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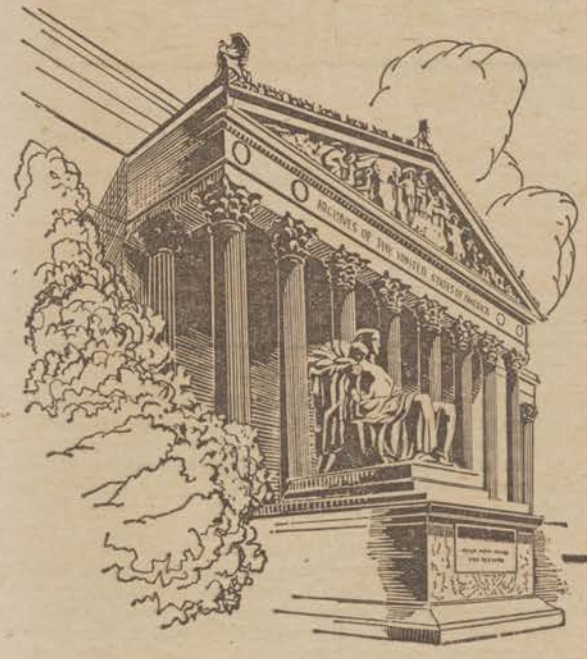

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Title 3—THE PRESIDENT

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AMENDING EXECUTIVE ORDER NO. 11508 WITH RESPECT TO THE MEMBERSHIP OF THE PROPERTY REVIEW BOARD

By virtue of the authority vested in me by section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and as President of the United States, subsection (b) of section 3 of Executive Order No. 11508 [1] of February 10, 1970, entitled "Providing for the Identification of Unneeded Federal Real Property", is amended by deleting the words "Director of the Bureau of the Budget" and inserting in lieu thereof the words "Associate Director of the Office of Management and Budget".

Richard Nixon

THE WHITE HOUSE,
September 23, 1970.

[F.R. Doc. 70-12886; Filed, Sept. 23, 1970; 4:16 p.m.]

[1] 35 F.R. 2855.

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREG.

Expenses and Rate of Assessment

On September 9, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 14220) regarding proposed expenses and the related rate of assessment for the period April 1, 1970, through March 31, 1971, and approval of the carryover of unexpended funds from the period April 1, 1969, through March 31, 1970, pursuant to the marketing agreement, and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Washington-Oregon Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 924.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee during the period April 1, 1970, through March 31, 1971, will amount to $14,251.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 924.41, is fixed at $0.80 per ton of fresh prunes.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended March 31, 1970, shall be carried over as a reserve in accordance with the applicable provisions of § 924.42 of said marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes handled during the aforesaid period; and (3) such period began on April 1, 1970, and said rate of assessment will automatically apply to all such prunes beginning with such date.

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

Dated: September 21, 1970.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 70-12802; Filed, Sept. 24, 1970; 8:48 a.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instructions 444.1, Administration Letter 921(444)]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

Subpart A, Part 1822, Title 7, Code of Federal Regulations (31 F.R. 14137) is revised to read as follows:

Sec.
1822.1 General.
1822.2 Objectives.
1822.3 Definitions.
1822.4 Eligibility requirements.
1822.5 Veteran's preference.
1822.6 Loan purposes.
1822.7 Special requirements.
1822.8 Source of funds and rates and terms.
1822.9 Technical service.
1822.10 Security.
1822.11 Processing applications and county committee certification.
1822.12 Preparation of loan docket.
1822.13 Loan approval.
1822.14 Actions subsequent to loan approval.
1822.15 Loan closing actions.
1822.16 Disaster loans.
1822.17 Subsequent section 502 loans.
1822.18 Special section 502 Rural Housing loans.

AUTHORITY: The provisions of this Subpart A issued under sec. 509, 63 Stat. 436, 42 U.S.C. 1479; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; Orders of the Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1822.1 General.

This subpart is supplemented by Parts 1890a, 1890b, 1890c, and 1890f, all of this chapter. This subpart sets forth the policies and procedures, and delegates authority for making insured and direct section 502 Rural Housing (RH) loans under title V of the Housing Act of 1949.

§ 1822.2 Objectives.

The basic objectives of the Farmers Home Administration (FHA) in making section 502 loans are to assist farmowners, senior citizens and other rural residents, and other persons who are or will be owners of land in rural areas to obtain decent, safe, and sanitary dwellings and related facilities, and to assist farmowners and owners of other land in rural areas who are engaged in farming to obtain essential farm service buildings and related facilities. The purpose of these loans is to give families who do not have sufficient resources to provide such dwellings, buildings, and facilities on their own account and cannot obtain the necessary credit from other sources on terms and conditions they reasonably can be expected to fulfill, an opportunity to have adequate homes and farm service buildings.

§ 1822.3 Definitions.

For purposes of this subpart, the following definitions will apply:

(a) *Farm.* A "farm" includes the total acreage of one or more tracts of land which (1) is owned by the applicant, (2) is operated as a single unit, (3) is in agricultural production, and (4) annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, each State will issue a list of the 1944 prices for the principal farm commodities in the State.

(b) *Nonfarm tract.* A "nonfarm tract" is a parcel of land that is not a farm or part of a farm and is located in a rural area.

(c) *Rural area.* A "rural area" is open country, or an incorporated or unincorporated town, village, or other place which has a population not over 5,500 according to the latest figures, is not a part of or associated with an urban area, and is rural in character.

(1) A nonfarm tract is a place having a population not over 5,500, is considered located in a rural area if the tract is not situated in any of the following:

(i) A densely settled area near or associated with a place with a population of more than 5,500. In determining whether a densely settled area is near or associated with such a place, the following will be disregarded: Minor open spaces due to physical barriers, commercial and industrial developments, parks, and areas reserved for convenience or appearance.

(ii) A subdivision of substantial size being developed by commercial interests which is not an integral part of a rural town unless a large proportion of the

residents will obtain most of their income from employment in the surrounding rural areas.

(iii) A resort area whose seasonal population plus permanent residents is over 5,500 unless:

(*a*) The seasonal population consists primarily of families living in one-family residences, and

(*b*) The permanent population does not exceed 5,500.

(2) In any case in which the County Supervisor is uncertain as to whether or not the real estate to be improved or purchased is part of a farm or is a nonfarm tract, or whether a nonfarm tract is in a rural area, he will refer the application to the State Office for advice.

(d) *Owner.* An "owner" includes the following in addition to the owner of full marketable title:

(1) A lessee of a farm where (i) the unexpired term of the lease runs beyond the payment of the loan and the applicant's equity in his farm leasehold is at least equal to the amount of the loan, (ii) there is a reasonable probability of accomplishing the objectives for which the loan is made, (iii) the applicant can give upon his farm leasehold a recorded mortgage constituting a valid and enforceable lien, (iv) the applicant can comply with loan security requirements specified in this subpart, and (v) the unexpired term of the lease runs for at least 10 years. A lessee of a nonfarm tract is not an "owner."

(2) The owner of an undivided interest in land who is otherwise eligible.

(3) The purchaser under a purchase contract which obligates him to pay the purchase price, gives him the rights of present possession, control, and beneficial use of the property, and entitles him to a deed upon paying all of a specific part of the purchase price.

(4) The holder of a life estate having the usual rights of present possession, control, and beneficial use of the property. A remainderman is not an owner, but will be required to join in executing the mortgage where a mortgage on the farm is required as security and may be required to sign the note if necessary for a sound loan.

(5) Indians owning land in a trust or restricted status as provided in Part 1890f of this chapter, which is applicable in the States specified in that subpart.

(e) *Mortgage.* "Mortgage" includes any form of security interest or lien upon any rights or interest in property of any kind.

(f) *Security.* "Security" includes any rights or interests in property of any kind subject to a mortgage.

(g) *Real estate.* "Real estate" includes the rights and interests of an owner, as defined in paragraph (d) of this section, in a farm or nonfarm tract.

(h) *Rural resident.* A "rural resident" is a person whose permanent residence is or was until recently in a rural area as defined in paragraph (c) of this section.

(i) *Existing building.* An "existing building" is a newly constructed or previously occupied dwelling or farm service building.

(j) *Minimum adequate site.* A "minimum adequate site" is the smallest area sufficient for: the dwelling, farm service buildings, and related facilities to be built, purchased or refinanced; a yard, and; production of food for home use only.

(1) In case of purchase of a site on which to construct a building or purchase of an existing new building and site, the site should be not more than 1 acre of nonincome producing land unless the site will be used as a farmstead and more than 1 acre is needed for a minimum building site or unless more than 1 acre is needed to comply with local code requirements or to provide for a safe and adequate water supply and waste disposal system.

(2) In case previously occupied buildings and site are being purchased or debts are being refinanced, the site may, under the following conditions, include more than 1 acre but not more than a few acres of nonincome producing land.

(i) The site is to be used as a farmstead and more than 1 acre is needed for a minimum building site, or

(ii) In a case where a building is being purchased, the seller will sell the building only with the entire site on which it is located and the cost of extra land is not significant, or

(iii) In a refinancing case, the extra land cannot be sold for a significant amount.

(3) Under the conditions stated in the preceding portions of this paragraph, a site of more than 1 acre must be fully justified and the reasons recorded in the loan docket.

(k) *Senior citizen.* A "senior citizen" is a rural resident who is 62 years of age or older and either is a citizen of the United States or resides in the United States after being legally admitted for permanent residence.

(l) *Cosigner.* A "cosigner" is a comaker of a promissory note who is jointly and severally liable with the borrower to compensate for deficient repayment ability of the borrower.

(m) *Private lender.* A "private lender" is a lender other than the FHA who furnishes the funds with which an insured RH loan is made.

(n) *Interest credit.* This is the amount of assistance the FHA may give a qualified lower income borrower toward making his RH loan payments by credits to be made annually on the borrower's account for each year for which he is entitled to such credit. Interest credits may be applied only to insured loans.

(o) *Interest credit agreement.* This is an agreement between FHA and the borrower providing for interest credits.

(p) *Current annual family income.* This consists of net farm and nonfarm business income plus all recurring dependably available income from salary, wages, pensions, social security, welfare payments, or other sources received by the husband and wife, and any other members of the family who are 21 years of age or older and reside in the home. Welfare, Social Security, and other payments made on behalf of minors will be included as current family income. It does not, however, include nonrecurring income not normally received every year, such as gifts, unusual overtime pay, pay earned from clearly temporary employment, proceeds from sale of real estate equipment, mineral rights, or timber, or similar types of income.

(q) *Adjusted annual family income.* This is current annual family income as defined in paragraph (p) of this section less 5 percent thereof as a deduction for social security withholdings and similar payroll deductions and less $300 for each minor person (under 21 years of age, excluding the husband and wife) who is a member of the immediate family and lives in the home. The immediate family includes those persons related to the applicant by blood, marriage, or operation of law such as adoption or legal guardianship.

§ 1822.4 Eligibility requirements.

(a) *Applicant.* To be eligible for a section 502 loan, the applicant must meet all the following requirements:

(1) Be the owner of a farm or nonfarm tract or a rural resident or a nonrural resident of low or moderate income who works in the rural area and will, when the loan is closed, become the owner of a nonfarm tract of minimum adequate size.

(i) If he applies as the owner of a farm, he must be without decent, safe, and sanitary housing for his own use or for the farm manager, tenants, sharecroppers, or farm laborers, or without farm service buildings essential to a successful farming operation.

(ii) If he applies as the owner of a nonfarm tract, or as a rural or eligible nonrural resident, he must be without decent, safe, and sanitary housing for his own use, or if the loan is to finance farm service buildings, he must be engaged in farming and be without farm service buildings essential to the success of his farming operations.

(iii) If the loan is to include funds for a site on which to build, he must be without an adequate site for the proposed buildings.

(2) Be without sufficient resources to provide on his own account the necessary housing, buildings, or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which he reasonably could be expected to fulfill, including a Federal Housing Administration (HUD) section 235 insured mortgage. If the applicant has only an undivided interest in the land to be improved, the applicant and his co-owners, other than those whose execution of the mortgage is not required in accordance with § 1822.7(k), or § 1822.10(b) must, individually and jointly, be unable to provide the improvements with their own resources or obtain the necessary credit elsewhere.

(3) Be a natural person (individual) who is a citizen of the United States or resides in the United States after being legally admitted for permanent residence.

(4) Have adequate and dependably available income to meet his operating and family living expenses, necessary capital replacements, and repayments on

debts including the proposed loan, except that a low- or moderate-income applicant whose income is not sufficient to fully meet the loan payments may qualify if:

(i) With interest credit assistance as outlined in § 1822.7(n), he will be able to meet his obligations and pay the portion of the annual RH loan installments not covered by the interest credit; or,

(ii) Even though his income is not sufficient to repay an RH loan with interest credit assistance, he can obtain as a cosigner(s) a person(s) or corporation(s) with income which when added to the applicants income will be sufficient to repay the loan.

(5) Possess the character, ability, and experience to carry out the undertakings and obligations required of him in connection with the loan.

(6) Have training or farming experience necessary to give reasonable assurance of success in any case where the soundness of the loan depends on his farming operations.

(7) Possess legal capacity to incur the obligations of the loan.

§ 1822.5 Veterans' preference.

The applications on hand from veterans, and from spouses and children of deceased servicemen, as defined in § 1801.5 will be given preference. Verification for veterans' preference will be determined by the County Supervisor.

§ 1822.6 Loan purposes.

(a) A loan may be made to any eligible applicant to:

(1) Construct, improve or relocate a dwelling to be used as his permanent residence and related facilities on his farm, or on a nonfarm tract he owns or will own after the loan is closed.

(2) Purchase and move to such farm or nonfarm tract an existing dwelling and related facilities, to be used as his permanent residence.

(3) Purchase or install essential equipment which upon installation becomes part of the real estate. Approved space heaters also may be purchased with loan funds.

(4) Provide fallout shelters, storm cellars, and similar protective structures.

(5) Provide necessary and adequate sewage disposal facilities for the applicant and his family.

(6) Provide a necessary, adequate, and safe water supply for the applicant and his family.

(7) Provide foundation plantings, seeding or sodding of lawns, and other facilities related to buildings, such as walks, yard fences, and driveways to building sites located adjacent to a road or street, and, if the applicant is a farmer, paved feed lots.

(8) Pay real estate taxes that are due and payable at the time of loan closing on the buildings and building site to be given as security when a loan is being made primarily for other purposes and the amount to be used for taxes is not a substantial part of the loan.

(9) Pay expenses incident to obtaining plans and making the loan, such as fees for legal, architectural, and other technical services, and reasonable connection fees for water, sewerage, electricity, or gas, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements. Loan funds may not be used to pay fees, charges, or commissions, such as "finders' fees" or "placement fees," for the referral of prospective applicants to the FHA.

(b) A loan may be made to a farmowner for the purposes specified in paragraph (a) of this section and to:

(1) Construct, improve, or relocate a dwelling or farm service building and related facilities on his farm, purchase and move to his farm an existing building, or buy existing buildings and a minimum adequate site, for use by the farmowner or his manager, tenant, sharecropper or farm laborers..

(2) Provide portable-type farm service buildings that do not become a part of the real estate, if the buildings are necessary to the operation of the farm.

(3) Provide a farmstead water supply and sewage disposal, including such facilities as a well, pump, and farmstead distribution system, which are essential to the health and safety of the occupants of the farm and/or the sucessful operation of a livestock enterprise conducted on the farm.

(c) A loan may be made to a nonfarm tract owner or a rural resident or eligible nonrural resident for the purposes specified in paragraph (a) of this section and to:

(1) Buy for this own use an existing dwelling on a minimum adequate site. If he is engaged in farming, also to build or to buy existing farm service buildings and related facilities essential to his farming operations, with or without a minimum adequate site.

(2) Buy a minimum adequate site on which to place a dwelling for his own use and, if he is engaged in farming, a minimum adequate site to accommodate farm service buildings and related facilities essential to his farming operations, which cannot feasibly be located on land he presently owns.

(d) Improvements financed with loan funds must be on land which, after the loan is closed, is part of a farm or nonfarm tract owned by the borrower or on an easement appurtenant to such farm or nonfarm tract.

(e) A loan may be made to the owner of a farm or nonfarm tract to refinance secured or unsecured debts, as provided in § 1822.7(d).

(f) A loan to an applicant involved in an authorized mutual self-help project may include funds to pay part or all of the first and second installments on the loan as provided in § 1822.7(m).

§ 1822.7 Special requirements.

(a) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objective of the loan and to protect the interests of the Government in accordance with Part 1802.

(b) *Supplementary payment agreement.* Form FHA 440–9, "Supplementary Payment Agreement," should be used for each applicant who regularly receives substantial off-farm income. It also should be used for other applicants when needed to facilitate servicing the account.

(c) *Building limitations.* (1) A dwelling financed for a family with a low or moderate income must be modest in size, design, and cost. Adequate housing ordinarily can be provided for such families within less than 1,400 square feet of living area. Living area does not include space such as a patio, carport, garage, porch not suitable for year-round use, unfinished basement, and, if the dwelling does not have a basement, space for utilities such as furnace and hot water heater; however, such space must be kept within reasonable limits and not expanded to circumvent the limitations of this subparagraph. When such an applicant has an unusually large family, a somewhat larger house may be justified to provide adequate sleeping space. Furthermore, particular design features or items should not be included in homes of families with low or moderate incomes if such features or items are customarily not included in other adequate but modest homes being built in the area by families with moderate incomes.

(2) A dwelling financed for a family with an income above moderate may be somewhat larger and contain features such as two complete baths, a family room, or double garage not usually associated with modest homes. Homes for such families, however, must not be significantly larger or more costly than other adequate homes in the area.

(3) Farm service buildings will not be financed which (i) are excessive in size or design, (ii) have not proved to be suitable for the area, or (iii) are in excess of those economically essential to the farming operations.

(4) Any buildings purchased with RH funds must be structurally sound, functionally adequate and either be in good repair or placed in that condition with loan funds. Newly constructed dwellings or farm service buildings, must comply with the policies stated in subparagraphs 1, 2, and 3 of this paragraph. Good judgment must be used in applying these policies to previously occupied buildings.

(d) *Refinancing debts.* (1) When an applicant's request includes the use of loan funds for refinancing debts, it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. Before refinancing any debt, the County Supervisor will:

(i) Determine that the applicant is so seriously delinquent that he likely will soon lose his necessary dwelling or farm service buildings if the debt is not refinanced. The basis for the determination that the applicant will lose his essential buildings if the debt is not refinanced must be fully documented.

(ii) Determine that the debts were incurred for purposes for which a section

502 RH loan could have been made or are items covered by the mortgage to be refinanced such as accrued interest, insurance premium advances, and preliminary foreclosure costs.

(iii) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his credit needs and to determine if the creditor will renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reason given by the present creditors and other sources for not assisting the applicant and document such information in the running record.

(iv) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful, he will determine, on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment, and any additional factors presented by the applicant, whether it appears necessary to refinance the debt(s) or any portion of the debt(s) or obtain a change in the rates and terms. When it is determined that refinancing may be necessary, the County Supervisor will contact, in person when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purposes of verifying the necessity for refinancing. If the loan is to be processed, a statement of each debt showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, annual installment, amount of principal and interest delinquent, unpaid principal, and accrued interest, will be obtained. If all or any part of any debt is to be refinanced the amount necessary to settle the account in full or to bring the account current will be ascertained. In any case in which the RH loan is to be secured by a junior mortgage, the County Supervisor will obtain early, in the loan processing, the first mortgagee's determination that he cannot furnish the applicant the additional credit that he needs.

(2) Debts secured by real estate liens will not be refinanced unless the liens are against the property on which a mortgage will be taken to secure the RH loan.

(3) Debts held or insured by the United States or any agency thereof will not be refinanced. Furthermore, loans ordinarily will not be made to refinance long-term real estate loans of the type generally made by lenders such as the Federal Land Banks or insurance companies. When it is necessary to refinance such debts, the total debt will not be refinanced if a part of the debt can be refinanced on a sound basis with the lender's agreement. In such a case, the part of the debt to be refinanced will not include more than existing delinquencies plus the next installment to become due that the borrower will be unable to pay.

(4) Debts incurred on or after November 3, 1966, will not be refinanced.

(5) To develop a sound basis for a loan a reduction of existing debts may be necessary.

(e) *Refinancing of RH loans.* If, at any time, it appears that the borrower may be able to obtain a refinancing loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the area, the borrower will upon request apply for and accept such refinancing.

(f) *Loan limitations.* No loan may be made in an amount which would exceed any one of the following:

(1) The amount certified by the county committee.

(2) The normal value of the security less the unpaid principal balance plus past-due interest of any other liens against the security owned by the applicant as determined by the loan approval official unless:

(i) The amount by which the normal value is exceeded is all or part of a lien held by a public body, hospital, or welfare institution for advances made to or for the applicant family for hospital or medical bills or welfare payments, and

(ii) The borrower is unable to settle or compromise such other lien sufficiently to avoid exceeding the normal value, and

(iii) The lien securing the excess amount will at all times be inferior to the FHA mortgage securing the initial loan and any subsequent loan or advances determined by the FHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest, and

(iv) The existence of the excess lien will not adversely affect the security or servicing so as to preclude the making of a sound RH loan, and

(v) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

(3) In a note-only case, the normal value of the applicant's equity in assets as described in § 1822.10(d)(3).

(g) *Conditional commitments.* Conditional commitments may be made in accordance with Subpart H of this part to builders or sellers who plan to construct or rehabilitate homes with the expectation of selling them to RH applicants.

(h) *Liens junior to the FHA lien.* A loan will not be made if a lien junior to the RH mortgage likely will be taken simultaneously with or immediately subsequent to closing of the loan to secure any debts the borrower may have at the time of loan closing, or any debts he may incur in connection with the RH loan purposes, such as debt for a portion of the purchase price of the land or for money borrowed from others for payments on debts against the property or for part of the construction cost, unless such a lien plus the RH loan and any prior lien (1) will not interfere with the purposes of the loan or repayment thereof, and (2) either will be entirely within the normal value of the security or will exceed such normal value only by an amount which will meet the requirements of paragraph (f)(2) of this section.

(i) *Restrictions on loans.* Loans will not be made to:

(1) A corporation or cooperative association.

(2) A homestead entryman or desert entryman to improve the entry prior to receipt of payment.

(3) Refinance except in accordance with paragraph (d) of this section, or to pay costs incurred prior to the closing of a loan except fees for legal, architectural, and other technical services. The County Supervisor, not later than the time of planning improvements, will advise each applicant that a building site must not be purchased, construction work must not be started, materials must not be ordered nor delivered, and costs for such purposes must not be incurred before the loan is closed if loan funds are to be used to pay such costs. If, nevertheless, the applicant incurs costs for materials or construction or site acquisition before the loan is closed, the County Supervisor, or the Assistant County Supervisor in connection with loans for which he has delegated authority to approve, may authorize the use of RH funds to pay such costs only when, after documenting the facts, he finds that all of the following conditions exist: (In a questionable case, the County Supervisor will submit the complete facts to the State Office for advice before taking action.)

(i) The costs were incurred after the applicant filed a written application for a loan, or after he acquired title to the building site, whichever date is later, except that in the case of a subsequent loan to complete improvements previously planned, the costs were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such costs from his own resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would impair the applicant's finanical position.

(iii) The construction or repair work conforms to that shown on Form FHA 424–1, "Development Plan." The costs were incurred for authorized section 502 loan purposes, and the total costs necessary for a sound loan can be paid from funds available.

(4) Refinance indebtedness of an applicant, including any purchase price of real estate for which he is obligated, or any indebtedness against real estate of which the applicant is the owner as defined in § 1822.3(d)(3), except as authorized in paragraph (d) of this section.

(5) Buy income-producing land, or buy income-producing buildings unless the loan is to a farmer for farm service buildings.

(6) An applicant whose debts have been settled pursuant to Part 1864 of this chapter, or by release from personal liability under Subpart A of Part 1872 of this chapter, as reflected by the

County Office records, or where settlement under Subpart A of Part 1872 or Part 1864 of this chapter is contemplated, unless: the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control; the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been of will be removed by making the loan; and the applicant's operations will be sound and afford him a reasonable prospect for repaying the proposed loan and meeting his other obligations. Before requesting an appraisal or causing such an applicant to incur any expenses in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FHA 431-2, "Farm and Home Plan," or Form FHA 431-3, "Family Budget," whichever is applicable, and send it, together with the application, any available case folders, and his recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

(7) Purchase land upon which to construct a building, when the applicant already owns land suitable for the purpose.

(8) An applicant to buy, construct, or improve farm service buildings or related facilities to enable him to increase the efficiency or expand the operation to make it more successful, if the applicant already has a successful farming operation or is earning sufficient income from farm and/or nonfarm sources to have a reasonable standard of living.

(9) Refinance a portion of a prior lien in order to obtain the release of a building site from an existing mortgage unless the refinancing meets the requirements of § 1822.6(e) and paragraph (d) of this section.

(10) A nonrural resident unless he owns a farm or nonfarm tract in a rural area or is in the low- or moderate-income category and works in the rural area.

(j) *Loans on leasehold interests in farms.* A loan secured by a mortgage upon a farm leasehold, if otherwise proper, may be made where the lessor owns the fee simple title marketable in fact and neither the leasehold nor the fee simple title is subject to a prior lien. If in any case involving a prior lien the State Director concludes that a sound loan can be made upon a leasehold, he will submit complete information to the National Office for review and special authorization prior to approval of the loan. Loans may not be made to lessees of nonfarm tracts.

(1) With respect to achieving the purpose of the loan, obtaining adequate security, and being able to service the loan and enforce the security, the Government as holder of a mortgage upon a lease, or leasehold interest should be in a position substantially as good as if it held a second mortgage on a fee simple title. This includes besides lessor's consent to the RH mortgage, such matters as:

(i) Reasonable security of tenure. The borrower's interest will not be subject to summary forfeiture or cancellation.

(ii) The right to foreclose the RH mortgage and sell without restrictions that would adversely affect the salability of the security. Any effect on market value should be shown in the appraisal.

(iii) Right of FHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(iv) The right of FHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, the FHA will take a vendor's mortgage with rights similar to those under the original RH mortgage.

(v) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(vi) Advance notice to FHA of lessor's intention to cancel, terminate, or foreclose upon the lease. Such advance notice will be long enough to permit FHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interest, and the market value of the leasehold interest and if litigation is involved, to refer the case with a report of the facts to the U.S. Attorney and permit him to take appropriate action.

(vii) Express provisions covering the question of liability of FHA for unpaid rentals or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FHA's occupancy or ownership, pending further servicing or liquidation.

(viii) Any necessary provisions to assure fair compensation for any part of the premises taken by condemnation.

(ix) Any other provisions necessary to meet the foregoing requirements.

(2) In any State in which real estate or chattel mortgages may be taken on leasehold interests in farmland running for terms of 10 years or more and be recorded so as to protect the mortgagee, a State will issue instructions in regard to making loans to holders of such interests.

(3) In any State where loans cannot be made on leasehold interests in accordance with this subpart, the State Office will issue a brief explanation as to why, after prior approval by the National Office.

(k) *Group service participation loans.* A loan to an eligible applicant in accordance with §§ 1822.4 and 1822.6 may include funds to enable him to furnish his part of the cost of constructing, remodeling, repairing, or buying a domestic water system, waste disposal system, or a farm service building such as a dairy barn or a storage structure, and necessary site, if the facility is to be jointly owned and used by not more than 10 participants and the following conditions are met:

(1) In case of a domestic water or waste disposal system, it cannot be provided with a soil and water or economic opportunity association loan or with individual soil and water loans in accordance with § 1821.57.

(2) The group must act as individuals and not as a legal entity such as a partnership, corporation, or association.

(3) The facility will be located in a rural area. If it is a farm service building, it will provide an essential facility to be used only in connection with the farming operations which the owners of the building will conduct. The domestic water or waste disposal system will be used for normal farm or home use by families of the applicants.

(4) The applicant will give the FHA a mortgage as required in § 1822.10(b) including the property to be improved with the loan. The interests of any coowners of the jointly owned building or facility who are not applicants may be excluded from the mortgage on prior approval by the National Office, as provided in § 1822.10(b)(4)(ii).

(5) The owners have written agreements as to the construction and the use of the service building and the installation or the development and use of the domestic water or waste disposal system. If a water or waste disposal system is involved, necessary jointly owned easements will need to be obtained.

(6) The facility will not (i) cost more than $50,000 if a new building is constructed or a domestic water or waste disposal system installed, (ii) or have a depreciated replacement value that exceeds $50,000 if such facility is being purchased, enlarged, or improved.

(7) All funds to be used to finance construction or installation of the joint facility will be deposited in the supervised bank account.

(l) *Section 502 loans to farm ownership (FO) or individual soil and water (SW) borrowers.* (1) When an FO or SW borrower's total subsequent credit needs cannot be met with a subsequent FO or SW loan, but can be met with a section 502 loan, such a loan may be made if:

(i) The borrower meets the eligibility requirements for a section 502 loan and an FO loan or SW loan. However, in an exceptional case an RH loan may be made to an FO borrower who, because of age, physical disability, or death of the spouse, is unable to operate the farm or carry on farming operations provided a decision has been made to continue with the FO loan.

(ii) The loan, when added to the unpaid principal balance plus past-due interest of any FO, SW, RH, or LH loan plus other debts against the farm or any other security given for an FHA real estate loan or to be given for the section 502 loan, will not exceed $60,000, or the normal value of the security for the loan, whichever is less.

(2) A loan may be made to an FO or SW borrower on the basis of real estate security, nonreal estate security, or a note only.

(3) If a mortgage on the farm will be taken as security, a new appraisal will be

prepared when the circumstances outlined in § 1822.17(a) exist.

(4) In determining the normal value of the FO or SW farm in connection with a section 502 loan, when a new appraisal report is not required, the loan approval official will consider the previous appraisal report, if one is available, and, the definition of normal value in Part 1809 of this chapter. The loan approval official's determination of normal value of the farm or nonreal estate assets will be recorded on Form FHA 440–3, "Record of Actions."

(m) *Mutual self-help loan payments.* The County Supervisor in counseling with participating families will determine the anticipated time required for construction and the extent to which a borrower will be able to meet loan payments during this period. If the applicants will not have enough income to meet the scheduled loan payments during the construction period, funds may be included in the loan to pay that part of the first and second installments that the borrower is unable to pay. In these cases, the amount scheduled for the first and second installments will be the same as for any other insured 502 RH loan.

(n) *Interest credits.* (1) An interest credit may be provided for a qualified low- or moderate-income applicant for an insured loan provided:

(i) He meets the eligibility requirements for a section 502 RH loan, can qualify for an interest credit under this paragraph (n) and, as a general rule, has a low income and a low net worth. Interest credits for applicants with income or net worth somewhat above the low level may be justified under (*a*) and (*b*) of this subdivision. In determining whether an applicant is entitled to an interest credit, the current family income information must be correct, the computations must be accurate, and care must be taken to exercise good judgment.

(*a*) Interest credits are expected to be made largely to applicants with adjusted annual family incomes of less than $5,000. Interest credits may be justified to applicants with higher incomes when necessary because the family is unusually large or because the housing is in a high costs area. In no case, however, will an interest credit be made to a borrower whose adjusted annual family income exceeds $7,000 unless exceptions are authorized by the National Office.

(*b*) No interest credit agreement may be entered into with an applicant who has a net worth of more than $5,000, excluding the value of household goods and the debts against them, without prior authorizations from the State Director. For the purpose of determining whether exceptions are justified, the State Director will consider the nature of the assets, particularly whether they are assets upon which an applicant such as a farmer is currently dependent for a livelihood or which could be used to reduce or eliminate the need for an interest credit.

(ii) The loan is approved after August 1, 1968.

(iii) The loan is to buy, build, or improve a home and related facilities, including a building site, or to refinance debts as authorized in paragraph (d) of this section.

(iv) The home will be for the personal use and occupancy of the borrower and his family.

(v) The home will be modest in size, design, and cost. A family with an income so low that it is unable to pay the annual installments on an RH loan without interest credit assistance cannot afford a large or elaborate home. The interest credit assistance is designed to help a family have a decent home, but it must not be used to finance housing in excess of the actual basic needs of the family. Families who qualify for this assistance should be able to obtain adequate housing in not more than 1,200 square feet of modestly designed living area, depending on the needs of the family and their income. Some additional sleeping space may be justified for unusually large families.

(vi) The loan will exceed $2,500.

(vii) The loan will be amortized over 33 years.

(viii) The amount of the interest credit will exceed $50 annually.

(2) Determining amount of interest credit. The amount of interest credit assistance will be determined in accordance with the instructions provided at all FHA offices for the execution of Form FHA 444–6, "Interest Credit Agreement (section 502 RH Loans)," and will be shown on Form FHA 405–3, "Real Estate Loan Record."

(3) Subsequent loans. For subsequent insured loans interest credits are authorized in the following types of situations:

(i) For a borrower who has an initial loan on which he is receiving an interest credit, interest credit assistance will not be provided for the subsequent loan for the partial first year. The first installment for such a subsequent loan will be determined in the usual manner. The borrower's income will be reviewed during November and December of the year in which the subsequent loan is made. At that time the interest credit agreement made for the initial loan, if not expiring, will be canceled as of December 31 and the interest credit assistance determined for the initial and the subsequent loan for the next 2 years.

(ii) For a borrower who has an initial loan and is eligible for interest credits but is not now receiving such assistance, interest credits may be provided on the initial and subsequent loans at the time of closing the subsequent loan.

(iii) For a transferee eligible for interest credits, who is assuming a low or moderate insured loan approved after August 1, 1968, interest credit assistance may be provided on both the loan being assumed and the subsequent loan at the time of closing.

(iv) For an eligible applicant buying a house out of inventory, interest credit assistance may be provided for the initial and the subsequent loan at the time of closing the loans.

(v) For a borrower who has an initial loan approved prior to August 1, 1968, interest credit assistance may be provided only on the subsequent loan at the time of loan closing.

(4) During the last 60 days in which an Interest Credit Agreement is in effect, a new Interest Credit Agreement may be executed for the next 2 installment years on the basis of the borrower's circumstances at that time.

§ 1822.8 Source of funds and rates and terms.

(a) *Source of funds.* (1) Direct loan funds will be used for:

(i) RH disaster loans under § 1822.16.

(ii) Loans of not more than $1,000 to low- and moderate-income applicants for which a local private lender cannot be obtained.

(2) Insured loan funds will be used for all section 502 loans not included in subparagraph (1) of this section. This includes loans of $1,000 or less to above-moderate income applicants.

(b) *Interest rate per annum on unpaid principal.* Current information regarding interest rates may be obtained from any county or State office of the Farmers Home Administration or from its national office at 14th and Independence Avenue SW., Washington, D.C. 20250.

(c) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security, except that a loan not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note. Loans eligible for interest credits will be scheduled for a repayment period of 33 years.

§ 1822.9 Technical service.

(a) *Planning and performing development.* The development work will be planned and completed in accordance with Subpart A of Part 1804 of this chapter.

(b) *Appraisal.* When the security for the loan is real estate, the appraisal will be made in accordance with Part 1809 of this chapter.

(1) For a loan exceeding $2,500, the farm or nonfarm tract to be mortgaged as security will be appraised by an FHA employee authorized to make real estate appraisals. If a mortgage will be taken on other real estate as additional security, it will be appraised when it represents a substantial portion of the security for the loan or when requested by the County Supervisor or other loan approval official.

(2) For a loan not exceeding $2,500, an appraisal of real estate to be given as security will not be made unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. If in such a case an appraisal is not made by an employee authorized to make real estate appraisals, the County Supervisor will indicate on a separate sheet his estimate of the normal value of the real estate to be given as security.

(3) For security other than real estate, the County Supervisor will list on Form FHA 440-21, "Appraisal of Chattel Property," or State form, if one has been developed, the items to be given as security and his estimate of the normal value of the security. In determining the value of chattel security (except a chattel mortgage on a leasehold), the County Supervisor will take into consideration the length of time the chattels will serve as security and the useful life of such security. In the case of other security, the County Supervisor will include in the appraisal form a supporting statement of his estimated value. Usually this will include a narrative description of the security, its current cash value, the relative stability of the value of the security, and how the security is to be mortgaged or otherwise taken as security for the loan.

(4) In any case of a loan to a farm lessee not secured by a mortgage on the leasehold, the County Supervisor will indicate on a separate sheet his estimate of the normal value of the applicant's equity in his leasehold interest.

(c) *Title clearance and legal services.* (1) When real estate will be taken as security (including a mortgage on a farm leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this chapter. Except for property to be purchased, the applicant will be requested to furnish title evidence at any time during the loan processing period after the County Supervisor determines that the loan probably will be made. If the County Supervisor is doubtful as to whether the loan will be approved, he will not require the applicant to furnish title evidence until after loan approval. For property to be acquired, title clearance and legal services will not be requested until the loan is approved.

(2) When no real estate will be mortgaged as security, the applicant will be required to submit the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. If the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, he will require the applicant to furnish additional information or obtain the opinion of the Office of the General Counsel as to the evidence of ownership submitted by the applicant and its advice as to any further information or action that may be needed.

(3) When chattels will be taken as security, a lien search will be obtained in accordance with Subpart B of Part 1831 of this chapter.

§ 1822.10 Security.

(a) *General.* Loans other than those made under paragraph (d) of this section will be adequately secured to protect the interest of the FHA during the scheduled repayment periods.

(1) Any loan of more than $2,500 and any loan scheduled for repayment in more than 10 years from the date of the note will be secured by a real estate mortgage as provided in paragraph (b) of this section.

(2) A loan of not more than $2,500 scheduled for repayment in not more than 10 years from the date of the note may be secured by:

(i) Real estate or chattels; or

(ii) Other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of such other security are the cash value of life insurance policies, cooperative memberships, income producing leases, and water stocks which are transferable and have security value.

(3) Whenever both real estate and chattel security are taken for a loan and the payment period of the loan will exceed the maximum period for which the chattel lien will be valid under State law, the loan approval official will determine that the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the chattel lien expires.

(b) *Real estate.* When a real estate mortgage is required, a mortgage will be obtained on all interests in the entire farm or nonfarm tract with respect to which the loan is made, except as provided in this paragraph and subject to exceptions and reservations waived under § 1807.2(d). Usually such loans will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or nonfarm tract to be mortgaged, or to facilitate servicing the loan, a mortgage also may be taken on other real estate or on chattels or other property owned by the applicant. However, nonreal estate security may not be relied upon for more than $2,500 of the loan.

(1) If the applicant's title to any part of the farm or nonfarm tract is defective (in the sense that it is not good title marketable in fact as defined in Part 1807 of this chapter or that the State law will not recognize a recordable mortgage upon it) and the defect cannot be cured at reasonable cost, the loan may be made subject to the following conditions:

(i) No security value will be accorded to the parcel of real property to which title is defective.

(ii) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, except that with the prior approval of the National Office, up to $2,500 in loan funds may be used for improvements on such parcel if it is owned by the applicant and if the location of such improvements on such parcel is essential.

(iii) A real estate parcel to which title is defective will be included in the mortgage unless the loan approval official, with the advice of the Office of the General Counsel determines (*a*) that the applicant's interest cannot be subjected to a recordable mortgage recognized by the State law, or (*b*) to include the parcel would unduly complicate loan servicing or liquidation.

(2) A junior mortgage may be taken as security for a loan provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters as may jeopardize FHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) When a mortgage is required by paragraph (a)(1) of this section to secure a loan to an applicant as lessee of a farm, a valid and enforceable mortgage on his leasehold interest in the farm will be required. The unexpired term of the lease must be at least 10 years and must extend beyond the repayment period of the loan for a sufficient period to provide a reasonable likelihood that the objectives of the loan will be achieved. The unexpired term of the lease must be at least 50 percent longer than the repayment period of the loan unless, to compensate for a shorter period of the lease beyond the repayment period of the loan, the borrower gives other security of sufficient value, including, for example, a lien upon the borrower's right to receive from his lessor compensation at the expiration of the lease for the unexhausted value of the improvements made with the loan. The mortgage on a leasehold may be supplemented by additional security. Special provisions necessary to protect the Government, such as the items enumerated in § 1822.7(j)(1), will be included in the lease, a consent to mortgage, a subordination, or other appropriate instrument executed by the lessor and the borrower.

(4) For a loan on a farm or nonfarm tract in which the applicant owns or will own an undivided interest, the interests of all the coowners will be included in the mortgage, with the following exceptions:

(i) When not required under § 1822.17(k)(4).

(ii) When one or more of the coowners are not legally competent or cannot be located or the ownership rights are divided among such a larger number of coowners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirements upon prior approval by the National Office of the State Director's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. In such a case the loan may not exceed the normal value of the equity represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might result from sale of the mortgaged interests separately from the nonmortgaged interests and from rights of partition accruing to the owners of the nonmortgaged interests. All legally competent coowners using or occupying the property will be required to sign the mortgage.

(iii) Where the applicant owns only an undivided interest in part of the farm and seeks a loan to build or improve a dwelling or farm service buildings or related facilities on another part in which he owns the entire interest, or owns only an undivided interest in a

farm and seeks a loan to purchase the entire interest in a building site, with or without a building which will be part of the farm, the interests of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director, if he finds that (*a*) the loan will be adequately secured by the applicant's equity in the normal value of the wholly owned tract, (*b*) the normal value of the jointly owned tract is at least equal to the debts against it, (*c*) the joint ownership of part of the farm and its operation by the applicant, or the applicant's participation in its operation, have been and are likely to continue to be successful, (*d*) no RH funds will be used to build, buy, or improve farm service buildings or related facilities to be used primarily in connection with operation of the jointly owned land, and (*e*) all other requirements for a sound loan are met; provided that if in such a case debts against the jointly owned land are liens on the wholly owned tract or on land in which the applicant owns no interest, no loan may be made without proper approval by the National Office after review of the State recommendation accompanied by full information, including a statement regarding the ownership of all the lands involved, the nature and permanency of the joint operation, and the nature, amount, and holder of such debts. In cases within this subdivision, whether undivided interests may be omitted from the RH mortgage securing a loan which includes refinancing will be determined by the National Office after review of the State Director's recommendation supported by full information.

(5) When the applicant is the owner of a life estate qualified under § 1822.3, the remaindermen will be required to join in executing the mortgage with the following exception: When one or more of the remaindermen are not legally competent or cannot be located or the remainder rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen, the mortgaging of remainder interests not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the National Office of the State Director's recommendation accompanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such a case the loan may not exceed the normal value of the equity represented by the interests of those who sign the mortgage, determined with due regard to all special adverse factors involved. Remaindermen will be required to sign the note when necessary to a sound loan or to obtain the required security.

(6) When the applicant is the owner of a farm, a mortgage may, if requested by the applicant, be taken on only that part of the farm to be improved with the RH loan which is necessary to provide adequate security for the loan as determined by an appraisal, provided the following conditions can be met:

(i) In cases involving a residence, the tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, and must be otherwise suitable as a residential type of nonfarm tract.

(ii) In all other cases, including residence cases not complying with subdivision (i) of this subparagraph, the tract to be mortgaged must contain at least enough land to clearly provide adequate security and to make the tract readily saleable in the area.

(iii) If the tract to be mortgaged is covered by a prior lien which also applies to other land, the tract to be given as security must either:

(*a*) Be released from the prior lien to permit a first lien for the RH loan, or

(*b*) Provide adequate security for the entire prior lien debt and the RH loan as well as comply with paragraph (b) (2) of this section.

(iv) The appraisal will be made in accordance with Part 1809 of this chapter on the land that will be mortgaged as security.

(v) If a leasehold interest in the tract to be improved is to be mortgaged as security, the tract must qualify as a farm.

(vi) All other requirements for a sound loan are met.

(c) *Chattel.* When authorized by paragraph (a) of this section, a mortgage may be taken on selected items of chattel or other nonreal estate security if such a mortgage will not interfere with the applicant's obtaining needed operating credit. When only a chattel mortgage is taken as security for the loan, it ordinarily will be a first lien. In an exceptional case, a mortgage subject only to a first mortgage held by another creditor or the FHA may be taken on chattel property provided the applicant clearly has sufficient mortgageable equity in the chattels to secure the loan. Any necessary instructions for obtaining the required lien will be included in an instruction issued by each State Office.

(d) *Promissory note.* A loan of not more than $1,500 may be made on the basis of the borrower's promissory note without taking other security when:

(1) The applicant has a good reputation for paying his debts promptly;

(2) He is in a strong financial position and will have sufficient income to meet all his obligations; and

(3) The loan approval official determines that, on the basis of normal value, the applicant has equity at least equal to the amount of the proposed loan in assets that would be acceptable as security for the loan. The normal value of available real estate assets will be determined in accordance with § 1822.7 (1) (4) and of chattel assets in accordance with § 1822.9(b) (3).

§ 1822.11 Processing applications and county committee certification.

(a) *Applications.* Applications for section 502 loans will be taken on Form FHA 410–1, "Application for FHA Services," and processed in accordance with Part 1801 of this chapter. Before processing the application of an applicant who is not a rural resident but appears to be eligible for a loan, the County Supervisor should obtain reasonable assurance that the applicant is eligible and meets the requirements outlined in § 1822.4(a) (1).

(1) In every case in which the applicant's family income is above moderate, and in any other case in which there may be any likelihood that the applicant could obtain the credit he needs to supplement his available resources to provide an adequate dwelling or farm service buildings, the County Supervisor will require the applicant to make a diligent effort to obtain credit from other sources.

(i) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(ii) Applicants should be advised to request lenders to indicate the amount and terms of housing credit they might be willing to extend to the applicant.

(iii) When appropriate, the County Supervisor should check on evidence presented by an applicant that he cannot obtain adequate credit elsewhere.

(iv) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(v) In no case will a loan be made to an applicant who is able to obtain the credit he needs to supplement his available assets at terms he can reasonably be expected to pay to provide a necessary adequate dwelling or necessary adequate farm service buildings.

(2) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that he has made an effort to obtain such credit, the County Supervisor will record his conclusion and the basis for it in the loan docket.

(b) *Determination of income level of the applicant family.* (1) The county committee will recommend in each case as to whether the applicant's family income should be considered as being in the "low or moderate" income group or in the "above-moderate" group. This determination will be made after the County Supervisor has had an opportunity to verify the income and financial information submitted by the applicant.

(2) Families in the "low or moderate" income group are those whose income is not significantly greater than the amount needed, considering the size and composition of the family, to enable them to have a reasonable level of living and meet necessary obligations and expenses, including payments on an RH loan to finance a modest home or essential farm service buildings and related facilities. In any case the adjusted annual family income should not exceed $8,000.

(3) Families in the above-moderate income group are those whose income is above the level needed to meet the requirements specified in subparagraph (2) of this paragraph. As a general rule, these will be families who could if they

were located in an urban area, obtain housing credit from another source.

(c) *Certification by county committee.* Before a loan is approved, the county committee will make the necessary certifications on Form FHA 440–2, "County Committee Certification or Recommendation." Before executing Form FHA 440–2, the county committee will consider basic documents such as Form FHA 410–1, Form FHA 431–3, or Form FHA 431–2, and, if applicable, Form FHA 431–1, "Long-Time Farm and Home Plan," Form FHA 424–1, together with the plans and cost estimates for the proposed improvements; the appraisal report, or when applicable, an estimate of the value of other property to be given as security. If the applicant's note is to be cosigned, information required from the cosigner and a statement by the County Supervisor regarding the cosigner also will be considered by the county committee in making its certification. Members of the committee may want to interview the applicant and want to see the farm or nonfarm tract on which the loan is to be made.

(1) If the committee determines that it can make the necessary certification on Form FHA 440–2, the amount of the loan to be shown in the form is that for which the docket has been developed or a lesser amount if the committee determines that the applicant cannot reasonably be expected to succeed with the loan as proposed.

(2) Ordinarily, the amount of the loan plus any other liens against the security will not be in excess of the recommended normal value of the security as shown on the appraisal report. A loan docket will not be developed when a loan plus any other liens against the security would be significantly in excess of the recommended normal value of the security. In an unusual case when the amount of a loan needed for success plus any other liens that will be against the security is slightly above the recommended normal value of the security and the county committee and the County Supervisor believe that the loan should be made, Form FHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is justifiable to establish the normal value of the security above the appraiser's recommended normal value. If the loan approval official determines that the normal value is in excess of the appraiser's recommended normal value, he will record his determination of the normal value of the security on Form FHA 440–3.

(d) *Optioning of real estate.* If the loan includes funds to purchase real estate, the applicable provisions of Subpart A of Part 1821 of this chapter regarding options will be followed. In any case in which there is a likelihood of termite infestation or damage to a building being purchased, the following will be inserted in the option form:

The seller agrees to furnish, at seller's expense, to the buyer a certificate from a reliable firm certifying that the following described building(s) covered by this option (1) is now free of termite infestation, and (2) either is now free of unrepaired termite damage or has suffered unrepaired termite damage which is specifically described in the certificate:

(Describe building(s).)

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§ 1822.12 Preparation of loan docket.

(a) *Farm and home plans or family budget form.* Form FHA 431–2 will be developed for loans to farmers who depend on farm income for a livelihood. Form FHA 431–1 also will be prepared whenever appropriate. When a loan is to be made to a nonoperator farmowner, the columns in table B, "Crops, Pasture, Etc.—Production and Sales," and table C, "Livestock and Products—Production and Sales," of Form FHA 431–2 pertaining to the operator's share will be changed to owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation; however, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. If the applicant does not depend on farm income for a livelihood, Form FHA 431–3 will be used.

(b) *Agreements from prior lienholders.* When the loan is to be secured by a junior real estate mortgage, agreements will be obtained from prior lienholders to any extent necessary to comply with § 1822.10(b)(2), including foreclosure or assignment notice agreements in States in which they are required by the State as described under § 1807.2(f)(5)(ii).

(c) *Information concerning prior mortgage.* The applicant for a loan to be secured by a junior real estate or chattel mortgage will be required to furnish the County Supervisor, before the docket is assembled, a copy of each mortgage held by a prior lienholder and, if available, a copy of each secured note or other obligation. In addition, the County Supervisor will be furnished a current statement signed by the mortgagee showing: (1) the amount of unpaid principal secured by the mortgage, (2) the amount of any accrued interest, (3) whether the account is current or the amount of any delinquency, with interest and principal shown separately, and (4) if a copy of the note is not furnished, its maturity date, payment scheduled, interest rate, and a summary of any other provisions of the note. All these documents will be included in the docket for the information of the loan approval official. Any cost incident to obtaining them will be paid by the applicant.

(d) *Information about cosigner.* When the note of a borrower will be cosigned by an individual or a corporation, information obtained from the cosigner will include a current financial statement, a statement of income and expenses, the nature of the cosigner's employment or business, and a brief statement as to the cosigner's employment or business history. The information required from the cosigner will be supplemented by a statement by the County Supervisor as to the cosigner's financial condition and reputation for paying debts and any other information that will be of assistance to the loan approval official in determining the soundness of the loan. This information will be included in the docket.

(e) *Loan docket.* The loan docket will consist of the following properly prepared and executed forms, as appropriate.

FHA 440–3—Record of Actions.
FHA 440–1—Payment Authorization.
FHA 444–2—Housing Fund Analysis.
FHA 410–1—Application for FHA Services.
FHA 410–2—Supplement to Application for FHA Services.
FHA 431–2—Farm and Home Plan.
FHA 431–1—Long-Time Farm and Home Plan.
FHA 431–3—Family Budget.
FHA 424–1—Development Plan (including any plans, specifications, and cost estimates).
FHA 422–1—Appraisal Report (with Attachments).
FHA 422–8—Appraisal Report (Nonfarm Tracts & Small Farms).
FHA 426–1—Valuation of Buildings.
FHA 440–2—County Committee Certification or Recommendation.
FHA 440–9—Supplementary Payment Agreement.
FHA 427–8—Agreement with Prior Lienholder (or similar form).
FHA 440–34—Option to Purchase Real Property.
FHA 440–35—Acceptance of Option.
FHA 444–6—Interest Credit Agreement.

Other Loan Docket Items: Option of title, mortgage of title policy, or report of lien search, if available, foreclosure notice agreement, original or certified copy of deed, purchase contract, lease, or other instrument of ownership, information on prior mortgage and information on cosigner. When the County Supervisor, is the loan approval official, he may, in lieu of including the document evidencing ownership, include a statement in the docket indicating that he has seen and reviewed the document. Estimate of the value of any security not appraised on Form FHA 422–1 or Form FHA 422–8.

§ 1822.13 Loan approval.

(a) *Application of authority.* The State Director is authorized to approve or disapprove loans in accordance with this Subpart A. However, no initial RH or subsequent RH loan may be approved by the State Director without the consent of the National Office if the amount of the loan plus the unpaid principal balance and any pastdue interest on liens against the security for the loan and against any other real property of the applicant would exceed $60,000. The loan docket and the State Director's recommendation should be submitted with any request for authority to approve a loan in excess of this limitation.

(b) *Limitations.* Current information regarding limitations on RH loan approval authorities of various officials of the FHA may be obtained from any county or State office of the FHA or from its National Office at 14th and

Independence Avenue SW., Washington, D.C. 20250.

(1) The proposed loan plus the total unpaid principal balance and any past-due interest on debts against the security for the loan and against any other real property owned by the applicant will not exceed the prescribed loan limitation which is available as specified in this paragraph (b).

(2) The debt against any property taken as security for the loan will not exceed the appraiser's recommended normal value of the property.

(3) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(c) *Loan approval action.*—(1) *Examination of loan.* The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan. In making this review the loan approval official will determine that (i) the Committee certification has been properly completed and signed by at least two Committeemen, (ii) the applicant is eligible, (iii) funds are requested for authorized purposes only, (iv) the proposed loan is sound, (v) the security is adequate, (vi) necessary supervision is planned, and (vii) all other pertinent requirements are met.

(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FHA 440–3 any condition that must be met before the loan is closed and specify the security requirement that the applicant will need to meet, such as a first real estate lien, or a junior lien subject to certain prior liens, and so forth. If title evidence is required in accordance with Part 1807 of this chapter or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan, except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original only and conform all copies of Form FHA 440–3 and insert his title in the space provided.

(iii) For a direct loan or an insured loan from the insurance fund, sign Form FHA 440–1 and insert his title in the space provided.

(iv) If a loan is not approved after the docket has been developed, the reasons for such action will be shown on the original Form FHA 440–3; it will be initialed and dated, and the County Supervisor will notify the applicant of the disapproval and the reasons. If the notice was not in writing, the County Supervisor will record in the running record a brief summary of the discussions with the applicant and should advise the County Committee of the action taken on the loan.

§ 1822.14 Actions subsequent to loan approval.

(a) *Cancellation of loan.* Loans may be canceled before loan closing by the use of Form FHA 440–10, "Notification of Loan or Grant Cancellation," and interested parties will be notified of the cancellation as provided in § 1807.6.

(b) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed. If the amount of the loan is decreased and there is no substantial change in the planned improvements or property to be acquired, a new County Committee Certification need not be obtained.

(c) *Property insurance.* (1) Buildings on the property which is to be taken as security for the loan will be insured in accordance with Part 1806 of this chapter.

(2) When a loan is secured by a mortgage on chattels, and the loss of such chattels would jeopardize the interests of the Government, the County Supervisor may require the borrower to insure the chattels against hazards customarily covered by insurance in the area.

§ 1822.15 Loan closing actions.

(a) *Review of financial statement.* Just before loan closing, the County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in his financial conditions, the financial statement will be revised and initialed by the borrower and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper, the loan will not be closed. If possible, a revised loan docket will be processed; otherwise, the loan will be canceled.

(b) *Preparation of note, mortgage, interest credit agreement, and loan closing procedure.* Any changes made in the printed or typewritten text of any instrument by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the instrument.

(1) Real estate mortgage: A loan secured by a real estate mortgage (including a mortgage on a leasehold) will be closed in accordance with Part 1807 of this chapter. Real estate mortgage Form FHA 427–2, "Real Estate Mortgage for _____ (Direct Loan)," will be used for a direct loan, and Form FHA 427–1, "Real Estate Mortgage for _____ (Insured Loan)," will be used for an insured loan.

(i) For an insured loan on a nonfarm tract, an additional covenant will be inserted in the mortgage as follows, unless the note form already contains a provision to the same effect:

"Any of the property constructed, improved, or purchased with the loan will be personally occupied and used by Borrower and not rented or leased, unless the Government gives written consent otherwise."

(ii) For an insured RH loan to an applicant with above moderate income, the following revisions will be made in the mortgage form:

(*a*) In the first paragraph of the preamble just after the statement of the interest rate per annum and before the words "executed by borrowers" insert "and an insurance charge at the rate of _____ percent (_____%) per annum," unless the printed form has been so revised to provide for insurance or other charges.

(*b*) At the end of the fourth paragraph of the preamble, delete "as to principal and interest" just before the semicolon. (Unless the printed form has already been so revised.)

(*c*) In the fifth paragraph of the preamble, delete the word, "interest" where it appears before the word "payments," unless the present form has already been so revised.

(ii) For a loan secured by a mortgage upon a leasehold the following language, or similar language which in the opinion of the Office of the General Counsel is legally adequate, will be inserted in the mortgage just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of _____ years beginning on _____, 19__, created and established by certain Lease dated _____, 19__, executed by _____ _____ as lessor(s), recorded on _____, 19__, in Book _____, page _____ of the _____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(iii) For a loan secured by a mortgage upon a leasehold an additional covenant will be inserted in the mortgage to read as follows:

"Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, and any of Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect."

(2) Promissory note: Form FHA 440–16, "Promissory Note (Insured Loan)," will be used for insured loans to applicants with low or moderate income, Form FHA 444–3, "Promissory Note (Insured RH Loan)," will be used for loans to applicants with incomes above the moderate level, and Form FHA 440–17, "Promissory Note (Direct Loan)," will be used for direct loans. The notes will be prepared and completed in accordance with this paragraph.

(i) The note will be signed in accordance with (*a*) Part 1807 of this chapter; (*b*) § 1822.10(b) (4) and (5); and (*c*)

the provisions of this subpart regarding cosigners.

(ii) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt-paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(iii) For an insured loan, the amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1 of the calendar year following the calendar year in which the loan is closed. A 9 percent amortization table available at all FHA offices will be used in determining the amount of the regular annual installment to be inserted in the note for loans to families with above moderate income.

(3) Interest credit agreement: For applicants qualifying for interest credits, Form FHA 444–6, "Interest Credit Agreement," will be executed at the time of loan closing.

(4) Supplementary payment agreement: If Form FHA 440–9, "Supplementary Payment Agreement," is used for a borrower receiving an interest credit, the amount scheduled on it will be the difference between the scheduled installment in the note and the interest credit. For example, if the annual installment on the note is $508 and the interest credit is $180, the Supplementary Payment Agreement should provide that the borrower pay $328 during the year. A new Form FHA 440–9 will be executed whenever a change is made in the amount a borrower will owe each year.

(5) Nonreal estate security: (i) A loan on security other than real estate will be closed in accordance with § 1831.34 except paragraph (a) of that section.

(ii) Nonreal estate security instruments, and related instruments, as appropriate, will be prepared in accordance with applicable parts of § 1831.32.

(a) For insured loans, forms of security instruments in the Form FHA 440–15, "Security Agreement (Insured Loans to Individuals) (State)," series will be used. For an insured RH loan to an applicant with above-moderate income, the following revisions will be made in Form FHA 440–15.

(1) In the first paragraph of the preamble just after the statement of the interest rate per annum and before the words "executed by borrower" insert "and an insurance charge at the rate of ------ percent (------%) per annum."

(2) At the end of the fourth paragraph of the preamble before the semicolon, delete "as to principal and interest."

(3) In the second line of the fifth paragraph of the preamble delete the word "interest" before the word "payments."

(b) All references to "Crop" in the title and all provisions for creating a crop lien or security interest will be deleted.

(6) Insured loans: The insurance endorsement will be executed and the promissory note endorsed in accordance with Part 1812 of this chapter.

(7) Collection of first installment: When the first installment on a loan closed during December will be due next January 1, the installment will be collected at the time of loan closing. Also, for an insured loan to an applicant involved in an authorized mutal self-help project, the entire amount of any funds icluded in the loan for the first and second installments will be collected and applied as a regular payment at the time of loan closing.

(8) Immediately after loan closing, the following will be sent to the Finance Office in the case of:

(i) A direct loan, the original note.

(ii) An insured loan made from the insurance fund, the original and a copy of the note.

(iii) An insured loan made by a private lender, a copy of the note and a copy of the executed insurance endorsement.

(9) Real estate mortgage after filing: When the real estate mortgage is returned by the filing official, the original will be filed in the borrower's case folder unless it is retained by the filing official for the county records. If the original is retained by the filing official in his official records, a copy conformed to show the recording date including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(c) *Other actions.* (1) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter, including provisions for written consent of any prior lienholder. However, in small nonfarm tract cases the State Director may, authorize in writing, the withholding of transmittal of assignments to lessees for execution until production is obtained. Authorization may be given by the State Director to refrain from taking an assignment of such income in cases in which the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, in other than small nonfarm tract cases, assignments also may be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with Subpart A of Part 1872 of this chapter.

(i) For assignment of income, Form FHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the Office of the General Counsel.

(ii) The County Supervisor, upon the advice of the designated attorney, title insurance company, or Office of the General Counsel, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(iii) At the time Form FHA 443–16 is executed, appropriate notations will be made on Form FHA 405–1, "Management System Card—Individual," to insure that the proceeds, or the specified portion of the proceeds, assigned to FHA from the transactions are remitted at the proper time.

(2) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(3) *Effective date of loan closing.* A loan secured by a real estate or chattel mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after he executes and delivers the note and any other required instruments.

(4) *Water stock certificate or other such collateral.* When water stock certificates or other such collateral is a part of the security, it will be sent to the State Office for safekeeping. A notation will be made on Form FHA 405–1 showing that such security has been sent to the State Office.

§ 1822.16 Disaster loans.

When a natural disaster including earthquake, flood, forest fire, severe windstorm, or lightning damages or destroys farm and rural dwellings, farm service buildings, and related facilities, section 502 direct loans will be made under this section to eligible RH applicants for the repair or replacement of such buildings on the same or a different site.

(a) *Interest rate.* Loans made under this section will bear interest at 3 percent per year.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with basic section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. No new building constructed under this section will exceed the limits established by § 1822.7(c) (1) and (3).

(c) *Approval authorization.* The authority to approve disaster loans will not be redelegated by the State Director below the State Office level. The State Director will approve any disaster loan only after he determines that (1) the loss or damage was due to a natural disaster, (2) the application was filed within 12 months from the date the loss or damage occurred, (3) the applicant is using his available assets, including insurance loss payments, to repair or replace any damaged or destroyed building, (4) the loan will supplement other assistance, such as

State or local, Small Business Administration, and Red Cross assistance, to the extent available, and (5) if the applicant is a nonowner occupant, the building he occupied was so badly damaged by the disaster that it is no longer habitable and the owner does not intend to repair or replace the building. Adequate information will be included in the docket to enable the State Director to make the determination required by this section.

(d) *Section 504 loans.* The provisions of this section will apply to section 504 loans, subject to the requirements of Subpart B of Part 1822 of this chapter.

(e) *Nature of loss.* Each case will be identified by "Natural Disaster" on Form FHA 440–3, in the block, "Source of Funds."

(f) *Deferred payments.* On loans made under this section, payments of interest and principal may be scheduled so as not to begin for a period up to 5 years from the date of the loan, subject to compliance with all the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income or his essential debts, including the proposed RH loan, have increased substantially as a result of the disaster. An applicant who has not experienced an income loss as a result of the natural disaster may not qualify for a deferment if the only additional debts he had to incur was for the repair or replacement of his dwelling.

(2) The income loss or increase in essential debts must be sufficiently great so that the applicant will not likely be able to pay a full annual installment during the proposed deferment period and also meet his other essential obligations.

(3) The applicant's other indebtedness has been adjusted by reduction, reamortization, extension, or other means, to the extent possible by negotiations with the other creditors.

(4) There is adequate evidence that the applicant's income in relation to his total obligations will be sufficient after the deferment period to enable him to meet the payments on the RH loan and all his other obligations.

§ 1822.17 Subsequent Section 502 loans.

A subsequent section 502 loan is a section 502 loan made to a borrower who has an existing section 502 Farm Housing or RH loan. Subsequent loans may be made for the same purposes and under the same conditions and limitations as initial loans, except as provided in § 1822.7(n)(3) and this section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required only when real estate will be taken as security and at least one of the following exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over 2 years old.

(3) The latest appraisal report is less than 2 years old but the appraiser recommended the normal market value rather than normal value.

(4) The physical characteristics of the property have changed significantly.

(5) The County Supervisor or loan approval official requests a new appraisal report.

(b) A subsequent RH loan may be secured wholly by nonreal estate, provided the amount of the subsequent loan plus the unpaid principal balance of any prior RH loan or loans secured by nonreal estate does not exceed $2,500.

(c) A subsequent RH loan may be made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior RH loan or loans secured by a note only does not exceed $1,500.

(d) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage when this can be done under paragraph II.E. of the form entitled, "Preparation of Mortgages" available at all FHA offices.

(e) The subsequent loan will bear interest at a rate determined in accordance with this subpart. It will not necessarily be the same rate as charged on the initial loan.

§ 1822.18 Special Section 502 Rural Housing loans.

This section authorizes a new type of section 502 RH loan to be identified as "Special 502 loans." Special 502 loans will help fill the gap that now exists between other section 502 housing, which must be adequate in all respects, and section 504 shelter-type housing. Special 502 loans will be particularly helpful in assisting low-income families who would not be eligible for section 502 RH loans under a standard requiring the housing to be fully adequate.

(a) *Eligibility.* Special 502 loans may be made to families eligible under § 1822.4 who:

(1) Own the home to be improved, and

(2) Will personally occupy the dwelling as their permanent residence when the improvements financed with the loan are completed.

(b) *Loan purposes.* (1) Special 502 loans may be made only to improve or enlarge a dwelling and related facilities, such as water and waste disposal systems, so as to make the housing decent, safe, and sanitary. Loan funds also may be used to pay fees and expenses specified in § 1822.6(a)(8).

(2) Loan funds will not be used to buy or build a house, buy land, refinance debts, or buy or improve farm service buildings.

(3) A special 502 loan may be made, however, to complete a house on which a substantial amount of construction had been done before the applicant applied for a loan.

(c) *Building standards.* (1) Homes improved with special 502 loans must be structurally sound and must have enough space and be designed to meet the basic housing needs of the family for decent, safe, and sanitary living conditions when the improvements financed with the loan are completed. Such homes may, however, lack some equipment or features such as a complete bath, completely finished interiors in some rooms, complete kitchen cabinets, or complete closets, for example.

(2) Special 502 loans will not be made to improve a home that will be structurally unsound or will be inadequate to meet the basic housing needs of the family.

(3) The improvements made with a special 502 loan must be essential and modest and be made in an economical manner.

(d) *Special conditions.* (1) The special 502 loan plus the unpaid principal balance of any previous RH or other FHA loan or loans made to improve the house and provide or improve related facilities will not exceed $3,500.

(2) No loan will be made that will result in a total debt against the security in excess of its appraised value. An appraisal will be made of the security in each case in accordance with the provisions of § 1822.9(b).

(3) The loan will be secured by the best lien obtainable on the property to be improved.

(4) The title requirements of Part 1807 of this chapter will not be applicable; however, applicants must be owners and should be encouraged to take any necessary steps to have a marketable title to their property.

(i) Applicants will be required to comply with § 1822.28, which specifies requirements for determining ownership.

(ii) The County Supervisor will use all practicable means to verify that title and lien information furnished by the applicant is complete and accurate.

(iii) Care must be taken that all mechanics' and materialmen's liens and bills arising from authorized construction are paid in full with loan funds or other funds. Any taxes against the property—and any mechanics' and materialmen's claims arising from construction occurring before the applicant applied for a loan—must be paid with other than loan funds.

(iv) The house, when the improvements financed with the loan are completed, must be habitable, must meet the standards specified in paragraph (c) of this section, and must be promptly occupied by the borrower and his family as their permanent residence.

(e) *Identification.* Special 502 loans will be identified by checking Item 1 in the "Type of Assistance Block" on Form FHA 444–2, "Housing Fund Analysis," and adding the word "Special."

(f) *Source of funds and repayment period.* Special 502 loans will be made with insured funds, except that direct funds may be used in accordance with § 1822.8(a)(1). The loans may be scheduled for repayment over a period not to exceed 33 years, in accordance with § 1822.8(a).

(g) *Preparation of note and mortgage and loan closing.* The note and mortgage will be prepared by the County Supervisor in accordance with § 1822.15(b). Neither a designated attorney nor title insurance will be used unless, in the opinion of the County Supervisor, such services are needed to assure compliance

with this section or the applicant requests complete title service.

Dated: September 18, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70-12800; Filed, Sept. 24, 1970; 8:47 a.m.]

[FHA Ins. 444.3]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart B—Section 504 Rural Housing Loans

Subpart B, Part 1822, Title 7, Code of Federal Regulations is revoked and a new subpart B is added to read as follows:

Sec.
1822.21 General.
1822.22 Objectives.
1822.23 Amount of section 504 loan.
1822.24 Eligibility requirement.
1822.25 Loan purposes.
1822.26 Evaluating application and determining need for section 504 loans.
1822.27 Limitations.
1822.28 Evidence of ownership.
1822.29 Terms and rates.
1822.30 Security.
1822.31 Approval of loan.
1822.32 Supervised bank accounts.
1822.33 Subsequent section 504 loan.

AUTHORITY: The provisions of this Subpart B issued under sec. 509, 63 stat. 436, 42 U.S.C. 1479; sec. 510, 63 stat. 437, 42 U.S.C. 1480; Orders of Sec. of Agr., 29 F.R. 16840, 32 F.R. 6650.

Subpart B—Section 504 Rural Housing Loans

§ 1822.21 General.

This subpart is supplemented by Part 1890a and 1890f of this chapter. This subpart sets forth the policies and procedures and delegates authority for making initial and subsequent Rural Housing (RH) loans under section 504(a) of the Housing Act of 1949 (section 504 loans). A section 504 loan will be made in accordance with the provisions of Subpart A of Part 1822 of this chapter regarding direct RH loans to other than senior citizens and disaster victims, as supplemented and modified by this subpart.

§ 1822.22 Objectives.

The basic objective of the Farmers Home Administration (FHA) in making section 504 loans is to assist owner-occupants in rural areas who do not qualify for section 502 loans to: repair or improve their dwellings in order to make such dwellings safe and sanitary and remove hazards to the health of the occupants, their families, or the community; and repair their farm buildings in order to remove hazards and make such buildings safe.

§ 1822.23 Amount of section 504 loan.

No section 504 loan may be made which will cause the total amount of assistance in the form of section 504 loans and grants extended to the applicant or for improvemetnt of the applicant's farm or nonfarm tract to exceed $1,500, including any prior section 504 loans or grants.

§ 1822.24 Eligibility requirements.

To be eligible for a section 504 loan, an applicant must own and occupy a farm or rural nonfarm tract and meet the other eligibility requirements of Subpart A of Part 1822 of this chapter except that he must:

(a) Be without sufficient income to qualify for a section 502 loan and have no reasonable prospect of improving his income to the extent that a section 502 loan to improve his housing could be repaid.

(b) Have sufficient income, including any welfare-type payments, to repay the section 504 loan and have a good reputation for paying his debts promptly, except that if his income is not sufficient to pay the loan, he may qualify for the loan by obtaining a cosigner or cosigners in accordance with § 1822.4(a)(4) and § 1822.12(d).

(c) Need to make minor repairs and improvement to:

(1) The dwelling which he owns and occupies in order to make it safe and sanitary and remove hazards to the health of the applicant, his family, or the community, or

(2) Essential farm buildings which are owned and used by him in order to make the buildings safe and remove hazards.

§ 1822.25 Loan purposes.

Section 504 loan funds may be used for the purposes stated in § 1822.24(c) by paying the cost of such things as:

(a) Repairing roofs.

(b) Supplying screens.

(c) Repairing or providing structural supports.

(d) Providing a convenient and sanitary water supply.

(e) Providing toilet facilities.

(f) Providing other similar repairs or improvements.

(g) Adding a room to an existing dwelling in special cases when clearly necessary to remove hazards to the health of the family.

(h) Paying fees and expenses in accordance with § 1822.6(a)(9).

§ 1822.26 Evaluating application and determining need for section 504 loans.

(a) Before a loan may be made, the County Supervisor must document the evidence that the applicant meets all requirements of eligibility to receive such loan.

(b) The County Supervisor will visit the home of each applicant who appears to be eligible to determine whether the applicant can meet the requirements of § 1822.24. During his visit the County Supervisor will obtain information on the following items and any additional pertinent facts. His findings will be recorded in the loan docket.

(1) The nature of the health or safety hazard and how the proposed loan will remove such hazard.

(2) The specific repairs to be made and a list of items of materials and labor to be provided with the proposed loan.

(c) Itemized cost estimates will be obtained for all work to be performed. If in the judgment of the County Supervisor the cost estimate is not reasonable, additional cost estimates will be obtained.

(d) Information about cosigners will be obtained in accordance with § 1822.12(d).

§ 1822.27 Limitations.

(a) A section 504 loan may not be made to:

(1) A lessee of a nonfarm tract.

(2) Assist in the construction of new dwellings or farm buildings.

(3) Improve the appearance of a building or make facilities in the building more convenient unless such changes are directly associated with removing hazards to health or safety.

(4) Make repairs to a building of such poor condition and quality to be a substantial hazard to the health and safety of the family.

§ 1822.28 Evidence of ownership.

Each applicant will be required to submit evidence of ownership of his farm or nonfarm tract. This may be the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. When the county supervisor is uncertain as to whether or not the applicant is a qualified owner, the county supervisor will take such actions as he considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the Office of the General Counsel regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this chapter. It may consist of evidence which, considered all together, would be sufficient to convince a reasonably well informed and prudent person that the applicant is probably the owner. It may include, for example, such evidence as the levy and payment in the applicant's name of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of time and is believed and generally reputed to be the owner.

§ 1822.29 Terms and rates.

A section 504 loan will be scheduled for repayment in accordance with the applicant's ability to pay, over a period not to exceed 10 years from the date of the note, and bear interest at the rate of 1 percent per annum.

§ 1822.30 Security.

Each section 504 loan usually will be made on the basis of a promissory note, except that when the loan approval official determines that taking of other security is necessary because of marginal repayment ability or to assure accomplishment of the loan purposes, a mortgage may be taken upon the applicant's chattels or other assets. A real estate mortgage ordinarily will not be taken unless the loan approval official determines that it is necessary to prevent the

purposes of the loan from being defeated by claims of third parties against the borrower being enforced against the real estate substantially interfering with the borrower's repayment ability. When chattels are taken as security, a lien search will be obtained at the applicant's expense in accordance with Subpart B of Part 1831 of this chapter. When real estate is taken as security, a lien search will not be necessary.

§ 1822.31 Approval of loan.

Section 504 loans may be approved in accordance with current loan approval authorizations. Information as to current authorizations may be obtained from any county or State Office of the FHA or from its National Office at 14th and Independence Avenue SW., Washington, D.C. 20250.

§ 1822.32 Supervised bank accounts.

A supervised bank account will be used for each section 504 loan.

§ 1822.33 Subsequent section 504 loan.

Subsequent section 504 loans may be made to a person who previously received a section 504 loan provided the total amount of initial and subsequent section 504 loans plus any previous section 504 RH grants will not exceed $1,500 to any one person or, in case of multiple owners, for improvement of any one farm or nonfarm tract.

Dated: September 18, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70-12772; Filed, Sept. 24, 1970; 8:47 a.m.]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[Administration Letters 901(442), 986(440), 10(440)]

MISCELLANEOUS AMENDMENTS TO CHAPTER

New Parts 1890h, 1890i, and 1890j, administrative directives supplementing certain preceding parts of this chapter are added to Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1890h—ASSOCIATION LOANS AND GRANTS IN MAJOR DISASTER AREAS

Sec.
1890h.1 General.
1890h.2 Definitions.
1890h.3 Loans.
1890h.4 Development grants.
1890h.5 Coordination with other agencies.
1890h.6 Processing applications.
1890h.7 Development grant funds.

AUTHORITY: The provisions of this Part 1890h issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of the Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 129.

§ 1890h.1 General.

This part supplements Subparts A, H, and I of Part 1823, of this chapter. This part outlines the policies and procedures applicable to the making of Association loans and grants in major disaster areas as authorized by section 6(b) of the Disaster Relief Act of 1966, Public Law 89-769, approved November 6, 1966.

§ 1890h.2 Definitions.

In addition to the definitions provided in Subpart B of Part 1823 of this chapter, the following will apply:

(a) "Major disaster area" means an area which has experienced since October 3, 1964, a major disaster as determined by the President pursuant to the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes," approved September 30, 1950, as amended (42 U.S.C. 1855-1855g). Such areas may be located in any State in the United States, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) "Public Facilities" include:

(1) Water systems, waste disposal facilities, gas distribution systems, and similar community facilities providing services to the farms, residences, and other establishments in rural areas.

(2) Levees, dikes, sea walls, drains, drainage pumps, and other essential facilities for the control of water in rural areas.

§ 1890h.3 Loans.

Loans may be made under the applicable provisions of Subparts B and D of Part 1823 of this chapter to associations in major disaster areas for the acquisition, construction, improvement, replacement, or extension of damaged or destroyed public facilities providing essential community services for farmers and rural residents. The facilities may be more extensive or better than those available to residents of the area before the major disaster occurred if the State Director determines that they are essential to maintain the health, safety, economic, and general welfare of the area.

§ 1890h.4 Development grants.

Development grants may be made under this part to associations in major disaster areas only for the repair, reconstruction, or replacement of damaged or destroyed public facilities providing essential community services for farmers and other rural residents.

(a) Such disaster grants may be made up to 50 percent of the cost of such repair, reconstruction, or replacement. Within this limitation the actual amount of the grant will not exceed:

(1) Any amount necessary to bring user charges down to the level of costs for such services in comparable communities in the State as determined, in accordance with § 1823.4(b) of this chapter, plus

(2) Any additional amount necessary to keep user charges within the ability to pay of a majority of the users who might be served by the facilities.

(b) Disaster grants will not be made under this part to pay any costs for public facilities more extensive or better than those available before the major disaster occurred. Grant assistance for additional improvements needed for water and waste disposal systems will be considered under the provisions of Subpart A of Part 1823 of this chapter.

(c) Except as otherwise provided herein, development grants authorized by this part will be made and processed in accordance with the provisions of Subpart A of this chapter.

(d) Grants under this part will not be made for reimbursement of expenditures already made as a result of major disasters.

§ 1890h.5 Coordination with other agencies.

Each State Director is charged with the responsibility of determining that assistance provided under this part will not duplicate any assistance received from any other source.

(a) In considering the various sources of assistance that might be available, it should be kept in mind that the Disaster Relief Act of 1966 provides special grant assistance through the Office of Emergency Planning for the repair, restoration, or reconstruction of any project of a State, county, municipal, or other local Government agency for flood control, navigation, irrigation, reclamation, public power, sewage treatment, water treatment, watershed development, or airport construction which was damaged or destroyed by a major disaster and for the resulting additional costs to complete any such facility which was in the process of construction when the disaster occurred.

(b) It also should be kept in mind that loans for electric power and telephone systems are generally available in rural areas through the programs of the Rural Electrification Administration.

§ 1890h.6 Processing applications.

In processing applications for Association loans and development grants, priority and immediate consideration must be given to applications for assistance under the provisions of this part.

(a) Applications for assistance in Guam, American Samoa, and the Trust Territory of the Pacific Islands, should be forwarded to the FHA State Supervisor at Honolulu, Hawaii. County committee recommendations for such applications will be provided by the committee serving Oahu County, Hawaii.

§ 1890h.7 Development grant funds.

Separate allotments of funds will be made to each State for grants under this part, since these development grants are not subject to the limitation on appropriation of grant funds contained in Public Law 89-240 enacted October 7, 1965.

PART 1890i—EVALUATION, REVIEW, AND COORDINATION OF PROJECTS REQUIRING FHA ASSISTANCE

Sec.
1890i.1 Purpose.
1890i.2 Scope.

Sec.
1890i.3 Definitions.
1890i.4 Project notification and review system.

AUTHORITY: The provisions of this Part 1890i issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of the Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 129.

§ 1890i.1 Purpose.

This part supplements Subparts A, B, D, G, H, I, J, K, and L of Part 1823, all of this chapter. The purpose of this part is to implement the provision of Bureau of the Budget Circular A–95 which supersedes Bureau of the Budget Circulars A–80 and A–82.

§ 1890i.2 Scope.

(a) Bureau of the Budget Circular A–95 provides that rules and regulations will be established concerning the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities. This part applies to the following programs in both metropolitan and nonmetropolitan areas:

(1) Rural water and waste disposal facilities.

(2) Comprehensive water and sewer planning.

(3) Watershed protection and flood control.

(4) Resource conservation and development.

(5) Recreation.

(6) Shift-in-land-use projects (except grazing associations).

(7) Soil and water conservation projects except (loans to Soil and Water Conservation Districts for equipment).

(b) The Soil Conservation Service has the responsibility for clearing Watershed Protection and Flood Control and Resource Conservation and Development plans through the respective clearinghouses referred to in § 1890i.4(b). The clearance will apply also to individual projects within the watershed plans. However, this does not necessarily mean that all projects mentioned in Resource Conservation and Development plans have been cleared. Therefore, when an application for a Resource Conservation and Development loan is received, the FHA State Director will contact the State Conservationist and determine whether or not the specific project has been cleared and obtain a copy of any comments which may have been made. If a specific project has not been cleared, the State Director will request the applicant to obtain clearance in accordance with this part.

§ 1890i.3 Definitions.

Terms used in this part will have the following meaning:

(a) "State" means any State of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of the State, but does not include the governments of the political subdivisions of the State.

(b) "Unit of General Local Government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

(c) "Political Subdivision" or "Local Government" means a local unit of Government, including specifically a county, municipality, city, town, township, or a school or other special district created by or pursuant to State law.

(d) "Special Purpose Unit of Local Government" means any special district, public-purpose corporation, or other strictly limited purpose political subdivision of a State, but shall not include a school district.

(e) "Metropolitan Area" means a Standard Metropolitan Statistical Area (SMSA) as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Bureau of the Budget may determine to be appropriate for the purpose of Bureau of the Budget Circular A–95.

(f) "Clearinghouse" includes the following:

(1) An agency of the State Government designated by the Governor.

(2) A nonmetropolitan regional comprehensive planning agency (hereinafter referred to as a "regional clearinghouse") designated by the Governor.

(3) A metropolitan agency that has been recognized by the Bureau of the Budget as an appropriate agency to perform review functions.

§ 1890i.4 Project notification and review system.

(a) *Notification.* Before an application is filed with FHA for financial assistance of the type listed in § 1890i.2(a), the applicant will submit written notifications of its intent to apply for such assistance with the proper metropolitan or regional clearinghouse and the State clearinghouse.

(1) For projects located in metropolitan areas, notifications will be filed simultaneously with the clearinghouses for the State and the metropolitan area-wide agency.

(2) For projects located in other than metropolitan areas, notifications will be filed simultaneously with the clearinghouse for the State and the regional clearinghouse.

(3) Notifications should be sent to the appropriate clearinghouses at the earliest feasible time in order to assure maximum time for effective coordination and so as not to delay orderly consideration of a project.

(4) The Applicant may use Standard Form 101, "Application-Federal Assistance for Public Works and Facility-Type Projects," promulgated by Bureau of the Budget Circular No. A–75, Revised, dated December 29, 1967, as the notification or such other method as it may prefer as long as it contains the information set forth below. The Standard Form 101 will not be considered and handled as an application until comments have been received from the clearinghouses or the clearinghouses have failed to submit comments within the period of time outlined in paragraph (d) of this section. The County Supervisor may assist with the preparation of the notification if requested to do so. The notification whether Standard Form 101 or some other method must contain the following summary description of the project:

(i) Identity of the applicant agency or organization.

(ii) The geographic location of the project.

(iii) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed project.

(iv) The Federal program and agency under which assistance will be sought.

(v) The estimated date by which time the applicant expects to formally file an application.

(b) *Establishing clearinghouses.* State Directors should work closely with Governors in implementing the provisions of Bureau of the Budget Circular A–95. A list of clearinghouses designated to review applications in each State is available at any FHA State Office. A complete listing is available at the FHA National Office, 14th and Independence Avenue SW., Washington, D.C. 20250. Applications in regional areas not covered by the list may be processed under existing FHA regulations until additional regional and State clearinghouses have been established for the area.

(c) *Clearinghouse functions.* Clearinghouse functions include:

(1) Receipt and dissemination of project notifications to appropriate State agencies in the case of the State clearinghouse and to appropriate local governments and agencies in the case of regional or metropolitan clearinghouses.

(2) Coordination of liaison between applicants for Federal assistance and State agencies or local governments and agencies in conferring or commenting upon projects for which Federal assistance is sought.

(3) Liaison between Federal agencies contemplating Federal development projects in any area and the appropriate agencies of any State and local government in that area.

(4) Evaluation of the State, regional, or metropolitan significance of federally assisted projects.

(d) *Consultation and comment by clearinghouses.* (1) A State clearinghouse will have 30 days after receipt of a notification to inform appropriate State agencies and to arrange to confer and consult with the applicant on the interest of the State, if any, in the project. The State clearinghouse will have an additional 30-day period prior to the date on which the application is expected to be filed to submit any comments of the State to accompany the application where the clearinghouse has notified the applicant of the intent of the State to do so.

(2) A regional or metropolitan clearinghouse will have 30 days after receipt of a notification to inform appropriate local governments and other regional or

subregional agencies in the area and to arrange to confer and consult with the applicant or regional and local interest, if any, of the project. In addition, the clearinghouse will have the 30-day period prior to the date on which the application is expected to be filed to submit any comments of its own or transmit the comments of any affected local Government or other regional or subregional agencies in the area, where the clearinghouse has notified the applicant of its intent to do so. In the case of an application made by a special purpose unit of Government, the metropolitan or regional clearinghouse will assure that the unit or units of general local Government, within the jurisdiction(s) of which the project is to be located, have opportunity to confer, consult, and comment upon the project and the application.

(3) In the case of a project which is to be located in a metropolitan area, the metropolitan clearinghouse will be given 60 days to comment on any application, unless the metropolitan clearinghouse formally notifies the applicant that it does not desire to comment or that it does not require 60 days in which to do so.

(e) *Information to be included in the docket.* (1) Any comments made by or through clearinghouses, along with a statement that such comments have been considered, or

(2) A statement by the applicant that the procedures outlined in this part have been followed and that no comments have been received.

(f) *Subject matter of comments.* Comments made by or through clearinghouses are for the purpose of assisting the Federal agency administering the program in determining whether the project is in accord with Federal Law governing that program. Comments will, as appropriate, include information about:

(1) The extent to which the project is consistent with or contributes to the fulfillment of comprehensive planning for the State, region, metropolitan area, or locality.

(2) The extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives as specified in section 401(a) of the Intergovernmental Cooperation Act of 1968.

(3) Whether project assistance being sought by a special purpose unit of Government is the same or similar to that planned to be applied for by a unit of general local Government.

(g) *Informing potential applicants of the requirements of this part.* (1) FHA program information material will incorporate pertinent information concerning the project notification and review system.

(2) Anyone inquiring about application procedures will be informed of the appropriate requirements.

(3) Requirements will be outlined in all preapplication conferences.

(4) Any other means that will assure the earliest possible contact between the applicant and the clearinghouses will be employed.

(h) *Submission of application.* After the applicant has received the comments from the respective clearinghouses or after the required time has elapsed and no comments have been received, the Standard Form 101 may be formally submitted to FHA by the applicant as an application, or Standard Form 101 may be prepared as an application if some method of notification of the clearinghouses other than the use of Standard Form 101 has been employed by the applicant. FHA's jurisdiction to render the financial assistance requested will be determined pursuant to § 1823.35 for water and sewer association projects.

(i) *Disposition of applications.* Clearinghouses will be notified of the disposition made of applications referred to them. This will be done by the State Director within 7 days after an application is rejected or final loan or grant approval given.

(j) *Application from general local government will be given preference.* In the case of an application submitted by a special purpose unit of Government and accompanying comments indicate that a unit of general local Government within the jurisdiction of which the project is to be located has submitted or plans to submit an application for assistance to the same or similar type project, appropriate considerations and preferences will be accorded the unit of general local Government and the financial assistance shall be rendered to the unit of general local Government in the absence of substantial reasons to the contrary. Where such preference cannot be accorded, the State Director shall notify the unit of general local Government in writing of the reasons therefor. Two copies of the notice will be sent to the National Office, one of which will be forwarded to the Bureau of the Budget.

(k) *County Office records.*

(1) Records will be established in the FHA County Office to record information concerning each application filed. The following information should be recorded on each application subject to the requirements of this part:

(i) Name of applicant and purpose of request.

(ii) Type of comments by clearinghouses—supportive, supportive with modifications, or no comments after proper notification.

(iii) Type of organization.

PART 1890j—INCOME GUIDELINES—INDIVIDUAL AND COOPERATIVE ECONOMIC OPPORTUNITY (EO) LOANS

Sec.
1890j.1 Purpose.
1890j.2 General.
1890j.3 Guidelines.

AUTHORITY: The provisions of this Part 1890j issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of the Secretary of Agriculture 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 129.

§ 1890j.1 Purpose.

This part supplements Subpart E of Part 1823, Subpart A of Part 1831, and Subparts A and B of Part 1833, of this chapter. The Office of Economic Opportunity (OEO) requires the use of uniform income guidelines for all OEO programs where family income is used to determine program eligibility. These income guidelines are revised periodically. The latest revision shown in § 1890j.3 is the result of the revision of the statistical definition of poverty by an interagency Poverty Level Review Committee, established and chaired by the Bureau of the Budget. Within this concept the amount of income available for family living purposes is used as one of the guidelines to consider in determining the eligibility of individual families for EO loan assistance and determining that the required ratio of the membership of a cooperative association receiving an EO loan is in the low-income category. This part provides Farmers Home Administration (FHA) personnel with information concerning these guidelines and their use in helping determine eligibility for EO loans as prescribed in Subparts A and B of Part 1833 and Subpart E of Part 1823, all of this chapter.

§ 1890j.2 General.

The amount of income available for family living is one of many factors to be evaluated in determining whether a family is eligible for EO loan assistance. The following factors significantly influence the amount of income needed to meet family living costs: (a) Size of family; (b) ages of family members; (c) health conditions and medical care required; (d) cost of housing; (e) food produced for home use; and, (f) other essential living costs. These variable factors result in some families living in poverty while other families with the same income could be considered above the poverty line. Thus, the average income levels set forth in § 1890j.3 must be used with good judgment in determining eligibility for EO loan assistance.

§ 1890j.3 Guidelines.

(a) The average family is considered to be living in poverty when the amount of income available for family living does not exceed the amount shown.

(b) These guidelines are to be used with good judgment in accordance with the provisions of § 1890j.2. For families with more than 13 members, add $600 for each additional member in a nonfarm family and $500 for each additional member in a farm family.

Farm families		Nonfarm families	
Number persons in family	Income available for family living	Number persons in family	Income available for family living
1	$1,500	1	$1,800
2	2,000	2	2,400
3	2,500	3	3,000
4	3,000	4	3,600
5	3,500	5	4,200
6	4,000	6	4,800
7	4,500	7	5,400
8	5,000	8	6,000
9	5,500	9	6,600
10	6,000	10	7,200
11	6,500	11	7,800
12	7,000	12	8,400
13	7,500	13	9,000

Dated: September 18, 1970.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[F.R. Doc. 70-12799; Filed, Sept. 24, 1970; 8:47 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

MISCELLANEOUS AMENDMENTS TO CHAPTER

Parts 713, 752, and 771 of Subchapter B of Chapter I of Title 5, Code of Federal Regulations, are amended and revised as follows:

(1) Part 713 is amended for clarity and better organization and to provide that if an allegation of discrimination is made in the course of an appeal under 5 CFR Part 771 (Subpart B), it shall be processed under said Subpart B of Part 771; and if an allegation of discrimination is made in the course of a grievance under 5 CFR Part 771 (Subpart C), it shall be processed under 5 CFR Part 713 (Subpart B). These amendments to Part 713 are effective April 1, 1971.

(2) Part 752 is amended for clarity and better organization and to provide that the material on which a notice of proposed adverse action is based is available to the employee for examination; and that an employee is entitled to a reasonable amount of official time to prepare his answer to a notice of proposed adverse action. These amendments to Part 752 are effective November 1, 1970.

(3) Part 771 is revised to provide, in the new Subpart C of the revised Part 771, regulations governing employee grievances. In addition, Subpart A of Part 771 has been supplemented to accommodate the new Subpart C and to regulate instances in which an allegation of an unfair labor practice is made in the course of a grievance or appeal under Part 771. Also, Subpart B provides for a new and strengthened agency appeals system. The revised Part 771 is effective April 1, 1971.

PART 713—EQUAL OPPORTUNITY

(1) Effective April 1, 1971, § 713.215, paragraphs (a) and (b) of § 713.217, § 713.219, paragraph (a) of § 713.220, and §§ 713.221 and 713.222 are amended as set out below.

§ 713.215 Rejection or cancellation of complaint.

When the head of the agency, or his designee, decides to reject a complaint because it was not timely filed or because it is not within the purview of § 713.212 or to cancel a complaint because of a failure of the complainant to prosecute the complaint or because of a separation of the complainant which is not related to his complaint, he shall transmit the decision by letter to the complainant and his representative. The decision letter shall inform the complainant of his right to appeal the decision of the agency to the Commission and of the time limit within which the appeal may be submitted.

§ 713.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the complainant.

(b) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing of the proposed disposition thereof. In that notice, the agency shall advise the complainant of his right to a hearing with a subsequent decision by the head of the agency or his designee and his right to such a decision without a hearing. The agency shall allow the complainant 7 calendar days from receipt of the notice to notify the agency whether or not he wishes to have a hearing.

* * * * *

§ 713.219 Relationship to other agency appellate procedures.

(a) Except as provided in paragraphs (b) and (c) of this section, when an employee makes a written allegation of discrimination on grounds of race, color, religion, sex, or national origin, in connection with an action that would otherwise be processed under a grievance or appeals system of the agency the agency may process the allegation of discrimination under that system when the system meets the principles and requirements in §§ 713.212 through 713.220 and the head of the agency, or his designee, makes the decision of the agency on the issue of discrimination. That decision on the issue of discrimination shall be incorporated in and become a part of the decision on the grievance or appeal.

(b) An allegation of discrimination made in connection with an appeal under Subpart B of Part 771 of this chapter shall be processed under that subpart.

(c) An allegation of discrimination made in connection with a grievance under Subpart C of Part 771 of this chapter shall be processed under this part.

§ 713.220 Avoidance of delay.

(a) The complaint shall be resolved promptly. To this end both the complainant and the agency shall proceed with the complaint without undue delay so that the complaint is resolved, except in unusual circumstances, within 60 calendar days after its receipt by the Equal Employment Opportunity Officer, exclusive of time spent in the processing of the complaint by the appeals examiner under § 713.218. When the complaint has not been resolved within this limit, the complainant may appeal to the Commission for a review of the reasons for the delay. Upon review of this appeal, the Commission may require the agency to take special measures to insure prompt processing of the complaint or may accept the appeal for consideration under § 713.234.

* * * * *

§ 713.221 Decision by head of agency or designee.

(a) The head of the agency, or his designee, shall make the decision of the agency on a complaint based on information in the complaint file. A person designated to make the decision for the head of the agency shall be one who is fair, impartial, and objective.

(b) (1) The decision of the agency shall be in writing and shall be transmitted by letter to the complainant and his representative.

(2) When there has been a hearing on the complaint, the decision letter shall transmit a copy of the findings, analysis, and recommended decision of the appeals examiner under § 713.218(g) and a copy of the hearing record. The decision of the agency shall adopt, reject, or modify the decision recommended by the appeals examiner. If the decision is to reject or modify the recommended decision, the decision letter shall set forth the reasons for rejection or modification.

(3) When there has been no hearing and no decision under § 713.217(c), the decision letter shall set forth the findings, analysis, and decision of the head of the agency or his designee.

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issues of discrimination and to promote the policy of equal opportunity.

(d) The decision letter shall inform the complainant of his right to appeal the decision of the agency to the Commission and of the time limit within which the appeal may be submitted.

§ 713.222 Complaint file.

The agency shall establish a complaint file containing all documents pertinent to the complaint. The complaint file shall include copies of (a) the written report of the Equal Employment Opportunity Counselor under § 713.213 to the Equal Employment Opportunity Officer on whatever precomplaint counseling efforts were made with regard to the complainant's case, (b) the complaint, (c) the investigative file, (d) if the complaint is withdrawn by the complainant, a written statement of the complainant or his representative to that effect, (e) if adjustment of the complaint is arrived at under § 713.217, the written record of the terms of the adjustment, (f) if no adjustment of the complaint is arrived at under § 713.217, a copy of the letter notifying the complainant of the proposed disposition of the complaint and of his right to a hearing, (g) if decision is made under § 713.217(c), a copy of the letter to the complainant transmitting that decision, (h) if a hearing was held, the record of the hearing, together with the appeals examiner's findings, analysis, and recommended decision on the merits

of the complaint, (i) if the Director of Equal Employment Opportunity is not the designee, the recommendations, if any, made by him to the head of the agency or his designee, and (j) if decision is made under § 713.221, a copy of the letter transmitting the decision of the head of the agency or his designee. The complaint file shall not contain any document that has not been made available to the complainant or to his designated physician under § 294.401 of this chapter.

(5 U.S.C. 1301, 3301, 3302, 7151–7154, 7301, E.O. 10577; 3 CFR, 1954–1958 Comp., p. 218, E.O. 11222; 3 CFR, 1964–1965 Comp., p. 306, E.O. 11478; 3 CFR, 1969 Comp., E.O. 11491, 34 F.R. 17605)

PART 752—ADVERSE ACTIONS BY AGENCIES

(2) Effective November 1, 1970, paragraph (b) of § 752.102, § 752.105, paragraphs (a), (b), and (f) of § 752.202, headnote and § 752.203 are amended, and new §§ 752.204 and 752.205 are added as follows:

§ 752.102 Definitions.

* * * * *

(b) "Appeal to the agency" means an appeal under Subpart B of Part 771 of this chapter.

§ 752.105 Agency records.

Each agency shall make a part of its records, copies of the notice of proposed adverse action, the material relied on by the agency to support the reasons in that notice, any answer made by the employee, the notice of any agency hearing on the proposed adverse action and the report thereof, and the notice of decision.

§ 752.202 Procedures.

(a) *Notice of proposed adverse action.* (1) Except as provided in paragraph (c) of this section, an employee against whom adverse action is sought is entitled to at least 30 full days' advance written notice stating any and all reasons, specifically and in detail, for the proposed action.

(2) Subject to the provisions of subparagraph (3) of this paragraph, the material on which the notice is based and which is relied on to support the reasons in that notice, including statements of witnesses, documents, and investigative reports or extracts therefrom, shall be assembled and made available to the employee for his review. The notice shall inform the employee where he may review that material.

(3) Material which cannot be disclosed to the employee, or to his designated physician under § 294.401 of this chapter, may not be used by an agency to support the reasons in the notice.

(b) *Employee's answer.* Except as provided in paragraph (c) of this section, an employee is entitled to a reasonable time for answering a notice of proposed adverse action and for furnishing affidavits in support of his answer. The time to be allowed depends on the facts and circumstances of the case, and shall be sufficient to afford the employee ample opportunity to review the material relied on by the agency to support the reasons in the notice and to prepare an answer and secure affidavits. The agency shall provide the employee a reasonable amount of official time for these purposes if he is otherwise in an active duty status. If the employee answers, the agency shall consider his answer in reaching its decision. The employee is entitled to answer personally, or in writing, or both personally and in writing. The right to answer personally includes the right to answer orally in person by being given a reasonable opportunity to make any representations which the employee believes might sway the final decision on his case, but does not include the right to a trial or formal hearing with examination of witnesses. When the employee requests an opportunity to answer personally, the agency shall make a representative or representatives available to hear his answer. The representative or representatives designated to hear the answer shall be persons who have authority either to make a final decision on the proposed adverse action or to recommend what final decision should be made.

* * * * *

(f) *Notice of adverse decision.* The employee is entitled to notice of the agency's decision at the earliest practicable date. The agency shall deliver the notice of decision to the employee at or before the time the action will be made effective. The notice shall be in writing, be dated, and inform the employee:

(1) Which of the reasons in the notice of proposed adverse action have been found sustained and which have been found not sustained;

(2) Of his right of appeal to the appropriate office of the Commission;

(3) Of any right of appeal to the agency under Subpart B of Part 771 of this chapter, including the person with whom, or the office with which, such an appeal shall be filed;

(4) Of the time limit for appealing as provided in § 752.204;

(5) Of the restrictions on the use of appeal rights as provided in § 752.205; and

(6) Where he may obtain information on how to pursue an appeal.

§ 752.203 Right of appeal to the Commission.

An employee is entitled to appeal to the Commission from an adverse action covered by this subpart. The appeal shall be in writing and shall set forth the employee's reasons for contesting the adverse action, with such offer of proof and pertinent documents as he is able to submit.

§ 752.204 Time limit for initial appeal.

(a) Except as provided in paragraphs (b) and (c) of this section and § 752.205, an employee may submit an appeal at any time after receipt of the notice of adverse decision but not later than 15 days after the adverse action has been effected.

(b) When a postmaster appointed by the President and confirmed by the U.S. Senate is notified of an adverse decision to remove him and is continued in office until a successor can be installed, the time limit on an appeal is 15 days after the adverse action has been effected.

(c) The Commission or the agency, as appropriate, may extend the time limit on an appeal to it when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

§ 752.205 Restrictions on use of appeal rights.

(a) An appeal to the agency and an appeal to the Commission from the same original decision may not be processed concurrently.

(b) An employee who appeals first to the Commission within the prescribed time limit forfeits his right of appeal to the agency.

(c) An employee who appeals first to the agency within the prescribed time limit may appeal to the Commission only after receipt of an agency appellate decision, except that if no agency appellate decision has been made within 60 days from the date of filing the appeal to the agency, the employee may elect to terminate that appeal by appealing to the Commission.

(5 U.S.C. 1302, 3301, 3302, 7701, E.O. 10577; 3 CFR, 1954–58 Comp., p. 218, E.O. 11491; 3 CFR, 1969 Comp.)

PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

(3) Effective April 1, 1971, Part 771 is amended in its entirety as set out below.

Subpart A—General Provisions

Subpart B—Administrative Appeals

AUTHORITY: The provisions of this Part 771 issued under 5 U.S.C. 1302, 3301, 3302, E.O. 10577; 3 CFR, 1954–1958 Comp., p. 218, E.O. 10987; 3 CFR, 1959–1963 Comp., p. 519.

Subpart A—General Provisions

§ 771.101 Purpose.

This part sets forth the regulations under which each agency shall establish an agency appeals system and an agency grievance system.

§ 771.102 Definitions.

In this part:

(a) "Appeal" means a request by an employee for reconsideration of a decision to take adverse action against him.

(b) "Appellate decision" means a decision made by an appellate level which completes action on an appeal at that level by sustaining the original decision, reversing the original decision, or modifying the original decision by substituting a less severe action.

(c) "Appellate level" means an agency administrative level with authority to act on an appeal which specifically includes the authority to sustain the original decision, reverse the original decision, and modify the original decision by substituting a less severe action.

(d) "Days" means calendar days.

(e) "Employee" includes a former employee of an agency.

(f) "Examiner" means a person utilized by an agency to hold a hearing on an appeal or to conduct an inquiry on a grievance.

(g) "Grievance" means a request by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

(h) "Original decision" means a decision by an agency to take adverse action against an employee.

§ 771.103 Agency coverage.

(a) *Agencies covered.* Except as provided in paragraph (b) of this section, this part applies to the executive agencies and military departments as defined by sections 105 and 102 of title 5, United States Code, and to those portions of the legislative and judicial branches and of the government of the District of Columbia having positions in the competitive service.

(b) *Agencies not covered.* This part does not apply to the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the Atomic Energy Commission, and the Tennessee Valley Authority.

§ 771.104 Establishment and publication.

(a) Each agency shall establish and administer an agency appeals system and an agency grievance system in accordance with this part.

(b) In the development of its appeals system and its grievance system, each agency shall give its employees an opportunity to express their views and shall consult or negotiate with recognized labor organizations as required under the form of recognition held.

(c) Each agency shall publish the provisions of its appeals system and its grievance system; make copies available to employees, their representatives, veterans organizations, and recognized labor organizations; and notify employees where copies are available for review.

§ 771.105 Presentation of appeal or grievance.

(a) An employee, in presenting an appeal under an agency appeals system, a grievance under an agency grievance system, or a grievance under a negotiated grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal;

(2) Have the right to be accompanied, represented, and advised by a representative of his own choosing; and

(3) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

(b) When an employee designates another employee of the agency as his representative, the representative, in presenting an appeal under an agency appeals system, a grievance under an agency grievance system, or a grievance under a negotiated grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal; and

(2) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

§ 771.106 Allegations of unfair labor practices.

An allegation of an unfair labor practice made in connection with an appeal or grievance under this part shall be incorporated in the appeal or grievance and processed under this part when the allegation constitutes a complaint that agency management has:

(a) Interfered with, restrained, or coerced an employee in the exercise of the rights assured by Executive Order 11491;

(b) Encourage or discouraged membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment; or

(c) Disciplined or otherwise discriminated against an employee because he filed a complaint or gave testimony under Executive Order 11491.

Subpart B—Administrative Appeals

COVERAGE

§ 771.201 Employee coverage.

(a) *Employees covered.* Except as provided in paragraphs (b) and (c) of this section, this subpart applies to:

(1) (i) Any career, career-conditional, overseas limited, indefinite, or term employee, or any employee serving under a career executive assignment, in a competitive position who is not serving a probationary or trial period, and (ii) any employee serving in a competitive position who has completed 1 year of current continuous employment except one serving under a temporary appointment with a definite time limitation or a limited executive assignment; and

(2) An employee having a competitive status who occupies a position in Schedule B of Part 213 of this chapter under a nontemporary appointment.

(b) *Employees not covered.* This subpart does not apply to:

(1) A reemployed annuitant;

(2) An employee occupying a competitive position under a temporary appointment with a definite time limitation;

(3) An employee whose appointment is required by Congress to be confirmed by, or made with, the advice and consent of the U.S. Senate, except a postmaster;

(4) An employee currently serving a probationary or trial period;

(5) An employee in the excepted service, except an employee with competitive status occupying a position in Schedule B of Part 213 of this chapter;

(6) An employee serving under a term appointment on expiration of his term appointment; or

(7) An employee who has not completed 1 year of current continuous employment and is serving under a special tenure appointment, a TAPER appointment, a temporary appointment of indefinite duration in the postal field service or as a status quo employee.

(c) *Special exclusion.* This subpart does not apply to an employee otherwise included under paragraph (a) of this section when he is a member of a class of employees excluded from coverage by the Commission on the recommendations of the head of the agency concerned because the nature of the employee's work is such that inclusion under the agency appeals system is inappropriate.

§ 771.202 Adverse action coverage.

(a) *Actions covered.* Except as provided in paragraph (b) of this section, this subpart applies to:

(1) Removal;

(2) Suspension for more than 30 days;

(3) Furlough without pay; and

(4) Reduction in rank or pay including that taken at the election of the agency after a position classification decision by the Commission.

(b) *Actions not covered.* This subpart does not apply to:

(1) A decision of the Commission;

(2) An action taken by an agency pursuant to specific instructions from the Commission;

(3) A reduction-in-force action taken under Part 351 of this chapter;

(4) An action taken under section 7532 of title 5, United States Code, or any other statute which authorizes an agency to take suspension or separation action without regard to section 7501 of that title or any other statute; or

(5) An action terminating a temporary promotion within a maximum period of 2 years and returning the employee to the position from which he was temporarily promoted or reassigning or demoting him to a different position that is not at a lower grade or level than the position from which he was temporarily promoted.

General Requirements

§ 771.203 Appellate levels.

An agency appeals system shall have one appellate level. However, with the approval of the Commission, an agency may have more than one appellate level when this is required by its delegations of authority or organization. In seeking the approval of the Commission, the agency shall submit a justification of its proposal and shall state the procedures it will follow in effecting the proposal. An agency may change the number or organizational location of approved appellate levels only with the concurrence of the Commission.

§ 771.204 Employee appeal file.

When an employee files an appeal under an agency appeals system the agency shall establish an employee appeal file separate from the Official Personnel Folder. The agency shall file in the employee appeal file all documents pertinent to the appeal, such as copies of the notice of proposed adverse action, the material relied on by the agency to support the reasons in that notice; the employee's reply, if any; the notice of original decision; the employee's appeal; any pertinent evidence developed after issuance of the notice of proposed adverse action; the reasons for not granting a hearing when one was requested but not granted; the reasons for not producing witnesses at the hearing; the transcript of the hearing when a hearing was held; the report of the examiner; and the notice of appellate decision or the notice of termination of the appeal.

The Appeal

§ 771.205 Right to appeal.

An employee is entitled to appeal under the agency appeals system from the original decision. The agency shall accept and process a properly filed appeal in accordance with its appeals system.

§ 771.206 Official time to prepare appeal.

An employee is entitled to a reasonable amount of official time to prepare his appeal if he is otherwise in an active duty status. If the employee's representative is an employee of the agency, he is also entitled to a reasonable amount of official time to prepare the appeal if he is otherwise in an active duty status.

§ 771.207 Contents of appeal.

An appeal shall be in writing; shall set forth clearly the basis for the appeal; and shall include the employee's request, if any, for a hearing when he is entitled to one.

The Hearing

§ 771.208 Right to a hearing.

(a) *Entitlement.* Except as provided in paragraph (b) of this section, an employee is entitled to a hearing on his appeal before an examiner. The employee is entitled to appear at the hearing personally or through or accompanied by his representative. The hearing may precede either the original decision or the appellate decision, at the agency's option. Only one hearing shall be held unless the agency determines that unusual circumstances require a second hearing.

(b) *Denial of hearing.* The agency may deny an employee a hearing on his appeal only (1) when a hearing is impracticable by reason of unusual location or other extraordinary circumstance, or (2) when the employee failed to request a hearing offered before the original decision.

(c) *Notice.* The agency shall notify an employee in writing before the original decision or before the appellate decision of (1) his right to a hearing, or (2) the reasons for the denial of a hearing.

§ 771.209 Examiner.

(a) An examiner who meets the standards of experience and training prescribed by the Commission shall hold the hearing.

(b) The agency shall provide a method for selecting an examiner who (1) is fair, impartial, and objective, and (2) does not occupy a position which is, directly or indirectly, under the jurisdiction of the official who proposed the adverse action, will make the appellate decision, or will make the original decision when the hearing precedes the original decision, except when such an official is the head of the agency.

(c) The agency shall establish reasonable time standards for the selection of the examiner, for the conduct of the hearing, for completion of the report of the examiner, and for decision on the appeal.

(d) If an agency desires to use an examiner from another agency, the agency shall request the appropriate office of the Commission to make arrangements. When these arrangements are made, the examiner is on a reimbursable detail to the requesting agency.

(e) The agency shall submit to the Commission for prior approval a written description of the selection method and time standards required by paragraphs (b) and (c) of this section. The agency may change the approved selection method or time standards only with the concurrence of the Commission.

§ 771.210 Conduct of hearing.

(a) The hearing is not open to the public or the press. Except as provided in paragraph (h) of this section, attendance at a hearing is limited to persons determined by the examiner to have a direct connection with the appeal.

(b) The hearing is conducted so as to bring out pertinent facts, including the production of pertinent records.

(c) Rules of evidence are not applied strictly, but the examiner shall exclude irrelevant or unduly repetitious testimony.

(d) Decisions on the admissibility of evidence or testimony are made by the examiner.

(e) Testimony is under oath or affirmation.

(f) The examiner shall give the parties opportunity to cross-examine witnesses who appear and testify.

(g) The examiner may exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing.

(h) An agency may provide through a negotiated agreement with a labor organization holding exclusive recognition for the attendance at hearings under this subpart of an observer from that organization. When attendance is provided for, the agreement shall further provide that when the employee who requested the hearing objects to the attendance of an observer on grounds of privacy, the examiner shall determine the validity of the objection and make the decision on the question of attendance.

§ 771.211 Witnesses.

(a) Both parties are entitled to produce witnesses.

(b) The agency shall make its employees available as witnesses before an examiner when requested by the examiner after consideration of a request by the employee or the agency.

(c) If the agency determines that it is not administratively practicable to

comply with the request of the examiner, it shall notify him in writing of the reasons for that determination. If, in the examiner's judgment, compliance with his request is essential to a full and fair hearing, he may postpone the hearing until such time as the agency complies with his request.

(d) Employees of the agency are in a duty status during the time they are made available as witnesses.

(e) The agency shall assure witnesses freedom from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony.

§ 771.212 Record of hearing.

(a) The hearing shall be recorded and transcribed verbatim. All documents submitted to and accepted by the examiner at the hearing shall be made a part of of the record of the hearing. If the agency submits a document that is accepted, it shall furnish a copy of the document to the employee. If the employee submits a document that is accepted, he shall make the document available to the agency representative for reproduction.

(b) The employee is entitled to be furnished a copy of the hearing record at or before the time he is furnished a copy of the report of the examiner.

§ 771.213 Report of examiner.

(a) The examiner shall make a written report of his findings and recommendations. That report shall specify which of the reasons reviewed are found to be sustained and which are found to be not sustained, together with the conclusions drawn from those findings. When the hearing is held before the original decision, the report is made to the agency official who is to make the original decision. When the hearing is held after the original decision, the report is made to the agency official who is to make the appellate decision.

(b) The agency shall furnish the employee a copy of the examiner's report and a copy of the hearing record if this has not been furnished previously. The agency shall also furnish the employee's representative a copy of the examiner's report.

PROCESSING THE APPEAL

§ 771.214 Avoidance of delay.

The agency shall give each appeal full, impartial, and expeditious consideration and shall prescribe regulations designed to prevent unreasonable delay by the employee in pursuing his appeal and directing the appropriate officials of the agency to process appeals with dispatch.

§ 771.215 Termination of appeal.

(a) The agency shall terminate an employee's appeal:

(1) At the employee's request;

(2) If the employee files an appeal to the Commission from the same original decision and the Commission accepts the appeal for adjudication; or

(3) For failure to prosecute if the employee does not furnish required information and duly proceed with the advancement of his appeal. However, instead of terminating for failure to prosecute, the agency may adjudicate the appeal if sufficient information for that purpose is available. The agency may reopen a closed appeal under this paragraph only on a showing by the employee that circumstances beyond his control prevented him from prosecuting his appeal.

(b) The agency shall notify the employee and his representative promptly in writing of the termination of the appeal. If the appeal is terminated for failure to prosecute, the notice shall also inform the employee of his right to appeal to the Commission as provided in § 771.221.

§ 771.216 Allegations of discrimination.

(a) Except as provided in paragraph (d) of this section, when an employee alleges in writing that the original decision was based in whole or in part on discrimination because of race, color, religion, sex, or national origin, that allegation shall be referred to the Equal Employment Opportunity Officer for investigation in accordance with § 213.216 of this chapter. The investigative file shall be included in the employee appeal file established under § 771.204 and the allegation of discrimination shall be incorporated in and become a part of the appeal under this subpart.

(b) A decision on the appeal under this subpart may be made only after completion of investigation of the allegation of discrimination, except when the decision on the appeal under this subpart is to reverse the appealed action.

(c) The decision on the allegation of discrimination shall be incorporated in and become a part of the decision on the appeal under this subpart, except when the decision has previously been issued as provided in paragraph (b) of this section.

(d) When an allegation of discrimination is presented for the first time in a hearing under this subpart, and the employee shows good reason for not having presented the allegation when the appeal was filed, the examiner shall suspend the hearing and refer the allegation for investigation and processing as provided in paragraphs (a) through (c) of this section.

§ 771.217 Death of employee.

When an appeal is filed properly before the death of the employee, the agency shall process it to completion and adjudicate it. The agency official authorized to decide the appeal may provide for amendment of the agency's records to show retroactive restoration and the employee's continuance on the rolls in an active duty status to the date of death.

APPELLATE REVIEW AND DECISION

§ 771.218 Appellate review.

(a) *Authorized official.* The agency official authorized to decide the appeal shall be at a higher administrative level than the agency official who made the original decision, except that when the head of the agency made the original decision, he shall decide the appeal. The authorized official shall be at an organizational level no lower than the head of a field installation or the head of a primary subdivision of the headquarters organization.

(b) *Scope.* The scope of the appellate review shall include, but shall not be limited to, (1) a review of the issues of fact, and (2) a review of compliance with agency and Commission procedural requirements for effecting the adverse action.

§ 771.219 Appellate decision.

(a) When a hearing was not held before the appellate decision, the authorized official shall consider the appeal file and make an appellate decision on the basis thereof.

(b) When a hearing was held before the appellate decision, the authorized official shall accept the examiner's recommendations and issue the appellate decision, except that:

(1) If the head of the agency is to decide the appeal, he shall consider the appeal file and make the appellate decision on the basis thereof.

(2) If the authorized official desires to take a less severe action than that recommended by the examiner, he shall make the appellate decision accordingly, without regard to the examiner's recommendations.

(3) If the authorized official determines that the examiner's recommendations are unacceptable, he shall transmit the appeal file with a specific statement of the basis for that determination to a higher level of authority, designated by the agency, for decision.

(c) When a hearing precedes the original decision, the agency official who is to make that decision shall consider the examiner's recommendations and, after that consideration, make the original decision.

§ 771.220 Notice of appellate decision.

(a) The agency shall notify the employee and his representative promptly in writing of the appellate decision.

(b) A notice of appellate decision shall (1) contain the findings of the authorized official on each reason on which the original decision was based, stating which are sustained and which are not sustained, together with the conclusions drawn from those findings, and (2) inform the employee of his right of further appeal and the time limit therefor as provided in § 771.222.

RIGHT OF FURTHER APPEAL

§ 771.221 Further appeal after termination.

An employee whose appeal is terminated for failure to prosecute under § 771.215(a)(3) is entitled to appeal to the Commission on receipt of the notice of termination but not later than 15 days after receipt of that notice.

§ 771.222 Further appeal after agency appellate decision.

(a) If the agency has only one appellate level, the employee is entitled to appeal to the Commission on receipt of the agency appellate decision.

(b) If the agency has more than one appellate level, the employee is entitled to appeal either to the agency second level or to the Commission on receipt of the agency first-level appellate decision. If the employee appeals to the agency second level, he forfeits his right of appeal to the Commission. If the employee appeals to the Commission, he forfeits his right of appeal to the agency second level.

(c) A further appeal under this section shall be filed not later than 15 days after receipt of the agency appellate decision. The Commission or the agency, as appropriate, may extend the time limit on an appeal to it when the appellant shows that he was not notified of the time limit and was not otherwise aware of it, or that he was prevented by circumstances beyond his control from appealing within the time limit.

ADVISORY ARBITRATION

§ 771.223 Provision for advisory arbitration.

Subject to § 771.224, each agency may include provision for advisory arbitration, when appropriate, in its appeals system.

§ 771.224 Arbitration requirements.

(a) An agency may provide for advisory arbitration in its appeals system only through a negotiated agreement between the agency and a labor organization to which exclusive recognition has been granted.

(b) An employee may use advisory arbitration only if:

(1) He is employed in a unit represented by a labor organization which has negotiated an agreement for advisory arbitration with the employing agency;

(2) He specifically requests it; and

(3) The labor organization concurs in the use of advisory arbitration and agrees to pay one-half the cost of arbitration.

(c) Advisory arbitration may not relate to the content of agency policy, but is restricted to the propriety of an adverse action in a particular case.

(d) When advisory arbitration is provided for in a one-level appeals system or in the first level of a two-level system, (1) advisory arbitration serves as an alternate to the examiner; (2) the employee cannot use both advisory arbitration and the examiner, but must choose one or the other; and (3) if the employee uses advisory arbitration, he is entitled to a hearing before the arbitrator.

(e) When advisory arbitration is provided for in the second level of a two-level appeals system, (1) the employee is entitled to use both the examiner in the first level and advisory arbitration in the second level; and (2) the employee is not entitled to a hearing before the arbitrator as a matter of right, but the arbitrator may, in his discretion, hold a hearing of such scope as he considers necessary within the provisions of paragraph (f) of this section.

(f) When an arbitrator holds a hearing, he shall conduct and record it, and make a report of findings and recommendations, under the principles set forth in §§ 771.210, 771.212, and 771.213.

(g) Both parties at a hearing held by an arbitrator are entitled to produce witnesses.

(h) An agency shall make its employees available as witnesses at a hearing held in advisory arbitration under the principles set forth in § 771.211.

(i) An agency shall furnish copies of the hearing record and the arbitrator's report under the principles set forth in § 771.213.

(j) The award of an arbitrator shall be either accepted, considered, or referred to higher authority under the principles set forth in § 771.219.

COMMISSION ACTION

§ 771.225 Employee requests for review.

The Commission does not act on a request by an employee for a review of the agency's action under the agency appeals system unless the employee otherwise has a right to appeal to the Commission from the same adverse action and the Commission has accepted the appeal for adjudication.

§ 771.226 Review of agency appeals systems.

From time to time the Commission reviews agency appeals systems. When it finds that an agency's system or operations do not conform with the requirements of this subpart, the Commission requires corrective action to bring the agency's system or operations into conformity.

Subpart C—Employee Grievances

COVERAGE

§ 771.301 Employee coverage.

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this subpart applies to all employees of an agency.

(b) *Employees not covered.* This subpart does not apply to:

(1) A noncitizen appointed under Civil Service Rule VIII, section 8.3 of this chapter;

(2) An alien appointed under section 1471(5) of title 22, United States Code;

(3) A nonappropriated-fund employee as defined in section 2105(c) of title 5 or section 4202(5) of title 38, United States Code;

(4) A physician, dentist, or nurse appointed under chapter 73 of title 38, United States Code;

(5) A Foreign Service officer, Foreign Service Reserve officer, and staff officers and employees appointed under chapter 14 of title 22, United States Code;

(6) An employee covered under an agreement negotiated under section 11 of Executive Order 11491 when the negotiated agreement specifies that the procedures therein for the consideration of employee grievances are the only grievance procedures available to employees in the unit; and

(7) An employee otherwise included under paragraph (a) of this section when he is a member of a class of employees excluded from coverage by the Commission on the recommendation of the head of the agency concerned.

§ 771.302 Grievance coverage.

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to any matter of concern or dissatisfaction to an employee which is subject to the control of agency management.

(b) This subpart does not apply to:

(1) A matter which is subject to final administrative review outside the agency under law or the regulations of the Commission;

(2) The content of published agency policy;

(3) Nonselection for promotion from a group of properly ranked and certified candidates;

(4) A grievance that has been processed under a grievance procedure negotiated in an agreement under section 11 of Executive Order 11491.

(5) An action terminating a temporary promotion within a maximum period of 2 years and returning the employee to the position from which he was temporarily promoted or reassigning or demoting him to a different position that is not at a lower grade or level than the position from which he was temporarily promoted;

(6) Nonadoption of a suggestion or disapproval of a quality salary increase, performance award, or other kind of honorary or discretionary award; or

(7) A preliminary warning or notice of an action which, if effected, would be covered under the grievance system or excluded from coverage under (1) of this paragraph.

(c) This subpart does not apply to a separation action. However, an agency may extend the coverage of its grievance system to any aspect of a separation action that is not subject to final administrative review outside the agency under law or the regulations of the Commission.

THE GRIEVANCE

§ 771.303 Right to present grievance.

(a) An employee is entitled to present a grievance under the agency grievance system. The agency shall accept and process a properly presented grievance in accordance with its grievance system.

(b) An employee, in presenting his grievance, is entitled to communicate with and seek advice from:

(1) His servicing personnel office;

(2) The Director of Equal Employment Opportunity of the agency or an Equal Employment Opportunity Officer or Counselor designated under Part 713 of this chapter;

(3) The counselor of the agency, or his deputy, designated under Part 735 of this chapter; and

(4) A supervisory or management official of higher rank than the employee's immediate supervisor.

§ 771.304 Avoidance of delay.

(a) An agency shall give each grievance full, impartial, and prompt consideration and shall require that the decision on a grievance be issued within 90

days after initiation of the informal procedure established under § 771.306.

(b) To insure orderly processing, an agency shall establish time limits for:

(1) Completion of action under the informal procedure;

(2) Filing a grievance under the formal procedure after completion of action under the informal procedure;

(3) Adjustment or referral of the grievance under § 771.310(b);

(4) Completion of the examiner's inquiry; and

(5) Issuance of the decision after completion of the examiner's inquiry.

§ 771.305 Cancellation of grievance.

An agency shall cancel a grievance:

(a) At the employee's request;

(b) Upon termination of the employee's employment with the agency unless the personal relief sought by the employee may be granted after termination of his employment;

(c) Upon the death of the employee unless the grievance involves a question of pay; or

(d) For failure to prosecute if the employee does not furnish required information and duly proceed with the advancement of his grievance.

INFORMAL GREVANCE PROCEDURE

§ 771.306 Establishment of informal procedure.

Each agency shall establish a procedure appropriate to its organization and delegations of authority for the informal adjustment of grievances.

§ 771.307 Presenting grievance under informal procedure.

(a) *Time limit.* (1) An employee may present a grievance concerning a continuing practice or condition at any time.

(2) An employee shall present a grievance concerning a particular act or occurrence within 15 days of the date of that act or occurrence or the date he became aware of that act or occurrence. The agency may extend the time limit in this subparagraph for good cause shown by the employee.

(b) *Form of grievance.* An employee may present a grievance under the informal procedure either orally or in writing.

§ 771.308 Mandatory use of informal procedure.

Each agency shall require that an employee complete action under the informal procedure before a grievance concerning the same matter will be accepted from him for processing under the formal procedure.

FORMAL GRIEVANCE PROCEDURE

§ 771.309 Presenting grievance under formal procedure.

(a) An employee is entitled to present a grievance under the formal procedure if he (1) has completed action under the informal procedure and (2) presents the grievance within the time limit established by the agency under § 771.304(b)(2).

(b) The grievance shall (1) be in writing, (2) contain sufficient detail to identify and clarify the basis for the grievance, and (3) specify the personal relief requested by the employee.

§ 771.310 Processing grievance under formal procedure.

(a) The grievance shall be referred to a deciding official at a level of management designated by the agency. The deciding official shall be at a higher administrative level than any official who could have adjusted the grievance under the informal procedure.

(b) The deciding official shall attempt to resolve the grievance. If he cannot resolve the grievance in a manner acceptable to the employee, he shall refer the grievance for inquiry by an examiner.

(c) An examiner who meets the standards of experience and training prescribed by the Commission shall conduct an inquiry on a grievance referred under paragraph (b) of this section. The agency shall provide a method for selecting an examiner who (1) is fair, impartial, and objective, and (2) does not occupy a position which is, directly or indirectly, under the jurisdiction of an official involved in the grievance or the deciding official, except when such an official is the head of the agency. If an agency desires to use an examiner from another agency, the agency shall make the arrangements. When these arrangements are made, the examiner is on a reimbursable detail to the requesting agency.

(d) The examiner shall conduct an inquiry of a nature and scope appropriate to the issues involved in the grievance. At the examiner's discretion, the inquiry may consist of:

(1) The securing of documentary evidence;

(2) Personal interviews;

(3) A group meeting;

(4) A hearing; or

(5) Any combination of subparagraphs (1) through (4) of this paragraph.

(e) If a group meeting or hearing is held, a labor organization which holds exclusive recognition for the unit where the employee is located shall be given an opportunity to be represented.

(f) If a hearing is held, the conduct of the hearing and the production of witnesses shall conform with the requirements of §§ 771.210 and 771.211, except as provided in paragraph (e) of this section. The examiner, in his discretion, shall determine how the hearing shall be reported and shall have a verbatim transcript or written summary of the hearing prepared, including all pertinent documents submitted to and accepted by him. When the hearing is reported verbatim, the examiner shall make the transcript a part of the record of the proceedings. When the hearing is not reported verbatim, a suitable summary of pertinent portions of the testimony shall be made. When agreed to in writing by the parties, the summary constitutes the report of the hearing and is made a part of the record of the proceedings. If the examiner and the parties fail to agree on the summary, the parties are entitled to submit written exceptions to any part of the summary, and those written exceptions and the summary constitute the report of the hearing and are made a part of the record of the proceedings.

(g) The examiner shall establish a grievance file containing all documents related to the grievance, including statements of witnesses, records or copies thereof, and the report of the hearing when a hearing was held. On completion of his inquiry, the examiner shall make the grievance file available to the employee and his representative for review and comment. Their comments, if any, shall be included in the file.

(h) After the employee and his representative have been given an opportunity to review the grievance file, the examiner shall prepare a report of his findings and recommendations and submit that report, with the grievance file, to the deciding official. The examiner shall also furnish the employee and his representative a copy of the report.

(i) The deciding official shall accept the examiner's recommendations and issue the decision on the grievance, except that:

(1) If the head of the agency is the deciding official, he shall consider the grievance file and make the decision on the basis thereof.

(2) If the deciding official decides to grant the relief sought by the employee, he shall issue the decision accordingly without regard to the examiner's recommendations.

(3) If the deciding official determines that the examiner's recommendations are unacceptable, he shall transmit the grievance file with a specific statement of the basis for that determination to a higher level of authority, designated by the agency, for decision. The deciding official shall also furnish the employee and his representative a copy of that statement.

(j) The decision on the grievance shall be in writing and shall contain findings on all issues covered by the examiner's inquiry.

NEGOTIATED GRIEVANCE SYSTEMS

§ 771.311 Requirements for negotiated grievance systems.

(a) Except as provided in paragraphs (b) through (e) of this section, this subpart does not apply to a grievance system established through a negotiated agreement between an agency and a labor organization to which exclusive recognition has been granted.

(b) A negotiated system shall provide a procedure for the informal adjustment of grievances and shall require that an employee complete action under that procedure before further action will be taken on his grievance.

(c) A negotiated system shall not provide for coverage under the system of any matter in § 771.302(b) (1) through (3).

(d) A negotiated system shall provide that a grievance which has been processed and decided under the agency grievance system shall not be accepted for processing under the negotiated grievance system.

(e) If a negotiated system contains provisions for the arbitration of grievances, the system shall provide that:

(1) Arbitration of an employee grievance which involves a negotiated agreement or an agency policy may extend only to the interpretation or application of the agreement or policy and not to changes or proposed changes in the agreement or policy.

(2) Arbitration of an employee grievance shall be used only with the approval of the labor organization that has exclusive recognition and the individual employee or employees concerned.

(3) The costs of the arbitrator shall be shared equally by the agency and the labor organization that has exclusive recognition.

(4) Either party may file exceptions to an arbitrator's award with the Federal Labor Relations Council under regulations prescribed by the Council.

COMMISSION ACTION

§ 771.312 Employee request for review.

The Commission does not act on a request by an employee for a review of an agency's action under an agency grievance system or a negotiated grievance system.

§ 771.313 Review of grievance systems.

The Commission reviews agency grievance systems and negotiated grievance systems through its inspection activity. When it finds that such a system or operations thereunder do not conform with the requirements of this part, the Commission requires corrective action to bring the system or operations into conformity.

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

[F.R. Doc. 70-12724; Filed, Sept. 24, 1970; 8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-267]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the introductory portion of paragraph (e) is amended by adding the name of the State of Arkansas and a new paragraph (e)(15) relating to the State of Arkansas is added to read:

(15) *Arkansas.* That portion of Craighead County bounded by a line beginning at the junction of State Highways 39 and 226; thence, following State Highway 226 in a northeasterly direction to State Highway 349; thence, following State Highway 349 in a generally northerly direction to State Highway 91; thence, following State Highway 91 in a northerly and thence easterly direction to U.S. Highway 63; thence, following U.S. Highway 63 in a northwesterly direction to the division line between Township 14 North and Township 15 North; thence, following the division line between Township 14 North and Township 15 North in an easterly direction to State Highway 141; thence, following State Highway 141 in a southerly direction to State Highway 1; thence, following State Highway 1 in a southerly direction to State Highway 39; thence following State Highway 39 in a generally southwesterly direction to its junction with State Highway 226.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines a portion of Craighead County, Ark., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish its purpose in the public interest. 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 contrary to the public interest, 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 21st day of September 1970.

GEORGE W. IRVING, Jr.,
Administrator, Agricultural Research Service.

[F.R. Doc. 70-12801; Filed, Sept. 24, 1970; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-CE-60]

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

Designation, Alteration and Revocation of Control Zone

In F.R. Doc. 70-10495, on page 12752 in the issue of Wednesday, August 12, 1970, the latitude coordinate "40°02'30" N." in the second line of the description for the Rapid City, S. Dak. (Regional Airport) control zone designation should be corrected to read "latitude 44°02'30" N.".

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-12791; Filed, Sept. 24, 1970; 8:47 a.m.]

[Airspace Docket No. 70-SO-62]

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

Designation of Transition Area

On August 14, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 12954), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Barnwell, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 10, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

BARNWELL, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Barnwell County Airport (lat. 33°15'26" N., long. 81°23'06" W.); within 3 miles each side of the 009° bearing from Barnwell RBN (lat. 33°15'31" N., long. 81°22'43" W.), extending from the 6.5-mile radius area to 8.5 miles north of the RBN; excluding the portion within R-6004.

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

Issued in East Point, Ga., on September 16, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-12792; Filed, Sept. 24, 1970; 8:47 a.m.]

[Airspace Docket No. 70-CE-35]

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

Alteration of Control Zone and Transition Area

On Page 10366 of the FEDERAL REGISTER dated June 25, 1970, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Joplin, Mo.

Interested persons were given 45 days to submit written comments, suggestions and objections concerning the proposed amendment. Two comments were received. The Air Transport Association concurred with the proposed amendment. However, the city of Pittsburg, Kans., pursuant to a resolution passed and approved on June 23, 1970, objected to the proposal for the following reasons: (1) That the alteration of present air trafficway will cause irreparable loss and damage to the city of Pittsburg, its airport, its inhabitants, and the present and future industries in the city or its environs; (2) that the prevention of future expansion, extension or improvement of its present airport facilities will hinder and limit the growth possibilities of the city of Pittsburg; and (3) that the city of Pittsburg must in the future provide the necessary traffic facilities for its inhabitants, the city, county and industries (present and future) located in and near Pittsburg.

The Federal Aviation Administration has reviewed the city's objection in light of the proposal. The instrument approach procedures at Joplin, Mo., have been in effect for several years and while somewhat restrictive upon air traffic operations at Pittsburg, these procedures have not caused any serious adverse effect on those operations. The slight alteration of these instrument approach procedures and the alteration of designated controlled airspace for their protection as now proposed is required because of a change in Federal Aviation Administration criteria for the development and protection of instrument approach procedures. It is the agency's position that this slight modification will not create any additional adverse effect on the situation at Pittsburg. Accordingly, the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall become effective 0901 G.m.t., December 10, 1970.

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

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

1. In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

JOPLIN, MO.

Within a 5-mile radius of the Joplin Municipal Airport (latitude 37°09'05" N., longitude 94°29'55" W.).

2. In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

JOPLIN, MO.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Joplin Municipal Airport (latitude 37°09'05" N., longitude 94°29'55" W.); and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the 138° and 318° bearings from the Joplin Municipal Airport, extending from 23 miles north northwest to 25½ miles southeast of the airport.

[F.R. Doc. 70-12793; Filed, Sept. 24, 1970; 8:47 a.m.]

[Airspace Docket No. 69-CE-93]

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

Alteration of Control Zone and Transition Area

On October 14, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 15805) stating that the Federal Aviation Administration proposed to alter the Ironwood, Mich., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. No objections were received to this proposal.

Subsequent to the issuance of this proposal it has been determined to cancel the special instrument approach procedure for Gogebic County Airport, Ironwood, Mich., with the result that the controlled airspace proposed for its protection is no longer required. In addition, it is necessary to make a minor change in the airport coordinates for Gogebic County Airport. Accordingly, action is taken herein to affect these changes.

Since these changes are minor in nature and do not increase the amount of controlled airspace, they impose no additional burden on any person and as a consequence notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 10, 1970, as hereinafter set forth:

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

IRONWOOD, MICH.

Within a 5-mile radius of Gogebic County Airport (latitude 46°31'25"N., longitude 90° 07'50" W.); within 3 miles each side of the Ironwood VORTAC 108° radial, extending from the 5-mile radius zone to 12½ miles east of the VORTAC; and within 3½ miles each side of the Ironwood VORTAC 254° radial, extending from the 5-mile radius zone to 10½ miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

IRONWOOD, MICH.

That airspace extending upward from 700 feet above the surface within a 9½-mile radius of Gogebic County Airport (latitude 46°31'25" N., longitude 90°07'50" W.); within 9½ miles north and 4½ miles south of the Ironwood VORTAC 254° radial, extending from the 9½-mile radius area to 18½ miles west of the VORTAC; and within 3 miles each side of the Ironwood VORTAC 108° radial, extending from the 9½-mile radius area to 12½ miles east of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 17-mile radius of Ironwood VORTAC; and within 4½ miles south and 9½ miles north of the Ironwood VORTAC 108° radial, extending from the 17-mile radius area to 23½ miles east of the VORTAC.

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

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-12794; Filed, Sept. 24, 1970; 8:47 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

DODECYLGUANIDINE ACETATE AND HYDROCHLORIDE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0H2436) filed by the American Cyanamid Co., Wayne, N.J. 07470, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of n-dodecylguanidine acetate and dodecylguanidine hydrochloride as antimicrobial agents in paper and paperboard for use in contact with aqueous and fatty foods. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1); 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526(a)(5) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2526 **Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * *	* * *
N-Dodecylguanidine acetate	For use only as an antimicrobial agent in paper and paperboard intended for use in contact only with nonalcoholic food having a pH above 5, and provided it is used at a level not to exceed 0.4 percent by weight of the paper and paperboard.
Dodecylguanidine hydrochloride	For use only as an antimicrobial agent in paper and paperboard intended for use in contact only with nonalcoholic food having a pH above 5, and provided it is used at a level not to exceed 0.4 percent by weight of the paper and paperboard.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER.

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

Dated: September 11, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12771; Filed, Sept. 24, 1970; 8:45 a.m.]

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Gentamicin Sulfate Injection Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (38-292V) filed by Schering Corp. proposing the safe and effective use of gentamicin sulfate injection in dogs. The application is approved.

Therefore, pursuant to provisions of 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 Comissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.19 Gentamicin sulfate injection veterinary.

(a) *Specifications.* Conforms to the standards of identity, strength, quality, and purity prescribed by § 148q.4 of this chapter, except that each milliliter of the drug contains gentamicin sulfate equivalent to 50 milligrams of gentamicin base.

(b) *Sponsor.* Schering Corp., Bloomfield, N.J. 07003.

(c) *Conditions of use.* (1) It is used in dogs for the treatment of bacterial infections of the urinary bladder (cystitis) due to gentamicin-sensitive organisms.

(2) It is administered intramuscularly or subcutaneously at a rate of 2 milligrams per pound of body weight twice on the first day of treatment and once daily thereafter. Treatment should not exceed 7 to 10 days or be repeated unless required by serious infections not responsive to other agents.

(3) Restricted to use by or on the order of a licensed veterinarian.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 306b(i))

Dated: September 16, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12773; Filed, Sept. 24, 1970; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-201]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES

Services of Customs Employees

Public Law 91-258, approved May 21, 1970, provides that $25 is the maximum amount payable by the owner, operator, or agent of any private aircraft or private vessel for overtime services performed on or after July 1, 1970, by Customs personnel on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States. In view of this limitation and in order to facilitate the examination and clearance of private aircraft and private vessels, it has been determined that the bond given on Customs Form 7597 to secure reimbursement for overtime services furnished in connection with such aircraft and vessels should be accepted without surety or cash deposit in lieu of surety.

To give effect to this determination, § 24.16(c)(1) of the Customs Regulations is amended by the addition of the following sentence at the end thereof: "A bond given on Customs Form 7597 to secure the payment of overtime services rendered private aircraft and private vessels shall be taken without surety or cash deposit in lieu of surety, and the bond shall be modified to so indicate."

(Sec. 5, 36 Stat. 901, as amended, sec. 452, 46 Stat. 715, secs. 623, 624, 46 Stat. 759, as amended, 19 U.S.C. 267, 1452, 1623, 1624)

The purpose of this amendment is to simplify Customs procedures in connection with the arrival and departure of certain private aircraft and vessels. It is, therefore, found that notice of proposed rulemaking and public procedure under 5 U.S.C. 553 is unnecessary and, since the amendment will relieve restrictions, it shall be effective upon publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 14, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-12822; Filed, Sept. 24, 1970; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

St. Lawrence River, N.Y.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.611 governing the use, administration and navigation of the St. Lawrence River, N.Y., is hereby amended changing the caption, revising paragraphs (a) and (b), adding a new paragraph (c), redesignating paragraphs (c) and (d) as (d) and (e), respectively, and revising redesignated paragraph (d), effective upon publication in the FEDERAL REGISTER, as follows:

§ 207.611 St. Lawrence River from Tibbetts Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration and navigation in U.S. waters.

(a) *General*—(1) *Supervision.* The waters of the St. Lawrence River on the U.S. side of the international boundary are under the general supervision of the District Engineer, U.S. Army Engineer District, Buffalo, N.Y.

(2) *Local representatives.* The Commander, Ninth Coast Guard District, and the Administrator, Saint Lawrence Seaway Development Corporation, are the duly authorized representative of the

District Engineer. The Commander, Ninth Coast Guard District, will enforce the regulations in this section and will have authority to take such steps as may be considered immediately necessary. The Administrator, Saint Lawrence Seaway Development Corporation, is authorized to direct movement and anchorage to promote the efficient use of the Seaway facilities.

NOTE: Rules and regulations applicable to the Saint Lawrence Seaway as issued jointly by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada, are contained in Part 401 of this title.

(3) *Patrol vessel.* The anchorage and movement of vessels shall be under the direction and subject to the control of the U.S. Coast Guard and the Saint Lawrence Seaway Development Corporation. The following sound signal will be used by patrol vessels: Four long blasts of a whistle, siren, or horn will indicate that the vessel to which it is given must stop until further orders are received from the patrol vessel.

(4) *Section.* The regulations in this section shall apply to U.S. waters of the St. Lawrence River from abreast of Tibbetts Point, N.Y., to the junction of the St. Lawrence and Raquette Rivers, and from the general shoreline of the New York mainland to the international boundary, excepting the section from Eisenhower Lock to Snell Lock.

(b) *Speed.* Within the reaches of the St. Lawrence River designated below and from the general shoreline of the New York mainland to the international boundary, no vessel shall exceed the specified speed in statute miles per hour over the bottom, or from point to point without regard to the velocity of the current; from abreast of Tibbetts Point, about 2½ miles upstream from Cape Vincent, N.Y., to Bartlett Point (Light No. 227), 15 miles per hour; Bartlett Point (Light No. 227) to Deer Island (Light No. 186), 10 miles per hour for upbound vessels and 12 miles per hour for downbound vessels; Deer Island (Light No. 186), to Blind Bay (½ mile downstream from Buoy No. 162), 13 miles per hour; Blind Bay (½ mile downstream from Buoy No. 162), to Ogden Island (Buoy No. 99), 15 miles per hour; Ogden Island (Buoy No. 99), to Doran Shoal (Buoy No. 84), 13 miles per hour; Doran Shoal (Buoy No. 84), to Richards Point (Light No. 55), 15 miles per hour; Richards Point (Light No. 55), to Eisenhower Lock 13 miles per hour; Snell Lock to the international boundary vicinity of Cornwall Island (Buoy No. 1), 15 miles per hour. These speed limits apply to all vessels in excess of 40 feet in length.

(c) *Navigation.* No vessel, regardless of size, will be navigated through waters to which the regulations in this section apply, at a speed that will endanger other vessels or structures or interfere with any work in progress incident to maintaining, improving, surveying, or marking the channel.

(d) *Obstruction to traffic.* (1) No person shall wilfully or carelessly obstruct the free navigation of the waters to which the regulations of this section apply or delay any vessel having the right to use the waters.

(2) No vessel shall anchor within the limits of the improved channel except in distress or under stress of weather. Any vessel so anchored shall be moved as quickly as possible to an anchorage which will leave the channel clear for the passage of vessels.

(3) Motorboats (as defined by the Motorboat Act of April 25, 1940, as amended, 54 Stat. 163; 46 U.S.C. 526 et seq.), sailboats, rowboats, and other small craft shall not anchor or drift in the regular ship channel, except under stress of weather or in case of breakdown.

(4) Whenever vessels collect in the channel by reason of fog, smoke, ice or other obstruction, their anchorage and movement shall be under the direction and control of the U.S. Coast Guard and Saint Lawrence Seaway Development Corporation. Regularly scheduled vessels carrying passengers or mail may be advanced in order, and any vessel not ready to move when directed to do so, may lose its position. The masters of all vessels shall execute with promptness all orders issued by the U.S. Coast Guard or the Saint Lawrence Seaway Development Corporation.

(5) Whenever a vessel, boat, watercraft, raft or other similar obstruction sinks, grounds, or is unnecessarily delayed in the channel in such a manner as to stop, seriously interfere with, or specially endanger navigation, the U.S. Coast Guard or the Saint Lawrence Seaway Development Corporation may order all vessels to stop, direct their anchorage, designate the order in which vessels may proceed after the channel is clear, and do all things necessary and proper to safeguard and expedite the passage of vessels.

(e) *Vessels aground or not under command.* (1) A vessel over 65 feet in length aground or disabled in or near the channel, in addition to displaying the lights or day signals required by Rule 30, Pilot Rules for the Great Lakes, shall sound the danger signal of several short and rapid blasts of the whistle, not less than five, upon the approach of another vessel bound up or down the channel. If the approaching vessel cannot pass with safety, it shall stop at a safe distance from, and make proper dispositions to avoid fouling the grounded or disabled vessel, and upon the approach of another vessel coming up astern shall repeat the danger signal for that vessel's benefit. Should additional vessels approach from that direction, it shall be the duty of the last vessel in line to sound this signal. Each vessel shall keep a safe distance from the vessel ahead until the channel has been cleared, and shall pass a grounded or disabled vessel at reduced speed and with caution. In times of low visibility, the signal described in this paragraph shall be in addition to the prescribed fog signal.

(2) The first vessel passing a stranded or disabled vessel shall report the location and nature of the accident to the U.S. Coast Guard.

[Regs., September 14, 1970, 1522-01 (St. Lawrence River, N.Y.)—ENGCY-ON]

(Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

RICHARD B. BELNAP,
Special Advisor to TAG.

[F.R. Doc. 70-12785; Filed, Sept. 24, 1970; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLIE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Los Angeles	Hawaiian Gardens.	E 06 037 1552 01	Department of Water Resources, Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103.	Hawaiian Gardens City Hall, 12134 Tilbury St., Hawaiian Gardens, Calif. 90716.	Sept. 25, 1970.
Florida	Escambia	Navarre Beach	E 12 033 0000 01	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Santa Rosa County Beach Administration, Route 1, Box 372, Gulf Breeze, Fla. 32561.	Do.
Do	St. Johns	Unincorporated areas.	E 12 109 0000 01 E 12 109 0000 02	do	Clerk's Office, County Courthouse, St. Augustine, Fla. 32084.	Do.
Do	do	Hastings	E 12 109 1300 01	do	Town Office, Civic Center Bldg., West Side Blvd., Hastings, Fla. 32045.	Do.
Do	do	St. Augustine	E 12 109 2690 01 E 12 109 2690 02	do	Office of the City Manager, City of St. Augustine, Post Office Drawer 210, St. Augustine, Fla. 32084.	Do.
Do	do	St. Augustine Beach.	E 12 109 2691 01	do	Office of the Town Clerk, Town Bldg. No. 7, St. Augustine Beach, Fla. 32084.	Do.
Minnesota	Mower	Austin	E 27 099 0290 01 through E 27 099 0290 05	Department of Conservation, Division of Soils, Waters, and Minerals, Room 345, Centennial Bldg., St. Paul, Minn. 55101. Commissioner of Insurance, State Office Bldg., R-210, St. Paul, Minn. 55101.	Office of the City Engineer, Municipal Bldg., 500 Northeast Fourth Ave., Austin, Minn. 55912.	Do.
New Jersey	Middlesex	Middlesex Borough.	E 34 023 1920 01	Department of Environmental Protection, Division of Water Policy and Supply, Post Office Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08626.	Borough Clerk's Office, Municipal Bldg., 1200 Mountain Ave., Middlesex, N.J. 08846.	Do.
Do	do	Woodbridge Township.	E 34 023 3705 01 through E 34 023 3705 05	do	Division of Engineering, Woodbridge Township, 1 Main St., Woodbridge, N.J. 07095.	Do.
Do	Morris	Parsippany-Troy Hills Township.	E 34 027 2498 01 E 34 027 2498 02	do	Clerk's Office, Township of Parsippany-Troy Hills, Municipal Bldg., Parsippany, N.J. 07054.	Do.
Texas	Brazoria	Lake Jackson	E 48 039 3800 01 through E 48 039 3800 04	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	City Manager's Office, 103 Parking Way, Lake Jackson, Tex. 77566.	Do.
Do	Jefferson	Port Neches	E 48 245 5470 01	do	City Manager's Office, City Hall, 634 Ave. C, Port Neches, Tex. 77651.	Do.
Do	Kleberg	Unincorporated areas.	E 48 273 0000 01 E 48 273 0000 02	do	Office of the County Judge, Kleberg County Courthouse, Kingsville, Tex., 78363.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: September 25, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70–12750; Filed, Sept. 24, 1970; 8:45 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
California	Los Angeles	Hawaiian Gardens.	T 06 037 1552 01	Department of Water Resources, Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103.	Hawaiian Gardens City Hall, 12134 Tilbury St., Hawaiian Gardens, Calif. 90716.	Sept. 25, 1970.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Florida	Escambia	Navarre Beach	T 12 033 0000 01	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Santa Rosa County Beach Administration, Route 1, Box 372, Gulf Breeze, Fla. 32561.	Sept. 12, 1970
Do	St. Johns	Unincorporated areas.	T 12 109 0000 01 T 12 109 0000 02	do	Clerk's Office, County Courthouse, St. Augustine, Fla. 32084.	Do.
Do	do	Hastings	T 12 109 1300 01	do	Town Office, Civic Center Bldg., West Side Blvd., Hastings, Fla. 32045.	Do.
Do	do	St. Augustine	T 12 109 2690 01 T 12 109 2690 02	do	Office of the City Manager, City of St. Augustine, Post Office Drawer 210, St. Augustine, Fla. 32084.	Do.
Do	do	St. Augustine Beach.	T 12 109 2691 01	do	Office of the Town Clerk, Town Bldg. No. 7, St. Augustine Beach, Fla. 32084.	Do.
Minnesota	Mower	Austin	T 27 099 0290 01 through T 27 099 0290 05	Department of Conservation, Division of Soils, Waters, and Minerals, Room 345, Centennial Bldg., St. Paul, Minn. 55101. Commissioner of Insurance, State Office Bldg., R-210, St. Paul, Minn. 55101.	Office of the City Engineer, Municipal Bldg., 500 Northeast Fourth Ave., Austin, Minn. 55912.	Do.
New Jersey	Middlesex	Middlesex Borough.	T 34 023 1920 01	Department of Environmental Protection, Division of Water Policy and Supply, Post Office Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Borough Clerk's Office, Municipal Bldg., 1200 Mountain Ave., Middlesex, N.J. 08846.	Do.
Do	do	Woodbridge Township.	T 34 023 3705 01 through T 34 023 3705 05	do	Division of Engineering, Woodbridge Township, 1 Main St., Woodbridge, N.J. 07095.	Do.
Do	Morris	Parsippany-Troy Hills Township.	T 34 027 2498 01 T 34 027 2498 02	do	Clerk's Office, Township of Parsippany-Troy Hills, Municipal Bldg., Parsippany, N.J. 07054.	Do.
Texas	Brazoria	Lake Jackson	T 48 039 3800 01 through T 48 039 3800 04	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	City Manager's Office, 103 Parking Way, Lake Jackson, Tex. 77566.	Do.
Do	Jefferson	Port Neches	T 48 245 5470 01	do	City Manager's Office, City Hall, 634 Ave. C, Port Neches, Tex. 77651.	Do.
Do	Kleberg	Unincorporated areas.	T 48 273 0000 01 T 48 273 0000 02	do	Office of the County Judge, Kleberg County Courthouse, Kingsville, Tex. 78363.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: September 25, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-12751; Filed, Sept. 24, 1970; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PROCUREMENT

Miscellaneous Amendments

The following miscellaneous amendments are made in the Agriculture Procurement Regulations.

PART 4–1—GENERAL

1. The Table of Contents for Part 4–1 is amended as follows:

(a) Delete Subpart 4–1.1—Introduction in its entirety.

(b) Add Subpart 4–1.0—Regulation System as follows:

Subpart 4–1.0—Regulation System

Sec.
4–1.001 Scope of subpart.
4–1.002 Purpose.
4–1.003 Authority.
4–1.004 Applicability.
4–1.004–2 Of Federal Procurement Regulations.
4–1.004–3 Of Agriculture Procurement Regulations.
4–1.005 Exclusions.
4–1.006 Issuance.
4–1.006–1 Code arrangement.
4–1.006–2 Publication.
4–1.006–3 Copies.
4–1.007 Arrangement.
4–1.007–1 General plan.
4–1.007–2 Numbering.
4–1.007–3 Citation.
4–1.008 Agency implementation.
4–1.009 Deviation.
4–1.009–1 Description.
4–1.009–2 Procedure.
4–1.050 Relationship of AGPR to the FPR.
4–1.051 Administrative Regulations.
4–1.052 Federal Property Management Regulations.
4–1.053 Agriculture Property Management Regulations.

§§ 4–1.101—4–1.113 [Deleted]

2. Subpart 4–1.1—Introduction, is deleted in its entirety.

3. Subpart 4–1.0—Regulation System is added as follows.

Subpart 4–1.0—Regulation System

§ 4–1.001 Scope of Subpart.

This subpart sets forth introductory information pertaining to the Department of Agriculture Procurement Regulations (AGPR), as follows: purpose, authority, applicability, exclusions, issuance, arrangement, implementation, and deviation procedure.

§ 4–1.002 Purpose.

This subpart establishes chapter 4 of the Federal Procurement Regulations System, and describes the relationship of chapter 4 to the FPR.

§ 4–1.003 Authority.

AGPR are issued under 5 U.S.C. 301 and 40 U.S.C. 486(c), or under other authority specifically cited.

§ 4–1.004 Applicability.

§ 4–1.004–2 Of Federal Procurement Regulations.

Procurement by the Department of Agriculture is subject to the FPR (chapter 1 of this title) except as may be otherwise authorized by law.

§ 4–1.004–3 Of Agriculture Procurement Regulations.

AGPR are prescribed for application to procurement of administrative and operating supplies, equipment, and services, for consumption or use by the Department in carrying out its programs.

Certain program functions of the Department are, by reason of special law, exempt from pertinent parts of these regulations; however, they shall be applicable to such functions, insofar as it is feasible, consistent with efficient program operations.

§ 4–1.005 Exclusions.

Certain Department procurement regulations which come within the scope of this chapter nevertheless may be excluded from AGPR. These exclusions include the following categories:

(a) Subject matter which bears a security classification.

(b) Subject matter which is expected to be effective for a period of less than 6 months.

(c) Subject matter which is being instituted on an experimental basis for a reasonable period.

§ 4–1.006 Issuance.

§ 4–1.006–1 Code arrangement.

AGPR are issued in the Code of Federal Regulations as Chapter 4 of Title 41, Public Contracts and Property Management, implementing and supplementing Chapter 1, which constitutes the FPR.

§ 4–1.006–2 Publication.

(a) AGPR are published in looseleaf form for distribution within the Department. Requests to be placed on the distribution list, or for extra copies, should be addressed to the Director of Plant and Operations.

(b) Those parts of AGPR which are deemed necessary for business concerns, and others properly interested, to understand basic and significant Department procurement regulations which implement, supplement, or deviate from the FPR are published (in Title 41) in the FEDERAL REGISTER. Detailed instructions of interest primarily for internal agency guidance are not so published.

§ 4–1.006–3 Copies.

Copies of AGPR in FEDERAL REGISTER and Code of Federal Regulations form may be purchased by the public, at nominal cost, from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 4–1.007 Arrangement.

§ 4–1.007–1 General plan.

The general plan, numbering system, and nomenclature used in the AGPR conform with FEDEGAL REGISTER standards approved for the FPR.

§ 4–1.007–2 Numbering.

The numbering system permits identification of every unit. The first digit, "4", represents the chapter allocated to the Department, followed by a dash. This is followed by the part number (which may be one or more digits) followed by a decimal point. The numbers after the decimal point represent respectively, the subpart, section (in two digits), and after the dash, subsection, paragraph, subparagraph, and further inferior divisions. For example, this division is called "section 4–1.007–2", in which the first digit denotes the chapter, the second the part, the third the subpart, the fourth and fifth the section, and the sixth the subsection.

§ 4–1.007–3 Citation.

AGPR will be cited in accordance with approved FEDERAL REGISTER standards. Thus, this section should be cited as "41 CFR 4–1.0073." Any section of AGPR may be informally identified for purposes of brevity, as "AGPR" followed by the section number, such as "AGPR 4–1.007–3".

§ 4–1.008 Agency implementation.

As portions of AGPR material are prescribed, agencies within the Department may publish in the FEDERAL REGISTER implementing regulations deemed necessary, as outlined in § 4–1.006–2. Detailed instructions of interest primarily for internal agency guidance will not be published in the FEDERAL REGISTER. All implementing regulations shall be prepared to conform with FPR style and arrangement, except that the loose-leaf format may be in a single column per page. Regulations or instructions issued by agencies of the Department will be identified by the use of alphabetical suffixes with the chapter number, as follows:

4A Consumer and Marketing Service.
4B Agricultural Research Service.
4C Agricultural Stabilization and Conservation Service.
4D Farmers Home Administration.
4E Extension Service.
4F Foreign Agricultural Service.
4G Forest Service.
4H Rural Electrification Administration.
4I Soil Conservation Service.
4J Office of Management Services.
4K Food and Nutrition Service.

§ 4–1.009 Deviation.

§ 4–1.009–1 Description.

A description of the term "deviation" appears at § 1–1.009–1.

§ 4–1.009–2 Procedure.

Deviations from the FPR and AGPR shall be kept to a minimum and controlled as follows:

(a) Deviations must be approved in advance. Individual case deviations may be approved by the Heads of Department Agencies or their designated representative. Deviations for classes of cases must be approved by the Director of Plant and Operations. Requests to Plant and Operations for approval of class deviations shall be initiated by the Heads of Department Agencies. Requests for deviations shall cite the specific part of the FPR or AGPR from which it is desired to deviate, set forth the nature of the deviations, and give reasons for the action requested.

(b) If a requested deviation is considered appropriate approval will be accomplished as follows:

(1) Where the deviation applies to an individual case, approval will be granted by memorandum addressed to the requesting officer with copies to interested offices. The contract file of the requesting office shall include a copy of the request and approval. A copy of the request and approval shall be furnished to the Office of Plant and Operations.

(2) Where the deviation applies to a class of cases, necessary coordination with the General Services Administration will be accomplished by the Office of Plant and Operation. The deviation may be issued as a part of AGPR, or the agency concerned may be authorized to issue internal instructions which incorporate the deviation.

(c) The requesting office will be notified by memorandum, with copies to other interested offices, whenever a requested deviation is disapproved.

(d) In emergency situations involving individual cases, deviation approvals may be processed by telephone and later confirmed in writing.

(e) Requests for deviations may be made at any time. New FPR issuances should be reviewed upon receipt, so that requests for deviations can be acted upon prior to the effective date, whenever practicable.

§ 4–1.050 Relationship of AGPR to the FPR.

(a) AGPR Chapter 4 implements and supplements the FPR and is part of the Federal Procurement Regulations system. Material published in the FPR having Government-wide applicability becomes effective throughout the Department of Agriculture upon the effective date of the particular FPR material. Such material generally will not be repeated, paraphrased, or otherwise restated in Chapter 4.

(b) Implementing material is that which expands upon related FPR material. Supplementing material is that for which there is no counterpart in the FPR.

(c) Material in Chapter 4 may deviate from the FPR when a deviation (see § 4–1.009) is authorized and is explicitly referenced to the FPR. When Chapter 4 contains no material implementing the FPR, the FPR alone will govern.

§ 4–1.051 Administrative Regulations.

(a) *General.* The Administrative Regulations of the Department contain the continuing policies, authorities and operating regulations issued by the Secretary of Agriculture and administrative staff offices having general application to the agencies or employees of the Department.

(b) *Arrangement.* The complete Administrative Regulations consist of the following titles:

Title 1—General Authorities and Functions.
Title 2—National Agricultural Library.
Title 3—Information.
Title 4—Plant and Operations.
Title 5—Management Improvement.
Title 6—Budget.
Title 7—Accounting.
Title 8—Audit and Investigation.

(c) *Reference.* Each title is further subdivided, basically, into chapters, sections, and paragraphs. Editorial references to the Administrative Regulations in this Chapter 4 are made to the title: e.g., "Title 1 of the Administrative Regulations", or "1 AR". Reference to specific text is to paragraphs: e.g., "1 AR 252" or "7 AR 633".

(d) *Availability.* Complete sets of AR are usually available at regional and State offices of Department agencies, and are available to the public for inspection, subject to the provisions of Title 7, Code of Federal Regulations, Part 1, Subpart A, §§ 1.1 to 1.6 (1 AR 534).

§ 4–1.052 Federal Property Management Regulations.

(a) The Federal Property Management Regulations (FPMR) are regulations prescribed by the Administrator of General Services Administration to govern and guide Federal agencies in the management of property and records, and other programs and activities, except procurement and contract matters contained in the Federal Procurement Regulations (FPR). The FPMR are published as Chapter 101 of this Title 41 in the FEDERAL REGISTER and in the Code of Federal Regulations. They are also published in looseleaf form by the General Services Administration. (See subpart 101–1.1)

(b) References in this Chapter 4 to FPMR will be expressed as elements of Chapter 101. For example, FPMR 101–26.301–1 would be expressed as "§ 101–26.301–1."

§ 4–1.053 Agriculture Property Management Regulations.

(a) The Agriculture Property Management Regulations (AGPMR) are prescribed for application to property management activities of the Department in carrying out its programs. They are published in looseleaf form only, as Chapter 104 of the Federal Property Management Regulations System. (See subpart 104–1.50)

(b) Reference in this Chapter 4 to AGPMR will be expressed as elements of Chapter 104 of the FPMR System. For example, AGPMR 104–26.301–1 would be expressed as "§ 104–26.301–1".

4. Section 4–1.402 is amended as follows: Paragraph (a) (2) through (6) is deleted and replaced by the following:

§ 4–1.402 Authority of Contracting Officers.

(a) * * *

(2) Preparing and distributing invitation for bids or request for proposals;

(3) Receiving and analyzing bids and offers;

(4) Conducting negotiations;

(5) Making awards within the limitation of their contracting authority and in accordance with applicable law and regulation;

(6) Making any required determinations in connection with award and administration of contracts except where authority therefore is specifically reserved to other officials;

(7) Performing or having performed any legal or administrative actions necessary to assure satisfactory performance of the contract modifications, and making decisions on question of fact. The responsibility for deciding questions of fact may not be delegated.

* * * * *

PART 4–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. The Table of Contents for Part 4–4 is amended as follows:

(a) The following entry is deleted:

Sec.
4–4.5078 Recreational equipment.

(b) The following entries are added:

Sec.
4–4.5020–1 Convention and other assemblages.
4–4.5077–1 Radiofrequency electromagnetic waves transmitting devices.
4–4.5078 Recreational equipment and services.

2. New § 4–4.5020–1 is added as follows.

§ 4–4.5020–1 Conventions and other assemblages.

Expenditures for lodging, feeding, conveying or furnishing transportation to any convention, assemblage or gathering are prohibited by 31 U.S.C. 551, except as specifically provided for by law. (See 4–52.187a)

2. New § 4–4.5077–1 is added as follows:

§ 4–4.5077–1 Radiofrequency electromagnetic waves transmitting devices.

Any device transmitting radio frequency electromagnetic waves through free space requires an operating license before procurement or operation of such equipment. The Department of Agriculture responsibilities for frequency licensing are delegated to the Forest Service. Requests for assignment of frequencies to agencies within the Department should be submitted to Forest Service, Chief of the Branch of Communications and Electronics, Division of Administrative Management, Electronics Center, Beltsville, Md. 20705 (see 1 AR 977).

4. Section 4–4.5078 is amended to read as follows:

§ 4–4.5078 Recreational equipment and services.

(a) The furnishing of recreational and entertainment facilities for Government personnel is prohibited except by specific statutory authority or authority by necessary implication. The following authorizations have been given this Department:

(1) The Forest Service is authorized to expend from available funds not to exceed $35,000 annually for providing recreation facilities, equipment, and services for use by employees of the Service located at isolated situations, and where deemed to be in the public interest, by members of the immediate families of such employees. (16 U.S.C. 554d) (See § 4–52.145)

(2) The law authorizing operation of Job Corps Camps authorizes provisions of recreational service for the enrollees. (42 U.S.C. 2718)

Done at Washington, D.C., this 21st day of September, 1970.

ELMER MOSTOW,
Director of
Plant and Operations.

[F.R. Doc. 70–12805; Filed, Sept. 24, 1970; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Part No. MC–30 [1]]

PART 1048—COMMERCIAL ZONES

Cincinnati, Ohio, Commercial Zone

At a session of the Interstate Commerce Commission, Review Board No. 3, members Bilodeau, Beddow, and Grossman, held at its office in Washington, D.C., on the 4th day of September 1970.

It appearing, that on December 27, 1967, the Commission, Review Board No. 2, made and filed its report and order on petition in 106 M.C.C. 267, in this proceeding, modifying, in part, the Commission's prior order, modifying the limits of the zone adjacent to and commercially a part of Cincinnati, Ohio, contemplated by section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8));

It further appearing, that by petition filed April 5, 1970, in Ex Parte No. MC–30, The Greater Cincinnati Chamber of Commerce seeks modification so as to include an additional area within the limits of the commercial zone of Cincinnati, Ohio;

It further appearing, that by petition filed May 6, 1970, in No. MC–C–6849, the Kroger Co., an Ohio corporation, seeks an order declaring the site for its proposed new facilities, located on the north side of Mulhauser Road, the northern limit of the Cincinnati commercial zone, to be within the said zone;

It further appearing, that pursuant to section 552 of the Administrative Procedure Act, notices of the said petitions were published in the FEDERAL REGISTER, which notices stated that no oral hearings were contemplated, and that persons desiring to participate in the proceedings were invited to file representations supporting or opposing the proposals;

It further appearing, that in Ex Parte No. MC–30, representations in opposition to the proposed zone expansion were filed by Western Trucking Co. and C W Transport, Inc.;

It further appearing, that the area which is the subject of the petition in No. MC–C–6849, is also at issue in Ex Parte No. MC–30;

It further appearing, that a statement by the Kroger Co., in support of its petition in No. MC–C–6849, was filed, which statement is considered also in support of extension of the Cincinnati commercial zone to the extent the involved areas are identical;

It further appearing, that the representation of the Kroger Co. sets forth sufficient facts upon which to determine that the area in question is, in fact, com-

[1] This report also embraces No. MC–C–6849, Cincinnati, Ohio, commercial zone—petition for declaratory order.

mercially and economically a part of Cincinnati, and, therefore, should be included within the commercial zone thereof;

It further appearing, that by petition filed August 14, 1970, the Greater Cincinnati Chamber of Commerce requests leave to withdraw its petition of April 5, 1970, without prejudice, for the reason that additional consideration need be given to the scope of the proposed zone extension, and, therefore, further proceedings thereon at this time would be premature;

Wherefore, and good cause appearing therefor:

We find, that the zone adjacent to and commercially a part of Cincinnati, Ohio, as contemplated by section 203(b)(8) of the Interstate Commerce Act, should be modified to include that area described in the second succeeding paragraph herein.

It is ordered, That said proceeding in Ex Parte No. MC–30 be, and it is hereby, reopened for further consideration.

It is further ordered, That the report and order entered in Ex Parte No. MC–30 on December 27, 1967 (49 CFR 1048.7), be, and it is hereby, vacated and set aside and the following revision is hereby substituted in lieu thereof:

§ 1048.7 Cincinnati, Ohio.

The zone adjacent to and commercially a part of Cincinnati, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

Addyston, Ohio	Mariemont, Ohio
Cheviot, Ohio	North Bend, Ohio
Cincinnati, Ohio	Norwood, Ohio
Cleves, Ohio	St. Bernard, Ohio
Elmwood Place, Ohio	Covington, Ky.
Fairfax, Ohio	Newport, Ky.

That part of Ohio bounded by a line commencing at the intersection of the Colerain-Springfield Township line and corporate limits of Cincinnati, Ohio, and extending along said township line in a northerly direction to its intersection with the Butler-Hamilton County line, thence in an easterly direction along said county line to its intersection with Ohio Highway 4, thence in a northerly direction along Ohio Highway 4 to its intersection with Seward Road, thence in a northerly direction along said road to its intersection with Port Union Road, thence east along Port Union Road to the Fairfield Township-Union Township line, thence northward along said township line to its intersection with the right-of-way of the Pennsylvania Railroad Co., thence southeasterly along the right-of-way of the Pennsylvania Railroad Co. to its intersection with Princeton-Glendale Road (Ohio Highway 747), thence southward along said road to its intersection with Mulhauser Road, thence in an easterly direction along said road to the terminus thereof west of the tracks of the Pennsylvania Railroad, thence continuing in an easterly direction in a straight line to Allen Road, thence along the latter to the junction thereof with Cincinnati-Dayton Road, thence in a southerly direction along Cincinnati-Dayton Road to the Butler-Hamilton County line, thence along the said county line and the Warren-Hamilton County line in an easterly direction to the Symmes-Sycamore Township line, thence in a southerly direction along the Symmes-Sycamore Township line to its intersection with the Columbia Township line, thence in a westerly direction along the Sycamore-Columbia Township line to Madeira Township, thence in a clockwise direction around the boundary of Madeira Township to the Sycamore-Columbia Township line, thence in a westerly direction along said township line to Silverton Township, thence in a southerly direction along the Silverton-Columbia Township line to the Cincinnati corporate limits, thence in a southerly direction along said corporate limits to junction with Redbank Road, thence in a southerly direction over Redbank Road to the Cincinnati corporate limits.

That part of Kenton County, Ky., lying on and north of a line commencing at the intersection of the Kenton-Boone County line and Dixie Highway (U.S. Highways 25 and 42), and extending over said highway to the corporate limits of Covington, Ky., including communities on the described line.

That part of Cambell County, Ky., lying on and north of a line commencing at the south corporate limits of Newport, Ky., and extending along Licking Pike (Kentucky Highway 9) to junction with Johns Hill Road, thence along Johns Hill Road to junction with Alexandria Pike (U.S. Highway 27), thence northward along Alexandria Pike to junction with River Road (Kentucky Highway 445), thence over the latter to the Ohio River, including communities on the described line.

That part of Boone County, Ky., bounded by a line beginning at the Boone-Kenton County line west of Erlanger, Ky., and extending in a northwesterly direction along Donaldson Highway to the Greater Cincinnati Airport, thence clockwise around the outer perimeter of said airport to the northern tip thereof, thence in a northeasterly direction along Kentucky Highway 1334 to junction with Kentucky Highway 20, and thence along the latter to the Boone-Kenton County line.

That part of Boone and Kenton Counties, Ky., bounded by a line commencing at the intersection of the Boone-Kenton County line with the southern corporate limits of Elsmere, Ky., and extending in a southerly direction along said county line approximately 0.9 mile to the northern boundary of the Northern Kentucky Industrial Foundation, thence in a westerly direction along said boundary to its intersection with the southern corporate limits of Florence, Ky., thence in a westerly direction along said corporate limits to their intersection with U.S. Highway 42, thence in a southwesterly direction along said highway to its intersection with Interstate Highway 75, thence in a southerly direction along Interstate Highway 75 to a point 2 miles south of the Florence, Ky., corporate limits, thence in a straight line in a northeasterly direction to Richardson Road, thence in an easterly direction over Richardson Road to junction with Kentucky State Route 1303 (Turkeyfoot Road), thence in a northerly direction over Kentucky State Route 1303 to the southern boundary of Edgewood, Kenton County, Ky.

(49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304)

It is further ordered, That the request of the Greater Cincinnati Chamber of Commerce for leave to withdraw the petition filed April 5, 1970, in Ex Parte No. MC–30, in all other respects, be, and it is hereby, granted without prejudice to the filing, in the future, of a petition again seeking expansion of the Cincinnati, Ohio, commercial zone.

It is further ordered, That the petition in No. MC–C–6849 be, and it is hereby, denied for the reason that the action taken herein renders unnecessary the issuance of any declaratory order.

It is further ordered, That this order shall become effective on October 26, 1970, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Review Board Number 3.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–12818; Filed, Sept. 24, 1970; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

Designated Ports

By notice of proposed rule making published in the FEDERAL REGISTER on August 11, 1970 (35 F.R. 12726), notice was given that it was proposed to designate Seattle, Wash., as a port of entry for fish and wildlife. This proposal also announced a public hearing which was held on August 31, 1970.

Interested persons were also invited to submit written comments, suggestions or objections to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. After consideration of comments and there being no objections to the proposal, the Bureau of Sport Fisheries and Wildlife finds that notice and public procedure thereon regarding this amendment are impracticable and unnecessary since it relieves a restriction.

The purpose of this amendment is to add Seattle, Wash., to 50 CFR Part 17, Appendix B(1) as a designated port of entry.

As amended 50 CFR Part 17, Appendix B, paragraph 1 reads:

1. *Designated ports.* The following ports are designated as ports of entry for all fish and wildlife, except shellfish and fishery products imported for commercial purposes

which may enter through any Customs district or port:

New York, N.Y.	Los Angeles, Calif.
Miami, Fla.	New Orleans, La.
Chicago, Ill.	Seattle, Wash.
San Francisco, Calif.	

(83 Stat. 275; 16 U.S.C. 668cc(4)(d))

Effective date: Upon publication in the FEDERAL REGISTER.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 22, 1970.

[F.R. Doc. 70-12809; Filed, Sept. 24, 1970; 8:48 a.m.]

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Chincoteague National Wildlife Refuge, Va.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Chincoteague National Wildlife Refuge, Va., is permitted only on the area designated by signs as open to hunting. This open area is delineated on maps available at refuge headquarters, Chincoteague, Va., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting will be in accordance with all applicable State regulations governing the hunting of deer subject to the following conditions:

(1) Species to be taken: (a) Archery hunt—sika deer and white-tailed deer, either sex; (b) trophy gun hunt—sika deer, stags (male) with six or more combined points per set of antlers.

(2) Bag limits: (a) Archery hunt—sika or white-tailed deer, one per license year, either sex; (b) trophy gun hunt—sika deer, one per license year, trophy stag (6 points) only.

(3) Season: (a) Archery—October 15 through November 14, 1970, except Sundays; (b) Trophy gun hunt—November 30 through December 5, 1970 and December 7 through December 12, 1970.

(4) Weapons: (a) Archery hunt—Virginia bow hunting regulations apply; (b) Trophy gun hunt—rifles (modern or antique) or shotguns capable of holding no more than one shell. Shotguns must be 20 gauge or larger using shot not smaller than No. 4 buckshot. Possession of any firearm or ammunition on the refuge which is not stipulated as permitted in these regulations is prohibited.

(5) Dogs are prohibited.

(6) Hunting hours: Same as State hunting hours. All hunters must be clear of the hunting areas by 8 p.m., e.s.t.

(7) Carrying loaded firearms in or on or shooting from a vehicle is prohibited.

(8) Camping and fires are prohibited.

(9) All hunters under 18 years old must be accompanied by an adult.

(10) Permits: (a) Archery hunt—all archery hunters must have in their possession a refuge hunting permit obtained by mail or in person between October 1 and October 15, 1970; (b) Trophy gun hunt—all hunters must have in their possession a refuge hunting permit. Ten permits will be issued for each of the two 6-day hunts. Permits may be applied for in person or by mail October 1–30, 1970. Applicants for permits must include with their request a range certified target showing 3 shots fired from the off hand (standing) position at 50 yards with the weapon to be used in the hunt. Applicants failing to prove with certified target their ability to place three consecutive shots within 3 inches of center of target may be subject to disqualification. Selection of permittees will be made with a drawing to be held November 2, 1970.

(11) Scouting: (a) Archery hunt—no advance scouting; (b) Trophy hunt—permit holders may scout their assigned areas the Sunday preceding the hunt, November 29 or December 6, 1970.

(12) Hunter orientation: (a) Archery hunt—no orientation required; (b) Trophy hunt—permit holders for the trophy stag hunt must complete a short orientation before commencing with hunt. Orientation sessions will be held at refuge headquarters at 3 p.m. on the Sundays preceding the hunts or at the convenience of the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 12, 1970.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 16, 1970.

[F.R. Doc. 70-12797; Filed, Sept. 24, 1970; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

HAZARDOUS SUBSTANCES

Proposed Definitions and Procedural and Interpretative Regulations; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of August 18, 1970 (35 F.R. 13137), proposing that §§ 191.1 (j), (k), (l), and (m); 191.14; and the heading of § 191.15 of the hazardous substances regulations be revised for stated reasons, provided for the filing of comments within 30 days of said publication date.

The Commissioner of Food and Drugs has received a request for an extension of such time and, good reason therefor appearing, the time for filing comments on said proposal is extended to October 17, 1970.

This action is taken pursuant to the provisions of the Federal Hazardous Substances Act (sec. 10(a), 74 Stat. 378; 15 U.S.C. 1269) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: September 17, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12768; Filed, Sept. 24, 1970; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 18]

PASSENGERS' BAGGAGE UNDER BOND

Proposed Penalty for Shortage, Irregular Delivery, or Nondelivery

Notice is hereby given that under the authority contained in section 301 of title 5 of the United States Code and sections 551, 552, 553, 623, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 1551, 1552, 1553, 1623, 1624), it is proposed to amend the Customs Regulations to prescribe the basis for assessing penalties incurred as liquidated damages under a carrier's bond for shortage, irregular delivery, or nondelivery of passenger's baggage. The proposed regulation in tentative form is set forth below:

Section 18.8(b) is amended by adding thereto a subparagraph (4) reading:

§ 18.8 Liability of carrier for shortage, irregular delivery, or nondelivery; penalties.

* * * * *

(b) * * *

(4) In the case of a shortage, failure to deliver, or delivery direct to the passenger transiting the United States, of baggage forwarded in bond in accordance with the provisions of Part 6 or Part 18 of this chapter, an amount equal to the duties, if any, on the missing baggage. If the duties cannot be estimated promptly, or if the baggage contains only duty-free merchandise, a sum equal to 70 percent of (i) the amount paid by the carrier to the claimant as settlement for the lost baggage or (ii) the value claimed when the claim has not been paid. If the duties cannot be estimated promptly and the value of the baggage cannot be determined by either of the above methods, a sum equal to 70 percent of the value of such baggage computed at the rate of $300 for each trunk and $150 for each suitcase or other piece of hand luggage.

* * * * *

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 15, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-12821; Filed, Sept. 24, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 61, 63, 121, 123, 127, 135, 141]

[Docket No. 10594; Notice 70-37]

TIME SHARING SCAN TRAINING

Advance Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Parts 61, 63, 121, 123, 127, 135, and 141 of the Federal Aviation Regulations to require flight crew time sharing scan training as a means of reducing mid-air collision hazards.

This advance notice of proposed rule making is being issued pursuant to the FAA's policy for the early institution of rule-making proceedings. An "advance" notice is issued when it is found that the resources of the FAA and reasonable outside inquiry do not yield a sufficient basis to identify and select a tentative course or alternate courses of action, or where it would be helpful to invite public participation in the identification and selection of a course or alternate courses of action. The subject matter of this notice involves a situation contemplated by that policy.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before December 29, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. If it is determined to be in the public interest to proceed further after consideration of the available data and comments received in response to this notice, a notice of proposed rule making will be issued.

Improvement of aviation safety is the continuing major goal of the FAA. One of the areas of concern is the mid-air collision hazard. For several years the FAA has been studying plans for training to improve flight crew airborne hazard detection and identification, and to increase the effective time the pilot is looking outside the cockpit. This is called time sharing scan training.

This time-sharing concept refers to the alternation of attention between inside-the-cockpit and outside-the-cockpit information. With the emphasis on aircraft performance and instrument flying, only a small amount of total pilot time is spent looking outside the cockpit in modern aircraft. Since pilots' total available outside-cockpit scanning time is small, prevention of mid-air collisions requires that pilots have skill in time sharing of their scan attention.

At the present time there are few pilot training programs available which give time sharing scan training. All pilots receive oral instruction in scanning the aircraft instruments, particularly if working on an instrument rating, but there are only a few training devices for

pilots which include outside-the-cockpit search experience.

The FAA has evaluated several extra-cockpit visual hazard detection training programs. These training programs use outside references from flight simulators to determine pilot detection capabilities, and training device effectiveness, as well as to give training in time sharing scan patterns.

There are costly training devices available which are compatible with electronic simulators, and the National Aviation Facilities Experimental Center (NAFEC) of the FAA has developed a relatively inexpensive training device. These devices depict aircraft in various positions and attitudes in varying locations about the simulator. The sophisticated equipment can vary the light intensity, aspect, and size of the depicted hazard aircraft, and move the images to present collision potentials to the trainee.

The NAFEC-developed equipment consists of a remote-controlled slide projector, turned by a rotor, which presents preselected targets on a screen about the simulator. The targets do not move, but the location of the presentation relative to the trainee can be selected by the operator for random depiction.

There does not appear to be any relationship between pilot flight hours and hazard detection ability, although in all cases where training has been given, visual hazard detection ability improved after training sessions with the simulators. The amount of detection ability improvement is not constant, but it is significant.

The inexpensive equipment is compatible with most synthetic trainers, and could be used in most flight schools. The use of such scan training devices can augment pilot training without significantly increasing instructor workload, or disrupting existing training schedules.

The NTSB has expressed an interest in regulatory action for ground training of pilots in time sharing scan patterns. In a recomendation to the FAA, the NTSB stated, in part,

> During the public hearing on the mid-air collision problem, our attention was directed to the absence of a training requirement for the proper method of time-sharing or scanning programs, both inside and outside the cockpit. It is noted, also, that there are no visual training aids for external target detection and definition incorporated in the present simulators, nor has any requirement for a visual training aid of this type been laid down for the simulators that are now under development.
>
> It is recommended that a requirement be added to the present Federal Aviation Regulations for ground training of pilots in the proper scan patterns to optimize the probability of detecting other aircraft and to increase the effective time the pilot's eyes are looking outside of the cockpit. Also, a requirement for the adaption of visual aids for outside target detection and definition should be added to the simulators now in use or being developed for future use.
>
> It is recognized that the above steps are made toward the large commercial segment of the Aviation Industry and there is as great a need for a training program for the private pilot as for the airline pilot. Therefore, a program whereby scan patterns and target detection are included in the training program for licensing and upgrading of the private pilot is necessary. Also, action to expedite the development of visual training aids of a less exotic nature than those required for simulators should be given a high priority—these aids to be made available to the private pilots through fixed-base operators and other appropriate outlets.

Comments are specifically requested on the following areas of interest:

A. *Applicability.* 1. Should such training be required of all segments of aviation? If not, which one(s)?

2. If the applicability should be restricted to other than all, what is the reason?

3. What would be the impact on each segment of aviation if the applicability is extended to all segments thereof?

4. Should the training be required only for applicants for pilot certificates, or should it also be required for persons who now hold certificates?

5. In the case of general aviation pilots, if limited to applicants, should it be required only for graduates of certificated pilot schools?

6. Should the training be required once only, or should it be a recurring requirement? If recurrent, how often?

7. How much training should be required?

8. Should the training be required of flight crewmembers other than pilots? If so, which flight crewmembers?

B. *Equipment.* 1. What is the availability of the equipment necessary to provide the subject training, and what is its cost?

2. What type equipment is most compatible with existing training facilities?

3. What would be a reasonable time-lag for implementation of the requirment? How much time is needed to allow manufacturers to produce, and owners to acquire and install the equipment if required by the regulations?

4. What type equipment provides adequate training to the broadest spectrum of flight crewmembers?

C. *Alternatives.* 1. Could any alternative be substituted for the subject training and achieve the same results? If so, what?

Comments are welcome on these suggestions, as well as any additional recommendation for implementing the objective of improving flight crewmember skills to avoid midair collision.

This advance notice of proposed rule making is issued under the authority of sections 313, 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 18, 1970.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-12787; Filed, Sept. 24, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-87]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Newberry, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Two new public use instrument approach procedures have been developed for Luce County Airport, Newberry, Mich., utilizing a privately owned VOR as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing these new approach procedures by designating a transition area at Newberry, Mich. The new procedures will become effective concurrently with the designation of the new transition area. IFR air traffic at this location will be controlled by the Minneapolis Air Route Traffic Control Center through the Sault Ste Marie Flight Service Station.

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

In § 71.181 (35 F.R. 2134), the following transition area is added:

NEWBERRY, MICH.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of Luce County Airport (latitude 46°-18'30" N., longitude 85°27'00" W.); within 3 miles each side of the 301° bearing from Luce County Airport, extending from the 6½-mile radius to 8 miles northwest of the airport; and within 3 miles each side of the 103° bearing from Luce County Airport, extending from the 6½-mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 301° and 121° bearings from Luce County Airport, extending from 3 miles southeast to 18½ miles northwest of the airport; and within 4½ miles north and 9½ miles south of the 103° bearing from Luce County Airport extending from the airport to 18½ miles east of the airport, excluding the portion which overlies the Sault Ste Marie, Mich. transition area.

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

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-12788; Filed, Sept. 24, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-89]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Phillipsburg, Kans.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure has been developed for the Phillipsburg, Kans., Municipal Airport utilizing a city-owned radio beacon as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Phillipsburg, Kans. The new procedure will become effective concurrently with the designation of the transition area. IFR air traffic at this location will be controlled by the Kansas City Air Route Traffic Control Center through the Hill City Flight Service Station.

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

In § 71.181 (35 F.R. 2134), the following transition area is added:

PHILLIPSBURG, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Phillipsburg Municipal Airport (latitude 39°44'15" N., longitude 99°19'00" W.); and within 3 miles each side of the 126° bearing from Phillipsburg Municipal Airport, extending from the 7-mile radius area to 10½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northeast and 9½ miles southwest of the 126° bearing from the Phillipsburg Municipal Airport, extending from the airport to 21 miles southeast of the airport.

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

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-12789; Filed, Sept. 24, 1970; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-90]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Fort Wayne, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Fort Wayne, Ind., a new instrument approach procedure has been developed for Baer Field. In addition, the criteria for the designation of control zones and transition areas have changed. Accordingly, it is necessary to alter the Fort Wayne, Ind., control zone and transition area to adequately protect aircraft executing the new approach procedure and to comply with the new control zone and transition area criteria.

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

(1) § 71.171 (35 F.R. 2054), the following control zone is amended to read:

FORT WAYNE, IND.

Within a 5-mile radius of Baer Field (latitude 40°58'50" N., longitude 85°11'25" W.); within 3 miles each side of the Fort Wayne VORTAC 229° radial, extending from the 5-mile radius zone to 8½ miles southwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 320° radial, extending from the 5-mile radius zone to 8½ miles northwest of the VORTAC; within 3 miles each side of the Fort Wayne VORTAC 038° radial, extending from the 5-mile radius zone to 8½ miles northeast of the VORTAC; and within 3½ miles each side of the Fort Wayne VORTAC 265° radial, extending from the 5-mile radius zone to 10 miles west of the VORTAC.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

FORT WAYNE, IND.

That airspace extending upward from 700 feet above the surface within an 18½-mile radius of Fort Wayne VORTAC; and within 4½ miles southwest and 9½ miles northeast of the Fort Wayne ILS localizer southeast course, extending from the 18½-mile radius area to 18½ miles southeast of the OM and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 41°45'40" N., longitude 84°50'00" W., to latitude 41°48'10" N., longitude 84°50'00" W., to latitude 41°48'00" N., longitude 84°46'00" W., to latitude 41°44'00" N., longitude 84°28'00" W., to latitude 41°32'00" N., longitude 84°31'00" W., to latitude 41°21'00" N., longitude 84°40'00" W., to latitude 40°46'00" N., longitude 84°40'00" W., to latitude 40°31'30" N., longitude 84°48'15" W., thence along the Indiana State boundary to the point of beginning.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 1, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-12790; Filed, Sept. 24, 1970; 8:47 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 2-1; Notice No. 2]

OCCUPANT PROTECTION IN INTERIOR IMPACT

Passenger Cars, and Multipurpose Passenger Vehicles, Trucks and Buses

This notice proposes to amend Motor Vehicle Safety Standard No. 201 by strengthening several of the standard's performance requirements and by extending its application to multipurpose passenger vehicles, trucks, and buses

having gross vehicle weight ratings of 10,000 pounds or less. An advance notice of proposed rulemaking to strengthen the standard's requirements was issued on October 14, 1967 (32 F.R. 14280).

Standard No. 201 presently requires instrument panels and seat backs to afford occupants a certain measure of impact protection in a crash. This notice proposes to increase that protection by enlarging the surface area subject to the standard's requirements, by lowering the permissible decelerations, by increasing the test velocity in some areas, by requiring extensive use of force-distributing material, and by setting limitations on protruding surfaces within specified areas.

In place of present references to instrument panels and seat backs, six impact zones are established and defined. In addition to the areas included in the present standard, the zones include a larger portion of the seat back area, the lower surface of the instrument panel on the passenger's side, and the upper surface and part of the lower surface of the instrument panel on the driver's side.

It is proposed to test two of these zones—the upper surface of the passenger's side of the instrument panel, and the top of the seat back—at 25 m.p.h., and to test the remaining zones at 15 m.p.h. For any zone, the deceleration would not exceed 67 g. for a cumulative duration of more than 3 milliseconds nor exceed 90 g. for a cumulative duration of more than 1 millisecond, a restriction on the shape of the deceleration curve not found in the existing standard.

This notice proposes to require force-distributing material on the door pillars, roof interiors, and windshield headers, in addition to altering the requirements presently applicable to sun visors and arm rests. In places where padding is not required, as on door latch releases and window and other controls, the notice proposes surface area and minimum diameter requirements to lessen the hazard to occupants.

Within the impact zones, the notice proposes to prohibit protruding surfaces that can penetrate a specified head form more than 0.375 inch under a 90-pound load. It is proposed that protruding surfaces on the roof interior, console, or seat backs must also meet specified safety requirements.

The notice proposes to extend the standard, as amended, to multipurpose passenger vehicles, trucks, and buses with gross vehicle weight ratings of hicles are considered to have interior protection needs similar to those of passenger cars, and the proposed rule therefore makes no distinctions between the various vehicle categories.

The notice also proposes a new procedure for testing interior compartment doors. It would replace the calculation 10,000 pounds or less. These lighter vedescribed in SAE Recommended Practice J839b with a dynamic test that specifies that each interior compartment door latch system, mounted as assembled in the vehicle, be subjected to (1) horizontal transverse and vertical accelerations of 10g of specified direction and duration, and (2) a 30-mile-per-hour vehicle fixed collision barrier test.

Proposed effective date. The proposed amendment, except for paragraph S4.8.2, would be effective January 1, 1974. Paragraph S4.8.2 would be effective January 1, 1975.

In consideration of the above, it is proposed that Standard No. 201 be amended as set forth below. Comments are invited on the proposal, particularly on the subject of impact tolerance levels and on the lead time required for compliance. Comments should identify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on December 22, 1970, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 18, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

MOTOR VEHICLE SAFETY STANDARD NO. 201

OCCUPANT PROTECTION IN INTERIOR IMPACT—PASSENGER CARS, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES OF 10,000 POUNDS OR LESS GROSS VEHICLE WEIGHT RATING

S1. *Purpose and scope.* This standard specifies requirements for certain motor vehicle interior components, in order to provide impact protection for occupants.

S2. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks, and buses of 10,000 pounds or less gross vehicle weight rating.

S3. *Definitions.* "Console assembly" means a floor-mounted housing located adjacent to the driver's seat, but does not include the transmission control lever, parking brake lever, or their attachment hardware.

"Contactable" means able to be contacted from any direction by a 6.5-inch diameter rigid head form under a 90-pound static force.

"Instrument panel contour line" means a line defined by the rearmost points of intersection of a vertical longitudinal plane with the surface of the instrument panel when the plane is moved across the width of the vehicle.

"Leading point" means the point on the forward surface of the head form at which a plane perpendicular to the direction of travel is tangent to the head form at the moment of impact.

"Seat back contour line" means a line defined by the rearmost points of intersection of a vertical longitudinal plane with the rearward surface of the seat back when the plane is moved across the width of the vehicle.

"Seat back reference plane" means a vertical longitudinal plane located 3.25 inches inboard of the outboard edge of the seat back at a point 10 inches vertically above the seating reference point of the seat. For separated seat assemblies, the outboard edges are the edges adjacent to the body side panel.

"Steering wheel reference plane" means a vertical longitudinal plane located 3.25 inches inboard of the most inboard point of the steering wheel with the steering wheel in any design adjustment driving position.

"Windshield pillar reference plane" means a vertical longitudinal plane located 5 inches inboard of the outermost point of the windshield daylight opening.

S4. *Requirements.* The requirements specified in this paragraph shall be met after the vehicle has been maintained for 12 hours at any ambient temperature between 70° F. and 85° F.

S4.1 *Impact zones.*

S4.1.1 When any point in the area of the motor vehicle interior in impact zones 1, 2, 5, or 6, as specified in S4.1.6 and Figure 1, or any point on a console assembly not in a zone, is impacted by a rigid, 6.5-inch diameter, 15-pound spherical head form with its leading point traveling in a direction normal to the surface at the velocity specified below, the deceleration of the head form shall not exceed 67 g. for a cumulative duration of more than 3 milliseconds, and shall not exceed 90 g. for a cumulative duration of more than 1 millisecond, when measured at frequencies between 0.5 and 1,000 cycles per second.

(1) For impact zone 1, at 25 miles per hour;

(2) For impact zone 2, at 15 miles per hour;

(3) For impact zone 5, at 15 miles per hour;

(4) For impact zone 6, at 25 miles per hour;

(5) For any part of a console assembly not within an impact zone, at 15 miles per hour.

S4.1.2 When the area of the motor vehicle interior in impact zone 3, as specified in S4.1.6 and Figure 1, is impacted by a rigid, 6.5-inch diameter, 15-pound spherical head form with its leading point traveling in a direction parallel to the longitudinal axis of the vehicle at a velocity of 15 miles per hour, the deceleration of the head form shall not exceed 67 g. for a cumulative duration of more than 3 milliseconds, and shall not exceed 90 g. for a cumulative duration of more than 1 millisecond, when measured at frequencies between 0.5 and 1,000 cycles per second.

S4.1.3 When the area of the motor vehicle interior in impact zone 4, as specified in S4.1.6 and Figure 1, is impacted

by a 40-pound, 4-inch diameter sphere with its leading point traveling in a direction parallel to the longitudinal axis of the vehicle at a velocity of 15 miles per hour, the reactive force, parallel to the longitudinal axis of the vehicle, exerted on the sphere by the vehicle shall not exceed 1,400 pounds.

S4.1.4 The contactable surface of impact zones 1 and 2 shall be covered with force-distributing material having a thickness of at least 1.5 inches and meeting the requirements of S4.2.

S4.1.5. (a) Except as provided in S4.1.5(b), when tested in accordance with S5.1, no point in impact zones 1 through 6 shall penetrate the head form to a depth greater than 0.375 inch. Ashtrays shall meet this requirement in both the open and closed position.

(b) When tested in accordance with S5.1, an ignition switch located in impact zone 4, with the ignition key inserted, shall not penetrate the head form.

S4.1.6 The area of each impact zone shall be as specified in this paragraph and in Figure 1.

(a) Impact zone 1 is the area of the instrument panel between the passenger's windshield pillar reference plane and the steering wheel reference plane, and forward of the instrument panel contour line up to and including the rearmost contactable surface rearward of the juncture of the panel and the windshield. In plan view, no part of zone 1, when measured parallel to the vehicle's longitudinal axis, shall have a width of less than 4 inches.

(b) Impact zone 2 is the area of the instrument panel between the driver's windshield pillar reference plane and the steering wheel reference plane, and forward of the instrument panel contour line up to and including the rearmost contactable surface rearward of the juncture of the panel and the windshield. In plan view, no part of zone 2, when measured parallel to the vehicle's longitudinal axis, shall have a width of less than 4 inches.

(c) Impact zone 3 is the area of the instrument panel between the passenger's windshield pillar reference plane, the steering wheel reference plane, the instrument panel contour line, and the lowest point, including attachments such as air conditioning ducts, of the instrument panel.

(d) Impact zone 4 is the area of the instrument panel, excluding an area 2 inches laterally on either side of the steering column, between the steering wheel reference plane and the driver's windshield pillar reference plane, and below a line on the panel determined as specified below. The area of zone 4, when projected onto a vertical transverse plane, shall have a minimum height of 4 inches across the width of the zone. Using a diagram of a thigh-knee-leg device representing the dimensions of the 95th-percentile male, and a vehicle interior dimension drawing of the driving seating position of the vehicle in side view, with the seat in its rearmost design driving position:

(1) Construct a transverse horizontal heel line through the intersection of the floor and the toe board. Where no toe board exists, construct the heel line through the point of tangency of the heel of the device and the floor, with the device placed in a normal seating position.

(2) Construct a transverse horizontal line through the driver's seating reference point.

(3) Place the thigh-knee-leg device on the vehicle seat drawing with the heel of the device at the heel line obtained in subparagraph (d)(1), and the hip-pivot point of the device on the seating line constructed in subparagraph (d)(2) of this paragraph.

(4) With the heel point of the device remaining stationary, move the hip-pivot point in a forward horizontal direction until any point on the device contacts the instrument panel. Move the hip-pivot point forward an additional 2 inches, and record the highest point at which the device contacts the surface of the instrument panel. A transverse line through this point is the upper boundary of the impact zone.

(e) Impact zone 5 is the area of each seat back, excluding the seat back of a rearmost, side-facing, back-to-back, folding auxiliary jump, or temporary seat, inboard of its seat back reference plane or planes, that is below the seat back contour line and above a horizontal plane passing through the seat back at a point 10 inches vertically above the seating reference point.

(f) Impact zone 6 is the area of the seat back, including head restraints in their highest design adjustment position but excluding the seat back of a rearmost, side-facing, back-to-back, folding auxiliary jump, or temporary seat, inboard of its seat back reference plane or planes, and above and forward of the seat back contour line.

IMPACT ZONES - STANDARD NO. 201

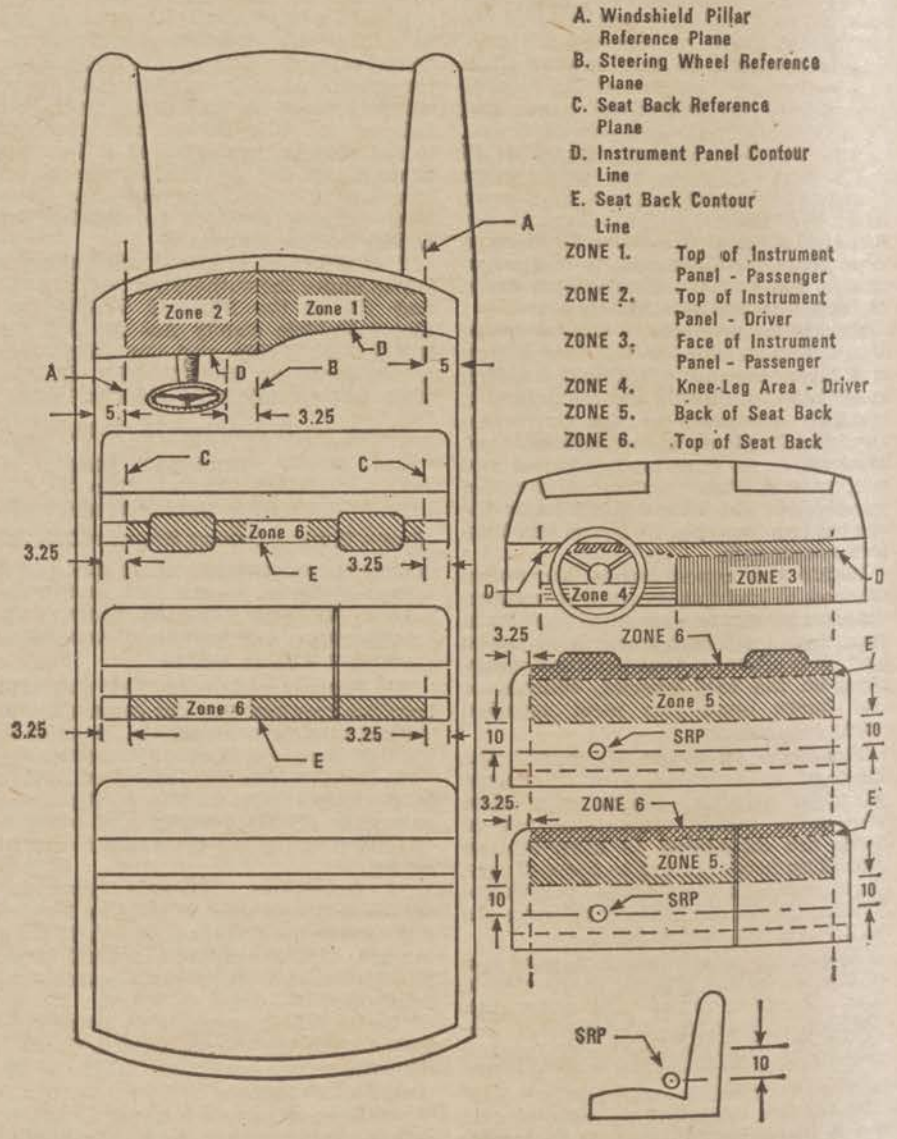


FIGURE 1

S4.2 *Force-distributing material.*

S4.2.1 When force-distributing material required by S4.3, S4.4, S4.5, S4.6, S4.7, and S4.8 is tested pursuant to S5.2, the material shall compress within the acceptable range shown in Figure 2 and shall recover at a rate of not more than 4.4 feet per second.

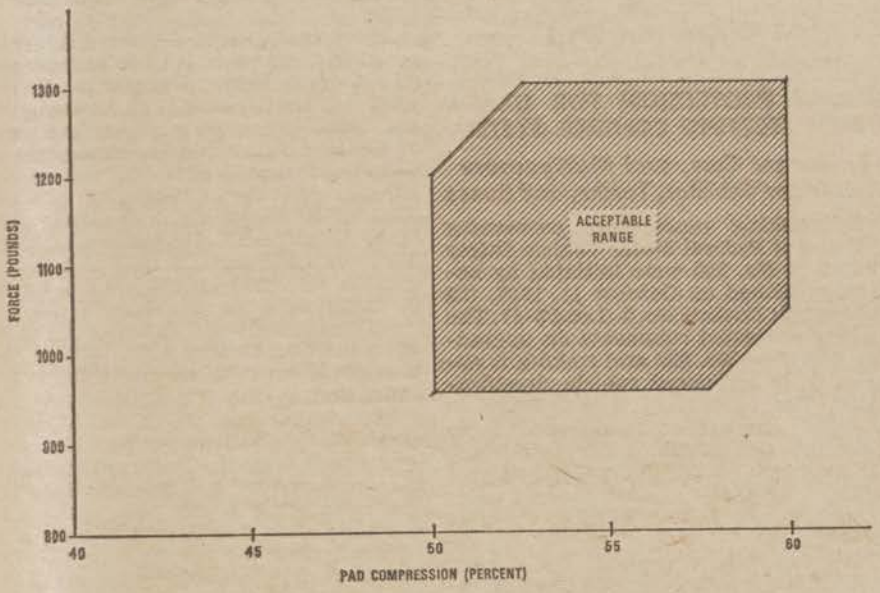


FIGURE 2. ACCEPTABLE FORCE - COMPRESSION RANGE FOR FORCE DISTRIBUTING MATERIAL

S4.3 *Mirrors.*

S4.3.1 Each edge of a contactable inside mirror, including any mirror attached to a sun visor, shall be covered with force-distributing material having a thickness of at least 0.125 inch. Glazing material used in contactable inside mirrors shall be any glazing material that may be used for windshields, windows, of interior partitions in a motor vehicle according to Motor Vehicle Safety Standard No. 205.

S4.4 *Sun visors.*

S4.4.1 Two sun visors shall be provided that are constructed of or covered with force-distributing material having a thickness of at least 0.75 inch when measured at any point 1 inch or more from the edge of the visor.

S4.4.2 The sun visor mounting fixtures shall have no contactable rigid edge with a radius of less than 0.25 inch, shall not be contactable when the visor is in the up (out of use) position, and shall conform to at least one of the following:

(a) They shall be covered with force-distributing material having a thickness of at least 0.75 inch; or

(b) They shall not, when tested in accordance with S5.1, penetrate the head form to a depth greater than 0.50 inch.

S4.5 *Armrests.* Each armrest, including folding armrests, shall conform to either S4.5.1 or S4.5.2, or both.

S4.5.1 Each armrest that does not conform to S4.5.2 shall—

(a) Be constructed of force-distributing material; and

(b) Deflect or collapse laterally at least 2 inches before contact is made with any underlying rigid material.

S4.5.2 Each armrest that does not conform to S4.5.1 shall—

(a) Be covered with force-distributing material having a thickness of not less than 0.50 inch;

(b) Have no underlying rigid component that, with the force-distributing material removed, has a contactable edge with a radius of less than 0.50 inch;

(c) Contact a flat, rigid plate over an area of at least 24 square inches when the plate, held in a vertical plane parallel to the longitudinal axis of the vehicle, is pressed against the armrest with a force of 90 pounds.

S4.6 *Protrusions.*

S4.6.1 *Roof, console assembly, and seat backs.*

S4.6.1.1 Except as provided in S4.6.1.2, when each area of the motor vehicle interior specified below is tested in accordance with S5.1, no point on the surface shall penetrate the opening of the head form to a depth greater than 0.375 inch.

(a) The roof interior, except for roof interior lamps.

(b) The console assembly.

(c) Seat backs below the area in impact zone 5.

S4.6.1.2 S4.6.1.1 shall not apply to protrusions constructed entirely of force-distributing material.

S4.6.2 *Transmission control and brake levers.*

S4.6.2.1 Each transmission control and brake lever mounted on a console assembly shall conform to each of the following:

(a) The area of a lever knob or handle shall be at least 3 square inches when projected onto a horizontal plane directly below the knob or handle;

(b) The radius of any contactable edge shall be at least 0.25 inch; and

(c) The included area of the lever, when sectioned perpendicularly to its axis 0.25 inch from the tip at the knob end, shall be at least 1 square inch.

S4.6.2.2 Each transmission control lever mounted on the steering column shall be completely within the projected area of the steering wheel rim.

S4.6.2.3 Each knob of a transmission control lever mounted on the steering column shall be covered with force-distributing material having a thickness of at least 0.25 inch, and shall have a rigid underlying component with—

(a) An area of at least 1.5 square inches when projected onto a vertical plane parallel to the vehicle's longitudinal axis with the lever in any control position; and

(b) No contactable edge with a radius of less than 0.25 inch.

S4.6.2.4 Each contactable parking brake engagement and release lever mounted on or attached to the instrument panel shall either—

(a) Be made entirely of force-distributing material; or

(b) Have an included area of not less than 1 square inch when the lever is sectioned perpendicularly to its axis 0.25 inch from the tip at the knob end; and have a knob or handle that—

(1) Has an area of not less than 2 square inches when projected onto a vertical transverse plane; and

(2) Has no contactable edge with a radius of less than 0.25 inch.

S4.6.3 *Window controls and door latch releases.*

S4.6.3.1 Each contactable window control or door latch release shall—

(a) Have an included area of not less than 1 square inch, when sectioned perpendicularly to its axis 0.25 inch from the tip at the knob end; and

(b) Have no contactable edge with a radius of less than 0.25 inch.

S4.6.3.2 A window control or door latch release located above the daylight opening, when tested in accordance with S5.1, shall not penetrate the head form to a depth greater than 0.75 inch.

S4.6.4 *Interior side panels and doors.* Except as otherwise specified, each interior side panel or door shall have no contactable edge with a radius of less than 0.50 inch.

S4.6.5 *Roof interiors.*

S4.6.5.1 Each roof interior shall—

(a) Be covered with force-distributing material having a thickness of at least 0.25 inch; and

(b) With the force-distributing material removed, have no structural member with a depth relative to the interior roof surface greater than the width of its contactable surface.

S4.6.5.2 Each interior roof lamp, including any surrounding hardware, shall be flush with or recessed into the surrounding interior surface.

S4.7 *Pillars.* The contactable surface of each "A" and "B" pillar, with the doors and windows closed, shall—

(a) Be covered with force-distributing material having a thickness of at least 0.50 inch; and

(b) With the force-distributing material removed, have no rigid contactable edge with a radius of less than 0.50 inch.

S4.8 *Windshield and windshield header.*

S4.8.1 Each windshield header shall—

(a) Be covered with force-distributing material that—

(1) Has a thickness of at least 0.50 inch; and

(2) Except in the case of convertibles, extends to a point 12 inches rearward of the header.

(b) Have no underlying rigid component that, with the force-distributing material removed, has a contactable edge with a radius of less than 0.50 inch.

S4.8.2 On vehicles manufactured on or after January 1, 1975, no part of the windshield or windshield header shall be less than 34 inches from a transverse horizontal line passing through a point 6 inches directly forward of the driver's seating reference point.

S4.8.3 Convertibles shall meet the requirements of S4.8.1(a)(1) and S4.8.1(b) with the top in both up and down positions.

S4.9 *Interior compartment doors.* Each interior compartment door shall remain closed when tested pursuant to S5.3 with the locking device, if any, in the unlocked position.

S5. *Test procedures.*

S5.1 *Protrusions.* (a) Drill a circular opening with a 2-inch diameter to a depth of at least 1 inch into a rigid, 6.5-inch diameter spherical head form, with the center of the opening at the leading point of the head form.

(b) Apply a static force of 90 pounds through the head form to the surface, with the head form moving in a direction normal to the point of impact.

(c) Measure the depth to which the tested component penetrates past the spherical contour of the circular opening. This may be done by filling the opening with plastic material, as long as the results are not affected by the viscous resistance of the material.

S5.2 *Force-distributing material.* Place a sample of the material used, in the form of a square 12 inches on a side and 2 inches deep, on a flat, rigid horizontal surface. With ambient temperature between 30° F., and 100° F., impact the material at 22 feet per second with the flat end of a cylinder 5.05 inches in diameter and weighing 40 pounds.

S5.3 *Interior compartment doors.* (a) Subject the latch system of the interior compartment door, including the components to which the door is attached, to an acceleration of 10 g., with a total force application period of 120 milliseconds, and with the 10 g. acceleration achieved 20 milliseconds after the initial force application, in horizontally leftward and rightward and vertically upward and downward directions, in any order.

(b) Impact the vehicle perpendicularly into a fixed collision barrier at a forward longitudinal velocity of 30 miles per hour.

[F.R. Doc. 70-12686; Filed, Sept. 24, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Dockets No. 2-3 and 2-4; Notice 2]

IMPACT PROTECTION FOR DRIVER FROM STEERING CONTROL SYSTEM

Passenger Cars, and Multipurpose Passenger Vehicles, Trucks, and Buses

Rulemaking proceedings concerning revision of Federal Motor Vehicle Safety Standard No. 203 were initiated by notices published on October 11, 1967. (32 F.R. 14280; Dockets No. 2-3 and 2-4). The notices requested comments on upgrading Standard No. 203 and making it applicable to additional vehicle classifications. The purpose of this notice is to propose several amendments to strenthen the standard and to propose its extension to multipurpose passenger vehicles, trucks, and buses having gross vehicle weight ratings of 10,000 pounds or less.

The total stress placed on the driver's body in an impact with the steering assembly is the sum of several factors: The total force imposed, the surface area over which the force is distributed, and the contour of the impacted steering assembly surface. The lower the force, the larger the surface, and the smoother the contours, the greater the protection afforded the driver. This notice proposes to deal with each of these factors.

The existing Standard No. 203 specifies a maximum allowable force of 2,500 pounds on a body block impacted at 15 miles per hour. The increasing amount of knowledge about thoracic injury threshold levels suggests that the allowable forces should be reduced. Accordingly it is proposed to reduce maximum permissible force on the body block to 1,800 pounds at an impact velocity of 20 m.p.h.

There is presently no minimum requirement for the effective surface area of a steering assembly. It is proposed to require the area of the steering assembly in contact with the body block on impact to be at least 40 square inches. Given the present technological difficulties of pressure measurement during impacts, this appears to be the most feasible method of insuring survivable pressure levels on the driver's body. To complement the surface area requirement, the notice also proposes to require padding over the steering wheel hub.

The dynamic contours of the steering assembly are specified in three ways. During impact, the body block may contact no rigid surface edge with a radius of less than one-fourth of an inch. The assembly may not fracture or fall apart in such a way as to produce an edge or point capable of causing injury. Finally, the steering wheel rim must pivot or flex to allow the body block to contact the wheel across its full diameter well before the maximum allowable load is attained. Each of these requirements is intended to reduce the possibility of chest injuries attributable to fractured or protruding components.

Proposed effective date: January 1, 1973.

In consideration of the above, it is proposed that Standard No. 203 be amended as set forth below. Comments are invited on the proposal, particularly on the subject of impact tolerance levels and on the lead time required for compliance. Comments should indentify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on December 22, 1970, will be considered, and will be available for examination in the Rules Docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407 and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 18, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

MOTOR VEHICLE SAFETY STANDARD NO. 203

IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM—PASSENGER CARS, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES OF 10,000 POUNDS OR LESS GROSS VEHICLE WEIGHT RATING

S1. *Purpose and scope.* This standard specifies requirements for steering control systems that will minimize chest, neck, and facial injuries to the driver as a result of impact.

S2. *Application.* This standard applies to passenger cars and to multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of 10,000 pounds or less.

S3. *Definitions.* "Steering control system" means the basic steering mechanism and its associated trim hardware, including any portion of a steering column assembly that provides energy absorption upon impact.

S4. *Requirements.* When a vehicle is tested in accordance with S5, its steering control system shall meet the following

requirements with the steering wheel at any position of rotation.

S4.1 When a steering control system is impacted at 20 m.p.h. in accordance with S5.1—

(a) The resultant force imposed on the body block shall not exceed 1,800 pounds;

(b) The body block shall not contact any rigid material edge having a radius of less than one-fourth of an inch; and

(c) The rim, spokes, hub, and hub pad of the steering wheel shall not disengage from the steering column or from each other and shall be free of sharp points or edges that could contribute to occupant injury.

S4.2 A steering control system in which the angle of the steering column segment nearest the driver is not more than 45° from the horizontal shall meet the following requirements in addition to those of S4.1:

(a) The wheel hub shall be covered with a pad having a thickness at all points of at least 1 inch, consisting of force distributing material that, when tested in accordance with S5.2, compresses by an amount within the acceptable range shown in Figure 1 and recovers at a rate of not more than 4.4 feet per second.

(b) When impacted in accordance with S5.1 at 20 m.p.h., the area of contact of the steering wheel rim and hub pad with the body block shall be not less than 40 square inches.

(c) When impacted in accordance with S5.1 at 20 m.p.h., the area of contact of the steering wheel rim with the body block as the resultant force on the body block reaches 1,200 pounds shall include the uppermost and lowermost points of the rim face.

S4.3 The steering control system shall have no component or attachment that can catch a driver's clothing, watch, ring, or bracelet during normal driving maneuvers.

S5. *Test Procedures.*

S5.1 Impact the steering control system with a body block in accordance with Society of Automotive Engineers Recommended Practice J944a, "Steering Control System—Passenger Car—Laboratory Test Procedure," November 1968.

S5.2 Place a sample of the material used in the hub pad, in the form of a square 12 inches on a side and 2 inches deep, on a flat, rigid horizontal surface. With ambient temperature between 30° F. and 100° F., impact the material at 22 feet per second with the flat end of a cylinder 5.05 inches in diameter and weighing 40 pounds.

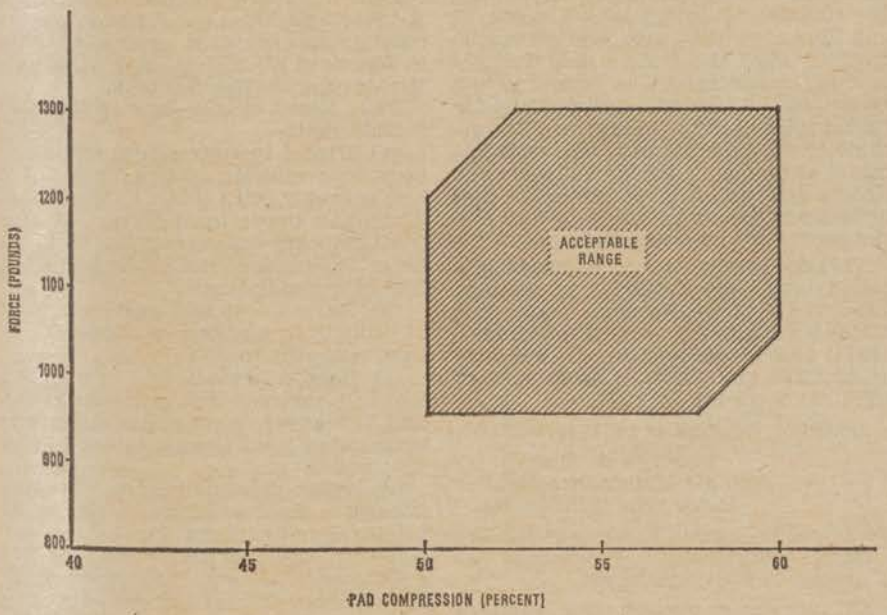


FIGURE 1. COMPRESSION OF HUB PAD MATERIAL

[F.R. Doc. 70-12685; Filed, Sept. 24, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Docket No. 69-7; Notice 6]

OCCUPANT CRASH PROTECTION

Passenger Cars, Multipurpose Passenger Vehicles, Trucks, and Buses

The purpose of this notice is to propose requirements for occupant crash protection for vehicles manufactured on or after January 1, 1972. A previous notice published on May 7, 1970 (35 F.R. 7187) proposed requirements for both "passive" crash protection and for interim "active" systems, and a public meeting was held on June 24 and 25, 1970, to discuss the contents of that proposed standard. On the basis of comments and information received since the earlier notice, this notice proposes modified requirements for the interim systems effective January 1, 1972. On its effective date, the proposed rule would supercede the present Standard No. 208, Seat Belt Installations. A separate rulemaking action will be issued to specify requirements that are effective at a later date, for both passive and active occupant crash protection.

Several manufacturers objected, in their comments on the May 7 notice, to the proposed requirement that improved seat belt systems be installed until the date the installation of fully passive protection becomes mandatory. They stated that the cost of redesign and preparation for production would be unjustifiably high for an interim system. On consideration of these comments, it has been found that the cost of requiring interim improvements in belt systems can be justified, if changes are made in the requirements to reduce the necessity for redesign and retooling in certain areas.

Under this proposed standard, manufacturers of passenger cars would be given three options under which they could provide occupant crash protection in vehicles manufactured on or after January 1, 1972.

The first option would be a passive protection system that requires no action by vehicle occupants. A variety of systems may be used to meet this requirement, among which are passive cushioning of the vehicle interior, self-fastening belt systems, crash deployed nets, "blankets," and air bags.

The second option would be a combined system that would require a Type 1 lap belt in all positions, and would either (1) be tested by a 30-m.p.h. barrier crash with anthropomorphic dummies restrained by lap belts in the front outboard seating positions, with the same injury criteria as the passive system; or (2) conform to the updated requirements proposed in the notices of proposed amendment to Motor Vehicle Safety Standards No. 201 and 203 (35 F.R. 14936, 35 F.R. 14940).

The third option would be an improved combination of lap-and-shoulder belt system in the front outboard seating positions, with lap belts in other positions. The front outboard systems would be tested by a 30-m.p.h. crash in which the belt systems, used with test dummies, would be required to remain intact.

Under both the second and third options, a system would be required to activate an audible and visible warning when either front outboard seating position is occupied and the belt is not used. Such a system would cover seating positions in which 85 percent of vehicle passenger fatalities occur. These systems have been widely urged as a means of increasing the usage of belt systems. A warning system, rather than one that prevents or interferes with vehicle operation, is preferred because the latter systems create safety problems of their own in certain situations, and are much more inconvenient in cases where vehicles are being moved in parking lots or into garages. Under this proposal, the warning system would be required to be activated whenever the ignition system

was on and the driver and front outboard passenger, if present, did not have at least the pelvic portion of the belt system fastened about them. Thus, the system would not be defeatable simply by leaving a belt fastened on the seat.

It was pointed out, in response to the May 7 notice, that an integrated three-point belt system may, in some vehicles, result in less belt usage than an assembly in which the upper torso portion is detachable, since some occupants who would normally use a lap belt would avoid using an integrated lap-shoulder belt. Child seating systems, under the new Standard 213, will be required to utilize the seat belt assemblies to restrain the system, and in some cases may not be usable with integrated systems. Under this proposal, therefore, the Type 2 seat belt assemblies required in the front outboard positions under the third option may have either integral or detachable upper torso portions, so that the manufacturer can choose his design in view of his own vehicle configuration and projection of user requirements.

The May 7 notice proposed to require emergency-locking retractors for both the upper torso and pelvic portions of an interim seat belt assembly. Some comments stated that users might find this type of system for the shoulder belts uncomfortable, because of the constant slight tension on the occupant. Manual adjustment devices, however, are not only more inconvenient to use, but often result in improperly adjusted belts. It has been determined that the chief objections to retractor systems for the upper torso belts can be overcome by proper design. However, because the installation of emergency-locking retractors for shoulder belts could require extensive design changes in some vehicles, and create serious lead time problems, this proposal would permit either emergency-locking retractors or manual adjustment devices for the shoulder belts, and either emergency-locking or automatic-locking retractors for the lap belts.

Several comments objected to the requirement that emergency-locking retractors be sensitive only to vehicle acceleration, and suggested that retractors sensitive to webbing withdrawal also be allowed. Since the safety aspects of both types of belts are comparable, this proposed requirement has been changed to allow either vehicle-sensitive or webbing-sensitive emergency-locking retractors.

Some comments objected to the requirement in the May 7 notice that all belt systems be operable with one hand. It has been determined that one-hand latching and unlatching is an important safety factor mainly in the driver's seating position, and the requirement has been changed to limit the requirement to that position. Also, objections were made to the requirement that safety belts release by a pulling or lifting motion, and it was pointed out that approximately 75 percent of the systems currently in use have pushbutton releases. The standardization of release systems is important for safety, and in light of comments regarding current usage, availability, and production capability, it is proposed that pushbutton release mechanisms be required.

Several comments were received concerning the injury criteria specified for passive systems. Most commenters felt that the force and pressure measurements specified were beyond the state of the art. It has been determined that an adequate measurement of injury can be made in terms of head acceleration, chest acceleration, and the force transmitted through each femur, and values for each of these injury criteria are specified in this notice. The provisions in the May 7 notice for labeling, low speed deployment, and a readiness indicator should still be considered as part of the overall proposal for passive protection systems.

Interested persons are invited to submit comments on the revised proposal as set forth below. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. Ten copies are requested but not required. All comments received before the close of business on October 26, 1970, will be considered, and will be available for examination both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on September 18, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

OCCUPANT CRASH PROTECTION—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES

S1. *Purpose and scope.* This standard specifies performance requirements for the protection of vehicle occupants in crashes.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S3. *Requirements for passenger cars.* Each passenger car manufactured on or after January 1, 1972, shall meet the requirements of S3.1, S3.2, or S3.3. A passive protection system that meets the requirements of S3.1 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S3.2 or S3.3.

S3.1 *First option—passive protection system.* When the vehicle perpendicularly impacts a fixed collision barrier, while moving longitudinally forward at any speed up to 30 m.p.h., it shall meet the injury criteria of S5, under the test conditions of S4 using unrestrained anthropomorphic test devices, by means that require no action by vehicle occupants.

S3.2 *Second option—combination system.* The vehicle shall—

(a) Have a Type 1 seat belt assembly that conforms to Standard No. 209, and S3.4 and S3.5 of this standard, at each front outboard designated seating position;

(b) Have a seat belt warning system that conforms to S3.6 for each front outboard seating position;

(c) Have either a Type 1 or a Type 2 seat belt assembly that conforms to S3.4 and S3.5 at all designated seating positions other than the front outboard positions; and

(d) Meet either—

(1) The injury criteria of S5, under the test conditions of S4 with anthropomorphic test devices at each front outboard position restrained only by Type 1 seat belt assemblies, when the vehicle perpendicularly impacts a fixed collision barrier while moving longitudinally forward at any speed up to 30 m.p.h.; or

(2) The requirements proposed, as an amendment to Standard No. 201 (35 F.R. 14936) for the windshield header, the A-pillar, and Zones 1, 2, 3, and 4; and the requirements proposed, as an amendment to Standard No. 203 (35 F.R. 14940) for the steering control assembly.

S3.3 *Third option—belt system.* The vehicle shall—

(a) Except in convertibles and open-body type vehicles, have a Type 2 seat belt assembly, with either an integral or detachable upper torso portion, at each front outboard seating position, that conforms to Standard No. 209 and S3.4 and S3.5 of this standard;

(b) Have a seat belt warning system at each front outboard seating position that conforms to S3.6;

(c) Have either a Type 1 or a Type 2 seat belt assembly that conforms to S3.4 and S3.5 at all designated seating positions, other than those specified in S3.3 (a); and

(d) When the vehicle perpendicularly impacts a fixed collision barrier, while moving longitudinally forward at any speed up to 30 m.p.h., under the test conditions of S4 with anthropomorphic test devices at each front outboard position restrained by Type 2 seat belt assemblies, experience no complete separation of any element of a seat belt assembly.

S3.4 *Adjustment.*

S3.4.1 The pelvic restraint portion of any seat belt assembly furnished in accordance with S3.2 or S3.3 shall adjust automatically to fit vehicle occupants whose dimensions range from those of a 50th-percentile 5-year-old female to those of a 95th-percentile adult male, with the seat in any position and the seat back in any upright riding position, by means of—

(a) An emergency-locking retractor that conforms to Standard No. 209, except that it shall not lock when subjected to an acceleration of 0.3 g. or less,

and shall lock when subjected to an acceleration of 0.7 g. or more, in accordance with the procedures of S5.2(j) of Standard No. 209; or

(b) An automatic-locking retractor that conforms to Standard No. 209.

S3.4.2 The upper torso restraint portion of a seat belt assembly furnished in accordance with S3.2 or S3.3 shall adjust to fit vehicle occupants whose dimensions range from those of a 5th-percentile adult female to those of a 95th-percentile adult male with the seat in any position and the seat back in any upright riding position, by means of—

(a) An emergency-locking retractor that conforms to Standard No. 209, except that it shall not lock when subjected to an acceleration of 0.3 g. or less, and shall lock when subjected to an acceleration of 0.7 g. or more, in accordance with the procedures of S5.2(j) of Standard No. 209; or

(b) A manual adjusting device that conforms to Standard No. 209.

S3.4.3 The intersection of the upper torso belt with the lap belt in any properly adjusted Type 2 seat belt assembly furnished in accordance with S3 shall be at least 8 inches from the front vertical centerline of a 50th-percentile adult male occupant, measured along the lap belt, with the seat in its rearmost position.

S3.5 *Latch mechanism.*

S3.5.1 A seat belt assembly furnished in accordance with S3.2 or S3.3 shall have a latch mechanism that—

(a) Is readily accessible to the occupant in both the stowed and operational positions;

(b) Releases the upper torso and lap belts simultaneously; and

(c) Releases at a single point by a pushbutton action.

S3.5.2 The seat belt assembly installed at the driver seating position shall allow the driver to latch and unlatch the system with one hand.

S3.6 *Seat belt warning system.*

S3.6.1 The seat belt assemblies provided at the front outboard seating positions in accordance with S3.2 or S3.3 shall have a warning system that activates both a continuous audible alarm and a continuous visible warning light when all of the following conditions exist:

(a) Occupants within the size range specified in S3.4.1 occupy either or both of the front outboard designated seating positions.

(b) The vehicle ignition switch is in the "on" position.

(c) Either or both of the occupants specified in (a) do not have the pelvic restraint portions of their seat belt assemblies fastened about them.

S3.6.2 The warning system shall not, except for activation of the specified warnings, interfere with vehicle operation.

S3.6.3 The warning light, when activated, shall show the words "Fasten Seat Belt" clearly visible to both the driver and the front outboard passenger.

S4. *Test conditions.*

S4.1 50th-percentile adult male anthropomorphic test devices conforming to the specifications of SAE Recommended Practice J963, June 1968, and incorporating a pelvic structure that conforms to Figure 1, are located simultaneously in each designated seating position to be tested.

S4.2 Limb joint tensions are set at 1 g., barely restraining the weight of a limb when it is extended horizontally. Leg tensions are adjusted with the torso in the supine position. Articulated neck and torso joints are adjusted to provide adequate stiffness for positioning and retention of position during accelerations. These joints remain stiff under horizontal acceleration loads of 1 g., in the test position, but move at horizontal acceleration loads of 2 g.

S4.3 Each anthropomorphic test device is clothed in form-fitting cotton stretch garments.

S4.4 The hands of the device in the driver's designated seating position are on the steering wheel rim at the horizontal centerline, and the legs are in the normal driving position.

S4.5 The hands of the device in the passenger front outboard seating position are overlapping on its lap, and the legs are outstretched in the normal sitting position.

S4.6 If a seat belt system is used to restrain an anthropomorphic test device, after the belt system is put in place the device is jostled to normalize the forces acting on the test device.

S4.7 Adjustable seats are midway between the forwardmost and rearmost positions, and if vertically adjustable in that position, are at the lowest setting.

S4.8 Adjustable seat backs are in the fully upright riding position.

S5. *Injury criteria.* When testing conformity to S3.1 or S3.2(d)(1), the following injury criteria shall apply to each anthropomorphic test device placed in the required designated seating positions of the vehicle, under the conditions of S4.

S5.1 No portion of the test devices shall protrude beyond the boundaries of the vehicle passenger compartment.

S5.2 The resultant head acceleration shall not exceed 90 g., and shall not exceed 67 g. for a cumulative duration of more than 3 milliseconds.

S5.3 The resultant chest acceleration shall not exceed 40 g. for a cumulative duration of more than 2 milliseconds.

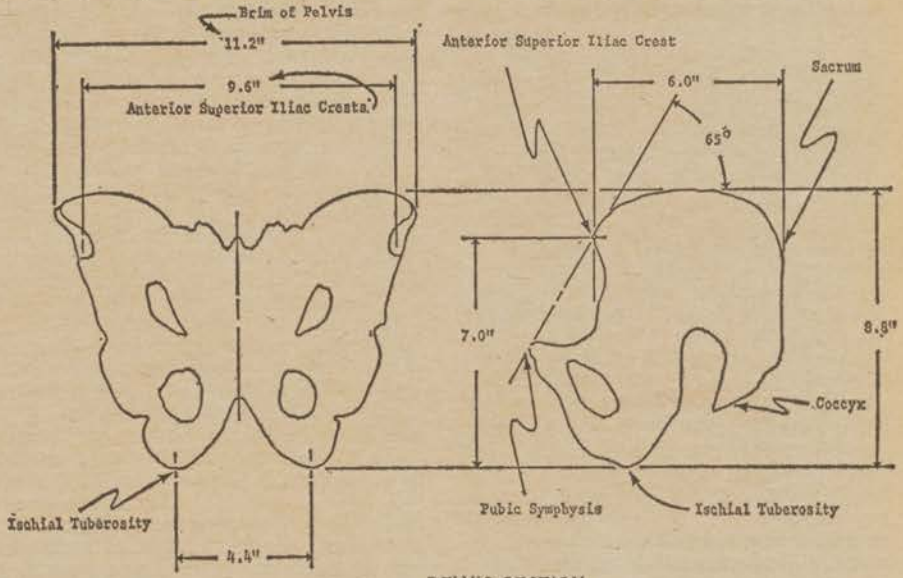
S5.4 The axial force transmitted to the pelvis through each femur shall not exceed 1,400 pounds.

S6. *Requirements for trucks, buses, and multipurpose passenger vehicles.* Each truck, bus, and multipurpose passenger vehicle manufactured on or after January 1, 1972, shall, at each designated position except passenger seats in buses, provide either passive protection as specified in S3.1 or seat belt assemblies that conform to Standard No. 209, as follows:

S6.1 A Type 1 seat belt assembly shall be installed for each designated seating position in open-body type vehicles, position in open body type vehicles, walkin vantype trucks, and trucks that have a gross vehicle weight rating of more than 10,000 pounds, and for the driver's seating position in buses.

S6.2 In all trucks and multipurpose passenger vehicles, except those for which requirements are specified in S6.1, a Type 2 seat belt assembly shall be installed for each outboard designated seating position that includes the windshield header within the head impact area, and a Type 1 seat belt assembly shall be installed for each other designated seating position.

S6.3 A Type 2 seat belt assembly may be installed for any position where a Type 1 seat belt assembly is specified by S6.1 or S6.2. A combination of a Type 2a shoulder belt and a Type 1 seat belt assembly may be installed for any position where a Type 1 or Type 2 seat belt assembly is specified by S6.1 or S6.2.



PELVIC SECTION

50TH PERCENTILE MALE ANTHROPOMORPHIC DUMMY

FIGURE I

[F.R. Doc. 70-12684; Filed, Sept. 24, 1970; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Radiation Exposure Records

Section 20.401 of the Atomic Energy Commission's regulation "Standards for Protection Against Radiation," 10 CFR Part 20, requires licensees to maintain records showing the radiation exposures of all individuals for whom personnel monitoring is required under § 20.202. This information is maintained on Form AEC–5 or its equivalent.

Paragraph 20.401(c) requires that external radiation exposure records be preserved until December 31, 1970, or until a date 5 years after termination of the individual's employment, whichever is later. A note to § 20.401(c) states that "Prior to December 31, 1970, the Commission may amend this paragraph to assure the further preservation of records which it determines should not be destroyed."

Section 20.108 provides that the Commission may require a licensee as a condition of his license to make bioassay services available to aid in determining the extent of an individual's exposure to concentrations of radioactive material and to furnish a copy of the reports of such services to the Commission. Section 20.408 requires certain licensees, upon termination of an individual's employment or work, to furnish a report to the individual and to the Commission showing the individual's exposure to radiation and radioactive material, including the information recorded by the licensee pursuant to §§ 20.401(a) and 20.108. There is no specific provision in Part 20, however, which states a retention period for records of bioassay studies.

The Commission is considering an amendment of § 20.401(c) to provide that records of individual exposure to radiation and to radioactive material which must be maintained pursuant to § 20.401 (a) and records of bioassays, including results of whole body counting examinations, made pursuant to § 20.108, shall be preserved indefinitely or until the Commission authorizes their disposal.

There may be circumstances where permanent retention of such exposure records by a licensee would be burdensome. In such instances, upon application by the licensee, the Commission could issue specific instructions for appropriate disposal of the records. For example, a licensee who is planning to discontinue all AEC-licensed activities could apply to the Commission, pursuant to § 20.501, for authorization to dispose of the records maintained pursuant to § 20.401(a), and records of bioassays made pursuant to § 20.108, by sending the records or summaries thereof, as appropriate, to the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The note which follows paragraph (c) of § 20.401 of 10 CFR Part 20 is deleted, and paragraph (c) of § 20.401 is revised to read as follows:

§ 20.401 Records of surveys, radiation monitoring and disposal.

* * * * *

(c) Records of individual exposure to radiation and to radioactive material which must be maintained pursuant to the provisions of paragraph (a) of this section and records of bioassays, including results of whole body counting examinations, made pursuant to § 20.108 shall be preserved indefinitely or until the Commission authorizes their disposal. Records which must be maintained pursuant to this part may be maintained in the form of microfilms.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 11th day of September 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[F.R. Doc. 70–12817; Filed, Sept. 24, 1970; 8:50 a.m.]

Notices

DEPARTMENT OF DEFENSE

Department of the Army

OFFICE OF CIVIL DEFENSE

Proposed Operational Requirements for Warning

The Director of Civil Defense has been redelegated the responsibility of the Secretary of Defense under Executive Order 10952 of July 20, 1961, to develop and execute all steps necessary to warn or alert Federal military and civilian authorities, State officials and the civilian population, and all functions pertaining to communications, including a warning network, reporting on monitoring, instructions to shelters, and communications between authorities.

Pursuant to the foregoing the Director of Civil Defense proposes to adopt the following objective and operational requirements for a telecommunications Warning System:

I. *Objective.* The objective of the warning system is to provide a rapid, reliable, and relatively invulnerable means of transmitting a nationwide audible alert signal and warning message to all persons, utilizing to the maximum degree existing resources adaptable to this purpose.

To realize the maximum lifesaving potential of the warning system, it is necessary that the system provide warning to each person, wherever he may be, day or night. An achievable goal is for 90 percent of the population to be provided such warning by 1980.

II. *Functions to be performed.* The warning system shall provide government officials and the public, through receivers located in dwellings, places of business and institutions, a timely national alert and warning of an enemy attack. The system shall include a capability for activating local outdoor warning sirens, other public alerting and warning systems, and home and institutional warning receivers. It shall be capable of providing impact warning to selected geographic areas if deployment of an antiballistic missile system makes such warning feasible. It shall be capable of providing severe weather warning to selected geographic areas if this dual-use function is assigned by competent authority. The warning system shall provide government officials and the public with emergency operational information to supplement warning messages.

III. *System operational and performance requirements*—A. *Coverage.* The system shall provide an intelligible message to system receivers located within the 48 contiguous States. At least 90 percent of the population in the 48 contiguous States shall be able to receive warning meeting the criteria in these requirements. The warning system must be capable of interfacing with the local warning systems in the noncontiguous States, territories, and possessions.

B. *Continuous activation capability.* The warning system shall be capable of being activated any time of day, any day of the year. There must be a 24-hour capability to transmit an alert or warning message through each warning receiver, with at least 90 percent probability of receiving an understandable message the first time it is transmitted.

C. *Minimum system performance levels.* The performance level for the system shall be such that 99.9 percent of all system terminals have at least 90 percent probability of receiving the warning. Not more than 0.1 percent of the population in the 48 contiguous States shall be at risk due to failures in the warning system.

D. *System response time.* The time between initiation of the warning at the national initiation point and the beginning of the sounding of local sirens and of the alert (attention) signal by all system receivers shall be no more than 30 seconds.

E. *Survivability.* The warning system shall be designated for survival under the assumption that its facilities, other than the national initiation points, are not considered to be potential targets. Both transmitting and receiving elements of the system essential for home and institutional warning shall be so designed or protected as to minimize the electromagnetic pulse effects of nuclear weapons, and shall function in the absence of commercial power. Transmitting elements of the system shall be capable of normal operation independently of commercial power. Government receiving terminals shall have internal or auxiliary power to enable at least 2 weeks operation, for up to 24 hours a day, in the absence of commercial power. Home warning receivers shall be designed to operate in the absence of commercial power for a period of at least 1 hour.

F. *Fail-safe equipment.* All equipment in the warning system shall be designed to maximize the probability that components will fail in a silent or safe condition, and not in a condition that gives a false indication of system operation.

G. *Redundant equipment.* Redundant equipment shall be installed in the warning system, above the receiver level, to ensure system survivability and rcliability againt electromagnetic pulse (EMP) effects, or critical component failures. Where such redundancy exists, automatic switchover to alternate equipment shall be provided.

H. *National initiation points.* The system shall be capable of activation on a nationwide basis from one primary and at least one alternate location operated by the Federal Government. The Office of Civil Defense National Warning Centers (NWC's) shall be included in these initiation points. Access to the system shall be provided only under the control of these initiation points.

I. *Priority of attack warning.* National initiation points shall be provided the capability to preempt the system in order to override any transmission that might be already in progress, in order to transmit an attack warning.

J. *Warning message options.* The warning system shall transmit pretaped warning messages to the public whenever possible, but the capability to transmit live messages shall also be provided.

K. *Positive control of home and other system receivers.* Federal officials at the national initiation point shall control the signals which activate and deactivate all receivers in the system. Receivers shall demute and remain demuted while a demuting signal is being sent from transmitting elements of the system, and shall remute automatically in not more than 15 seconds when this signal ceases. Means shall be provided to assure automatic silencing in 15 seconds in the event a home receiver accidentally activates.

L. *Spoofing and unauthorized access.* The warning system shall be designed to be secure from false or unauthorized signals, and to prevent unauthorized persons from gaining access or control. It shall be designed to enable the rapid detection by system operators of any such attempt. The system operators shall be provided with the ability to immediately recall false alerts, and to inform the public of the situation.

M. *Addressing.* The warning receiver terminals and the associated controlling transmitters shall be designed so that receivers can be selectively demuted as follows:

1. For attack warning, all warning receivers shall be demuted simultaneously.

2. For impact warning, all warning receivers in one of 100 or more predesignated local target areas shall be demuted. (These areas may be smaller than the limits of coverage of the serving transmitter.)

3. Minimal addressing capability for a given home warning receiver served by a given transmitter includes ability to demute when the national alert is transmitted nationwide to all warning receivers; when an impact alert is sent to a selected local target area only (at which time warning receivers in other local target areas and elsewhere remain mute); and when a fallout or severe weather warning is transmitted on an area basis (at which time warning receivers in other areas remain mute).

4. For dissemination of essential emergency operational information, addressing flexibility shall be provided for demuting (on a hierarchical and geographical basis) the warning receivers at local,

State, regional, and national government facilities and at industrial, institutional, and military facilities.

N. *Message types.* The warning system shall be capable of transmitting both voice messages and hard copy information.

O. *Activation of other systems.* The warning system shall be capable of activating local outdoor warning sirens and other public alerting and warning systems.

P. *Alerting signal.* 1. An alerting signal separate and independent from the warning receiver demuting signals shall be provided to draw attention to the warning message. It shall also be possible to transmit information or tests without the alerting signal. The alerting signal shall be a standardized yelper signal to be delivered at a sound intensity of at least 90 db as measured along the axis 1 foot in front of the receiver speaker.

2. The public alert signal for the warning system shall originate in the transmitting elements of the system, not in the warning receiver itself.

Q. *Receiver requirements.* 1. The institutional receiver shall be a separte receiver. It shall operate and furnish an intelligible message, following appropriate demuting signals, with 99.9 percent probability. It may be combined with a teleprinter for receiving hard copy or with a device for automatic recording of voice transmissions. Institutional receivers for public shelters or other locations not equipped with emergency power shall operate for at least 2 weeks, up to 24 hours per day, in the absence of commercial power.

2. The home warning receiver shall normally remain in a muted condition; that is, the audio output of the receiver shall not operate until it is necessary to transmit a signal or message through the receiver to the public. The receiver shall operate and furnish an intelligible message, following appropriate demuting signals, with 99.9 percent probability. It may be incorporated into a television or radio broadcast receiver and may also be marketed separately. Home warning receivers shall be designed to withstand wear and tear normally experienced with commercial radio or television receivers.

3. Two types of siren control devices are required: One type is for control of individual sirens. It shall operate, following receipt of the siren control signals, with 99.9 percent probability. The second type is for control of large siren systems. Redundant equipment shall be used to insure survivability and reliability against false activation and critical component failure. Where such redundancy exists, automatic switchover shall be provided. A local capability for siren activation shall not be excluded by the system.

R. *Verification of activation and operational status.* Verification of the performance of the transmitting elements of the system shall be given automatically to the Federal official at each national initiation point by means of visual displays. The operational status of the system—the test or attack warning actions taken at any of the national initiation points—shall be instantaneously displayed at all of the national initiation points.

S. *Testing.* The warning system shall be tested down through the home warning receiver on a regular basis. Tests into homes must be unobtrusive.

T. *Maintenance.* The failure of equipment used in the transmitting elements of the system shall be indicated automatically to the responsible maintenance personnel. Where such failures degrade system operation, the Federal official at each national initiation point shall be notified instantaneously and automatically.

All persons, authorities, officials, and entities wishing to submit comments or suggestions on these requirements may do so within 90 days from date of publication of this notice in the FEDERAL REGISTER. They may present their views in writing to the Director of Civil Defense, Office of the Secretary of the Army, Department of the Army, Room 3E–346, the Pentagon, Washington, D.C. 20310.

Dated: September 14, 1970.

JOHN E. DAVIS,
Director of Civil Defense.

[F.R. Doc. 70–12786; Filed, Sept. 24, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 2577]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

SEPTEMBER 15, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR, Parts 2420 and 2460, the public lands described below are hereby classified for multiple-use management. Publication of this notice has the effect of (a) segregating the land described in paragraph 3 from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C., sec. 334) and from sales under section 2455 of the Revised Statutes, 43 U.S.C. 1171 and (b) of further segregating the lands described in paragraph 4 of this Notice from the operation of the general mining laws (30 U.S.C., Ch. 2) but not the mineral leasing laws. Except as provided in (a) and (b) above, the lands shall remain open to all other applicable forms of appropriation. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 7314) on May 9, 1970. However, it was found that section 24, T. 17 S., R. 29 E., M.D.M., had been erroneously omitted from the land description pertaining to the Case Mountain Road. It was also found that in the same township, section 13, had been erroneously omitted from, and secs. 10, 37, and 38 erroneously included in the land description pertaining to the Mineral King Highway. These corrections have been made in the descriptions below. The record showing comments received and other information is available for inspection at the Bakersfield District Office, Bakersfield, Calif.

3. The public lands located within the following described areas are shown on maps designated 2412–04–01–33 (S-2577)—Kaweah, on file in the Bakersfield District Office, Bureau of Land Management, Bakersfield, Calif. 93301, and in the Land Office, Bureau of Land Management, Federal Office Building, Room E–2841, 2800 Cottage Way, Sacramento, Calif. 95825.

The overall description of the area is as follows:

TULARE COUNTY

MOUNT DIABLO MERIDIAN

All public land in:

Block 1

T. 15 S., R. 28 E.,
Secs. 26, 27, 34, 35, and 36.
T. 16 S., R. 28 E.,
Secs. 1, 2, 3, 10, 11, 13, 14, 22, 23, 24, 25, 26, 34, and 36.
T. 17 S., R. 28 E.,
Secs. 1, 2, and 12.
T. 17 S., R. 29 E.,
Secs. 5, 6, and 7.

Block 2

T. 17 S., R. 29 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, 15, 20, 22, 24, 25, 26, 27, 28, 33, 34 35 36, through 39, 40, 41, 42, 43, 44, 45, and 46.
T. 18 S., R. 29 E.,
Secs. 1, 2, 4, 10, 11, 12, 13, 22, 25, 26, and 27.

Block 3

T. 19 S., R. 29 E.,
Secs. 5, 6, 7, 8, 15, 18, 19, 20, 21, 28, and 29.

The area described aggregates approximately 28,682 acres.

4. The following described lands, aggregating approximately 3,680 acres, are further segregated from appropriation under the general mining laws:

MOUNT DIABLO MERIDIAN

All public land in:

Block 1

T. 16 S., R. 28 E.,
Sec. 13, NW¼NW¼, S½N½, S½;
Sec. 23, SE¼;
Sec. 24, NE¼, N½NW¼, E½SW¼, SE¼;
Sec. 25, all;
Sec. 26, SE¼.

Block 2

T. 17 S., R. 29 E.,
Sec. 3, SW¼;
Sec. 10, all;
Sec. 37, SE¼;
Sec. 38, E½SE¼.

All public land within 200 feet of centerline of the Case Mountain Road, BLM No. 1228 as built in secs. 40, 42, 45, 33, 27, 26, 24, and 35 in T. 17 S., R. 29 E., M.D.M.

All public land within 500 feet of centerline of Mineral King Highway, State

Route 276 as adopted through secs. 11, 12, and 13 in T. 17 S., R. 29 E., M.D.M.

5. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3. For a period of 30 days interested parties may submit comments to the Secretary of the Interior, LLM, 321 Washington, D.C. 20240.

J. R. PENNY,
State Director.

[F.R. Doc. 70-12795; Filed, Sept. 24, 1970; 8:47 a.m.]

[R 2637]

CALIFORNIA

Notice of Classification of Public Lands for Multiple-Use Management

SEPTEMBER 17, 1970.

1. Pursuant to the Act of September 19, 1964 (78 Stat. 986; 43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2460, the public lands in paragraph 4 are classified for multiple-use management. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. Publication of this notice has the effect of (a) segregating all public lands described below from appropriation only under the agricultural land laws (43 U.S.C. Chs. 7 and 9; 25 U.S.C. sec. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171).

3. A number of comments were received following publication of the proposed classification in the FEDERAL REGISTER on June 4, 1970 (35 F.R. 108) and after the public hearing held in Riverside on July 16, 1970. All comments were in favor of the classification. The full record of public participation is available for inspection at the Riverside Distric and Land Office.

4. The public lands are located within the southwestern portions of Riverside and San Bernardino Counties and a small portion of the northwest part of San Diego County and include the Coastal and Hemet Planning Units. For the purpose of this classification the public lands within each planning unit have been analyzed in detail and described in documents and on maps available for inspection at the Riverside District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 1 N., R. 4 W.,
Sec. 6, lot 2.
T. 1 N., R. 5 W.,
Sec. 1, lot 1.
T. 1 N., R. 7 W.,
Sec. 13, W½NW¼NE¼SE¼, NE¼NE¼SE¼SE¼.
T. 1 S., R. 1 W.,
Sec. 32, lots 1, 2, 3, and 4, and N½SE¼;
Sec. 35, SW¼.
T. 3 S., R. 1 W.,
Sec. 24, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9;
Sec. 28, W½SE¼;
Sec. 32 NE¼SE¼, S½SE¼.
T. 5 S., R. 1 W.,
Sec. 26, N½NE¼.
T. 6 S., R. 1 W.,
Sec. 10, SW¼NE¼, W½SE¼, and SE¼SE¼.
T. 7 S., R. 1 W.,
Sec. 8, NW¼NE¼, SW¼NW¼, and W½SW¼;
Sec. 12, lots 4, 5, and 6;
Sec. 32, lots 1, 2, 3 and 4, and SE¼SE¼;
Sec. 34, NW¼ and S½.
T. 8 S., R. 1 W.,
Sec. 4, lots 1, 2, 3, and 4, and N½N½;
Sec. 19, SE¼NW¼, E½SW¼, and SE½;
Sec. 20, W½SW¼;
Sec. 24, SE½SE¼.
T. 1 S., R. 2 W.,
Sec. 34, SW¼NW¼.
T. 2 S., R. 2 W.,
Sec. 34, NE¼NW¼, S½NW¼, SW¼, W½SE¼.
T. 3 S., R. 2 W.,
Sec. 2, SW¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Sec. 4, lots 2, 3, and 4;
Sec. 10, lots 1, 2, and 8, and SW¼SE¼.
T. 4 S., R. 2 W.,
Sec. 22, W½NW¼, NW¼SW¼.
T. 6 S., R. 2 W.,
Sec. 4, lot 4, SW¼NE¼, and S½NW¼;
Sec. 14;
Sec. 24, NW¼NW¼, SW¼SW¼, and NW¼SE¼.
T. 8 S., R. 2 W.,
Sec. 23, lots 4 and 5, S½SW¼, and SE¼;
Sec. 24, S½S½ and NE¼SE¼;
Sec. 29, lot 2 and SW¼SW¼;
Sec. 31, lot 4, NE¼, SE¼NW¼, NE¼SW¼, SE¼SW¼, and SE¼;
Sec. 32, NW¼, NE¼SW¼, and N½SE¼.
T. 6 S., R. 3 W.,
Sec. 30, lots 1 and 2 and S½SE¼;
Sec. 32, N½NE¼, SE¼NE¼, and N½NW¼.
T. 8 S., R. 3 W.,
Sec. 23, SE¼SE¼;
Sec. 24, lots 1, 2, and 3, and S½SW¼;
Sec. 25, W½NE¼, NW¼, and S½;
Sec. 26, E½NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 33, NW¼NE¼, S½NE¼, S½NW¼, N½SW¼, and NE¼SE¼.
T. 4 S., R. 4 W.,
Sec. 14, SE¼SE¼;
Sec. 28, E½W½;
Sec. 32, NE¼NW¼, E½SW¼, SE¼ (except patented mineral surveys 6164, 3315, 5970A and B, and 6523).
T. 5 S., R. 4 W.,
Sec. 4, lots 2, 3 and 4, SW¼NE¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 9, NE¼, N½NW¼, E½SW¼NW¼, SE¼NW¼, E½W½SW¼, and E½SW¼;
Sec. 20, NW¼;
Sec. 28, S½NE¼SE¼SE¼ and W½SE¼SE¼;
Sec. 33, NE¼NE¼NE¼, N½NW¼NE¼NE¼, S½NE¼NE¼, and SE¼NE¼.
T. 8 S., R. 4 W.,
Sec. 26, SW¼SW¼;
Sec. 27, S½N½, N½SW¼, and SE¼;
Sec. 31, lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 34, NE¼NE¼.
T. 5 S., R. 5 W.,
Sec. 8, N½;
Sec. 10, E½.
T. 8 S., R. 5 W.,
Sec. 25, E½NW¼;
Sec. 36.
T. 2 S., R. 6 W.,
Sec. 2, lots 1, 5, 7, 8, 9, 10, and NE¼SW¼.
T. 4 S., R. 1 E.,
Sec. 33, S½;
Sec. 34, W½NE¼, W½, W½SE¼, and SE¼SE¼.
T. 5 S., R. 1 E.,
Sec. 14, SE¼SE¼;
Sec. 22, NE¼, N½SW¼, and N½SE¼;
Sec. 23;
Sec. 26, N½N½, SE¼NE¼, NE¼SW¼, and SE¼;
Sec. 27, NE¼NW¼, NE¼NW¼NW¼, W½NE¼SW¼, SE¼NE¼SW¼, W½SW¼, and SE¼SW¼;
Sec. 28, NW¼SE¼;
Sec. 34, NE¼NE¼NE¼, S½NE¼NE¼, NW¼NW¼NE¼, S½NW¼NE¼, SW¼NE¼, SE¼NE¼, NW¼NW¼, and SE¼;
Sec. 35, NE¼NE¼, E½NW¼NE¼, NE¼SE¼NE¼, and NW¼SW¼.
T. 6 S., R. 1 E.,
Sec. 4, lots 1, 3, 4, and 5;
Sec. 10;
Sec. 18, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 36, lots 5, 6, and 7.
T. 7 S., R. 1 E.,
Sec. 12, W½;
Sec. 30, lots 3 and 4 and E½SW¼.
T. 8 S., R. 1 E.,
Sec. 4, lots 1, 2, 3, and 4, S½NE¼, and SW¼;
Sec. 5, lots 3 and 4;
Sec. 10, lots 3 and 4;
Sec. 13, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 15, lots 1, 2, 3, 4, 5, 7, 8, and 12;
Sec. 16, E½;
Sec. 17, SE¼SE¼;
Sec. 20, NE¼, E½NW¼, and NW¼SE¼;
Sec. 21, NE¼, NW¼, N½SW¼, and SE¼;
Sec. 22, lots 9, 10, 11, 12, 13, 14, 15, and 16;
Sec. 23, SE¼SE¼;
Sec. 24, SE¼NE¼, lots 5, 6, 7, and 8;
Sec. 25, N½ and N½S½;
Sec. 26, lots 1, 2, 4, and 5;
Sec. 27, NW½NE¼, N½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 30, SW¼NE¼;
Sec. 33, SW¼NW¼, and SW¼SE¼;
Sec. 35, lot 12.
T. 7 S., R. 2 E.,
Sec. 12.
T. 8 S., R. 2 E.,
Sec. 7, SE¼NE¼;
Sec. 8, NE¼SW¼, and SW¼SE¼;
Sec. 11, lots 5, 6, 7, 8, 11, and 12;
Sec. 12, lots 17, 18 and 19;
Sec. 14, NW¼NW¼;
Sec. 18, SW¼SW¼;
Sec. 19, lots 1, 2, and 4, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 20, NW¼SW¼, S½S½;
Sec. 21, S½SW¼ and SW¼SE¼;
Sec. 22, SE¼SE¼;
Sec. 23, S½S½;
Sec. 24, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 25;
Sec. 26, E½NE¼ and S½SW¼;
Sec. 27, N½ and SW¼;
Sec. 28, N½NW¼ and S½;
Sec. 29, N½, S½SW¼, and SW¼SE¼;
Sec. 30, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, and SE¼SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, NE¼, N½NW¼, SE¼NW¼, N½SW¼, and SE¼;
Sec. 33, NW¼ and S½;
Sec. 34, NE¼NE¼, and S½;
Sec. 35, W½NE¼, NW¼, and S½;
Sec. 36, NE¼, N½NW¼, SE¼NW¼, and S½.

T. 7 S., R. 3 E.,
Sec. 4, lots 4, 5, 6, 7, 8, 11, and 12, W½NE¼NW¼, and SW¼SE¼;
Sec. 5, NW¼NE¼;
Sec. 6, lots 5, 6, 7, and 8, and NE¼NW¼;
Sec. 13, S½NE¼SW¼, S½SW¼, N½NE¼SE¼, and S½SW¼SE¼;
Sec. 18, SW¼SE¼, W½W½SE¼SE¼, and E½E½SE¼SE¼;
Sec. 36, N½NE¼.
T. 8 S., R. 3 E.,
Sec. 7, lots 8, 9, 10, 11, 14, and 15;
Sec. 8, lots 7, 8, and 12;
Sec. 9, lot 14;
Sec. 16, E½NE¼, E½NW¼, and S½;
Sec. 18, NE¼, lot 4, E½SE¼;
Sec. 19, lots 3 and 4, E½SW¼;
Sec. 20, E½NE¼, NW¼, NW¼SW¼, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 22, W½NE¼, NW¼, and S½;
Sec. 24, NE¼, W½NW¼, and S½;
Secs. 26, 28, 29, and 30;
Sec. 31, lots 1, 2, 3, and 4, NE¼, E½NW¼, E½SW¼, and E½SE¼;
Secs. 32, 33, 34, and 36.
T. 8½ S., R. 3 E.,
Sec. 31, lots 3, 4, 5, 6, and 7;
Sec. 32, lots 1, 2, 3, 4, 5, 6, 7, and 8;
Sec. 33, lots 1, 2, 3, 4, 5, 6, 7, and 8;
Sec. 34, lots 1, 2, 3, 4, 5, 6, 7, and 8;
Sec. 35, lots 1, 2, 3, 4, 5, 6, 7, and 8.
T. 7 S., R. 4 E.,
Secs. 28, 32, 34, and 36.
T. 8 S., R. 4 E.,
Secs. 2 and 4;
Sec. 8, lots 3, 4, and 5, SW¼SW¼;
Secs. 10, 12, and 14;
Sec. 16, NE¼NE¼, S½N½, and S½;
Sec. 18;
Sec. 20, N½, N½SW¼, SW¼SW¼, NE¼SE¼, and S½SE¼;
Secs. 22, 24, 26, 28, 30, 32, 34, and 36.

The lands described above aggregate approximately 50,692 acres.

5. For a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2462.3.

J. R. PENNY,
State Director.

[F.R. Doc. 70-12796; Filed, Sept. 24, 1970; 8:47 a.m.]

[Serial No. N-257-B]

NEVADA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 17, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR, Parts 2400 and 2410, it is proposed to classify the public lands within the area described below for multiple-use management. Publication of this notice segregates all the public lands described in this notice from appropriation under the Homestead, Desert Land and Allotment Laws (43 U.S.C., chapters 7 and 9; and 25 U.S.C. 334), and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421-27). The land described in paragraph 4 below is further segregated from appropriation under the general mining laws but not the mineral leasing and material sale laws. As used in this order, the term "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The area described in paragraph 5 below is hereby designated as "The Desert View Natural Environment Area," CFR 2071.1(1)(iii). This area contains outstanding stands of Joshua trees, Yucca, and other desert vegetation that merits special attention and care in management to insure their preservation in their natural condition. This scenic corridor will extend from U.S. Highway 95 and continue along both sides of the Lee Canyon Highway (State Route 52) and will pass through the Pristine Desert vegetative zone from the lower sonoran to the subalpine zone.

These lands are being classified and/or designated as a result of (1) suggestions received at public meetings, (2) written comments and (3) staff studies conducted by the Bureau of Land Management, and have been discussed with local governmental officials.

The classification of public lands along U.S. Highway 95 will result in a scenic corridor being established between a point approximately 4 miles north of the Kyle Canyon Road and the town of Indian Springs. Such a classification will help eliminate "strip" development along the highway.

The proposal to classify public lands around Devils Hole, a portion of the Death Valley National Monument, will preclude disposal, hence assist in the protection of the environment of Devils Hole in which is located the Nevada Pupfish, a rare and endangered species of desert fish.

The public lands proposed for classification, described below, are shown on maps designated N-257-B on file in the Las Vegas District Office, Bureau of Land Management, 1859 North Decatur Boulevard, Las Vegas, Nev. 89108, and the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. 89502.

3. The following described public lands are proposed to be classified for multiple use management:

MOUNT DIABLO MERIDIAN, NEVADA

T. 16 S., R. 56 E.,
Secs. 11, 12, 13, 14, 24.
T. 16 S., R. 57 E.,
Sec. 17, NW¼, S½;
Secs. 18, 19;
Sec. 20, N½, N½S½, SW¼SW¼;
Sec. 21, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 27, NW¼, S½;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 29, NW¼NW¼, S½N½, S½;
Secs. 30, 32, 33, 34;
Sec. 35, NW¼, S½.
T. 17 S., R. 50 E.,
Sec. 35, E½NE¼, N½NE¼SE¼.
T. 17 S., R. 57 E.,
Sec. 1.
T. 17 S., R. 58 E.,
Sec. 5, NW¼, S½;
Secs. 6, 7, 8;
Sec. 9, NW¼, S½;
Sec. 10, SW¼SW¼;
Sec. 13, NE¼, S½;
Sec. 14, NW¼SW¼, S½SW¼;
Sec. 15, NW¼NE¼, S½NE¼, NW¼, S½;
Secs. 16, 21, 22, 23, 24, 25, 26, 35, 36.
T. 17 S., R. 59 E.,
Secs. 19, 20, 29, 30, 31, 32.
T. 18 S., R. 50 E.,
Sec. 1, N½N½;
Sec. 2, NE¼.
T. 18 S., R. 58 E.,
Secs. 1, 12.
T. 18 S., R. 59 E.,
Secs. 1, 2, 3;
Sec. 4, NE¼, S½;
Secs. 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20;
Sec. 21, N½, N½S½;
Secs. 27, 29, 30, 31.

The area described above totals approximately 41,800 acres.

4. The following described public lands are further segregated from appropriation under the general mining laws:

T. 17 S., R. 50 E.,
Sec. 35, E½NE¼, N½NE¼SE¼;
Sec. 36, NE¼, W½, N½SE¼, SE¼SE¼.
T. 17 S., R. 51 E.,
Sec. 31, NE¼NE¼, W½E½, W½.
T. 18 S., R. 50 E.,
Sec. 1, N½N½;
Sec. 2, NE¼.
T. 18 S., R. 51 E.,
Sec. 6, NW¼, N½SW, W½NE¼, SE¼.

The area described above totals approximately 2,020 acres.

5. The following described area is hereby designated as "The Desert View Natural Environment Area":

T. 17 S., R. 57 E.,
Sec. 25, SE¼;
Sec. 35, SE¼;
Sec. 36, all.
T. 17 S., R. 58 E.,
Sec. 14, NW¼SW¼, S½SW¼;
Sec. 15, NW¼NE¼, S½NE¼NW¼, S½;
Secs. 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29;
Sec. 30, NE¼, S½;
Sec. 31;
Sec. 32, NW¼;
Sec. 33, NE¼;
Secs. 34, 35, 36.
T. 18 S., R. 56 E.,
Sec. 24, NE¼, S½.
T. 18 S., R. 57 E.,
Secs. 1, 2;
Sec. 3, S½;
Sec. 8, S½;
Secs. 9, 10;
Sec. 11, N½;
Sec. 12, N½;
Sec. 16, N½;
Sec. 17;
Sec. 18, S½;
Sec. 19;
Sec. 20, N½.

The area described above totals approximately 18,640 acres.

6. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 1859 North Decatur Boulevard, Las Vegas, Nev. 89108.

7. The area designations have previously been classified in part, and proposed to be classified in part by publication of this notice. These designations are effective on lands presently classified and will become effective upon final classification of lands proposed to be classified.

8. A public hearing on the proposed classification will be held on Friday, October 30, 1970 at 1:30 p.m., in the North Las Vegas City Hall, 2200 Civic Center Drive, North Las Vegas, Nev. 89030.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-12814; Filed, Sept. 24, 1970; 8:50 a.m.]

[Serial No. N-1575-A]

NEVADA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

SEPTEMBER 17, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Part 2400, it is proposed to classify the public lands within the area described in paragraph 3 below for multiple-use management. Publication of this notice has the effect of segregating all the public lands described in this notice from appropriation under the homestead, desert land and allotment laws (43 U.S.C., Chapter 7 and 9, and 25 U.S.C. 331), and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and exchange (43 U.S.C. 315g), and the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421-27).

2. The lands described below are being classified and/or designated as a result of (1) suggestions received by the Bureau of Land Management at the public hearing held March 5, 1969, on the Clark County Multiple-Use Classification, (2) at subsequent public meetings, (3) written comments and (4) staff studies conducted by the Bureau of Land Management, and have been discussed with local governmental officials. Also included in paragraphs 3 and 4 of the classification notice are some 5,800 acres of land presently classified for disposal under the Recreation and Public Purposes Act. These lands have been identified as being needed for future public purposes such as school sites, park sites, flood control channels, etc. The Recreation and Public Purposes Act Classification contemplates immediate disposal, and such is not the case for these lands. Therefore, the lands are being classified and segregated from all forms of disposal except under authority of the Recreation and Public Purposes Act—such disposal to be at some future date.

Five areas, listed in paragraphs 6, 7, 8, 9, and 10 below, have unique physical characteristics and are being designated so that more persons become aware of the value they contain and can more fully appreciate and utilize the areas. Where appropriate, additional segregation, from appropriation under the general mining laws, is being proposed.

One area, listed in paragraph 5 below, previously segregated from appropriation under the general mining laws, has been found to be valuable for utilization of its mineral resources and the segregative effect as to that area is hereby terminated. Segregation of this area was accomplished by publication of the Notice of Proposed Classification in the FEDERAL REGISTER on January 24, 1969 and the subsequent Notice of Classification published in the FEDERAL REGISTER on September 5, 1969.

The public lands proposed for classification are located within Clark County, Nev. The area identified for classification is shown on maps, which are on file in the Las Vegas District Office, Bureau of Land Management, 1859 North Decatur Boulevard, Las Vegas, Nev., and the Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev.

3. The public lands proposed to be classified for multiple-use management are described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 S., R. 70 E.,
Sec. 27, SW¼SE¼, SE¼SW¼;
Sec. 32, S½NE¼, SE¼;
Sec. 33, S½NW¼, SE¼NE¼, SW¼, W½SE¼, NE¼SE¼;
Sec. 34, NW¼NW¼NE¼, NW¼SW¼.

T. 14 S., R. 70 E.,
Sec. 4, NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 5, E½, SW¼;
Sec. 6, S½;
Sec. 7, N½;
Sec. 8, N½.

T. 14 S., R. 69 E.,
Sec. 14, E½SW¼, NW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, all;
Sec. 27, all;
Sec. 28, NE¼ N½SE¼, N½SW¼, SW¼SW¼;
Sec. 32, N½NE¼, SW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼.

T. 19 S., R. 60 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, SE¼.

T. 19 S., R. 61 E.,
Sec. 5, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 7, lot 2, S½NE¼, SE¼NW¼;
Secs. 8, 9, and 10, all;
Sec. 15, N½;
Sec. 16, N½.

T. 19 S., R. 62 E.,
Secs. 7 and 18, all.

T. 19 S., R. 63 E.,
Sec. 9, SE¼, S½SW¼ portion east of Highway 93;
Sec. 16, all east of Highway 93;
Sec. 17, all east of Highway 93;
Sec. 19, all east of Highway 93;
Sec. 20, all east of Highway 93;
Sec. 21, all;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, N½.

T. 20 S., R. 60 E.,
Sec. 9, W½NE¼SE¼NE¼, NW¼SE¼NE¼, E½NE¼SW¼NE¼;
Sec. 10, NW¼SE¼NE¼SW¼, W½NE¼SW¼, S½SE¼NE¼SW¼;
Sec. 15, W½W½SW¼NE¼, NE¼NW¼SW¼NE¼, SE¼SW¼SW¼NE¼, NE¼NE¼SW¼NE¼, S½NE¼SW¼NE¼, W½SE¼SW¼NE¼, SE¼SE¼SW¼NE¼, E½NE¼NE¼NW¼, E½NE¼NW¼SE¼;
Sec. 33, lots 60 and 61.

T. 20 S., R. 62 E.,
Sec. 12, E½SW¼, SE¼, E½NE¼;
Sec. 13, all;
Sec. 24, all;
Sec. 25, all;
Sec. 35, SE¼;
Sec. 36, all.

T. 20 S., R. 63 E. (unsurveyed),
If surveyed, lands will probably be described as:
Sec. 7, all;
Sec. 8, W½;
Secs. 17, 18, 19, all.

T. 21 S., R. 60 E.,
Sec. 3, lots 46, 47, 48, 57, 58, 65, and 66;
Sec. 4, lots 49, 50, 67, 69, 70, and 99;
Sec. 10, W½SW¼NE¼NW¼, E½SE¼NW¼NW¼, SE¼NE¼SW¼;
Sec. 11, lots 18, 19, 20, 46, 47, and 50;
Sec. 13, W½SW¼SW¼NW¼, NW¼NW¼NW¼SW¼;
Sec. 17, E½NW¼SE¼NW¼, NE¼SE¼NW¼, E½SE¼NE¼NW¼;
Sec. 28, SE¼SE¼;
Sec. 36, W½NW¼NW¼SE¼, NE¼NE¼NW¼SE¼, NE¼NW¼NE¼SE¼, NW¼NE¼NE¼SE¼, SE¼NE¼NE¼SE¼, NW¼SW¼NW¼SE¼, N½SE¼NW¼SE¼, NW¼SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, W½SE¼NE¼SE¼, SE¼SE¼NE¼SE¼, W½NW¼SW¼SE¼, NW¼NE¼SW¼SE¼, SE¼NE¼SW¼SE¼, SW¼NW¼SE¼SE¼, NE¼NE¼SE¼SE¼, SE¼SW¼SW¼SE¼, N½SW¼SE¼SE¼, SE¼SW¼SE¼SE¼, NW¼SE¼SE¼SE¼.

T. 21 S., R. 61 E.,
Sec. 13, lot 15;
Sec. 31, lots 53, 54, 56, 57, 62, 69, 71, 73, 75, 76, 78, 79, 81, 82, SE¼SW¼NE¼SW¼, SW¼NE¼NE¼SW¼, W½NW¼SE¼SW¼, N½SW¼SE¼SW¼, NW¼NW¼NE¼SW¼.

T. 21 S., R. 62 E.,
Sec. 1, N½, SW¼;
Sec. 35, W½NE¼NW¼, NW¼NW¼.

T. 22 S., R. 61 E.,
Sec. 5, lots 133 and 134;
Sec. 8, W½NW¼NE¼SW¼, SW¼NE¼SW¼, NW¼SE¼SW¼, E½NE¼SW¼SW¼;
Sec. 10, lots 44 and 45;
Sec. 15, E½NW¼SE¼NE¼, E½SW¼NW¼SE¼NE¼, SW¼SE¼NE¼, E½SE¼NE¼;
Sec. 20, lots 33, 34, and 60;
Sec. 28, lots 18, 19, 20, 21, 31, 32, 33, 34, 115, 124, 131, and 132.

T. 26 S., R. 63 E.,
Sec. 19, all;
Sec. 20, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all.

The land described aggregates approximately 25,400 acres of public land.

4. The following public lands are further segregated from appropriation under the general mining laws but not the mineral leasing or material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 S., R. 70 E.,
Sec. 27, SW¼SE¼, SE¼SW¼;
Sec. 32, S½NE¼, SE¼;
Sec. 33, S½NW¼, SE¼NE¼, SW¼, W½SE¼, NE¼SE¼;
Sec. 34, NW¼NW¼NE¼, NW¼SW¼.

T. 14 S., R. 70 E.,
Sec. 4, NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 5, E½, SW¼;
Sec. 6, S½;
Sec. 7, N½;
Sec. 8, N½.

T. 14 S., R. 69 E.,
Sec. 14, E½SW¼, NW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, all;
Sec. 27, all;
Sec. 28, NE¼, N½SE¼, N½SW¼, SW¼SW¼;
Sec. 29, SW¼;
Sec. 32, N½NE¼, SW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼.
T. 19 S., R. 60 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, SE¼.
T. 19 S., R. 61 E.,
Sec. 5, S½;
Sec. 6, lots 1, 2, 3, 4, 5, 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 7, lot 2, S½NE¼, SE¼NW¼;
Secs. 8, 9 and 10, all;
Sec. 15, N½;
Sec. 16, N½.
T. 19 S., R. 62 E.,
Secs. 7 and 18, all.
T. 20 S., R. 60 E.,
Sec. 9, W½NE¼SE¼NE¼, NW¼SE¼NE¼, E½NE¼SW¼NE¼;
Sec. 10, NW¼SE¼NE¼SW¼, W½NE¼SW¼, S½SE¼NE¼SW¼;
Sec. 15, E½NE¼NE¼NW¼, E½NE¼NW¼SE¼, W½W½SW¼NE¼, NE¼NW¼SW¼NE¼, SE¼SW¼SW¼NE¼, NE¼NE¼SW¼NE¼, S½NE¼SW¼NE¼, W½SE¼SW¼NE¼, SE¼SE¼SW¼NE¼;
Sec. 33, lots 60 and 61.
T. 20 S., R. 62 E.,
Sec. 12, E½SW¼, SE¼, E½NE¼;
Sec. 13, all;
Sec. 24, all;
Sec. 25, all;
Sec. 35, SE¼;
Sec. 36, all.
T. 20 S., R. 63 E. (unsurveyed);
If surveyed, lands will probably be described as:
Sec. 7, all;
Sec. 8, W½;
Secs. 17 through 24, all;
Sec. 26, all.
T. 21 S., R. 60 E.,
Sec. 3, lots 46, 47, 48, 57, 58, 65 and 66;
Sec. 4, lots 49, 50, 67, 69, 70 and 99;
Sec. 10, W½SW¼NE¼NW¼, E½SE¼NW¼NW¼, SE¼NE¼SW¼;
Sec. 11, lots 18, 19, 20, 46, 47 and 50;
Sec. 13, W½SW¼SW¼NW¼, NW¼NW¼NW¼SW¼;
Sec. 17, E½NW¼SE¼NW¼, NE¼SE¼NW¼, E½SE¼NE¼NW¼;
Sec. 28, SE¼SE¼;
Sec. 36, W½NW¼NW¼SE¼, NE¼NE¼NW¼SE¼, NE¼NW¼NE¼SE¼, SE¼NE¼NE¼SE¼, NW¼SW¼NW¼SE¼, N½SE¼NW¼SE¼, SE¼SE¼NW¼SE¼, NW¼SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, W½SE¼NE¼SE¼, SE¼SE¼NE¼SE¼, W½NW¼SW¼SE¼, NW¼NE¼SW¼SE¼, SE¼NE¼SW¼SE¼, SW¼NW¼SE¼SE¼, NE¼NE¼SE¼SE¼, SE¼SW¼SW¼SE¼, N½SW¼SE¼SE¼, SE¼SW¼SE¼SE¼, NW¼SE¼SE¼SE¼.
T. 21 S., R. 61 E.,
Sec. 13, lot 15;
Sec. 31, lots 53, 54, 56, 57, 62, 69, 71, 73, 75, 76, 78, 79, 81, 82, SE¼SW¼NE¼SW¼, SW¼NE¼NE¼SW¼, W½NW¼SE¼SW¼, N½SW¼SE¼SW¼, NW¼NW¼NE¼SW¼.
T. 21 S., R. 62 E.,
Sec. 1, N½, SW¼;
Sec. 35, W½NE¼NW¼, NW¼NW¼.
T. 22 S., R. 61 E.,
Sec. 5, lots 133 and 134;
Sec. 8, W½NW¼NE¼SW¼, SW¼NE¼SW¼, NW¼SE¼SW¼, E½NE¼SW¼SW¼;
Sec. 10, lots 44 and 45;
Sec. 15, E½NW¼SE¼NE¼, E½SW¼NW¼SE¼NE¼, SW¼SE¼NE¼, E½SE¼NE¼;
Sec. 20, lots 33, 34 and 60;
Sec. 28, lots 18, 19, 20, 21, 31, 32, 33, 34, 115, 124, 131 and 132.

The land described aggregates approximately 21,300 acres of public land.

5. Segregation from appropriation under the general mining laws is terminated on the following described public lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 15 S., R. 71 E. (unsurveyed):
Sec. 20, NW¼NW¼.

The land described above totals approximately 40 acres.

6. The area described below is hereby designated as the "Virgin River Recreation Lands" for the protection of habitat of interesting, rare and unusual plants and animals (CFR 2071.1(b)(1)). This land has a high potential for future development for waterfowl and upland game birds that are in limited supply in southern Nevada. The lands involved are described as follows:

MOUNT DIABLO MERIDIAN, NEVADA

T. 13 S., R. 70 E.,
Sec. 27, SW¼SE¼, SE¼SW¼;
Sec. 32, S½NE¼, SE¼;
Sec. 33, S½NW¼, SE¼NE¼, SW¼, W½SE¼, NE¼SE¼;
Sec. 34, NW¼NW¼NE¼, NW¼SW¼.
T. 14 S., R. 69 E.,
Sec. 14, E½SW¼, NW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, all;
Sec. 27, all;
Sec. 28, NE¼, N½SE¼, N½SW¼, SW¼SW¼;
Sec. 29, SW¼;
Sec. 32, N½NE¼, SW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼.
T. 14 S., R. 70 E.,
Sec. 4, NE¼, NW¼, N½SW¼, SW¼SW¼;
Sec. 5, E½, SW¼;
Sec. 6, S½;
Sec. 7, N½;
Sec. 8, N½.

Totaling approximately 4,930 acres.

7. The area described below is hereby designated as the "Virgin Mountain Natural Area" for the protection of unusual flora and fauna that is found no where else in southern Nevada.

MOUNT DIABLO MERIDIAN, NEVADA

T. 15 S., R. 70 E.,
Sec. 24, all;
Sec. 25, all.
T. 15 S., R. 71 E. (unsurveyed),
Sec. 17, S½S½;
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 22, all;
Sec. 30, all.

Total approximately 6,560 acres.

8. The area described below is hereby designated as the "Highland Range Crucial Bighorn Habitat Area" (CFR 2071–1). This area supports an unusual concentration of Nelson's bighorn sheep. It has been identified in an approved HMP as crucial to survival of a bighorn herd, and in need of special management for protection and maintenance of the vegetation and wildlife habitat.

MOUNT DIABLO MERIDIAN, NEVADA

T. 26 S., R. 62 E.,
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all;
Sec. 36, all.
T. 27 S., R. 62 E.,
Sec. 1, all;
Sec. 2, all;
Sec. 3, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all.
T. 26 S., R. 63 E.,
Sec. 19, all;
Sec. 20, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all;
Sec. 33, all.
T. 27 S., R. 63 E.,
Sec. 3, W½;
Sec. 4, all;
Sec. 5, all;
Sec. 6, all;
Sec. 7, all;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all.

Totaling approximately 25,280 acres.

9. The area described below is hereby designated as "Las Vegas Dunes Recreation Lands" (CFR 2071.1(b)(1)). These lands have been identified as having high value for off-road recreational vehicle use.

MOUNT DIABLO MERIDIAN, NEVADA

T. 19 S., R. 63 E.,
Sec. 9, SE¼, S½SW¼ portion east of Highway 93;
Sec. 10, all;
Sec. 11, all;
Sec. 13, SW¼;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all east of Highway 93;
Sec. 17, all east of Highway 93;
Sec. 19, all east of Highway 93;
Sec. 20, all east of Highway 93;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, W½;
Sec. 25, W½;
Sec. 26, all;
Sec. 27, N½, SE¼SE¼;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, N½.

The area above described aggregates approximately 9,000 acres.

10. The area described below is hereby designated as the "Sunrise Mountain Natural Area" (CFR 2071–1). This area has been identified as having unique geologic, biologic, and esthetic values.

MOUNT DIABLO MERIDIAN, NEVADA

T. 20 S., R. 62 E.,
Sec. 12, E½SW¼, SE¼, E½NE¼;
Sec. 13, all;
Sec. 24, all;
Sec. 25, all;
Sec. 35, SE¼;
Sec. 36, all.
T. 20 S., R. 63 E. (unsurveyed)
If surveyed, lands will probably be described as:
Sec. 7, all;
Sec. 8, W½;
Sec. 17 through 24, all;
Sec. 26, all.
T. 21 S., R. 62 E.,
Sec. 1, N½, SW¼.

Containing about 10,240 acres of public domain lands.

11. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 1859 North Decatur Boulevard, Las Vegas, Nev. 89108.

12. The area designations have previously been classified in part, and proposed to be classified in part by publication of this notice. These designations are effective on lands presently classified and will become effective upon final classification of lands proposed to be classified.

13. A public hearing on the proposed classification will be held on Friday, October 30, 1970, at 1:30 p.m., in the North Las Vegas City Hall, 2200 Civic Center Drive, North Las Vegas, Nev. 89030.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70-12815; Filed, Sept. 24, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Forest Service

EAGLES NEST WILDERNESS

Proposal and Hearing Announcement

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890, 892; 16 U.S.C. 1131, 1132) that the public hearing scheduled on October 8, 1970, at the Summit County High School Auditorium, Frisco, Colo., on a proposal for the establishment of the Eagles Nest Wilderness (F.R. Doc. 70-11021; filed Aug. 20, 1970, and published in FEDERAL REGISTER, Vol. 35, No. 163, Friday, Aug. 21, 1970) will be continued on October 12, 1970, at 9 a.m. at the Auditorium, Building 56, Denver Federal Center, vicinity of Sixth Avenue and Kipling Street, Denver, Colo.

A brochure containing a map and information about the proposed Wilderness may be obtained from the Forest Supervisor, Arapaho National Forest, 1010 10th Street, Post Office Box 692, Golden, Colo. 80401, or the Forest Supervisor, White River National Forest, Old Federal Building, Post Office Box 948, Glenwood Springs, Colo. 81601, or the Regional Forester, Building 85, Denver Federal Center, Denver, Colo. 80225.

Individuals or organizations may express their views by appearing at this hearing in Frisco or Denver, Colo., or they may submit written comments for inclusion in the official record to the Regional Forester at the above address by November 9, 1970.

A. W. GREELEY,
Associate Chief, Forest Service.

[F.R. Doc. 70-12803; Filed, Sept. 24, 1970; 8:48 a.m.]

Office of the Secretary

COMMODITY CREDIT CORPORATION

Organization and Functions and Delegations of Authority

I. General. The Commodity Credit Corporation Charter Act on June 29, 1948 (15 U.S.C. 714) established the Commodity Credit Corporation (hereinafter referred to as CCC), effective July 1, 1948, under a permanent Federal Charter, as an agency and instrumentality of the United States within the U.S. Department of Agriculture, subject to the general supervision and direction of the Secretary of Agriculture. Originally, CCC had been incorporated under the laws of the State of Delaware, pursuant to section 2(a) of the National Industrial Recovery Act of June 16, 1933, and Executive Order 6340 of October 16, 1933. The principal office of CCC is at the U.S. Department of Agriculture, Washington, D.C. 20250.

A. *Stock and Borrowing Power.* CCC has capital stock of $100 million which is subscribed by the United States, and has authority to borrow, with the approval of the Secretary of the Treasury, not to exceed an amount fixed by law.

II. Organization. A. *Board of Directors.* The Board of Directors consists of seven members. The Secretary of Agriculture is an ex officio director and serves as Chairman of the Board of Directors. The President of the United States, by and with the advice and consent of the Senate, appoints the remaining six members of the Board of Directors.

B. *Advisory board.* An advisory board of five members is appointed by the President of the United States to survey the general policies of CCC and the operations of its programs and to advise the Secretary of Agriculture with respect thereto. Not more than three members may belong to the same political party. The advisory board meets at least every 90 days.

C. *Officers.* The Assistant Secretary for International Affairs and Commodity Programs is ex officio President of CCC and the following officials of the Agricultural Stabilization and Conservation Service (hereinafter referred to as ASCS), Export Marketing Service (hereinafter referred to as EMS), Foreign Agricultural Service (hereinafter referred to as FAS), Consumer and Marketing Service (hereinafter referred to as C&MS), and Food and Nutrition Service (hereinafter referred to as FNS), are ex officio officers of the CCC: The Administrator, ASCS, is Executive Vice President, CCC; the General Sales Manager, EMS, is Vice President, CCC; the Administrator, C&MS, is Vice President, CCC; the Administrator, FAS, is Vice President, CCC; the Administrator, FNS, is Vice President, CCC; the Associate Administrator, ASCS, is Vice President, CCC; the Deputy Administrator, Commodity Operations, ASCS, is Deputy Vice President, CCC; the Deputy Administrator, State and County Operations, ASCS, is Deputy Vice President, CCC; the Deputy Administrator, Management, ASCS, is Deputy Vice President, CCC; the Executive Assistant to the Administrator, ASCS, is Secretary, CCC; the Director, Fiscal Division, ASCS, is Controller, CCC; the Deputy Director, Fiscal Division, ASCS, is Treasurer, CCC; and the Chief, Accounting Systems Branch, Fiscal Division, ASCS, is Chief Accountant, CCC. Additional officers of the CCC and their respective authorities are described in the bylaws and in section IV hereof.

D. *Management.* The management of CCC is vested in its Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture. The President of CCC is Vice Chairman of the Board and has general supervision and direction of the Corporation, its officers and employees. The Executive Vice President is the chief executive officer of CCC. His authority, together with that of the other Vice Presidents, is set forth in the bylaws and in section IV hereof. Except as otherwise authorized by the Board of Directors and the Secretary of Agriculture, operations of CCC are generally carried out through the facilities and personnel of ASCS, EMS, FAS, FNS, and C&MS in accordance with authorizations by the Board and the Secretary. From time to time, services of other agencies of the United States Department of Agriculture may be utilized on certain operations or programs. The Directors of the Divisions and Commodity Offices of ASCS serve as executives of CCC in general charge of the activities of the Corporation carried out through their respective divisions or offices.

E. *Contract Appeals.* Authority to consider and determine (1) all appeals from findings of fact by CCC Contracting Officers under a contract disputes provision, (2) on specific referrals by the President or a Vice President, CCC, appeals by persons on contract claims by or against CCC involving questions of fact or law, not settled or adjusted satisfactory to him and not in litigation or pending in the Department of Justice, and (3) appeals by persons barred from contracting with CCC and from other participation in CCC programs, formerly vested in the CCC Contract Disputes Board, is now vested in the USDA Board of Contract Appeals and exercised in accordance with the provisions of 7 CFR Part 2400.

III. Functions—A. *General.* Under its corporate charter (15 U.S.C. 714–714p) and in accordance with other specific statutes, where applicable, and its annual budget programs submitted to and approved by Congress, CCC engages in buying, selling, lending, and other activities with respect to agricultural commodities, their products, food, feeds, and fibers, for the purpose of stabilizing, supporting, and protecting farm income and prices, assisting in the maintenance of balanced and adequate supplies of such commodities, and facilitating their orderly distribution. The Corporation also makes available materials and facilities required in connection with the production and marketing of such commodities. The major activities of CCC are carried out under the price support programs, feed grain and cotton acreage diversion programs, wheat diversion and certificate programs, and the supply, commodity export, and storage facilities programs. In addition, CCC barters agricultural commodities and performs certain financing and operating functions authorized by specific legislation as well as functions to meet emergency situations.

B. *Types of Programs.* The following types of programs are conducted by CCC:

1. *Price Support Program.* CCC supports the price of various agricultural commodities to producers through loans, purchase agreements, purchases, payments and other operations. With limited exceptions, price support loans are nonrecourse, with the commodities serving as collateral for the loans. CCC may make direct purchases from processors as well as from producers, depending on the commodity involved. In addition to loans and purchase agreements, for feed grains, a portion of the price support is made through issuance of payment-in-kind certificates, and for wheat, producers receive marketing certificates which may be sold to CCC at face value. In the case of upland and extra-long staple cotton, in addition to loans, producers receive price support payments in cash or payment-in-kind certificates. Wool and mohair prices are supported by direct payments to producers based on marketings. Price support operations are carried out under CCC's charter authority and other specific statutes, such as the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.), and the National Wool Act of 1954, as amended (7 U.S.C. 1781 et seq.). Commodities acquired by the Corporation in its price support operations are disposed of through sales, barters, and donations under CCC charter authority and other specific statutes, such as sections 202, 407, and 416 of the Agricultural Act of 1949, as amended, and the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), as amended.

2. *Supply and Foreign Purchase Program.* CCC procures from domestic and foreign sources foods, agricultural commodities, their products, and related materials to supply the needs of Federal agencies, foreign governments, and domestic, foreign or international relief and rehabilitation agencies. Foods, agricultural commodities, their products, and materials are procured, or aid is given in their procurements, for sale to meet domestic requirements during periods of short supply or during such other times as will stabilize prices or facilitate distribution. Through purchases, loans, sales, or other means, CCC may make available materials and facilities needed for the production and marketing of agricultural commodities. On behalf of the Secretary, CCC may also purchase at market prices dairy products to meet the requirements of any programs for schools, domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of such products in CCC inventory available for such purposes. This program is carried out under the authority contained in CCC's Charter Act, particularly sections 5 (b) and (c) thereof, and, with respect to dairy products, under section 5(g) of that Act and section 709 of the Food and Agriculture Act of 1965, as amended.

3. *Storage Facilities Program.* This program is conducted by CCC to provide storage adequate to fulfill its program needs. CCC may (a) purchase and maintain (in storage deficient areas) facilities and equipment for care and storage of grain owned or controlled by CCC, (b) sell grain storage facilities no longer needed for such program use to producers and to public and private nonprofit agencies and organizations, (c) make loans for the purchase, construction or expansion of facilities and equipment for the storage and care of commodities on the farm, (d) provide storage-use guarantees to encourage the construction of commercial storage facilities, and (e) undertake other operations necessary to provide storage adequate to carry out CCC's programs. This program is conducted under the authority contained in CCC's Charter Act, particularly sections 4 (h) and (m) and 5 (a) and (b).

4. *Commodity Export Program.* CCC promotes the export of agricultural commodities and products through sales, barters, payments, and other operations. Other than in barters for stockpiling purposes, such commodities and products may be acquired from private stocks as well as from CCC inventories. The rate of payments made by CCC to encourage export movement from free market stocks as well as its own stocks generally is the difference between the prevailing world export sales price and the domestic market price. This program is carried out under the authority contained in CCC's Charter Act, particularly sections 5 (d) and (f), and in accordance with other applicable statutes, such as sections 407 and 416 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427, 1431), the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691 et seq.), and title II of the Agricultural Act of 1956, as amended (7 U.S.C. 1851 et seq.). CCC also conducts an Export Credit Sales Program under which it finances, for periods of not to exceed 3 years, commercial export credit sales by exporters of agricultural commodities acquired either from CCC's inventories or from private stocks. These commercial transactions are financed under the Corporation's charter authority and section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a) and are to be distinguished from the long-term credit contracts involving foreign assistance authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended.

5. *Feed Grain Acreage Diversion Program.* Under this program, payments are made to farmers who divert acreage from the production of feed grains to an approved conservation use. Payments are made by issuance of negotiable payment-in-kind certificates which the farmer may either elect to have redeemed in feed grains from CCC's stocks, or, if he requests CCC's assistance in the marketing of the certificates, may obtain cash advances by CCC's issuance of a negotiable sight draft in return for which CCC markets the redemption rights represented by the certificates. This program is conducted by ASCS, utilizing the facilities and stocks of CCC, under section 16(i) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590p(i)). In the absence of new legislation, this program will expire at the end of the 1970 crop year.

6. *Wheat Acreage Diversion and Certificate Programs.* These programs are conducted by ASCS, utilizing the funds and facilities of CCC. Under the wheat acreage diversion program, acreage diversion payments in the form of negotiable sight drafts are made to producers who divert acreage from wheat production to an approved conservation use. Under the wheat certificate program, domestic marketing certificates are issued to participating producers for the wheat marketing allocation representing wheat used for food products for domestic consumption. Processors of wheat are required to buy domestic wheat marketing certificates equivalent to the number of bushels of wheat used in the manufacture of food products. Exporters of wheat must, in certain specified circumstances, acquire export marketing certificates equal to the number of bushels exported. These programs are authorized by sections 339, and 379a to 379j of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1339 and 1379a to 1379j). Domestic and export certificates are purchased and sold by CCC. In the absence of new legislation, the diversion program will expire at the end of the 1970 crop year and the certificate program will be effective for the 1971 and subsequent crop years if producers approve marketing quotas by referendum.

7. *Cotton acreage diversion program.* Diversion payments, in addition to the price support payments described in section III.B.1. above, are authorized to be made to producers of upland cotton who reduce cotton acreages by diverting a portion of their cotton acreage allotments to conservation uses to the extent prescribed by the Secretary. Payments may be in cash or by payment-in-kind certificates which the producer either may elect to have redeemed in cotton

from CCC stocks, or, if he requests CCC's assistance in the marketing of the certificates, may obtain cash advances from CCC. This program is conducted by ASCS, utilizing the facilities and stocks of CCC, under section 103(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1444(d)). In the absence of new legislation, this program will expire at the end of the 1970 crop year.

8. *Special activities.* These activities are carried out under the authority of section 5(g) of CCC's Charter Act and specific statutory authorizations or directives with respect thereto which are currently in effect or may subsequently be enacted. Examples of such activities are the sales of agricultural commodities under Public Law 480 both for foreign currencies and for dollars on long-term credit terms, and the transfer of CCC grain to the Department of Interior for migratory waterfowl feed.

IV. Delegations of Authority. A. *General.* All authorities and responsibilities relating to CCC shall be exercised (i) pursuant to authorizations contained in dockets or resolutions approved by the Board of Directors, CCC, and the Secretary of Agriculture, (ii) in accordance with the bylaws of CCC (34 F.R. 6936, as amended) and (iii) within the confines of administrative and functional areas of jurisdiction. (See Statement of Organization, Delegations of Authority, and Assignments of Functions for the Department of Agriculture (29 F.R. 16210, as amended)), as well as such statements published in the FEDERAL REGISTER for the various agencies within the Department carrying out operations of CCC. This delegation of authority shall not be construed as waiving any restrictions, limitations or requirements stated in specific delegations of authority or imposed in governing policies, rules, regulations or procedures.

B. *Specific*—1. *Duties and Responsibilities.* The duties and responsibilities of the officers of the Corporation and other officials in the Department with respect to the operations of CCC, and their authority to execute CCC contracts, are set forth in the bylaws of the Corporation.

2. *Authority to Settle Claims.* Subject to the monetary limitations prescribed by the Board of Directors, CCC, the following officials of CCC have the following authority to process and dispose of claims by or against CCC:

a. The Executive Vice President, CCC, and the Deputy Vice President, CCC, who is Deputy Administrator, Commodity Operations, ASCS, and their designees—any claims by or against CCC;

b. The Deputy Vice Presidents, CCC, who are Deputy Administrator, State and County Operations and Deputy Administrator, Management, ASCS, respectively, and their designees—claims arising under programs within their respective jurisdiction;

c. The Vice President, CCC, who is General Sales Manager, EMS, and his designees within EMS with the rank of Division Director or above—claims, other than those arising solely under sales announcements and those involving banks and other financing institutions, arising under programs within their jurisdiction, including claims under the Export Credit Sales Program, the barter programs, programs under title I, Public Law 480, as amended, and export sales and payment programs;

d. The Vice President, CCC, who is Administrator, FNS, and his designees within FNS with the rank of Division Director or above—claims arising from (i) donations of food commodities to State, Federal, and private agencies pursuant to section 416 of the Agricultural Act of 1949, as amended, (ii) donations of food commodities to State correctional institutions for minors pursuant to section 210 of the Agricultural Act of 1956, and (iii) distribution of dairy products to meet the requirements of any programs authorized by law and for which CCC purchases commodities under authority of section 709 of the Food and Agriculture Act of 1965, as amended;

e. The Director and Deputy Director, Fiscal Division, ASCS, who are Controller and Treasurer, CCC, respectively—claims arising within their jurisdiction, including claims involving banks and other financing institutions or arising solely under sales announcements, arising under the Export Credit Sales Programs, the barter programs, and programs under title I, Public Law 480, as amended;

f. Directors of all other ASCS Divisions and Commodity Offices, ASCS State Executive Directors, and the Chief, Claims Branch, Fiscal Division, who is an Assistant Treasurer, CCC—claims arising under activities within their respective jurisdictions.

Claims Officers may carry out such responsibilities with respect to the processing and disposition of claims as may be delegated to them in written authorizations by Claims Officials. The names of such Claims Officers and information with respect to their authority may be obtained from the Secretary, CCC.

V. Availability of Information. Any person desiring to obtain information or make submittals or requests with respect to CCC activities should address his request to the division or office of the agency through which the activity is carried out. Information on matters concerning the CCC Board of Directors may be obtained from the Secretary of CCC, U.S. Department of Agriculture, Washington, D.C. 20250.

VI. Prior Authorizations and Delegations. The Statement of Organization, Functions, and Delegations of Authority of CCC, published December 18, 1963 (28 F.R. 13795), is hereby superseded. All subdelegations of authority relating to any function covered by such superseded statement or by this statement shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked. Nothing herein shall affect the validity of any action heretofore taken under previous delagations or subdelegations of authority or assignments of functions.

Done at Washington, D.C. this 19th day of September 1970.

CLIFFORD M. HARDIN,
Secretary.

[F.R. Doc. 70-12804; Filed, Sept. 24, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 2220]

DRUG CONTAINING THIAMINE HYDROCHLORIDE, STRYCHNINE GLYCEROPHOSPHATE, SODIUM GLYCEROPHOSPHATE, CALCIUM GLYCEROPHOSPHATE, PHOSPHORIC ACID, AND ALCOHOL

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Eskay's Theranates containing strychnine, sodium and calcium glycerophosphates, thiamine hydrochloride, alcohol and phosphoric acid; marketed by Smith, Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 2-220).

The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this drug is effective for the uses prescribed, recommended, or suggested in the labeling and that each component contributes to the total effects claimed or implied for such combination drug. Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new-drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug and any interested person who might be adversely affected by its removal from the market to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval

of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS–NRC report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application may cause any related drug on the market to be a new drug for which an approved new-drug application is not in effect and make it subject to regulatory action.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 2220 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration:

Requests for NAS–NRC reports: Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12775; Filed, Sept. 24, 1970; 8:45 a.m.]

[DESI 3684]

CERTAIN SULFONAMIDE-CONTAINING PREPARATIONS FOR TOPICAL, OPHTHALMIC, OR OTIC USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, on the following drugs:

1. ACR-Allantomide Ointment, containing sulfanilamide 10 percent, aminacrine hydrochloride 0.2 percent and allantoin 2 percent; National Drug Company, Division of Richardson-Merrell, Inc., 4663 Stenton Avenue, Philadelphia, Pa. 19144 (NDA 6–187).

2. Allantomide Ointment, containing sulfanilamide 10 percent and allantoin 2 percent; National Drug Co. (NDA 3–684).

3. Brandenfels Scalp and Hair Applications and Massage, containing sulfanilamide (Formula A) and lanolin (Formula B); Carl Brandenfels, Scappoose, Oreg. 97056 (NDA 6–367).

4. Morumide Ointment, containing sulfanilamide 10 percent; The S. E. Massengill Co., 527 Fifth Street, Bristol, Tenn. 37620 (NDA 5–114).

5. Sulfallantoin Ointment 2 percent and Powder, containing sulfanilamide and allantoin; S. F. Durst & Co., Inc., 5317 North Third Street, Philadelphia, Pa. 19120 (NDA 3–756).

6. Sulfathiazole Cream 5 percent; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 4–494).

7. Sulfathiazole Cream 5 percent; S. F. Durst & Co., Inc. (NDA 4–507).

8. Alulotion Sulfathiazole, containing sulfathiazole 5 percent, kaolin and aluminum hydroxide gel; Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 5–051).

9. Gantrisin Ear Solution, containing sulfisoxazole diolamine 4 percent, urea 10 percent, and chlorobutanol 3 percent; Roche Laboratories, Division Hoffman-La Roche, Inc., 340 Kingsland Avenue, Nutley, N.J. 07110 (NDA 8–781).

10. Otomide Otic Solution, containing sulfanilamide 5 percent, urea 10 percent, and chlorobutanol 3 percent; White Laboratories, Inc., Galloping Hill Road, Kenilworth, N.J. 07033 (NDA 5–623).

11. Sulfamylon Hydrochloride Solution 5 percent, containing mafenide hydrochloride (NDA 6–613); and

12. Sulfamylon Hydrochloride with Streptomycin Sulfate, combination package containing mafenide hydrochloride solution 5 percent (100 ml. bottle) and streptomycin sulfate equivalent to 20 mg. base per vial; and

13. Otamylon Ear Drops, containing mafenide hydrochloride 5 percent and benzocaine 5 percent (NDA 6–613); all marketed by Winthrop Laboratories, Division of Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016.

14. Sulfadiazine Ointment and Sulfadiazine Ophthalmic Ointment, containing sulfadiazine 5 percent; Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 4–122).

These drugs are regarded as new drugs. The effectiveness classification and marketing status are described below.

Mafenide Hydrochloride; Mafenide Hydrochloride and Benzocaine; Mafenide Hydrochloride and Streptomycin Sulfate; Sulfadiazine; Sulfanilamide; Sulfanilamide and Lanolin or Allantoin or Aminacrine Hydrochloride or Urea; Sulfathiazole; Sulfathiazole and Kaolin and Aluminum Hydroxide; Sulfasoxazole Diolamine and Urea: For topical, ophthalmic or otic use.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports as well as other available evidence and concludes that:

1. The preparations containing sulfanilamide, sulfisoxazole and mafenide hydrochloride for otic use lack substantial evidence of effectiveness for their labeled use in acute otitis media and furuncles.

2. The drugs listed in this announcement are regarded as possibly effective for their labeled indications other than those described in paragraph A.1.

B. *Marketing status.* 1. Mafenide hydrochloride solution with streptomycin sulfate.

This preparation is subject to the antibiotic certification procedures of the Food, Drug, and Cosmetic Act. To allow applicants to obtain and submit data to provide substantial evidence of effectiveness for its labeled indications (for which it has been found to be possibly effective), batches of the drug will be accepted for release or certification by the Food and Drug Administration for a period of 6 months, after publication of this announcement in the FEDERAL REGISTER.

2. Other drugs listed in this announcement.

a. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new-drug application for those drugs listed in A.1. above is requested to submit a supplement to his application to provide for labeling which deletes those indications for which the drug has been classified as lacking substantial evidence of effectiveness as described in that same paragraph. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time; revised labeling should be put into use within this 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

b. The labeling of any preparation referred to in paragraph A.1. above which is on the market without an approved new-drug application should be revised if such labeling includes those indications for which the drug has been classified as lacking substantial evidence of effectiveness as described in that same paragraph. Failure to delete such indications and to put the revised labeling into use within 60 days after the publication date of this announcement in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

c. Holders of previously approved new-drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness for those indications for which these drugs have been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of

the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, the antibiotic containing drug will not be eligible for release or certification, and/or, procedures will be initiated to withdraw approval of the new-drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

The above-named firms have been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of these reports by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 3684 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.
Amendments for antibiotic-containing drug: Division of Anti-Infective Drugs (BD–140), Bureau of Drugs.
Original new-drug applications: Office of New Drugs (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.
Requests for NAS–NRC reports: Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–53 as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 355, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 31, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12776; Filed, Sept. 24, 1970; 8:46 a.m.]

[DESI 6695]

MECHLORETHAMINE HYDROCHLORIDE POWDER FOR INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Mustargen Hydrochloride Powder for Injection, containing mechlorethamine hydrochloride, marketed by Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486 (NDA 6–695).

The drug is regarded as a new drug (21 U.S.C. 321 (p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new-drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. Mechlorethamine hydrochloride is effective intravenously for the palliative treatment of Hodgkin's disease, lymphosarcoma, bronchogenic carcinoma, chronic myelocytic leukemia, chronic lymphatic leukemia, polycythemia vera, and mycosis fungoides; it is effective intracavitarily for palliative treatment in the presence of pleural, peritoneal, or pericardial effusion due to metastatic carcinoma.

2. The drug is possibly effective by intra-arterial administration.

B. *Form of drug.* Mechlorethamine hydrochloride preparations are in powder form suitable for parenteral use after reconstitution.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription".

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

Mechlorethamine hydrochloride administered intravenously is indicated for the palliative treatment of Hodgkin's disease (stages III and IV), lymphosarcoma, chronic myelocytic or chronic lymphocytic leukemia, polycythemia vera, mycosis fungoides, in the palliative treatment of bronchogenic carcinoma and by intracavitary administration in the presence of pleural, peritoneal or pericardial effusion due to metastatic carcinoma.

D. *Claims permitted during extended period for obtaining substantial evidence.* The claim, i.e., intra-arterial use, for which the drug is described in paragraph A above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness by this route. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Marketing status.* Marketing of the drug may continue under the conditions described in paragraphs F and G of this announcement except that the claimed route of administration referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new-drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new-drug application form FD–356H to the extent described for abbreviated new-drug applications, § 130.4(f), FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following time periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling. The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the claims of effectiveness referenced in paragraph D for the period stated).

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new-drug application meeting the conditions specified in § 130.4(f) (1) and (2), FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new-drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the claims of effectiveness referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new-drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new-drug application or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6995 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Office of Marketed Drugs (BD–200), Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 1, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12777; Filed, Sept. 24, 1970; 8:46 a.m.]

[DESI 10337]

ALPHACARBOXYTHIOANISOLE FOR TOPICAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Fling-AntiPerspirant Powder containing alphacarboxythioanisole; marketed by The Kendall Co., 309 West Jackson Boulevard, Chicago, Ill. 60606 (NDA 10–337).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report and concludes that alphacarboxythioanisole is possibly effective as an antiperspirant to control perspiration, stop odor, and soothe feet.

B. *Marketing status.* 1. Holders of previously approved new drug applications and any person marketing such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and submit in a supplemental or original new drug application data to provide substantial evidence of effectiveness for those indications for which this drug has been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be new drugs for which an approval is not in effect.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10337 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Marketed Drugs (BD–200), Bureau of Drugs.

Original new-drug applications: Office of New Drugs (BD–100), Bureau of Drugs.

Other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS–NRC Reports: Press Relations Office, Food and Drug Administration (CE–200), 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12778; Filed, Sept. 24, 1970; 8:46 a.m.]

[DESI 11568]

CORTICOTROPIN AND CYANOCOBALAMIN FOR INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following combination drug:

Acticort containing corticotropin and cyanocobalamin; The Wilson Laboratories, 4221 South Western Boulevard, Chicago, Ill. 60609 (NDA 11568).

The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that there is a lack of substantial evidence, within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to withdraw approval of the above listed new-drug application.

Prior to initiating such action, however, the Commissioner invites the holder of the new-drug application for this drug and any interested person who might be adversely affected by its removal from the market, to submit pertinent data bearing on the proposal within 30 days after publication hereof in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the NAS–NRC report for this drug is made to give notice to persons who might be adversely affected by its withdrawal from the market. Promulgation of an order withdrawing approval of the new-drug application will cause any such drug on the market to be a new drug for which an approved new-drug application is not in effect and will make it subject to regulatory action.

The above-named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of the report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11568 and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration:

Requests for NAS–NRC reports: Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12779; Filed, Sept. 24, 1970; 8:46 a.m.]

[DESI 11846]

TYROTHRICIN AND TRIETHANOLAMINE POLYPEPTIDE COCOATE CONDENSATE SHAMPOO SOLUTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Soropon Pediatric Solution, containing tyrothricin and triethanolamine polypeptide cocoate condensate; marketed by The Purude Frederick Co., 99–101 Saw Mill River Road, Yonkers, N.Y. 10701 (NDA 11–846).

The Food and Drug Administration concludes that the drug is possibly effective for the removal of encrusted scales of cradle cap and for use as an antiseborrheic agent.

Preparations containing tyrothricin and triethanolamine polypeptide cocoate condensate are subject to antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. To allow applicants to obtain and submit data to provide substantial evidence of the effectiveness of the drug in those conditions for which it has been evaluated as possibly effective, batches of preparations containing the drug which bear labeling with these indications will be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11846 and be directed to the attention of the following appropriate office and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendment (identify with NDA number): Division of Anti-Infective Drugs (BD–140), Office of New Drugs, Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 502, 507, 52 Stat. 1050–51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12780; Filed, Sept. 24, 1970; 8:46 a.m.]

[DESI 50054]

POLYMYXIN B SULFATE-BENZALKONIUM CHLORIDE LUBRICANT JELLY

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug:

Lubasporin containing polymyxin B sulfate and benzalkonium chloride; marketed by Burroughs Wellcome and Co., Inc., 1 Scarsdale Road, Tuckahoe, N.Y. 10707 (NDA 50–054).

The Food and Drug Administration concludes that the drug is effective for the following indications: to help reduce or to help prevent contamination or infection in urologic or gynecologic instrumentation; and for lubricating urologic and gynecologic instruments for use in the following procedures: catheterization, cystoscopy, transurethral procedures, dilation, vaginal surgery, sterile pelvic procedures.

Preparations containing polymyxin B sulfate with benzalkonium chloride are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Requests for certification or release of the drug in the dosage form described above should provide for labeling which is in accord with the reevaluation of the drug as stated in this announcement.

The above named firm and any other holders of applications approved for a drug of the kind described above are requested to submit, within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Such labeling should comply with all requirements of the Act and regulations, bear adequate information for safe and effective use of the drug, and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling should be as follows:

INDICATIONS

As a lubricant to help reduce or prevent contamination or infection in urologic or gynecologic procedures.

(Labeling guidelines for the drug are available from the Administration on request.)

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 50054 and be directed to the attention of the appropriate office named below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendments (identify with NDA number): Division of Anti-Infective Drugs (BD–140), Office of New Drugs, Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–201), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Acts, secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; (21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12781; Filed, Sept. 24, 1970; 8:46 a.m.]

HOOKER CHEMICAL CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 120.8), Hooker Chemical Corp., Niagara Falls, N.Y. 14302, has withdrawn its petition (PP 0F0931), notice of which was published in the FEDERAL REGISTER of January 29, 1970 (35 F.R. 1176), proposing the establishment of an exemption from the requirement of a tolerance (21 CFR Part 120) for residues of a mixture of chlorinated benzenes in or on oysters when used to control predatory gastropods.

Dated: September 16, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–12769; Filed, Sept. 24, 1970; 8:45 a.m.]

PROCTER AND GAMBLE CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2586) has been filed by The Procter & Gamble Co., Ivorydale Technical Center, Cincinnati, Ohio 45217, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended to provide for the safe use of *N*-alkyl glycidyl ethers in which the alkyl groups are predominantly C_{12} and C_{14} as a component of resinous and polymeric food contact coatings.

Dated: September 16, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–12770; Filed, Sept. 24, 1970; 8:45 a.m.]

Social and Rehabilitation Service

FEDERAL PERCENTAGE AND FEDERAL MEDICAL ASSISTANCE

Percentage Promulgation

Promulgation of (1) Federal percentage for purposes of State assistance expenditures under title I, X, XIV, XVI, or part A of title IV of the Social Security Act; and (2) Federal medical assistance percentage for purposes of State expenditures for medical assistance under title XIX of said Act.

Pursuant to section 1101(a)(8)(B) of the Social Security Act, as amended (42 U.S.C. 1301(a)(8)(B)), which provides for the determination and promulgation of the Federal percentage, and section 1905(b) of said Act (42 U.S.C. 1396d(b)), which provides that the Federal medical assistance percentage shall be determined and promulgated in accordance with said section 1101(a)(8)(B).

And it having been found that the three most recent calendar years for which satisfactory data are available from the Department of Commerce as to the per capita income of each State and of the United States are the years 1967, 1968, and 1969.

The Federal percentage, and the Federal medical assistance percentage, as indicated below, to be used in determining Federal financial participation in State expenditures for the purposes specified herein, for each of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, as specified in said Act, or as determined pursuant thereto, and on the basis of said income data, are hereby promulgated for each of the eight quarters in the period beginning July 1, 1971, and ending with the close of June 30, 1973.

State	Federal percentage	Federal medical assistance percentage
Alabama	65.00	78.43
Alaska	50.00	50.00
Arizona	60.17	64.15
Arkansas	65.00	79.42
California	50.00	50.00
Colorado	52.91	57.61
Connecticut	50.00	50.00
Delaware	50.00	50.00
District of Columbia	50.00	50.00
Florida	56.30	60.67
Georgia	65.00	69.67
Guam		50.00
Hawaii	50.00	50.83
Idaho	65.00	71.56
Illinois	50.00	50.00
Indiana	50.06	55.05
Iowa	53.41	58.07
Kansas	54.51	59.06
Kentucky	65.00	73.49
Louisiana	65.00	73.49
Maine	65.00	69.43
Maryland	50.00	50.00
Massachusetts	50.00	50.00
Michigan	50.00	50.00
Minnesota	52.02	56.82
Mississippi	65.00	83.00
Missouri	55.03	59.53
Montana	63.51	67.16
Nebraska	53.86	58.48
Nevada	50.00	50.00
New Hampshire	54.84	59.36
New Jersey	50.00	50.00
New Mexico	65.00	72.63
New York	50.00	50.00
North Carolina	65.00	72.84
North Dakota	65.00	71.28
Ohio	50.00	53.65
Oklahoma	65.00	69.02
Oregon	52.65	57.39
Pennsylvania	50.50	55.45
Puerto Rico		50.00
Rhode Island	50.00	50.26
South Carolina	65.00	78.00
South Dakota	65.00	69.69
Tennessee	65.00	74.35
Texas	61.31	65.18
Utah	65.00	69.88
Vermont	60.79	64.71
Virgin Islands		50.00
Virginia	60.04	64.03
Washington	50.00	50.00
West Virginia	65.00	76.97
Wisconsin	51.42	56.28
Wyoming	58.59	62.73

Dated: September 18, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

[F.R. Doc. 70-12806; Filed, Sept. 24, 1970; 8:48 a.m.]

VOCATIONAL REHABILITATION SERVICES

Promulgation of Allotment Percentages

Pursuant to section 11(h) of the Vocational Rehabilitation Act (68 Stat. 661, 29 U.S.C. 41(h)), as amended, and it having been found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to the per capita income of the States and of the United States are the years 1967, 1968, and 1969, the following allotment percentages for the several States, the District of Columbia, the Virgin Islands, Puerto Rico, and Guam, as determined pursuant to said Act and on the basis of said income data, are hereby promulgated, to be conclusive, for each of the 2 fiscal years beginning July 1, 1971, and July 1, 1972. The allotment percentages shall in no case be more than 75 per centum or less than 33⅓ per centum, and the allotment percentage for the District of Columbia, Puerto Rico, Guam, and the Virgin Islands shall be 75 per centum.

Alabama	65.39
Alaska	40.15
Arizona	55.37
Arkansas	66.19
California	41.66
Colorado	51.47
Connecticut	37.12
Delaware	44.00
Florida	53.26
Georgia	58.95
Hawaii	47.74
Idaho	60.25
Illinois	41.56
Indiana	50.03
Nevada	41.30
New Hampshire	52.48
New Jersey	42.13
New Mexico	61.01
New York	39.66
North Carolina	61.15
North Dakota	60.06
Ohio	49.26
Oklahoma	58.51
Oregon	51.34
Pennsylvania	50.25
Rhode Island	47.43
South Carolina	65.04
South Dakota	58.96
Iowa	51.74
Kansas	52.31
Kentucky	61.62
Louisiana	61.62
Maine	58.79
Maryland	45.08
Massachusetts	43.46
Michigan	46.03
Minnesota	51.02
Mississippi	69.90
Missouri	52.58
Montana	57.28
Nebraska	51.97
Tennessee	62.25
Texas	56.01
Utah	59.09
Vermont	55.72
Virginia	55.30
Washington	46.77
West Virginia	64.23
Wisconsin	50.72
Wyoming	54.50
District of Columbia	75.00
Guam	75.00
Puerto Rico	75.00
Virgin Islands	75.00

Dated: September 18, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

[F.R. Doc. 70-12807; Filed, Sept. 24, 1970; 8:48 a.m.]

CHILD WELFARE SERVICES

Promulgation of Federal Shares and Allotment Percentages

Pursuant to section 423 (a), (b), and (c) of title IV, Part B of the Social Security Act (42 U.S.C. 623 (a), (b), and (c)).

And it having been found that the three most recent calendar years for which satisfactory data are available from the Department of Commerce as to the per capita income of States and of the United States are the years 1967, 1968, and 1969.

It is hereby promulgated for each of the 2 fiscal years in the period ending June 30, 1973, that for the said purposes, for each of the 50 States, Puerto Rico, the District of Columbia, the Virgin Islands and Guam, the Federal shares, as specified in said Act, or as determined pursuant thereto and on the basis of said income data, shall be as listed below.

It is hereby further promulgated for each of the 2 fiscal years in the period ending June 30, 1973, that for purposes of child welfare services under title IV, Part B of the Social Security Act, as amended, for each of the 50 States, Puerto Rico, the District of Columbia, the Virgin Islands, and Guam, the allotment percentages, as specified in said Act, or as determined pursuant thereto and on the basis of said income data, shall be as listed below.

State	Federal shares	Allotment percentages
Alabama	65.39	65.39
Alaska	40.15	40.15
Arizona	55.37	55.37
Arkansas	66.19	66.19
California	41.66	41.66
Colorado	51.47	51.47
Connecticut	37.12	37.12
Delaware	44.00	44.00
District of Columbia	35.69	35.69
Florida	53.26	53.26
Georgia	58.95	58.95
Guam	66⅔	70.00
Hawaii	47.74	47.74
Idaho	60.25	60.25
Illinois	41.56	41.56
Indiana	50.03	50.03
Iowa	51.74	51.74
Kansas	52.31	52.31
Kentucky	61.62	61.62
Louisiana	61.62	61.62
Maine	58.79	58.79
Maryland	45.08	45.08
Massachusetts	43.46	43.46
Michigan	46.03	46.03
Minnesota	51.02	51.02
Mississippi	66⅔	69.90
Missouri	52.58	52.58
Montana	57.28	57.28
Nebraska	51.97	51.97
Nevada	41.30	41.30
New Hampshire	52.48	52.48
New Jersey	42.13	42.13
New Mexico	61.01	61.01
New York	39.66	39.66
North Carolina	61.15	61.15
North Dakota	60.06	60.06
Ohio	49.26	49.26
Oklahoma	58.51	58.51
Oregon	51.34	51.34
Pennsylvania	50.25	50.25
Puerto Rico	66⅔	70.00
Rhode Island	47.43	47.43
South Carolina	65.04	65.04
South Dakota	58.96	58.96
Tennessee	62.25	62.25
Texas	56.01	56.01
Utah	59.09	59.09
Vermont	55.72	55.72
Virgin Islands	66⅔	70.00
Virginia	55.30	55.30
Washington	46.77	46.77
West Virginia	64.23	64.23
Wisconsin	50.72	50.72
Wyoming	54.50	54.50

Dated: September 18, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

[F.R. Doc. 70-12808; Filed, Sept. 24, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-1]

IIT RESEARCH INSTITUTE

Notice of Issuance of Facility License Amendment

The Atomic Energy Commission ("the Commission") has issued, effective as of the date of issuance, Amendment No. 9 to Facility License No. R-3. The license presently authorizes the IIT Research Institute (IITRI) to possess, but not to operate, its homogeneous solution-type nuclear research reactor located in Chicago, Ill. The amendment authorizes IITRI to remove the fuel solution from the reactor for return to the Commission's Savannah River Plant.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR, Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission

will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated August 6, 1970, (2) the amendment to the facility license, and (3) the related Safety Evaluation by the Division of Reactor Licensing, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of items (2) and (3) above may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 15th day of September 1970.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-12782; Filed, Sept. 24, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22526; Order 70-9-94]

ROSS AVIATION, INC.

Order To Show Cause

Issued under delegated authority September 17, 1970.

The Postmaster General filed a notice of intent August 31, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 85.49 cents per great circle aircraft mile for the transportation of mail by aircraft between Baltimore, Md., and Pittsburgh, Pa. based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Ross Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 85.49 cents per great circle aircraft mile between Baltimore, Md., and Pittsburgh, Pa., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR Part 385.16(f),

It is ordered, That:

1. Ross Aviation, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Ross Aviation, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Ross Aviation, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Eastern Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12813; Filed, Sept. 24, 1970; 8:50 a.m.]

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

COMMISSION ON GOVERNMENT PROCUREMENT

STATUTORY EXEMPTIONS OF CERTAIN FINANCIAL INTERESTS

Pursuant to the provisions of section 208(b)(2) of title 18 of the United States Code, the following described financial interests of the Commission's employees (which term includes, for the purposes of this exemption, special Government employees) are hereby exempted from the requirements of 18 U.S.C. 208(a) and 208(b)(1) as being too remote or too inconsequential to affect the integrity of the services of the Commission's employees. The exemption applies to the financial interests held directly by a Commission employee, by his spouse or minor child whether individually or jointly with the employee, or by a Commission employee and his partner or partners as joint assets of the partnership.

1. Investments in State and local government bonds; and stocks, bonds, or policies in a mutual fund, investment company, bank, or insurance company: *Provided,* That in the case of a mutual fund, investment company, or bank, the fair value of such stock or bond holding does not exceed 1 percent of the value of the reported assets of the mutual fund, investment company, or bank. In the case of a mutual fund or investment company, this exemption applies only where the assets of the fund or company are diversified; it does not apply where the fund or company specializes in a particular industry or commodity.

2. Interest in an investment club or other group organized for the purpose of investing in equity or debt securities, provided that the fair value of the interest involved does not exceed $5,000 and that the interest does not exceed one-fourth of the total assets of the investment club or group. Where an employee covered by this exemption is a member of a group organized for the purpose of investing in equity or debt securities, the interest of the employee in any enterprise in which the group holds securities shall be based upon the employee's equity share of the holdings of the group in that enterprise.

3. (i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidences of indebtedness;

Provided, That, in the case of subparagraphs (i) and (ii) of this paragraph: (a) The total market value of the financial interests described in said subparagraphs with respect to any individual enterprise does not exceed $5,000; and (b) The holdings in any class of shares, or bonds, or other evidence of indebtedness, of the enterprise do not exceed 1

percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

4. For purposes of paragraphs 1 through 3, above, computations of dollar-value of financial interests in enterprises shall be based on:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(iii) Net book value (assets less liabilities) in the case of stocks not covered by the preceding two categories; or

(iv) Face value in the case of debt securities.

5. If a Commission employee, or his spouse or minor child has a present beneficial interest or a vested remainder interest under a trust, the ownership of stocks, bonds, or other corporate securities under the trust will be exempt to the same extent as provided in paragraphs 1 through 4, above, for the direct ownership of such securities. The ownership of bonds other than corporate bonds, or of shares in a mutual fund or regulated investment company, under the trust will be equally exempt and to the same extent as under paragraphs 1 through 4 above.

6. If a Commission employee is an officer, director, trustee, or employee of an educational institution, or if he is negotiating for, or has an arrangement concerning prospective employment with such an institution, a direct financial interest which the institution has in any matter will not itself be exempt, but any financial interests that the institution may have in the matter through its holdings of securities isued by business entities will be exempt, provided the Commission employee is not serving as a member of the investment committee of the institution or is not otherwise advising it on its investment portfolio.

7. If a Commission employee has continued to participate in a bona fide pension, retirement, group life, health or accident insurance plan, or other employee welfare or benefit plan that is maintained by a business or nonprofit organization of which he is a former employee, his financial interest in that organization will be exempt, except to the extent that the welfare or benefit plan is a profit-sharing or stock-bonus plan and his financial interest thereunder exceeds $5,000. This exemption extends also to any financial interests that the organization may have in other business activities.

8. Special exemptions for special Government employees. A special Government employee shall not be precluded from rendering general advice in situations where no preference or advantage over others might be gained by any particular person or organization. The Chairman may waive the requirement for the submission of a statement of employment and financial interests in the case of a special Government employee (including a consultant or expert) when he finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by chapter 304 of the Federal Personnel Manual.

Dated: September 22, 1970.

E. PERKINS MCGUIRE,
Chairman.

[F.R. Doc. 70-12816; Filed, Sept. 24, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18993-18999; FCC 70-979]

BETA TELEVISION CORP. ET AL.

Order Designating Applications for Oral Argument on Stated Issue

In regard applications of: Beta Television Corp. (WBBU-TV), Buffalo, N.Y., Docket No. 18993, File No. BMPCT-6407; Associated Television Corp. (WGTC-TV), St. Paul, Minn., Docket No. 18994, File No. BMPCT-6562; Mozelle Y. Hanan, Administratrix of the Estate of Marco Hanan (KXO-TV), El Centro, Calif., Docket No. 18995, File No. BMPCT-6660; Rochester Telecasting Co., a limited partnership (KCTR-TV), Rochester, Minn., Docket No. 18996, File No. BMPCT-6821; The Denver Post, Inc. (KHBC-TV), Denver, Colo., Docket No. 18997, File No. BMPCT-6848; Marbro Broadcasting Co., Inc. (KIHP-TV), San Bernardino, Calif., Docket No. 18998, File No. BMPCT-7170; Continental Summit Television Corp. (KGSL-TV), St. Louis, Mo., Docket No. 18999, File No. BMPCT-7206; for extension of completion date.

1. The Commission has before it for consideration seven requests for reinstatement of construction permits, call signs, and applications for extension of time within which to complete construction of the following television broadcast stations: WBBU-TV, Channel 49, Buffalo, N.Y.; WGTC-TV, Channel 29, St. Paul, Minn.; KXO-TV, Channel 7, El Centro, Calif.; KCTR-TV, Channel 47, Rochester, Minn.; KHBC-TV, Channel 20, Denver, Colo.; KIHP-TV, Channel 18, San Bernardino, Calif.; and KGSL-TV, Channel 24, St. Louis, Mo.

2. After the elapse of more than 18 months from the date of the issuance of their construction permits, each of the above-listed permittees had failed to demonstrate that they had exercised due diligence in the prosecution of construction or that construction had been prevented by causes not under their control within the meaning of section 319(b) of the Communications Act of 1934, as amended, and accordingly, the Chief, Broadcast Bureau, acting pursuant to delegated authority,[1] dismissed the extension applications, canceled the construction permits and deleted the call signs. However, in accordance with the provisions of the delegation, each applicant was advised that it could request reinstatement within 30 days and thereby obtain a hearing on the question of its dismissal. Subsequently, each filed a request for reinstatement of its permit, call signs and application for an extension of time within which to complete construction of its station.

3. *Accordingly, it is ordered,* That the construction permits, call signs and extension applications of television broadcast stations WBBU-TV, Buffalo, N.Y.; WGTC, St. Paul, Minn.; KXO-TV, El Centro, Calif.; KCTR-TV, Rochester, Minn.; KHBC-TV, Denver, Colo.; KIHP-TV, San Bernardino, Calif.; and KGSL-TV, St. Louis, Mo.; are reinstated.

4. *It is further ordered,* That each of the above-captioned applications are designated for oral argument before the Review Board En Banc in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issue:

To determine whether the reasons advanced by the permittee in support of its request for an extension of its completion date, constitute a showing that failure to complete construction was due to causes not under the control of the permittee, or constitute a showing of other matters sufficient to warrant a further extension of time within the meaning of section 319(b) of the Communications Act of 1934, as amended, and § 1.534(a) of the Commission's rules.

5. *It is further ordered,* That to avail themselves of the opportunity to be heard, each of the applicants, in person, or by attorney, shall, within ten (10) days of the mailing of this order, file with the Commission an original and nineteen (19) copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified, and shall have until September 25, 1970, to file briefs or memoranda of law.

Adopted: September 9, 1970.

Released: September 21, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12810; Filed, Sept. 24, 1970; 8:48 a.m.]

[Docket No. 19008; FCC 70-994]

HAWAIIAN TELEPHONE CO.

Memorandum Opinion and Order Instituting Investigation

1. The Commission has before it (a) proposed revisions to Tariff FCC No. 4, issued by the Hawaiian Telephone Co. (HTC) on August 10, 1970, now scheduled to become effective on September 17,

[1] Section 0.281(z) of the Commission's rules.

[2] Commissioner H. Rex Lee absent.

1970,[1] providing for special quality control tests as specified in circular DCAC 310–70–1 for the Defense Communications Agency (DCA) on overseas channels between Hawaii and Guam, Japan, the Philippines, Thailand, and Vietnam which terminate on the AUTOVON automatic switching system common equipment at Wahiawa, Hawaii; [2] (b) a petition filed by the Secretary of Defense (DOD) on August 24, 1970, to suspend and investigate HTC's revisions and also to provide for an accounting order in the event that the Commission finds that any or all charges in the proposed revision unjust, unreasonable, or unlawful; (c) a supplemental petition filed by DOD on August 26, 1970, requesting that, because of an urgent need for the service, the suspension requested in its earlier petition be of 1 day's duration rather than the full statutory period; (d) a petition filed by Western Union International, Inc. (WUI) on August 26, 1970, to reject HTC's proposed revisions; (e) a petition filed by RCA Global Communications, Inc. (RCAC), to suspend and investigate HTC's proposed revisions; [3] (f) a petition filed by ITT World Communications Inc. (ITT), on August 27, 1970, to reject HTC's proposed revisions; and, (g) a reply by HTC filed on August 28, 1970, in the form of an opposition to DOD's petition for "Suspension, Investigation and An Accounting Order" mentioned in (b) above.

2. The main point raised in the petitions of WUI, ITT, and RCAC was that the proposed revisions were applicable to lines provided to DOD by HTC and other international carriers and that HTC has violated fundamental tariff principles since the purpose of a tariff is to govern the relationship between a carrier and its customers and no carrier may file a tariff involving facilities furnished by another carrier unless the latter specifically authorizes such a filing by a concurrence. There has been no concurrence on this point by the other international carriers. However, HTC, when it extended the effective date of the proposed revisions on September 1, 1970, also revised the language to remove the phrase "and other international carriers".[4] This has removed the objectionable material from the tariff and the petitions of WUI, ITT, and RCAC are dismissed as moot.

3. DOD states in its petition that nothing in the subject tariff, the letter of transmittal, or the supporting papers justifies the rates set forth for the special quality control tests or shows that they are just and reasonable or that the basis upon which they are predicated is the proper basis to use. Specifically DOD states that HTC is under a duty to accomplish certain quality control tests under its normal tariff offering for which a figure is included in its charge and now HTC would charge DOD extra for each and every quality control test performed and would not perform any test as part of its normal service. DOD further states that many of the quality control tests called for in the DCA circular mentioned in paragraph 1 are currently being performed by A.T. & T. on the Mainland-Hawaii route under its normal private line tariff offering at no additional charge to DOD. DOD also raises the point about the cost figures arrived at by HTC to determine its charge. Specifically at issue are the cost of equipment and the manpower charge to conduct the tests.

4. In its opposition to DOD's petition, HTC states that, as part of its normal tariff offering, it does conduct certain quality control tests to maintain its lines in concurrence with 4B specifications and that the tests required by the DCA circular are beyond the scope of their normal testing procedures and these tests must be performed within a specific time frame, with the added requirement that the test results be reported to the customer. HTC also denies the allegation that A.T. & T. furnishes most of the tests required by the DCA circular at no additional charge to DOD as part of its private line offering between the U.S. Mainland and Hawaii.

5. The tests required under DCA circular 310–70–1 are beyond the scope of quality control tests provided under HTC's normal private line offering. Normally the lines are conditioned, maintained, and controlled under 4B specifications. Three tests are performed at irregular intervals to ascertain whether the lines conform to 4B specifications. Under its contract to provide the lines covered by this tariff offering, HTC must condition, maintain, and control these lines under S3 specifications. In addition to the three tests performed under 4B specifications, nine more tests must be performed making the total twelve. Seven of these tests are performed quarterly and the remaining five annually. We find that this service required by DOD is beyond that offered to the regular customer and a separate tariff should be filed.

6. A.T. & T. provides, as part of its private line offering, AUTOVON lines to DOD. These lines are conditioned, maintained, and controlled under C3 specifications. C3 specifications are equivalent to 4B specifications and the tests performed as part of its normal offering of C3 conditioning are the same that HTC provides under 4B conditioning. We thus find that the tests in the DCA circular are not provided without additional charge by A.T. & T.

7. On the other hand, questions are presented as to the reasonableness of HTC's revisions concerning the cost justification and revenue requirements used in developing its proposed offering and whether this service is a like communications service. Accordingly, we are unable to determine at this time whether the charges contained in HTC's proposed tariff revisions are or will be just and reasonable and otherwise lawful within the meaning of sections 201(b) and 202(a) of the Communications Act.

8. DOD petitioned the Commission to suspend HTC's proposed revisions for the full statutory period and then, because of an urgent need for the service, amended this request to suspend for only 1 day for the purpose of instituting an accounting order. This procedure would normally be followed; however, nothing would be gained by suspending this offering, nor does it appear justified under the circumstances. If, after investigation and hearing, it is determined that the proposed revisions are unjust and unreasonable, the remedy to the customer shall be in the form of a complaint provided for in § 1.711ff of the Commission's rules and regulations. Therefore, DOD's petition to suspend the proposed tariff revisions, even for 1 day to institute an accounting order, is hereby denied.

Accordingly, it is ordered, Pursuant to the provisions of sections 4(i), 201, 202, 205, and 403 of the Communications Act, that an investigation is hereby instituted into the lawfulness of the tariff revisions specified in footnote 2 herein above;

It is further ordered, That, without in any way limiting the scope of the proceeding, it shall include inquiry into the following:

1. Whether the services in the offering at issue are essentially the same as those provided to the other international carriers under individual Technical Control Agreements;

2. Whether the services offered in the proposed revisions are like communications services or are a new service;

3. Whether the facilities used in providing the services offered would be exclusively used for the one customer, DOD, or whether the facilities would also be used pursuant to the Technical Control Agreements to test the lines supplied to DOD by the other international carriers;

4. Whether the manpower figures used in determining the cost figures of the offering are justified;

5. Whether the "Return & Income Tax (Labor)" figure used by HTC in determining its cost of service offered is a legitimate component of its revenue requirements in determining rates;

6. Whether, in light of all the evidence including that adduced in reference to the foregoing issues, the charges contained in HTC's proposed revisions are or will be lawful under sections 201(b) and 202(a); and,

7. Whether the Commission should prescribe just and reasonable charges to be hereafter followed with respect to the service under investigation; and, if so, what charges should be prescribed.

It is further ordered, That a hearing be held in the proceeding at the Commission's offices in Washington, D.C., at a time to be specified in a subsequent order and that the hearing examiner designated to preside at the hearing shall certify the record to the Commission for decision without preparing either an initial decision or a recommended decision,

[1] Originally scheduled to become effective Sept. 9, 1970, but voluntarily extended by HTC on Sept. 1, 1970.

[2] The specific tariff pages in issue are 80th revised page 1, first revised page 13A, and first revised page 13B.

[3] RCAC submitted a telegraphic request on Aug. 26, 1970, which was confirmed by a petition in the usual form filed on Aug. 31, 1970.

[4] Commission's Special Tariff Permission No. 5990.

and that the Chief, Common Carrier Bureau, shall prepare and issue a recommended decision, which shall be subject to the submittal of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR §§ 1.276 and 1.277) after which the Commission shall issue its decision as provided in § 1.282 of the Commission's rules (47 CFR § 1.282).

It is further ordered, That Hawaiian Telephone Co. and the Department of Defense are made parties respondent to this proceeding.

Adopted: September 15, 1970.

Released: September 22, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12811; Filed, Sept. 24, 1970; 8:49 a.m.]

[Docket Nos. 18338, 18339; FCC 70R-326]

INTEGRATED COMMUNICATIONS SYSTEMS, INC., OF MASSACHUSETTS

Memorandum Opinion and Order Enlarging Issues

In regard applications of Integrated Communication Systems, Inc., of Massachusetts (WREP), Boston, Mass., for extension of construction permit, Docket No. 18338, File No. BMPCT-6356; Integrated Communication Systems, Inc., of Massachusetts (WREP), Boston, Mass., for modification of construction permit, Docket No. 18339, File No. BMPCT-6886.

1. This proceeding involves the applications of WREP-TV, Inc., for extension of time in which to complete construction and modification of its construction permit.[1] The applications were designated for hearing under various issues by Memorandum Opinion and Order, 14 FCC 2d 698 (1968). Subsequently, hearings were held and proposed findings of fact and conclusions of law have been filed. Now before the Review Board is the Broadcast Bureau's petition to enlarge issues, filed August 6, 1970, requesting the addition of a financial qualifications issue against the applicant.[2]

2. In its petition, the Bureau points out that WREP's amended applications reflect that it will require funds in an amount of $1,077,292 in order to meet its further construction costs and to operate for 1 year. The Bureau also points out that WREP's application, as amended on January 14, 1970, indicated that the applicant was relying on a proposed bank loan, conditioned upon certain amounts of funds being invested in the corporation by the chairman of the board, to finance its proposal. However, the Bureau notes, on July 1, 1970, WREP informed the Examiner that its board chairman, Augustus P. Loring, was no longer willing to invest the necessary funds, and on July 15, 1970, WREP filed a letter with the Hearing Examiner conceding that it was not financially qualified, but requesting a construction permit with the condition that it would not construct until such time as it had filed with the Commission adequate evidence of its financial qualifications.

3. In opposition, WREP asserts that its present financial difficulties have arisen as a consequence of the depressed economic conditions now existing throughout the country. However, the applicant asserts, it has definitely committed to it $325,000 which will be available to complete construction and for initial operation, and it is reasonable to presume that a favorable decision "would make possible" the necessary funds to satisfy the Commission's financial requirements. WREP requests the Board to hold in abeyance the instant petition pending a favorable final decision, and to grant WREP 60 days following the issuance of such a decision to amend its application. Noting that the station facilities are approximately 85 percent complete, WREP urges that this course of action would prevent a "forfeiture" if the issues in this case are resolved favorably to the applicant, and would permit the establishment of the proposed service at a much earlier date than "if the instant proceedings collapse" and the permit is denied.

4. The Broadcast Bureau's petition will be granted. The circumstances relied on by the Bureau clearly raise a substantial question regarding WREP's financial qualifications, and we agree with the Bureau that it would contravene the Communications Act and the Commission's rules to adopt the procedure urged by the applicant. Thus, the Commission long ago held that section 308(b) of the Communications Act requires a showing as to financial qualifications, and that such a showing "is required at the hearing, before the decision, not after." All-Oklahoma Broadcasting Co., 4 RR 1253, 1266-67 (1949). To permit an applicant to prove his qualifications to be a licensee after its application is granted would, in our view, subvert the entire licensing scheme, and render the hearing process nugatory. We will therefore specify an appropriate issue under which the applicant must establish its financial qualifications prior to favorable action on its pending applications.

5. *Accordingly, it is ordered,* That the Broadcast Bureau's petition to enlarge issues, filed August 6, 1970, is granted; and

6. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine whether WREP-TV, Inc., has sufficient funds available to further construct its proposed station and to operate for 1 year, and, in light thereof, whether the applicant is financially qualified.

7. *It is further ordered,* That the burdens of proceeding and proof under the issue added herein shall be on WREP-TV, Inc.

Adopted: September 18, 1970.

Released: September 21, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-12812; Filed, Sept. 24, 1970; 8:49 a.m.]

[5] Commissioner Johnson concurring in the result.

[1] WREP's application for a permit to construct a new television broadcast station was granted on Dec. 30, 1965.

[2] Also before the Board for consideration are: (a) Opposition, filed Aug. 19, 1970, by WREP; and (b) reply, filed Aug. 26, 1970, by the Broadcast Bureau.

[3] Board Member Berkemeyer abstaining.

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT ISBRANDTSEN LINES, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. Scott Morrison, Vice President, Traffic, Sea-Land Service, Inc., Post Office Box 1050, Elizabeth, N.J. 07207.

Agreement No. 9899 between American Export Isbrandtsen Lines, Inc., Atlantic Container Lines, Ltd., Dart Containerline, Inc., Hapag-Lloyd Atkiengesellschaft, Sea-Land Service, Inc., Seatrain Lines, Inc., and United States Lines, Inc., carriers of property (traffic) in containers in containerships in the trades from,

to, or between U.S. Atlantic ports and Atlantic ports of continental Europe, Baltic, and Scandinavian ports, Mediterranean ports and ports of the United Kingdom and Eire, has been filed for section 15 approval.

The parties agree to exchange information and to cooperate in developing information relating to (1) cost of service, rates, rules, and tariffs relating to traffic in intermodal containers; (2) practices in connection with the receipt and delivery of traffic in containers, including interchange with connecting land carriers or other transportation of intermodal containers between inland points and ports of loading or discharge from containerships; and (3) the regularity of traffic flow; the seasonal and other fluctuation of traffic flows, and related data bearing on the level and frequency of service required by shippers.

Nothing in the arrangement authorizes the parties to carry out any agreement which may be reached except upon prior filing with and approval by the Federal Maritime Commission and/or any other concerned governmental authority or obligates any carrier to exchange the above described information or limits the carrier in making changes in its own rates, rules, and practices. Any common carrier offering container service in the foreign commerce of the United States as described above may participate in the agreement and resulting discussions upon becoming a party hereto.

Dated: September 23, 1970.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-12873; Filed, Sept. 24, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. RI71-274, etc.]

CONTINENTAL OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 16, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto (18 CFR ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 9, 1970.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-274	Continental Oil Co.	158	14 17	Transcontinental Gas Pipe Line Corp. (West Cameron Block 110 Field, Offshore Louisiana) (Federal Domain).	$4,104	8-18-70	9-18-70	9-19-70	19.0	[2] 20.0	
RI71-275	Pennzoil Producing Co.[6]	216	17 14	United Gas Pipe Line Co. (Bay Baptiste Field, Terrebonne Parish, South Louisiana).	16,425	8-17-70	8-17-70	8-18-70	18.5	[8] 20.0	RI60-406.
RI71-276	Newmont Oil Co.	3	[10] 13	Transcontinental Gas Pipe Line Corp. (West Cameron Block 110 and Eugene Island Block 126 Fields, Offshore, Louisiana) (Federal Domain).	1,368	8-24-70	9-24-70	9-25-70	19.0	[2] 20.0	
			[9] 14		1,038	8-24-70	9-24-70	9-25-70	19.0	[2] 20.0	
			[8] 15		608	8-24-70	9-24-70	9-25-70	19.0	[2] 20.0	

*Pressure base is 15.025 p.s.i.a.
[1] Includes supporting documents required by Opinion No. 567.
[2] Pursuant to Opinion No. 546-A based on the determinations in Opinion No. 567.
[3] Offshore gas well gas.
[4] Applies only to gas well gas from the I-1 sand reservoir.
[5] Pursuant to Opinion No. 567.
[6] Both buyer and seller are wholly owned subsidiaries of Pennzoil United, Inc.
[7] Applies only to gas well gas from the 9,400-foot reservoir.
[8] Applies only to gas well gas from the I-1 sand reservoir (West Cameron Block 110) and the 2-B upper sand reservoir (Eugene Island Block 126).
[9] Applies only to gas well gas from the J-1 and I-3 sand reservoirs (West Cameron Block 110).
[10] Applies only to gas well gas from the I-1 sand reservoir—Well No. D-2 (West Cameron Block 110).

The proposed increases involved, except for Pennzoil's increase, relate to gas well gas determined in accordance with Opinion No. 567 to qualify for a third vintage price and were submitted pursuant to Paragraph (A) of Opinion No. 546-A. These increases shall be suspended for 1 day from the date of expiration of the statutory notice period. Thereafter, the proposed rates may be placed in effect subject to refund pending the outcome of Docket No. AR69-1.

Pennzoil's proposed increase for a sale to its affiliate does not exceed the applicable area rate ceiling. In view of the affiliation, however, we shall suspend the proposed rate for 1 day from the date of filing.

[F.R. Doc. 70-12731; Filed, Sept. 24, 1970; 8:45 a.m.]

[Docket No. RI71-277]

MOBIL OIL CORP.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

SEPTEMBER 16, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 9, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-277	Mobil Oil Corp	86	12	El Paso Natural Gas Co. (Jalmat Field, Lea County, New Mexico, Permian Basin)	$219	8-17-70	9-17-70	2-17-71	14.11	[1] 17.7929	
		92	11		219	8-17-70	9-17-70	2-17-71	14.11	[1] 17.7929	
		208	11		76	8-17-70	9-17-70	2-17-71	12.82	[1] 17.7929	
		209	8		30	8-17-70	9-17-70	2-17-71	13.04	[1] 17.7929	
		210	10		65	8-17-70	9-17-70	2-17-71	12.57	[1] 17.7929	
		211	13		120	8-17-70	9-17-70	2-17-71	11.59	[1] 17.7929	

*Pressure base is 14.65 p.s.i.a.

[1] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.

As indicated in the table, all of the proposed increased rates include partial reimbursement for the full 2.55 percent New Mexico Emergency School tax. The buyer, El Paso, is expected to protest the tax reimbursement part of these proposed rates. In view of the contractual problem presented, the hearings provided with respect to these increased rate filings shall concern themselves with the contractual basis for such filings as well as the statutory lawfulness of the proposed rates.

All of the proposed increased rates and charges exceed the applicable area increased rate ceilings set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, chapter I, Part 2, § 2.56).

[F.R. Doc. 70-12732; Filed, Sept. 24, 1970; 8:45 a.m.]

[Dockets Nos. RI71-261, etc.]

W. P. CARR, ET AL.

Order Providing for Hearing On and Suspension of Proposed Changes In Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 16, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 7, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-261	W. P. Carr	3	[4] 11	El Paso Natural Gas Co. (Bondad Mesaverde Field, La Plata County, Colo.)	$1,195	8-24-70	9-24-70	9-25-70	[1] 13.0	[1] 15.0	
RI71-262	Atlantic Richfield Co	281	[5] 7	El Paso Natural Gas Co. (Blanco-MesaVerde Field, San Juanco, N. Mex., San Juan Basin).	73	8-28-70	9-28-70	9-29-70	13.0	[2] 13.2501	
RI71-263	Merchants Petroleum Co	[4] 3	[7] 3	Equitable Gas Co. (Contract No. 5852) (Henry District, Clay County, W. Va.).	720	8-24-70	9-24-70	[11] 9-25-70	[13] 25.096 [5] 27.1038	[5] 28.0 ([9] [10])	RI70-1419.
RI71-264	St. Clair Oil Co	[4] 12	[7] 16	Equitable Gas Co. (Contract No. 5978) (Harrison, Lewis, and Upshur Counties, W. Va.).	(21)	8-17-70	9-17-70	[11] 9-18-70	[5] [8] 25.096 [5] 27.1038 [5] [10] 27.1038	[5] 28.0 ([9] [12]) ([9] [12])	RI69-751. [12]
RI71-265	Weiner Enterprise	[4] 1	[7] 1	Equitable Gas Co. (Contract No. 6322) (Otter and Salt Lick Districts; Braxton County, W. Va.).	150	8-19-70	9-19-70	[11] 9-20-70	[5] [9] 27.1038	[5] 28.0	
RI71-266	J. C. Baker & Son, Inc	[4] 7	[7] 5	Equitable Gas Co. (Contract No. 6298) (Collins Settlement District; Lewis County, W. Va.).	393	8-17-70	9-17-70	[11] 9-18-70	[5] [9] 27.1038	[5] 28.0	
RI71-267	Skylark Gas Co	[4] 1	[7] 11	Equitable Gas Co. (Contract 5767) (Harrison, Lewis and Upshur Counties, W. Va.).	(14)	8-28-70	10-1-70	[11] 10-2-70	[5] [8] 25.096	[5] 28.0	
RI71-268	Shell Oil Co	362	[16] 6	Southern Natural Gas Co. (Main Pass Field, South Pass Area, Offshore Louisiana).	32,400	8-25-70	9-25-70	[17] 9-26-70	[1] [18] 18.5	[1] [18] 20.0	
RI71-269	Texaco Inc	440	[16] 1	Transcontinental Gas Pipe Line Corp. (Block 208 Field, Eugene Island Area, Offshore Louisiana).	54,000	8-28-70	[8] 9-28-70	[17] 9-29-70	[1] [18] 18.5	[1] [18] 20.0	
	do	442	[16] 1	Transcontinental Gas Pipe Line Corp. (Block 48 Field, South Marsh Island Area, Offshore Louisiana).	13,500	8-28-70	[8] 9-28-70	[17] 9-29-70	[1] [18] 18.5	[1] [18] 20.0	
	do	448	[16] 1	Texas Eastern Transmission Corp. (Block 95 Field, Main Pass Area, Offshore Louisiana).	131,400	8-28-70	[8] 9-28-70	[17] 9-29-70	[1] [18] 18.5	[1] [18] 20.0	
RI71-270	Mobil Oil Corp	433	6	Arkansas Louisiana Gas Co. (Ames Area, Major County, Okla. Other Area).	(21)	8-24-70	9-24-70	9-25-70	14.5	14.515	RI70-1055.
RI71-271	Northern Natural Gas Producing Co.	31	6	Panhandle Eastern P/L Co. (Northeast Trail Field, Okla. Other Area).	27	8-24-70	9-24-70	9-25-70	[19] 18.0	[19] 18.015	RI69-497.
RI71-272	J. M. Huber Corp	[21] 70	[20] 1	Panhandle Eastern P/L Co. (Greenburg Field, Kiowa Co., Kans.).	159	8-17-70	10-1-70	10-2-70	15.0	16.0	
RI71-273	Mobil Oil Corp	442	4	Arkansas Louisiana Gas Co. (Southwest Waukomis Field,	2	8-24-70	9-24-70	9-25-70	17.8	17.815	RI69-533.
		424	9	Garfield County, Okla.,	29	8-24-70	9-24-70	9-25-70	17.8	17.815	RI70-968.
	do	105	5	Northern Natural Gas Co. (Southwest Camp Creek Field, Beaver County, Okla. Panhandle Area).	9	8-24-70	9-24-70	9-25-70	[19] 17.0	[19] 17.01	RI67-272.
	do	168	6	Natural Gas P/L Co. of America (South Rainey Field, Washita County, Okla. Other Area).	102	8-24-70	9-24-70	9-25-70	[19] 18.0	[19] 18.015	RI69-696.
	do	204	5	Lone Star Gas Co. (Carter-Knox Field, Stephens and Grady Counties, Okla. Carter-Knox Area).	7	8-24-70	9-24-70	9-25-70	19.0	19.015	RI70-179.
	do	303	4	Panhandle Eastern P/L Co. (Guymon-Hugoton Field, Texas County, Okla. Panhandle Area).	2	8-24-70	9-24-70	9-25-70	12.0	12.01	RI67-273.
	do	310	5	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla., Panhandle Area).	5	8-24-70	9-24-70	9-25-70	[19] 18.0	[19] 18.015	RI69-472.
	do	392	9	Panhandle Eastern P/L Co. (Bishop and Various Fields, Ellis County, Okla., Panhandle Area).	98	8-24-70	9-24-70	9-25-70	[19] 18.0	[19] 18.015	RI70-1065.
	do	404	10	Natural Gas P/L Co. of America (Northeast Custer City Field, Custer County, Okla. Other Area).	239	8-24-70	9-24-70	9-25-70	[19] 17.0	[19] 17.015	RI68-842.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Pressure base is 15.025 p.s.i.a.
[2] Includes partial reimbursement for the full 2.55-percent New Mexico Emergency School Tax.
[3] Pertains to production from the Pictured Cliffs Formation only.
[4] The proposed rate insofar as it relates to sales from acreage dedicated by Supplement Nos. 7, 8, and 9 is suspended herein for 1 day, and insofar as it relates to the remainder of the rate schedule dedication it is suspended for 5 months by separate order.
[5] Pressure base is 15.325 p.s.i.a.
[6] Contract dated after Sept. 28, 1960, the date of issuance of Statement of General Policy No. 61-1.
[7] Includes letter from buyer providing for increase for gas from new wells on currently dedicated acreage and for gas from old wells drilled deeper and/or hydrofractured.
[8] Rate converted from 25 cents per Mcf at 62° to 60° F.
[9] Rate converted from 27 cents per Mcf at 62° to 60° F.
[10] Rate applicable to gas from new wells and old wells drilled deeper, cleaned out and/or hydrafractured previously.
[11] Or 1 day from date of initial delivery of gas from new wells on currently dedicated acreage and old wells drilled deeper and/or hydrafractured, whichever is later.
[12] Not applicable to Supplement No. 13.
[13] Clean rate applicable to Supplement No. 13 only.
[14] Not stated.
[15] Pertains only to acreage added by Supplement No. 5.
[16] Pertains only to gas well gas.
[17] Or for 1 day from date of initial delivery, whichever is later.
[18] Subject to quality adjustments.
[19] Subject to upward and downward B.t.u. adjustment.
[20] Applicable to the Einsel No. 1 unit.
[21] Contract dated after Sept. 28, 1960.

The proposed increased rate under Atlantic's FCC Gas Rate Schedule No. 281 includes partial reimbursement for the full 2.55-percent New Mexico Emergency School Tax. The buyer, El Paso, is expected to protest the tax reimbursement part of these proposed rates. In view of the contractual problem presented, the hearing provided with respect to this filing shall concern itself with the contractual basis for the filing as well as the statutory lawfulness of the proposed rate.

The basic contract related to the increase under Carr's FPC Gas Rate Schedule No. 3 is dated prior to the Commission's Statement of General Policy No. 61–1 but contains agreements (Supplements Nos. 7, 8, and 9) dedicating additional acreage which are dated after the date of the policy statement and the proposed rate does not exceed the area initial service ceiling. As a result, the proposed rate insofar as it relates to Supplements, Nos. 7, 8, and 9 should be suspended for 1 day. For the same reasons, the proposed increases of Merchants, St. Clair, Weiner, J. C. Baker, Skylark, and Huber are also suspended for 1 day.

The proposed increases of Shell and Texaco involving proposed sales of third vintage gas well gas from Offshore Louisiana were filed pursuant to Opinion 546–A. Consistent with previous Commission action, these increases are being suspended for 1 day from the date of expiration of the statutory notice period or for 1 day from the date of initial delivery whichever is later.

The proposed tax reimbursement increases filed by Atlantic, Mobil, and Northern should also be suspended for 1 day.

Carr and Weiner request effective dates for which adequate notice has not been given. Good cause has not been shown for granting such requests and they are denied.

[F.R. Doc. 70–12733; Filed, Sept. 24, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on June 23, 1970.[1]

The information reviewed at this meeting suggests that real economic activity is changing little in the current quarter after declining appreciably earlier in the year. Prices and costs generally are continuing to rise at a rapid pace, although some components of major price indexes recently have shown moderating tendencies. Since late May market interest rates have shown mixed changes following earlier sharp advances, and prices of common stocks have recovered part of the large decline of preceding weeks. Attitudes in financial markets continue to be affected by uncertainties and conditions remain sensitive, particularly in light of the insolvency of a major railroad. In May bank credit changed little and the money supply rose moderately on average, following substantial increases in both measures in March and April. Inflows of consumer-type time and savings funds at banks and nonbank thrift institutions have been sizable in recent months, but the brief spring upturn in large-denomination CD's outstanding at banks has ceased. The over-all balance of payments was in heavy deficit in April and May. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to orderly reduction in the rate of inflation, while encouraging the resumption of sustainable economic growth and the attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, in view of persisting market uncertainties and liquidity strains, open market operations until the next meeting of the Committee shall continue to be conducted with a view to moderating pressures on financial markets. To the extent compatible therewith, the bank reserves and money market conditions maintained shall be consistent with the Committee's longer-run objective of moderate growth in money and bank credit, taking account of the Board's regulatory action effective June 24 and some possible consequent shifting of credit flows from market to banking channels.

By order of the Federal Open Market Committee, September 14, 1970.

KENNETH A. KENYON,
Assistant Secretary.

[F.R. Doc. 70–12784; Filed, Sept. 24, 1970; 8:46 a.m.]

[1] The Record of Policy Actions of the Committee for the meeting of June 23, 1970, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[Regs. G, T, and U]

OTC MARGIN STOCK

Changes in List

The following changes have been made, effective September 21, 1970, in the List of OTC Margin Stocks, as of July 20, 1970, published in the FEDERAL REGISTER on July 24, 1970.

1. Deletions: (stocks now registered on national securities exchanges) Eli Lilly and Co., $1.25 par common; MPB Corp., $1 par common; and United States Fidelity and Guaranty Co., common; (company acquired by a firm registered on a national securities exchange) Hartford Fire Insurance Co., common.

2. Changes: New Jersey National Bank and Trust, common, becomes New Jersey National Bank, common; State Street Bank and Trust, $10 par common, is changed to State Street Boston Financial Corp., $10 par common; Empire Life Insurance Co., $1 par common now reads as Empire Life Insurance Co., Class A, $1 par common; and Hamilton International Corp., Class A, common is changed to read Hamilton International Corp., common.

Board of Governors of the Federal Reserve System, acting by its Director of the Division of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(13)), September 21, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70–12783; Filed, Sept. 24, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 157]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 22, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 80428 (Sub-No. 73 TA) (Correction), filed September 3, 1970, published in the FEDERAL REGISTER issue of September 17, 1970, and republished as corrected, this issue. Applicant: McBRIDE TRANSPORTATION, INC., 289 West Main Street, Goshen, N.Y. 10924. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and invert sugar, corn syrup, and blends of liquid or invert sugar and corn syrups, and flavoring syrups*, in bulk, from New York, N.Y., and Yonkers, N.Y., to points in Maryland, Delaware, and Pennsylvania (except Williamsport, Milton, Berwick, Hazleton, Kingston, Scranton, and Wilkes-Barre, Pa.), for 150 days. NOTE: The purpose of this republication is to correct the spelling of applicant's name, and also to add certain commodities inadvertently omitted from previous publication. Supporting shippers: Peosico, Inc., Purchase, N.Y. 10577; CPC International, Inc., Refined Syrups & Sugars, Federal Street, Yonkers, N.Y. 10702; SuCrest Corp., New York, N.Y. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 96630 (Sub-No. 4 TA) (Correction), filed August 21, 1970, published FEDERAL REGISTER, issue of September 1, 1970, under No. MC 6017 (Sub-No.

2 TA), and republished as corrected this issue. Applicant: BALSER TRUCK CO., 8332 Wilcox Avenue, Post Office Box 1069, South Gate, Calif. 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid concrete admixtures*, in bulk, in specially designed compartmentalized tank trailers, from Cucomonga, Calif., to points in Arizona, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, El Paso County, Tex., and California for 180 days. NOTE: The purpose of this republication is to show that applicant seeks to operate as a common carrier, rather than as a contract carrier, which was shown in error in previous publication. Supporting shipper: Master Builders, 2490 Lee Boulevard, Cleveland, Ohio 44118. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7703, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 118127 (Sub-No. 17 TA) (Correction), filed September 3, 1970, published in the FEDERAL REGISTER issue of September 15, 1970, and republished as corrected, this issue. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, Calif. 90640. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruits and rhubarb and frozen fish and shellfish* (the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act), from points in California to Southbury, Conn., for 150 days. NOTE: The purpose of this republication is to show the correct commodity description, and also the correct Docket Number as MC 118127 in lieu of 119127. Supporting shipper: Four'n 20 Pies, Inc., 4419 Van Nuys Boulevard, Sherman Oaks, Calif. 91403. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 119641 (Sub-No. 91 TA), filed September 15, 1970. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Post Office Box 471, Fowler, Ind. 47944. Applicant's representative: Leo A. Maciolek (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except tractors with vehicle beds, bed frames or fifth wheels), *agricultural machinery and implements, industrial and construction machinery and equipment, snowmobiles, equipment designed for the transportation of the commodities described above* (except trailers designed to be drawn by passenger automobiles), *attachments* for the commodities described above, *internal combustion engines, and parts and accessories* of the commodities described herein above when moving in mixed loads with such commodities, from ports of entry on the international boundary between the United States and Canada at Detroit and Port Huron, Mich., and Buffalo and Niagara Falls, N.Y., to points in the United States except Alaska and Hawaii. Restricted to shipments originating at the plant and warehouse sites and experimental farms of Massey-Ferguson Industries Ltd., at Toronto, Brantford, and Milliken, Ontario, for 150 days. Supporting shipper: Massey-Ferguson, Inc., 1901 Bell Avenue, Des Moines, Iowa 50315. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 124702 (Sub-No. 1 TA), filed September 14, 1970. Applicant: DAVID H. WILLEMS, doing business as WILLEMS TRUCK LINE, 2425 Porter, Wichita, Kans. 67204. Applicant's representative: Paul V. Dugan, Wichita Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated and wooden boxes and materials used in the construction thereof* (except lumber), from Love Box Co., Wichita, Kans., to points in Colorado; from points in Colorado to Love Box Co. plantsite, Wichita, Kans., for 180 days. Supporting shipper: Love Box Co., Inc., 700 East 37th Street North, Post Office Box 546, Wichita, Kans. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133229 (Sub-No. 4 TA) (Correction), filed July 29, 1970, published in the FEDERAL REGISTER issue of August 11, 1970, and republished in part corrected, this issue. Applicant: COATS FREIGHTWAYS, INC., South Highway 92, Post Office Box 415, Council Bluffs, Iowa 51501. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, Nebr. 68102. NOTE: The purpose of this republication is to show the correct sub number as (Sub-No. 4 TA) in lieu of (Sub-No. 29 TA). The rest of the application remains as previously published.

No. MC 134574 (Sub-No. 3 TA) (Correction), filed September 3, 1970, published in the FEDERAL REGISTER issue of September 15, 1970, and republished as corrected, this issue. Applicant: FIGOL DISTRIBUTORS LIMITED, 9727 110th Street, Edmonton, Alberta, Canada. Applicant's representative: Eldon M. Johnson, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products*, in vehicles equipped with mechanical refrigeration, from points along the United States-Canadian border in Idaho and Montana, to points in the State of California, restricted to shipments having an origin in Canada, for 180 days. NOTE: The purpose of this republication is to include the territorial description. Supporting shippers: Intercontinental Packers Ltd., Box 1260, Saskatoon, Saskatchewan, Canada; Gainers Ltd., Box 4340, South Edmonton, Alberta, Canada; Canada Packers Ltd., Box 39, Edmonton 15, Alberta, Canada; Burns Foods Ltd., Box 1300, Calgary, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134920 (Sub-No. 1 TA), filed September 14, 1970. Applicant: BARSON TRUCKING, INC., 15 Johnston Avenue, Jersey City, N.J. 07302. Applicant's representative: L. Agnew Myers, Jr., Warner Building, E at 13th Street NW., Washing, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to traffic moving from or to terminal facilities of Clipper Carloading Co., between points in Fairfield, Middlesex, and New Haven Counties, Conn., Nassau, Suffolk, Westchester, Rockland, Bronx, Kings, New York (Manhattan), Queens, and Richmond Counties, N.Y., Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., for 180 days. Supporting shipper: Clipper Carloading Co., 3401 West Pershing Road, Chicago, Ill. 60632. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12819; Filed, Sept. 24, 1970; 8:49 a.m.]

[No. 11761]

IOWA PASSENGER FARES AND CHARGES

SEPTEMBER 17, 1970.

Notice is hereby given that the Illinois Central Railroad Co. through its attorneys named below, filed a petition with the Interstate Commerce Commission, on June 19, 1970, on as corrected September 3, 1970, seeking modification of outstanding orders of the Commission in this proceeding to allow the petitioner to increase its intrastate passenger fares and charges within the State of Iowa by (1) generally 20 percent in its basic one-way first-class fares, (2) generally 20 percent in its basic one-way coach fares, (3) adding to one-way first-class and coach fares, thus increased, an amount when necessary sufficient to make these fares end in the next even dollar, (4) generally 10 percent in sleeping car rates for overnight occupancy, sleeping car seat charges and parlor car seat charges, and adding when necessary an amount sufficient to make the new rate end in "0" or "5", (5) changing the baggage checking service charge from 50 cents to 70 cents for each piece of hand baggage and from $1 to $1.35 for each trunk or

article classified as such, and (6) changing other fares and charges based on regular one-way fares by the same percentages as one-way fares.

The petitioner points out that effective July 20, 1970, new interstate fares and charges, increased as noted in the previous paragraph, were established between all stations on the petitioner's line (except commuter fares in the Chicago, Ill., area); that interstate and intrastate passengers are transported on the same trains; that transportation conditions in respect of intrastate traffic are no more favorable than those in respect of interstate traffic; that intrastate fares maintained at a lower level than the prevailing level of interstate fares would cause difficulties; and that since maximum intrastate passenger fares are fixed by State statute (fares in excess thereof, which would result from the sought increases herein, not being subject to the jurisdiction of the regulatory body of that State, namely, the Iowa State Commerce Commission), it is necessary, that the order herein, as subsequently modified, be further modified so as to authorize the petitioner to establish increased fares and charges necessary to remove the alleged difficulties (violations of section 13 of the Interstate Commerce Act).

Any person interested in any of the matters in the petition, as corrected, may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of 2 copies upon one of the following: Robert Mitten, Howard Koontz, John Doeringer, or Kenneth L. Novander, 135 East 11th Place, Chicago, Ill., 60605, attorneys for the petitioner. Thereafter, the Commission will proceed to render its decision in this matter, including the observance of any additional requirements that may appear warranted to assure due process of law.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70-12820; Filed, Sept. 24, 1970; 8:49 a.m.]

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