-day

posting requirement for citations and proposal penalties on the grounds that they would serve no useful purpose and would encourage employees to contest cases, that there are no similar Federal requirements, and that there is already a proliferation of materials and regulations requiring posting. With regard to sending copies of citations and proposed penalties to employer representatives and, in the case of the death of an employee, to the next of kin, the comments were critical on the grounds that they would encourage civil suits, invite criticism and cause further mental anguish to the survivor. Finally, the comments objected to the right of employees and their representatives to contest the citation and proposed penalty in addition to the abatement periods on the grounds that there is no comparable right under the Federal program and it would invite unnecessary conflict between employers and employees.

Although the amendments to the Minnesota enabling legislation under HF 661 result in an enforcement program somewhat different from that at the Federal level, they do not appear to detract from the requirement of 29 CFR 1902.3(d) that State enforcement programs are to be at least as effective as the Federal enforcement program. It is apparent that the revised definition of a serious violation as including a non-serious violation "which is the proximate cause of the death of an employee" is more stringent than that defined under section 17(k) of the Act. Practical considerations, including those raised in the comments, might mitigate against the effectiveness of the revised definition. However, the use of the definition by the State will be closely monitored and if experience indicates that the implementation of this definition has an adverse impact on the enforcement of standards under the Minnesota program, the State will be required to make the appropriate changes in its legislation.

With regard to the right of employees to contest citations and proposed penalties issued to employers, including the reasonableness of abatement periods fixed in the citation, State plans may provide for more stringent enforcement provisions if such additional provisions appear to be reasonably calculated to increase the effectiveness of the State's program and are consistent with the Act. The Minnesota employee contest provisions appear to meet this test in that they would serve as an added check to secure enforcement of safe and healthful working conditions. Such provisions have been approved in the past (see Tennessee approval decision 38 FR 17838). Any undue administrative burden resulting from this employee contest right would bring about a reconsideration in the course of evaluation of the actual operations under the plan.

With regard to sending copies of citations and proposed penalties to employee representatives and, in the case of the death of an employee, to the next of kin, it is observed that under Federal practice, copies of citations and proposed penalties are available under the provisions of the Freedom of Information Act (5 U.S.C. 552).

4. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Ave., NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; and the State of Minnesota, Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

5. *Decision.* After careful consideration, the supplements submitted by the State on April 28, May 30, June 30 and September 10, 1975 are hereby approved under Part 1953. As indicated above, the application of the revised definition of a serious violation will be closely monitored to assure that it does not derogate from the effectiveness of the Minnesota enforcement program.

With regard to the supplements submitted on October 21, 1975, January 16 and 19, 1976, under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds good cause for approving the Rules of Procedure for the Occupational Safety and Health Review Commission and the regulations concerning inspections, citations and proposed penalties because they have been adopted in accordance with the procedural requirements of State law, which included public comment, and further public participation would be unnecessary and they are substantially identical to the comparable Federal regulations. With regard to the State occupational safety and health poster, further public participation is believed unnecessary because the poster had been approved previously (40 FR 13211) and merely incorporated a recent amendment to the Minnesota enabling legislation and is in conformity with the poster requirements of 29 CFR 1952.10(a)(5) and 29 CFR 1903.2(a)(3). Accordingly, § 1952.204 (c)-(k) of Subpart N of Part 1952 is amended to read as follows:

§ 1952.204 Completed developmental steps.

* * * * *

(c) State occupational safety and health personnel were retrained during March–May 1973.

(d) Training sessions for public employers and employees were held during April–June 1973.

(e) The Minnesota enabling legislation became effective on August 1, 1973. In addition, amendments to the legislation which concerned employee discrimination complaints and violations became effective on July 1, 1975, and a second amendment concerning the definition of a serious violation, posting of citations and penalties, right of employees to contest a citation and penalty, and furnishing copies of citations and notices of penalties to employer representatives and, in the case of a fatality, to the next of kin or a designated representative, became effective on August 1, 1975.

(f) Regulations on variances were promulgated on February 20, 1974, and were approved with assurances by the Assistant Secretary on August 31, 1976.

(g) The management information system became operable in August 1973.

(h) Coverage and enforcement of agricultural standards commenced on July 1, 1975.

(i) The Rules of Procedure of the Minnesota Occupational Safety and Health Review Commission, Chapter 20, Minnesota Occupational Safety and Health Code, and regulations concerning inspections, citations, and proposed penalties, Chapter 21, Minnesota Occupational Safety and Health Code, were approved by the Assistant Secretary on August 31, 1976.

(j) The downward revision of the projected increase in personnel for fiscal year 1976 due to a lesser than anticipated increase of funding by the Minnesota legislature, was approved by the Assistant Secretary as meeting current required staffing on August 31, 1976.

(k) The State poster approved on March 25, 1975 (40 FR 13211) which was revised in response to legislative amendments described above, to provide that citations and notices of penalties must be posted at or near the place of the alleged violation for 15 days or until the violation is corrected, whichever is later, and which lists additional Minnesota area offices, was approved by the Assistant Secretary on August 31, 1976.

(Secs. 8(g)(2), Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g)(2) (667)).)

Signed at Washington, D.C., this 20th day of August 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-25471 Filed 8-30-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Wyoming Plan Revisions

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, the Wyoming plan for implementation of the national ambient air quality standards. On October 23, 1973 (38 FR 29296), July 3, 1974 (39 FR 24504) and on June 10, 1975 (40 FR 24726), the Administrator approved supplemental information and plan revisions submitted by Wyoming.

On February 19, 1976, Wyoming submitted further revisions to its Implementation Plan which had been adopted on September 11, 1975. Additional information was provided on March 15 and April

2, 1976 clarifying portions of the original submittal. These revisions amend the legal authority, public availability of emission data, and compliance schedule portions of Wyoming's plan. Although Wyoming has not complied with our requirement (§ 51.6(d) of this title) that plan revisions must be submitted no later than sixty days after their adoption, we are waiving this requirement inasmuch as the spirit and intent of the sixty day rule were not being circumvented.

On May 27, 1976 (40 FR 21651), the Administrator proposed to approve all the revisions submitted on February 19, 1976. No comments regarding the revisions were received.

The legal authority revisions include provisions for public availability of emission data, changes in variance procedures for granting variances to the state's sulfur dioxide emission standards, and a change in the state's enforcement procedures to allow for discretionary conferences after discovery of a violation. The revision relating to public availability of emission data complies with the requirements of 40 CFR 51.10(e) and hence replaces the Federal provisions discussed in 40 CFR 52.2624 which is subsequently revoked. With respect to the changes in variance procedures, it should be noted that EPA will treat all variances as plan revisions and will review them on a case by case basis.

The revisions to the compliance schedule portion of Wyoming's plan establish new dates by which an individual air pollution source must comply with a specified emission limitation for particulate matter. In § 52.2625 below, the final compliance date is listed for each source for which a compliance schedule has been proposed. While the table does not show incremental steps toward compliance, the actual schedules do. Three of the above listed sources—Black Hills Power and Light, Holly Sugar, and Wycon Chemical—have final compliance dates which go beyond the attainment dates for ambient standards. Such schedule changes are approvable, since the state has shown that secondary standards will not be exceeded in the vicinity of these sources after the attainment date. These compliance schedule revisions are consistent with the approved control strategies and satisfy the requirements of 40 CFR Part 51 concerning public hearings and plan revisions.

The Administrator finds that the Wyoming SIP revisions meet the substantive and procedural requirements of section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the Wyoming SIP revisions as set forth in this rulemaking.

This rulemaking will be effective August 31, 1976. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because it is already in effect under State law and Federal approval imposes no new burdens.

(Sec. 110 of the Clean Air Act; as amended, 42 U.S.C. 1857c-5.)

Dated: August 20, 1976.

JOHN QUARLES,
Acting Administrator.

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

Subpart ZZ—Wyoming

1. In § 52.2620, paragraph (c)(9) is revised to read as follows:

§ 52.2620 **Identification of plan.**

* * * * *

(c) * * *

(9) Legal authority additions and compliance schedule revisions submitted on February 19, 1976, by the Governor.

2. § 52.2624 is revoked and reserved as follows:

§ 52.2624 [Reserved]

3. In § 52.2625, paragraph (a) is revised and paragraph (b) is deleted. As amended, § 52.2625 reads as follows:

§ 52.2625 **Compliance schedules.**

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are found in the "Wyoming Air Quality Standards and Regulations, 1975."

Wyoming

Source	Location	Regulations involved	Date of adoption	Effective date	Final compliance date
Pacific Power & Light	Glenrock	14 (b), (e), (h)	Feb. 26, 1973	Immediately	Sept. 1, 1976
Montana-Dakota Utilities	Sheridan	14 (b), (e), (h)	do	do	Dec. 31, 1976
Utah Power & Light	Kemmerer	14 (b), (e), (h)	do	do	Do.
Black Hills Power & Light	Wyodak	14 (b), (e), (h)	do	do	May 1, 1978
Do	Osage	14 (b), (e)	do	do	May 15, 1977
American Oil	Casper	14 (b), (e), (h)	Jan. 26, 1973	do	Jan. 31, 1974
Basins Engineering	Wheatland	14 (b), (e), (f), (g)	June 6, 1974	do	Apr. 5, 1974
Stauffer Chemical Co.	Green River	14 (b), (e), (f), (g)	do	do	Oct. 31, 1973
Do	Leefe	14 (b), (e), (f), (g)	Feb. 26, 1973	do	Nov. 1, 1976
Barold Division of National Lead.	Osage	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Dec. 31, 1975
Do	Colony	14 (b), (e), (f), (g)	June 6, 1973	do	Mar. 1, 1974
Holly Sugar	Torrington	14 (b), (e), (f), (g)	do	do	Oct. 31, 1976
Do	Worland	14 (b), (d), (f), (g)	do	do	Do.
Reeves Concrete	Gillette	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Dec. 1, 1973
Do	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Do	Buffalo	14 (b), (e), (f), (g)	do	do	Do.
American Colloid	Lovell	14 (b), (e), (f), (g)	June 6, 1974	do	Apr. 30, 1974
Star Valley Swiss Cheese	Thayne	14 (b), (e), (h)	Jan. 26, 1973	do	Dec. 31, 1973
Sheridan Commercial	Sheridan	14 (b), (e), (f), (g)	do	do	Do.
Federal Bentonite	Upton	14 (b), (e), (f), (g)	June 6, 1973	do	June 30, 1974
Do	Lovell	14 (b), (e), (f), (g)	do	do	Do.
Wyo-Ben Products	Greybull	14 (b), (e), (f), (g)	Jan. 26, 1973	do	Jan. 30, 1974
Do	Lovell	14 (b), (e)), (f), (g)	June 6, 1974	do	Do.
FMC	Kemmerer	14 (e), (f), (g), (i)	Jan. 26, 1973	do	Dec. 31, 1976
Do	Green River	14 (b), (e), (f), (g)	June 6, 1974	do	Oct. 31, 1974
Gunn-Quealy Coal	Rock Springs	14 (b), (e), (f), (g)	do	do	Mar. 31, 1974
Allied Chemical	Green River	14 (b), (e), (f), (g)	do	do	Aug. 1, 1976
IMC Corp	Colony	14 (b), (e), (f), (g)	do	do	Oct. 31, 1974
Wyodak Resources Develop.	Gillette	14 (b), (e), (f), (g)	do	do	Feb. 38, 1974
Church and Dwight	Green River	14 (b), (e), (f), (g)	do	do	Nov. 1, 1973
Wycon Chemical	Cheyenne	14 (b), (e), (f), (g)	Sept. 11, 1975	do	June 1, 1976
Dresser Minerals	Greybull	14 (b), (e), (f), (g)	do	do	Feb. 15, 1976
Town of Byron	Byron	13	Jan. 26, 1973	do	July 1, 1974
Town of Chugwater	Chugwater	13	do	do	Do.
Town of Cowley	Cowley	13	do	do	Do.
Town of Lovell	Lovell	13	May 24, 1973	do	Do.
Big Horn County	Big Horn County.	13	Jan. 26, 1973	do	Do.

[FR Doc.76-25265 Filed 8-30-76;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 601-3]

PART 436—MINERAL MINING AND PROCESSING POINT SOURCE CATEGORY

Extension of Comment Period and Notice of Availability

On June 10, 1976 the Agency published a notice of interim final rulemaking (41 FR 23552) establishing effluent limitations and guidelines for the mineral mining and processing point source category, based upon use of best practicable control technology currently available. The due date for comments provided in the notice was August 9, 1976.

The Agency anticipated that the document entitled "Economic Impact for Interim Final and Proposed Effluent Guidelines for the Mineral Mining and Processing Point Source Category," which contains information on the analysis undertaken in support of the regulations, would be available to the public throughout the comment period. Production difficulties delayed the availability of this document. Copies of the document are now available and have been forwarded to those persons having submitted written requests to the Environmental Protection Agency. A limited number of additional copies are available for distribution from the Environmental Protection Agency, Effluent Guidelines Division, Washington, D.C. 20460, At-