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PART I

HIGHLIGHTS OF THIS ISSUE

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

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November 19, 1973—Pages 31803–31945

REMINDERS

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

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4255

Thanksgiving Day, 1973

By the President of the United States of America

A Proclamation

In the first Thanksgiving, man affirmed his determination to live in God's grace and to act in God's will on the shores of a new land of promise. In this Thanksgiving season we reaffirm that determination.

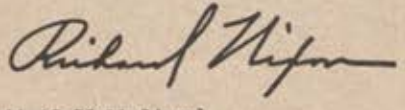
Time has not dimmed, nor circumstance diminished the need for God's hand in all that America may justly endeavor. In times of trial and of triumph that single truth reasserts itself, and a people who have never bowed before men go gladly to their knees in submission to divine power, and in thanks for divine sustenance.

On this Thanksgiving Day we mark the 10th anniversary of the tragic death of President John F. Kennedy. As we give thanks for the bounty and goodness of our land, therefore, let us also pause to reflect on President Kennedy's contributions to the life of this Nation we love so dearly.

Those who celebrated the first Thanksgiving had endured hardship and loss, but they kept alive their hope and their faith. Throughout our history, each generation has endured hardship and loss, but our faith and trust in God's providence has remained undiminished. At this first Thanksgiving in twelve years in which the United States will have been at peace, we see that God's grace also remains undiminished. For this we give thanks.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with the wish of the Congress as expressed in Section 6103 of Title 5 of the United States Code, do hereby proclaim Thursday, November 22, 1973, as a day of national thanksgiving, and concurrently, a day of prayer for the memory of John F. Kennedy. Let all Americans unite on this day, giving thanks for the manifold blessings vouchsafed our people, and inviting all of those less fortunate than ourselves to share in those blessings in God's name, for His sake, and for our own.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.



[FR Doc.73-24752 Filed 11-16-73;11:24 am]

MEMORANDUM OF SEPTEMBER 28, 1973

[Presidential Determination No. 74–5]

Presidential Determination—The Republic of Korea, Turkey and Jordan

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, September 28, 1973.

Pursuant to the authority vested in me by Section 504(a) of the Foreign Assistance Act of 1961, as amended, I hereby determine that the furnishing of sophisticated weapons systems in FY 1974 to the Republic of Korea, Turkey and Jordan is important to the national security of the United States.

You are requested on my behalf to report this Determination to the Senate and the House of Representatives as required by law.

This Determination shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.73–24683 Filed 11–15–73;3:04 pm]

Rules and Regulations

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 405—ACCOUNTING FOR UNALLOWABLE COSTS

Effective Date

On September 6, 1973, a Cost Accounting Standard entitled Accounting for Unallowable Costs was published in the FEDERAL REGISTER (38 FR 24195 et seq.).

As shown in the following § 405.80, the effective date of the Standard which was reserved in the September 6 publication is April 1, 1974.

§ 405.80 Effective date.

April 1, 1974.

(84 Stat. 796, sec. 103; 50 U.S.C. App. 2168)

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.73-24609 Filed 11-16-73;8:45 am]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973–74 and Subsequent Marketing Years

Correction

In FR Doc. 73-20979, appearing at page 27355 in the issue for Wednesday, October 3, 1973, § 725.113(b)(1) should be changed to read as follows:

(b) *Producer's report.* (1) For each farm on which flue-cured tobacco is produced in the current year, the farm operator or any producer on the farm shall file with the county office a report on MQ-32, Certification of Flue-Cured Tobacco Varieties Planted, showing whether or not discount variety tobacco was planted on the farm.

Title 10—Atomic Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Miscellaneous Amendments; Correction

In FR Doc. 73-23406, published November 2, 1973 (38 FR 30251), the following changes are made:

1. In the Schedule of Fees on page 30255, the heading "Application fee for construction" is corrected to read "Application fee for construction permit".

2. In the Schedule of Fees on page 30255, the construction permit fee is corrected to read $250,000+$170/Mw(t)[1].

3. Footnote 6 to the Schedule of Fees on p. 30255 is corrected to read as follows:

Dated at Germantown, Maryland, this 13th day of November 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-24569 Filed 11-16-73;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 4]

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Loan Policy

On August 28, 1973, the Small Business Administration published in the FEDERAL REGISTER (38 FR 22983) a notice of proposed rulemaking which consolidated Revision 3 and its several amendments.

It reduces the text of some sections by referencing to "Loan Policy," part 120 of this chapter and other minor changes. Elimination of paragraph (1), amendment 3, revision 3, will permit the use of blanket guarantees.

The public was invited to comment by September 17, 1973. Such comment has been received and considered, and the proposed revision is adopted with minor modifications. This revision is effective November 19, 1973.

Dated November 8, 1973.

THOMAS S. KLEPPE,
Administrator.

GENERAL

Sec.
108.1 Policy.
108.2 Definitions.
108.3 Procedures for loan applications.

LOANS UNDER SECTION 501

108.501 Statutory provision.
108.501-1 Section 501 loans.

LOANS UNDER SECTION 502

108.502 Statutory provision.
108.502-1 Section 502 loans.

AUTHORITY: The provisions of this Part 108 issued under sec. 5, Pub. L. 85-536, secs. 201, 308, Pub. L. 85-699.

[1] When a manufacturing license is issued for more than one power reactor, the fee will be $125,000+$85/Mw(t) for the first reactor and $25,000+$15/Mw(t) for each additional reactor.

GENERAL

§ 108.1 Policy.

(a) As part of the Congressional policy to improve and stimulate the national economy in general, and the small business segment thereof in particular, by establishing a program to stimulate the flow of private equity capital and long-term loans for the sound financing of the operations, growth, expansion, and modernization of small business concerns, the Small Business Administration is authorized to make loans to state and local development companies which will further that policy. This policy shall be carried out in such manner as to insure the maximum participation of private financing sources. No such loan shall be made if the effect thereof will be to cause a substantial increase of unemployment in any area of the country.

(b) The Government of the United States has declared that no person in the United States shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (Title VI of the Civil Rights Act of 1964.) The President of the United States has also declared in Executive Orders No. 10925 of March 6, 1961 (26 FR 1977), No. 11114 of June 23, 1963 (28 FR 6485), and No. 11246 of September 24, 1965 as amended by No. 11375 of October 13, 1967 (32 FR 14303) that all qualified persons should be given equal employment opportunity without regard to race, color, religion, sex, or national origin, when employed or seeking employment with Government contractors or with contractors performing under Federally assisted construction contracts, Recipients of financial assistance under this part are subject to the nondiscrimination requirements of the laws and policies referred to in this section.

§ 108.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Small Business Administration.

(b) "SBA" means the Small Business Administration.

(c) "Small business concern" means a business concern which would qualify as a small business under § 121.3-10 or § 121.3-11 of this chapter.

(d) "Development company" means an enterprise incorporated under the laws of one of the several states, formed for the purpose of furthering the economic development of its community

and environs, and with authority to promote and assist the growth and development of small business concerns in the areas covered by their operations. Such corporation may be organized either as a profit or nonprofit enterprise.

(1) A state development company is a corporation organized under or pursuant to a special legislative act to operate on a statewide basis.

(2) A local development company is a corporation chartered under any applicable state corporation law to operate in a specified area within a state. A local development company shall be principally composed of and controlled by persons residing or doing business in the locality; such local persons shall ordinarily constitute not less than 75 percent of the voting control of the development company. No shareholder or member of the development company may own in excess of 25 percent of the voting control in the development company if he and his affiliated interest have direct pecuniary interest in the project involving the section 502 loan or in the small business concern which is to be assisted. The primary objective of the development company must be of benefit to the community as measured by increased employment, payroll, business volume, and corresponding factors rather than monetary profits to its shareholders or members; any monetary profits or other benefits which flow to the shareholders or members of the local development company must be merely incidental thereto.

(e) "Section 501 loan" means a loan authorized under section 501 of the Small Business Investment Act of 1958, as amended.

(f) "Section 502 loan" means a loan authorized under section 502 of the Small Business Investment Act of 1958, as amended.

(g) "Plant" means any physical facility, including land, buildings, machinery, and equipment owned or acquired by the development company or the small business concern and employed or to be employed by the small business concern in the conduct of its business, whether the business be of an industrial, commercial, or recreational nature.

(h) "Construction contract" as used herein means any contract entered into by the development company or the small business concern being assisted for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

§ 108.3 Procedures for loan applications.

(a) *Relocation.*—No loan shall be made under this part that will result in a substantial increase of unemployment in any area of the country.

(1) In cases where the small business concern to be assisted is relocating its operations, said concern must submit and certify to evidence, prior to the filing of the application by the state or local development company for a section 502 loan or prior to disbursement by the state development company of the proceeds of a section 501 loan previously granted, that its relocation will not result in a substantial increase of unemployment in the area from which it is moving. Said evidence shall be submitted by the state or local development company to the SBA field office as designated in paragraph (c) of this section, and within 30 days SBA will notify the development company whether it may file a section 502 loan application or disburse section 501 loan proceeds.

(2) A substantial increase in unemployment shall be presumed to occur when (i) the relocation would result in the unemployment of one-third of the work force of the small business concern to be assisted, (ii) the unemployment would result in making the area affected an area of substantial unemployment as designated by the Department of Labor, or (iii) the area affected is one of substantial unemployment as designated by the Department of Labor

(b) *Form of application.*—An application for a section 501 loan shall be made upon SBA Form 501 and for a section 502 loan upon SBA Form 502, and shall include all other pertinent information required in supporting schedules and forms. The application and supporting materials shall be submitted in duplicate.

(c) *Place of filing.*—Application shall be made in the SBA field office serving the area in which the applicant is located if no bank participation in the loan is available. If participation is available, the applicaton and supporting materials shall be submitted in duplicate to the lending institution which will submit one complete copy to SBA along with a letter confirming its willingness to participate.

(d) *Nondiscrimination.* — Applicants for section 501 and section 502 loans and identifiable small business concerns, beneficiaries of such loans, will be required to execute when appropriate the compliance forms furnished by SBA.

Loans Under Section 501

§ 108.501 Statutory provision.

Section 501. (a) The Administration is authorized to make loans to State development companies to assist in carrying out the purposes of this Act. Any funds advanced under this subsection shall be in exchange for obligations of the development company which bear interest at such rate, and contain such other terms, as the Administration may fix, and funds may be so advanced without regard to the use and investment by the development company of funds secured by it from other sources.

(b) The total amount of obligations purchased and outstanding at any one time by the Administration under this section from any one State development company shall not exceed the total amount borrowed by it from all other sources. Funds advanced to the State development company under this section shall be treated on an equal basis with those funds borrowed by such company after the date of the enactment of this Act, regardless of source, which have the highest priority, except when this requirement is waived by the Administrator.

§ 108.501–1 Section 501 loans.

(a) *Participation.*—To insure participation of private financing sources, the state development company shall agree, unless otherwise notified by SBA, that within 30 days after disbursement of the loan and thereafter during the period in which the loan or any part thereof remains unpaid, it will maintain portfolio investments or loans, or both, meeting the requirements of paragraph (e) of this section, having a stated outstanding principal value equal to no less than 133⅓ percent of the unpaid principal of the loan. Deviation from this ratio will be permitted during intervals between repayment or other disposal of such investments or loans and the prompt reinvestment of funds resulting from such repayment or disposal.

(b) *Loan amount.*—Subject to the limitation contained in section 501(b) of the Small Business Investment Act of 1958, as amended, a loan authorized under this authority shall be in such amount as determined by SBA to be consistent with sound business practice.

(c) *Repayment of loan.*—A section 501 loan shall not be made for a term longer than 20 years. Payment of all or any part of a loan may be anticipated without penalty on any interest payment date. Except when the rate of repayment is waived by SBA, such rate shall be adjusted by SBA so that a section 501 loan shall be repaid at no lesser rate than the other debts of the development company which first become due; but in any event not less frequently than annually: *Provided, however,* That at no time will the outstanding amount of a section 501 loan to a State development company exceed the limitation set forth in section 501(b) of the Small Business Investment Act of 1958, as amended.

(d) *Security.*—Except where this requirement is waived by SBA, funds advanced to a State development company under a section 501 loan shall be secured on an equal basis with those funds borrowed by such company after August 21, 1958, regardless of source. Equal basis does not require that all SBA funds be secured in the highest degree that any other development company funds are secured; however, SBA funds shall be secured on a ratable basis.

(e) *Use of proceeds.*—(1) The proceeds of loans to state development companies shall be used only to provide equity capital or make long-term loans, or both, to small business concerns. For the purposes of this section, a long-term loan or any debt instrument through which equity may be acquired shall have a final maturity of not less than 5 years. State development companies may use section 501 loan proceeds to acquire capital stock or other equity instruments from, or to relend to, small business concerns in need of assistance to finance their operations, growth, expansion, or modernization: *Provided, however,* That the authority to acquire with such proceeds an equity or other proprietary interest in a borrower shall extend only to

state development companies which are wholly owned and controlled by private interests.

(2) The proceeds of loans to State development companies may not be used for:

(i) Relending or reinvesting by the small business concern;

(ii) Purposes contrary to the public interest, including but not limited to gambling enterprises and activities (see Part 120.2d(5) for exceptions);

(iii) Any purposes which would encourage monopoly or be inconsistent with accepted standards of free enterprise;

(iv) Use outside of the United States: *Provided, however,* That a state development company may provide funds to a small business concern which is subject to state or Federal jurisdiction (a) for use in the domestic production of products for distribution abroad, or to acquire abroad materials for such operations, or (b) for use in its branch operations abroad or for transfer to its controlled foreign subsidiary in exchange for further equity interest in or the monetary obligation of such foreign subsidiary; so long as the major portion of the assets and activities of such concern, after funds are so employed, remains within the territorial jurisdiction of the United States.

(f) *Interest rate.*—The rate of interest on section 501 loans to state development companies shall be the same rate at which the state development company borrows funds from its members.

(g) *Firm commitment.*—A firm commitment may be given by SBA for a period of 1 year subject to the payment of a commitment fee computed on the basis of 1 percent per annum, beginning with the first day after the first 30 days following the date of the note.

(h) *Disposal of obligations.*—SBA may at its discretion and upon such terms and conditions and for such consideration as shall be deemed to be reasonable, sell, assign, transfer or otherwise dispose of the note, and all other evidence of debt or security held in connection with the payment of any loan made under section 501 of the Small Business Investment Act of 1958, as amended.

LOANS UNDER SECTION 502

§ 108.502 Statutory provision.

Section 502. The Administration may, in addition to its authority under section 501, make loans for plant construction, conversion, or expansion, including the acquisition of land, to state and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: *Provided, however,* That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to $350,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding 25 years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed 10 years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

§ 108.502–1 Section 502 loans.

SBA is authorized to make loans to development companies to finance plant construction, conversion, or expansion, including the acquisition of land: *Provided, however,* That such loans will assist an identifiable small business concern in accomplishing a sound business purpose.

(a) *Sound business purpose.*—A loan will not be considered to be for a sound business purpose: (1) If, in any case where the relocation of a small business concern is involved, the relocation will result in the avoidance by such concern of obligations incurred in the location from which the move is to be made or if the primary incentive for such relocation is a local subsidy; (2) if the concern is being relocated from another area unless there is demonstrated to SBA a need to locate closer to the source of basic materials or to major consumers, or to consolidate operations in one location, or unless such relocation is justified by other reasons satisfactory to SBA; (3) if it is to accomplish an expansion or conversion which is unwarranted in the light of the small business concern's past experience and management ability; (4) if it will subsidize inferior management; (5) if it provides funds for speculation; or (6) if its effect will be to encourage monopolies or be inconsistent with accepted standards of the American system of free competitive enterprise.

(b) *Ineligible categories.*—A loan will not be made if the small business concern to be assisted does not qualify as an eligible small business under Part 120 of this chapter, except where inconsistent with specific provisions in this part.

(c) *Collateral.*—All loans made under this section shall be so secured as reasonably to assure repayment. SBA shall determine that all property and rights available as collateral security for such a loan are of a character and value as reasonably to assure repayment of the loan. Collateral shall be insured against such hazards and risks as SBA may require.

(d) *Loan amount.*—(1) Loans made by SBA under this section shall be limited to $350,000 for each identifiable small business concern. The total unpaid amount of any such SBA loan or loan in aid of a particular small business concern shall never exceed $350,000.

(2) Development companies may be eligible to be considered for such additional loans of not more than $350,000 each, as there may be additional identifiable small business concerns to be assisted.

(e) *Participation by the development company.*—A development company may be required to furnish a reasonable part, as determined by SBA, of the funds necessary to accomplish the plant construction, conversion, or expansion, or the acquisition of land. For the purposes of this paragraph, the furnishing of not less than 20 percent of the necessary funds generally is considered a reasonable part. Exceptions may be granted in certain hardship cases or where the SBC is located in a "Ghetto or Target area." SBA may require that the funds to be furnished by the development company be derived from paid-in capital or surplus of the development company, as well as from other sources. The amount of paid-in capital to be required will depend in part upon the amount of the loan, the maturity of the loan, the extent to which other borrowings of the development company may be subordinated to the SBA loan and such other factors as the SBA may consider appropriate to the individual case. For the purpose of this section, "paid-in capital" is cash and property actually received in exchange for shares of stock issued by the development company, or cash and property contributed to the development company without obligation therefore, or cash and property for which the development company is indebted on a subordinated basis.

(f) *Other financing.*—(1) A loan will not be made unless the development company and the small business concern shall show to the satisfaction of SBA that the desired financial assistance is not available on reasonable terms.

(2) In the case of a development company, it shall be satisfactorily demonstrated that the desired financing is not available by means of sale of stock or debt securities, or both, in the development company; from funds agreed to be furnished by participating members of the development company; and by means of loans from not less than two lending institutions (where the population of the community exceeds 200,000) which have

a sufficient legal and normal lending limit to cover the loan applied for.

(3) In the case of a small business concern, the demonstration of the unavailability of the desired financial assistance on reasonable terms shall be in accordance with Section 120.2(a) of this chapter. SBA will rely on the development company's certification as to the unavailability of such other financial assistance to the small business concern.

(g) *Participation by other financial institutions in loans to development companies.*—In order to stimulate and encourage loans by banks and other lending institutions, the SBA shall require that:

(1) An applicant for a loan show that a participation by another lending institution is not available. No financial assistance shall be extended in participation with another lending institution on an immediate basis unless the applicant shall show that a participation on a deferred basis is not available.

(2) SBA's share of immediate participation loans shall not exceed 75 percent of the loan. Exceptions may be made in cases when the participant's legal lending limit precludes a 25 percent participation. In such cases the participant will be required to share in the loan to the extent of its legal lending limit but in no event less than 10 percent. In guaranteed loans the exposure of SBA under the guaranty may not exceed 90 percent of the unpaid principal balance and accrued interest.

(3) Participation charges and service fees shall be in accordance with § 120.3 (b) (1) and (3), respectively, of this chapter.

(h) *Interest rate.*—The interest rate on a direct section 502 loan to a development company and on SBA's share of a section 502 loan made in participation with another lending institution shall be 5½ percent per annum: *Provided, however,* That where the interest on the share of the loan of the bank or other lending institution in a guaranteed or immediate participation loan is less than 5½ percent per annum, then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. For the purposes of this paragraph, bank's share of the guaranteed participation shall be the entire amount of the loan until such time as SBA shall actually purchase its participation.

(i) *Loan maturity.*—The maturity of any loan under this section may not exceed 25 years plus such additional period as is estimated may be required to complete construction, conversion or expansion. It shall be the policy of SBA generally, in the case of a lease agreement between a local development company and an identifiable small business concern, to require that the term of the lease shall not be less than the term of the loan. It shall also be the policy of SBA generally to require repayment in equal periodic installments. Extensions or renewals of the loan for an additional period not to exceed 10 years beyond the stated maturity may be granted by SBA only if such extensions or renewals will aid in the orderly liquidation of such loans.

(j) *Use of proceeds.*—(1) As of the time of approval and the time of disbursement of a section 502 loan, the development company shall submit evidence satisfactory to SBA that the proceeds of such loan will be used for plant construction, conversion, expansion, or the acquisition of land, solely to assist an identifiable small business concern: *Provided, however,* That as of the time of disbursement, with respect to size, evidence need be submitted to show only the fact that the small business concern to be assisted has not adversely affected its status as an identifiable small business concern since the date of approval of loan by reason of any reorganization (including any reorganization under any Federal or state statute, sale of assets, merger, consolidation, purchase, sale or exchange of securities, or long-term lease) or franchise agreement.

(2) The identifiable small business concern, under agreement existing at the time of such disbursement, shall be entitled or permitted to possess and use, as owner or tenant, the plant which is constructed, converted, or expanded, with the proceeds of said loan.

(3) Evidence, satisfactory to SBA, shall be submitted prior to approval and disbursement of said loan, that the identifiable small business concern intends or has the right to use the said plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; and that use of said proceeds will assist only the identifiable small business concern. Evidence of such intent and purpose shall be deemed to exist where the proceeds of the section 502 loan will be used by the development company to (i) relend to the identifiable small business concern for construction, conversion, or expansion of a plant owned, occupied, and used by said concern; (ii) construct, convert, or expand a plant to be sold immediately to the identifiable small business concern for its occupancy and use; (iii) construct, convert, or expand a plant owned by the development company to be leased to the identifiable small business concern with the right in such concern to apply rentals, under a purchase option arrangement, on the purchase price of the plant; or (iv) construct, convert, or expand a plant owned by the development company to be leased to the identifiable small business concern without a purchase option arrangement, but with the right in such concern to occupy the plant during a period of time equal at least to the maximum contract term of the section 502 loan or 5 years after full disbursement of the section 502 loan, whichever is the longer period; upon terms between the development company and said concern intended to provide the development company with total funds not in excess of those necessary; to repay with interest the section 502 loan; for applicable taxes upon and maintenance of the plant; to recover administrative costs; to provide a reasonable sum as a reserve for contingencies to cover unusual costs or expenses; and to recover capital investments and expenditures of the development company's own funds in the project with a reasonable return on such capital investments and expenditures as may be necessary to attract and maintain a broad base of ownership or membership and interest in continuing local development projects.

(k) *Compliance.*—(1) All complaints alleging discrimination in construction contracts involving the use of section 502 loan proceeds shall be investigated by SBA. Complaints alleging discrimination must be filed with SBA within 90 days of the alleged discrimination.

(2) SBA may hold informal hearings and make findings regarding the allegation of discrimination in accordance with the rules of the President's Committee on Equal Employment Opportunity. In the event that SBA finds discrimination to have occurred, it may cancel loans approved but not disbursed to an applicant, it may refuse to make further disbursement on account of the loan, or it may accelerate the maturity of the note between borrower and SBA, or it may take any action of a lesser nature. Failure of SBA to invoke or assert any of the aforesaid sanctions or any other sanctions shall not be construed to be a waiver of SBA's right to assert any of such sanctions. See also part 112 of this chapter.

[FR Doc.73-24542 Filed 11-16-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11011; Amdt. No. 23-14]

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

Type Certification Standards

The purpose of these amendments is to update and improve the airworthiness standards applicable to airplanes type certificated under Part 23 of the Federal Aviation Regulations.

These amendments are based on a notice of proposed rulemaking published in the FEDERAL REGISTER (36 FR 8398) on May 5, 1971, and circulated as Notice 71-13, dated April 27, 1971.

A number of comments were received in response to Notice 71-13. Based on those comments and upon further review within the FAA, a number of changes have been made to the proposed rules. Those changes and the FAA's disposition of the relevant comments are discussed below. In addition, various non-substantive changes of a clarifying and editorial nature have been made. In general, comments received that were beyond the scope of the notice are not discussed but will be retained for consideration in connection with other rulemaking projects as appropriate.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented. Except as modified by the following discussion, the reasons for these amendments are those set forth in Notice 71-13.

The notice proposed to amend § 23.143 (a)(5) to make it clear that the provisions of that section apply during landing with wing flaps extended as well as retracted. One commentator, while agreeing with the proposed amendment, suggested that the regulations should specify the speeds and techniques that must be used in showing compliance with the regulation. The FAA does not agree. The speeds and techniques necessary for the safe operation of the airplane that must be furnished by the applicant under the provisions of § 23.1585 (a) are those that are used in showing compliance with § 23.143(a)(5).

One commentator recommended that the words "or the minimum trim speed whichever is higher" be deleted from the proposed revision of § 23.145(b)(1). The commentator stated that (1) a speed very much higher than 1.4 V_{S_1}, even above the flap placard speed, could be required, and (2) the requirement that a transition be made from 1.4 V_{S_1} to 1.4 V_{S_0} is inaccurate and difficult to interpret if the minimum trim speed were used for the initial condition. The FAA does not agree with the commentator's first contention. Under § 23.161, the airplane must be shown to be trimmable in power-on descent conditions. An airplane which meets the trim conditions specified in § 23.161 will be trimmable at a speed not greatly in excess of 1.4 V_{S_1} and that minimum trim speed would never approach the flap placard speed. With respect to the commentator's second point, the proposal has been revised to provide for a transition from the minimum trim speed to a speed equal to V_{S_0} increased by the percentage that the minimum trim speed at the initial condition exceeded V_{S_1}. In addition, § 23.145 (b)(2) has been revised to more clearly state the requirement for the condition where the flaps are initially extended.

The notice proposed to add a new § 23.153 concerning control during landings. One comment stated that the proposed requirement should not apply to airplanes weighing 6,000 pounds or less maximum weight. The FAA agrees. The requirement, as stated in the notice, is necessitated by the advent of high performance aircraft that are being certificated under Part 23, and none of those aircraft are 6,000 pounds or less in maximum weight. The proposal has been revised accordingly. The commentator also suggested that the proposal be changed to reference only the forces prescribed for temporary application in § 23.143(c). The FAA does not agree. The pilot's ability to maintain proper control during the maneuver may depend on the magnitude of prolonged forces encountered as well as temporary forces. Therefore, both the prolonged and temporary forces should be considered.

A comment was received contending that the use of extrapolation as provided in proposed § 23.155(c) would not be appropriate in all cases. The FAA agrees. However, under § 23.21(a)(1) extrapolations may only be used to show compliance if the result of those calculations would be equal in accuracy to the results of testing. Testing will be required if the stick force per g gradient indicates that extrapolation will not lead to an accurate result. Proposed § 23.155(b) has been revised to more clearly indicate that two separate test conditions must be met, and that the turning flight condition is to be accomplished at the maximum level flight trim speed but not exceeding V_{NE} or V_{M_O}/M_{M_O}, whichever is appropriate.

Proposed new § 23.157(a)(3) has been revised to more clearly indicate that multiengine airplanes need only show compliance with the requirements of that subparagraph with one engine inoperative and the propeller in the minimum drag position, and the other engines at maximum continuous power or thrust.

One commentator suggested that proposed § 23.201 should be revised to provide an expanded definition of "stall" that would make that section consistent with § 25.201. The FAA does not agree. The airworthiness standards in Parts 23 and 25 are not the same and service experience with airplanes certificated under Part 23 indicates that for those airplanes there should be a different definition of "stall" than that which is contained in Part 25. Proposed § 23.201 (f)(6) has been deleted since the requirement is already contained in § 23.21 (a), and proposed § 23.201(f)(7) is redesignated herein as § 23.201(f)(6).

Two comments were received with respect to proposed § 23.203. The first recommended the inclusion of bank angle limits for turning flight stall demonstrations and the inclusion of a power-off condition for both turning flight stall and accelerated entry stall demonstrations. The inclusion of a power-off condition is beyond the scope of the notice. However, the comment is appreciated and it will be considered in connection with a future rule making action. Based on further consideration of the proposal in view of the comment received, the proposal has been revised to specify bank angle limits in place of the more general term "uncontrollable rolling tendencies" used in the proposal. The second comment requested that, for clarity, the title of the section be changed to "turning flight" and that the term "Normal Entry Stall" be used in place of "turning flight stall." The FAA does not agree. The title as proposed is more descriptive of the stated condition than the title suggested, and the term "turning flight stall" has been used previously in § 23.203 with no confusion. The commentator also suggested, and the FAA agrees, that for clarity the initial condition for showing compliance with the accelerated entry stall requirement should be specified and that that initial condition should be the same as that required for turning flight stall demonstrations. The proposal has been revised accordingly. The requirement specified in proposed § 23.203(b)(3)(vi) has been deleted since the requirements is contained in § 23.21(a).

Proposed § 23.205(b)(7) has also been deleted since the requirement is contained in § 23.21(a). Proposed § 23.205 (b)(6) has been revised to include an alternate requirement for certain aircraft that are not capable of maintaining level flight with the critical engine inoperative. In addition, proposed § 23.205(c) has been deleted since proposed §§ 23.205 (a) and 23.205(b) adequately cover the matter proposed in paragraph (c).

The proposed amendment to § 23.307 has been withdrawn. It appears upon further review that proposed §§ 23.571 (a) and 23.572(a) adequately cover the matter proposed in the proposed amendment to § 23.307.

One commentator requested that the prescribed flight conditions of proposed § 23.427(a) be detailed as in present § 23.427. The FAA agrees and the section has been so revised. In addition, proposed § 23.427(b)(2) has been redesignated § 23.427(c) in order to clarify the requirement of that subsection. The commentator also suggested that yawing and slipstream effects should not be taken into consideration in complying with proposed § 23.427(a). The FAA does not agree and no reason for the suggested change was presented by the commentator.

A comment questioned the reference in proposed § 23.445(c) to "vertical surfaces in paragraph (b)." The proposed subsection is clear and the reference is correct.

In response to a comment received, §§ 23.507(a) and 23.509(c)(1) have been editorially revised for greater clarity. In addition, proposed § 23.507(b) has been revised to state more clearly the requirement of that paragraph. One commentator objected to proposed § 23.507(a)(2)(ii) as being too severe and suggested that 0.2 times the vertical static reactions be used for the fore, aft, and lateral load factors. The FAA does not agree. The commentator has not submitted, and the FAA is unaware of, any data to substantiate the claim of severity.

The notice explained that the purpose of the proposed amendment to § 23.572 (a)(1) was to make it clear that, for a fatigue evaluation, the use of analysis alone is acceptable only under certain specified circumstances. The word "only" has accordingly been inserted in that section to make the requirement clear. One commentator suggested that the section be revised to require fail safe structure in fatigue critical areas. The FAA does not agree. The comment is beyond the scope of the notice and a revision of the section, as suggested, would place an unnecessary restriction on aircraft design.

One commentator requested that proposed § 23.787(c) be revised to require a total restraint capability of at least 9 g's for the structure and cargo restraint for the situation covered by the subsection.

The FAA does not agree. Service experience does not indicate that a 9g restraining capability is necessary, under the conditions specified in proposed § 23.787 (c), for all aircraft certificated under Part 23 irrespective of the type of operation for which the aircraft will be used.

In response to a comment received, proposed § 23.841(a) has been revised by deleting the word "reasonably" to be consistent with proposed § 23.1309. In addition, the second sentence of proposed § 23.841(b)(6) has been deleted since the sentence only stated an acceptable means of compliance and was not regulatory in nature.

A revision has been made to proposed § 23.853(d) to make it clear that the required protection is against any hazard rather than merely against damage.

The notice proposed to add a new § 23.865 concerned with fire protection of flight controls and other flight structure. One comment requested that flight structures be deleted from the provisions of the fire protection requirement on the asserted ground that experience does not indicate a need for such protection. The FAA does not agree. The commentator has submitted no data to substantiate its claim, and the information available to the FAA indicates, to the contrary, that flight structure in engine compartments must be protected against fire damage to ensure safe operation. However, the requirement has been clarified by specifying engine mounts as one type of flight structure which must meet the requirements of the section.

Proposed § 23.903(c) has been revised to make clear that the failure or malfunction of a fuel tank, if only one fuel tank is installed in the airplane, is not a condition making the provisions of that paragraph applicable. In addition, it should be noted that the language of § 23.903 as it existed prior to this amendment has been designated as § 23.903(a), and a paragraph (b) has been reserved.

The notice proposed to add a new § 23.929 concerned with icing protection of propellers and other components of complete engine installations. The title of the new section has been revised to be more descriptive of the purpose. One commentator suggested that instead of excluding wooden propellers from the requirement of the section, as proposed, fixed pitch propellers should be excluded. The FAA does not agree. The commentator did not present, and the FAA is unaware of, any data or service experience to indicate that fixed pitch propellers as a class are free from icing problems.

The Notice included a proposed amendment of § 23.967(d) to provide requirements for fuel tanks installed in personnel compartments of single engine airplanes without regard to the capacity of the tanks. A clarifying revision has been added to indicate that the required venting and draining must be to the exterior of the airplane. The Notice also included a proposed additional requirement intended to prevent fuel leakage under minor crash landing conditions. Based on further review following a comment requesting that standards be established for rupture resistance of certain specific tanks, the requirement that tanks be rupture resistant is considered unnecessary and has been deleted since it is included in the requirement that the tanks retain fuel.

One commentator requested that the proposed new § 23.995(f) be clarified to require that check valves be constructed or other provisions made to preclude "inadvertent" incorrect assembly or connection of the value. The FAA does not agree. The commentator's proposed clarification would permit the use of instructions on the valve to comply with the proposed requirement; however, service experience indicates that instructions on a valve are not adequate to preclude incorrect assembly or connection. The wording of the proposal has been revised to more clearly state the intent of the requirement.

The proposed new § 23.1093(c) has been been withdrawn. It appears upon further consideration that the present rules adequately cover the matter proposed.

The Notice included proposals to revise present § 23.1141(e) to include reciprocating engines and to add a new § 23.1141(f) concerning fire resistance of powerplant controls. Based upon further consideration, the proposed revision of § 23.1141(e) has been withdrawn. The control system redundancy presently required for turbine engine powered aircraft is due to system complexities. However the control systems of reciprocating engines lack the complexity to necessitate such redundancy. Proposed § 23.1141(f) has been revised to require fire resistance only of those powerplant controls to be operated in the event of fire that are installed in the engine compartment. Those controls outside the engine compartment would not be subjected to immediate fire damage and need not be fire resistant.

The Notice included a proposed new § 23.1182 concerned with the construction and location of components, lines, and fittings behind engine firewalls. The proposal has been revised to use the terms "behind the firewall" in place of "safe side of the firewall" and "engine side" in place of "inner surface" for clarity and to be consistent with § 23.967. In addition, the proposal has been revised to explicitly exclude electrical equipment from the requirements of this section since electrical equipment must meet the requirements of § 23.1351(e). One commentator suggested that the proposal be revised to reduce from 15 minutes to 5 minutes the time the firewall is subjected to a flame temperature of not less than 2,000° F, since in proposed § 23.1351(e) 5 minutes is specified for electrical equipment. The FAA does not agree. Electrical equipment covered under proposed § 23.1351(e) has a different requirement than that proposed in § 23.1182 because fire damage to electrical equipment covered by proposed § 23.1351(e) is not as critical to the safe operation of the airplane as damage to the components, lines, and fittings covered by proposed § 23.1182.

Proposed § 23.1183(a) has been revised to require that components, lines, and fittings carrying flammable fluids, gas, or air in areas subject to engine fire conditions must be at least fire resistant. This indicates more clearly that fire proof materials may be used.

One commentator requested that proposed § 23.1189(c) be revised to permit ground check of valve settings in lieu of the indication to the flight crew that would be required by the proposal. The commentator states that: (1) Indicator lights would be required and that there may already be too many indicator lights in the cockpit, and (2) the valves presently in use have a record of safety. The FAA does not agree. A means of indication other than by indicator lights may be used, and since these valves may be operated from the cockpit there must be an indication to the crew of their position if the valves are ever to be used in extinguishing a fire.

The Notice included a proposed change to § 23.1301(a)(1) concerned with the performance of installed equipment. One commentator requested that the proposal be revised to refer to the most adverse likely condition instead of any foreseeable operating condition. The FAA agrees that as proposed an undue burden would be placed on the manufacturer. Accordingly, the proposal has been revised to refer to "probable" operating conditions. In response to another comment recommending that the proposal be changed to cover all required equipment, it has been revised to more clearly define the equipment subject to the requirement. With reference to a further suggestion that advisory material on the requirement be published, such advisory material has not been found necessary in the past and there is no present indication that it will be necessary under the amended rule.

As recommended in the comments, proposed §§ 23.1305 (s) and (t) have been redesignated §§ 23.1305 (q) and (r), respectively, in order to be consistent with the rest of § 23.1305. Proposed § 23.1305 (s), now § 23.1305(q), has been revised to clarify that the only oil pressure warning means required is for low oil pressure.

The Notice proposed to add a new § 23.1309 concerned with the reliability of equipment, systems, and installations. Two comments were received with respect to the proposed section. One commentator suggested that advisory material would be desirable. While such action would not be regulatory in nature, the FAA will consider the preparation of advisory material in the future. The other commentator objected to the proposed section on the ground that it could be interpreted to require the complete elimination of radio interference which is impossible. That is not the intent and the FAA does not agree with that interpretation. Similarly worded requirements already exist in the Federal Aviation Regulations and have not been misinterpreted to place an undue burden on

manufacturers. However, based on further review, the proposed section has been revised to require that equipment installed in single engine airplanes be designed to minimize hazards to the airplane in the event of a probable malfunction or failure.

Proposed § 23.1321(d)(4) has been revised to provide that the magnetic direction indicator required by § 23.1303(c) need not be mounted in the instrument panel position proposed. The proposed requirement might create difficulties in calibrating and adjusting those indicators in the proposed position.

The proposed revisions to §§ 23.1323, 23.1501, and 23.1545, have been withdrawn pending a more comprehensive review by the FAA of the presently allowable airspeed indicating system error, and of the effect that the proposed changes to §§ 23.1323, 23.1501, and 23.1545 would have on that allowable error.

Proposed § 23.1351(e) has been revised by inserting the phrase "behind the firewall" in place of "outside a fire zone" and the phrase "in the engine compartment" in place of "in a designated fire zone" since airplanes certificated under Part 23 are not required to have designated fire zones.

Proposed § 23.1419(c) has been revised to permit, where applicable because of similarity of designs, the use of analysis and tests performed for the type certification of another type certificated aircraft for showing compliance with that section.

Proposed § 23.1435(a)(2) has been revised to indicate that the required indication must be to the flight crew.

Finally, proposed §§ 23.903 (d), (e) (1) and (3), 23.1419(a) and 23.1557(c)(2) have been revised to provide for the use of approved manual material to present the required information to the flight crew.

In consideration of the foregoing, Part 23 of the Federal Aviation Regulations is amended, effective December 20, 1973, as follows:

§ 23.143 [Amended]

1. Section 23.143(a)(5) is amended by inserting after the word "off", in the parenthetical statement, the words "with the wing flaps extended and retracted."

2. Section 23.145 is amended as follows:

a. By striking out the reference to "(4), or (5)" and inserting "or (4)" in place thereof in paragraphs (a)(2), (b)(4) and (6).

b. By amending paragraph (b) (1) and (2), and paragraph (d) to read as follows:

§ 23.145 Longitudinal control.

* * * * *

(b) * * *

(1) With power off, flaps retracted, and the airplane trimmed at $1.4V_{S_1}$ or the minimum trim speed, whichever is higher, extend the flaps as rapidly as possible and allow the airspeed to transition from $1.4V_{S_1}$ to $1.4V_{S_0}$, or, if appropriate, from the minimum trim speed to a speed equal to V_{S_0} increased by the same percentage that the minimum trim speed at the initial condition was greater than V_{S_1}.

(2) With power off, flaps extended, and the airplane trimmed at $1.4V_{S_0}$ or the minimum trim speed, whichever is higher, retract the flaps as rapidly as possible and allow the airspeed to transition from $1.4V_{S_0}$ to $1.4V_{S_1}$ or, if appropriate, from the minimum trim speed to a speed equal to $1.4V_{S_1}$ increased by the same percentage that the minimum trim speed at the initial condition was greater than V_{S_0}.

* * * * *

(d) It must be possible, with a pilot control force of not more than 10 pounds, to maintain a speed of not more than the speed determined in accordance with § 23.161(c)(4), during a power-off glide with landing gear and wing flaps extended.

* * * * *

3. A new § 23.153 is added to read as follows:

§ 23.153 Control during landings.

For an airplane that has a maximum weight of more than 6,000 pounds, it must be possible, while in the landing configuration, to safely complete a landing without encountering forces in excess of those prescribed in § 23.143(c) following an approach to land:

(a) At a speed 5 knots less than the speed used in complying with § 23.75 and with the airplane in trim or as nearly as possible in trim;

(b) With neither the trimming control being moved throughout the maneuver nor the power being increased during the landing flare; and

(c) With the thrust settings used in demonstrating compliance with § 23.75.

4. A new § 23.155 is added to read as follows:

§ 23.155 Elevator control force in maneuvers.

(a) The elevator control force needed to achieve the positive limit maneuvering load factor may not be less than:

(1) For wheel controls, W/100 (where W is the maximum weight) or 20 pounds, whichever is greater, except that it need not be greater than 50 pounds; or

(2) For stick controls, W/140 (where W is the maximum weight) or 15 pounds, whichever is greater, except that it need not be greater than 35 pounds.

(b) The requirement of paragraph (a) of this section must be met with wing flaps and landing gear retracted under each of the following conditions:

(1) At 75 percent of maximum continuous power for reciprocating engines, or the maximum power or thrust selected by the applicant as an operating limitation for use during cruise for reciprocating or turbine engines.

(2) In a turn, after the airplane is trimmed with wings level at the minimum speed at which the required normal acceleration can be achieved without stalling, and at the maximum level flight trim speed except that the speed may not exceed V_{N_E} or V_{M_O}/M_O whichever is appropriate.

(c) Compliance with the requirements of this section may be demonstrated by measuring the normal acceleration that is achieved with the limiting stick force or by establishing the stick force per gradient and extrapolating to the appropriate limit.

5. A new § 23.157 is added to read as follows:

§ 23.157 Rate of roll.

(a) *Takeoff.* It must be possible, using a favorable combination of controls, to roll the airplane from a steady 30-degree banked turn through an angle of 60 degrees, so as to reverse the direction of the turn within:

(1) For an airplane of 6,000 pounds or less maximum weight, 5 seconds from initiation of roll; and

(2) For an airplane of over 6,000 pounds maximum weight,

$$\frac{W+500}{1,300}$$

seconds, where W is the weight in pounds.

(b) The requirement of paragraph (a) must be met when rolling the airplane in either direction in the following condition:

(1) Flaps in the takeoff position;

(2) Landing gear retracted;

(3) For a single engine airplane, at maximum takeoff power or thrust; and for a multiengine airplane, with the critical engine inoperative, the propeller in the minimum drag position, and the other engines at maximum continuous power or thrust; and

(4) The airplane trimmed at $1.2V_{S_1}$, or as nearly as possible in trim for straight flight.

(c) *Approach.* It must be possible, using a favorable combination of controls, to roll the airplane from a steady 30-degree banked turn through an angle of 60 degrees, so as to reverse the direction of the turn within:

(1) For an airplane of 6,000 pounds or less maximum weight, 4 seconds from initiation of roll; and

(2) For an airplane of over 6,000 pounds maximum weight,

$$\frac{W+2,800}{2,200}$$

seconds, where W is the weight in pounds.

(d) The requirement of paragraph (c) must be met when rolling the airplane in either direction in the following conditions:

(1) Flaps extended;

(2) Landing gear extended;

(3) All engines operating at idle power or thrust and with all engines operating at the power or thrust for level flight; and

(4) The airplane trimmed at the speed that is used in determining compliance with § 23.75.

6. Section 23.161 is amended by deleting paragraph (c)(5) and by amending paragraphs (c) (3) and (4) to read as follows:

§ 23.161 Trim.

* * * * *

(c) *Longitudinal trim.* * * *

(3) A power approach with a 3 degree angle of descent, the landing gear extended, flaps retracted, and:

(i) For an airplane of 6,000 pounds or less maximum weight, a speed between $1.3V_{S_1}$ and $1.5V_{S_1}$; or

(ii) For an airplane of more than 6,000 pounds maximum weight, a speed of $1.4V_{S_1}$; and

(4) A power approach with a 3 degree angle of descent, the landing gear extended, and:

(i) For an airplane of 6,000 pounds or less maximum weight, a speed between $1.3V_{S_1}$ and $1.5V_{S_1}$ with flaps extended; or

(ii) For an airplane of more than 6,000 pounds maximum weight, the speed and flap position used in showing compliance with § 23.75(a).

(5 [Reserved.]

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7. Paragraph (a) of § 23.173 is amended to read as follows:

§ 23.173 Static longitudinal stability.

* * * * *

(a) A pull must be required to obtain and maintain speeds below the specified trim speed and a push required to obtain and maintain speeds above the specified trim speed. This must be shown at any speed that can be obtained, except that speeds requiring a control force in excess of 40 pounds or speeds above the maximum allowable speed or below the minimum speed for steady unstalled flight, need not be considered.

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§ 23.175 [Amended]

8. Section 23.175 is amended as follows:

a. By striking out the parenthetical statement in paragraph (b)(2).

b. By striking out of the parenthetical statement in paragraph (c) the words "nor speeds that require a stick force of more than 40 pounds."

c. By amending paragraph (d) by striking out the words "and the stick force may not exceed 40 pounds."

d. By amending paragraph (d)(3) by striking out the words "and (5)."

e. By amending paragraph (d)(4) to read: "Both power off and enough power to maintain a 3 degree angle of descent."

9. Section 23.201 is amended to read as follows:

§ 23.201 Wings level stall.

(a) For an airplane with independently controlled roll and directional controls, it must be possible to produce and to correct roll by unreversed use of the rolling control and to produce and to correct yaw by unreversed use of the directional control, up to the time the airplane pitches.

(b) For an airplane with interconnected lateral and directional controls (2 controls) and for an airplane with only one of these controls, it must be possible to produce and correct roll by unreversed use of the rolling control without producing excessive yaw, up to the time the airplane pitches.

(c) The wing level stall characteristics of the airplane must be demonstrated in flight as follows: The airplane speed must be reduced with the elevator control until the speed is slightly above the stalling speed, then the elevator control must be pulled back so that the rate of speed reduction will not exceed one knot per second until a stall is produced, as shown by an uncontrollable downward pitching motion of the airplane, or until the control reaches the stop. Normal use of the elevator control for recovery is allowed after the pitching motion has unmistakably developed.

(d) Except where made inapplicable by the special features of a particular type of airplane, the following apply to the measurement of loss of altitude during a stall:

(1) The loss of altitude encountered in the stall (power on or power off) is the change in altitude (as observed on the sensitive altimeter testing installation) between the altitude at which the airplane pitches and the altitude at which horizontal flight is regained.

(2) If power or thrust is required during stall recovery the power or thrust used must be that which would be used under the normal operating procedures selected by the applicant for this maneuver. However, the power used to regain level flight may not be applied until flying control is regained.

(e) During the recovery part of the maneuver, it must be possible to prevent more than 15 degrees of roll or yaw by the normal use of controls.

(f) Compliance with the requirements of this section must be shown under the following conditions:

(1) Wing flaps: Full up, full down, and intermediate, if appropriate.

(2) Landing Gear: Retracted and extended.

(3) Cowl Flaps: Appropriate to configuration.

(4) Power: Power or thrust off, and 75 percent maximum continuous power or thrust.

(5) Trim: $1.5V_{S_1}$ or at the minimum trim speed, whichever is higher.

(6) Propeller: Full increase rpm position for the power off condition.

10. Section 23.203 is amended to read as follows:

§ 23.203 Turning flight and accelerated stalls.

Turning flight and accelerated stalls must be demonstrated in flight tests as follows:

(a) Established and maintain a coordinated turn in a 30 degree bank. Reduce speed by steadily and progressively tightening the turn with the elevator until the airplane is stalled or until the elevator has reached its stop. The rate of speed reduction must be constant, and:

(1) For a turning flight stall, may not exceed one knot per second; and

(2) For an accelerated stall, be 3 to 5 knots per second with steadily increasing normal acceleration.

(b) When the stall has fully developed or the elevator has reached its stop, it must be possible to regain level flight without:

(1) Excessive loss of altitude;

(2) Undue pitchup;

(3) Uncontrollable tendency to spin;

(4) Exceeding 60 degree of roll in either direction from the established 30 degree bank; and

(5) For accelerated entry stalls, without exceeding the maximum permissible speed or the allowable limit load factor.

(c) Compliance with the requirements of this section must be shown with:

(1) Wing flaps: Retracted and fully extended for turning flight and accelerated entry stalls, and intermediate, if appropriate, for accelerated entry stalls;

(2) Landing gear: Retracted and extended;

(3) Cowl flaps: Appropriate to configuration;

(4) Power: 75 percent maximum continuous power; and

(5) Trim: $1.5V_{S_1}$ or minimum trim speed, whichever is higher.

11. Section 23.205 is amended to read as follows:

§ 23.205 Critical engine inoperative stalls.

(a) A multiengine airplane may not display any undue spinning tendency and must be safely recoverable without applying power to the inoperative engine when stalled. The operating engines may be throttled back during the recovery from stall.

(b) Compliance with paragraph (a) of the section must be shown with:

(1) Wing flaps: Retracted.

(2) Landing gear: Retracted.

(3) Cowl flaps: Appropriate to level flight critical engine inoperative.

(4) Power: Critical engine inoperative and the remaining engine(s) at 75 percent maximum continuous power or thrust or the power or thrust at which the use of maximum control travel just holds the wings laterally level in the approach to stall, whichever is lesser.

(5) Propeller: Normal inoperative position for the inoperative engine.

(6) Trim: Level flight, critical engine inoperative, except that for an airplane of 6,000 pounds or less maximum weight that has a stalling speed of 61 knots or less and cannot maintain level flight with the critical engine inoperative, the airplane must be trimmed for straight flight, critical engine inoperative, at a speed not greater than $1.5V_{S_1}$.

12. Section 23.427 is amended to read as follows:

§ 23.427 Unsymmetrical loads.

(a) Horizontal tail surfaces and their supporting structure must be designed for unsymmetrical loads arising from yawing and slipstream effects, in combination with the loads prescribed for the flight conditions set forth in §§23.421 through 23.425.

(b) In the absence of more rational data for airplanes that are conventional

in regard to location of engines, wings, tail surfaces, and fuselage shape:

(1) 100 percent of the maximum loading from the symmetrical flight conditions may be assumed on the surface on one side of the plane of symmetry; and

(2) The following percentage of that loading must be applied to the opposite side:

Percent=100–10 (n–1), where n is the specified positive maneuvering load factor, but this value may not be more than 80 percent.

(c) For airplanes that are not conventional (such as airplanes with horizontal tail surfaces having appreciable dihedral or supported by the vertical tail surfaces) the surfaces and supporting structures must be designed for combined vertical and horizontal surface loads resulting from each prescribed flight condition taken separately.

13. Paragraph (a) of § 23.441 is amended to read as follows:

§ 23.441 Maneuvering loads.

(a) At speeds up to V_A, the vertical tail surfaces must be designed to withstand the following conditions. In computing the tail loads, the yawing velocity may be assumed to be zero:

(1) With the airplane in unaccelerated flight at zero yaw, it is assumed that the rudder control is suddenly displaced to the maximum deflection, as limited by the control stops or by limit pilot forces.

(2) With the rudder deflected as specified in paragraph (a)(1) of this section, it is assumed that the airplane yaws to the resulting sideslip angle. In lieu of a rational analysis, an overswing angle equal to 1.3 times the static sideslip angle of paragraph (a)(3) of this section may be assumed.

(3) A yaw angle of 15 degrees with the rudder control maintained in the neutral position (except as limited by pilot strength).

* * * * *

14. Section 23.445 is amended by adding a new paragraph (c) to read as follows:

§ 23.445 Outboard fins.

* * * * *

(c) The end plate effects of outboard fins must be taken into account in applying the yawing conditions of § 23.441 and § 23.443 to the vertical surfaces in paragraph (b) of this section.

15. A new § 23.507 is added to read as follows:

§ 23.507 Jacking loads.

(a) The airplane must be designed for the loads developed when the aircraft is supported on jacks at the design maximum weight assuming the following load factors for landing gear jacking points at a three-point attitude and for primary flight structure jacking points in the level attitude:

(1) Vertical-load factor of 1.35 times the static reactions.

(2) Fore, aft, and lateral load factors of 0.4 times the vertical static reactions.

(b) The horizontal loads at the jack points must be reacted by inertia forces so as to result in no change in the direction of the resultant loads at the jack points.

(c) The horizontal loads must be considered in all combinations with the vertical load.

16. A new § 23.509 is added to read as follows:

§ 23.509 Towing loads.

The towing loads of this section must be applied to the design of tow fittings and their immediate attaching structure.

(a) The towing loads specified in paragraph (d) of this section must be considered separately. These loads must be applied at the towing fittings and must act parallel to the ground. In addition:

(1) A vertical load factor equal to 1.0 must be considered acting at the center of gravity; and

(2) The shock struts and tires must be in there static positions.

(b) For towing points not on the landing gear but near the plane of symmetry of the airplane, the drag and side tow load components specified for the auxiliary gear apply. For towing points located outboard of the main gear, the drag and side tow load components specified for the main gear apply. Where the specified angle of swivel cannot be reached, the maximum obtainable angle must be used.

(c) The towing loads specified in paragraph (d) of this section must be reacted as follows:

(1) The side component of the towing load at the main gear must be reacted by a side force at the static ground line of the wheel to which the load is applied.

(2) The towing loads at the auxiliary gear and the drag components of the towing loads at the main gear must be reacted as follows:

(i) A reaction with a maximum value equal to the vertical reaction must be applied at the axle of the wheel to which the load is applied. Enough airplane inertia to achieve equilibrium must be applied.

(ii) The loads must be reacted by airplane inertia.

(d) The prescribed towing loads are as follows, where W is the design maximum weight:

Tow point	Position	Load		
		Magnitude	No.	Direction
Main gear		0.225W per main gear unit.	1	Forward, parallel to drag axis.
			2	Forward, at 30° to drag axis.
			3	Aft, parallel to drag axis.
			4	Aft, at 30° to drag axis.
Auxiliary Gear	Swiveled forward	0.3W	5	Forward.
			6	Aft.
	Swiveled Aft		7	Forward.
			8	Aft.
	Swiveled 45° from forward.	0.15W	9	Forward, in plane of wheel.
			10	Aft, in plane of wheel.
	Swiveled 45° from aft.		11	Forward, in plane of wheel.
			12	Aft, in plane of wheel.

17. Paragraph (a) of § 23.571 is amended to read as follows:

§ 23.571 Pressurized cabin.

* * * * *

(a) A fatigue strength investigation, in which the structure is shown by analysis, tests, or both to be able to withstand the repeated loads of variable magnitude expected in service. Analysis alone is considered acceptable only when it is conservative and applied to simple structures.

* * * * *

18. Paragraph (a)(1) of § 23.572 is amended to read as follows:

§ 23.572 Wing and associated structure.

(a) * * *

(1) A fatigue strength investigation, in which the structure is shown by analysis, tests, or both, to be able to withstand the repeated loads of variable magnitude expected in service. Analysis alone is acceptable only when it is conservative and applied to simple structures.

* * * * *

19. Paragraph (b) of § 23.701 is amended to read as follows:

§ 23.701 Flap interconnection.

* * * * *

(b) If an interconnection is used in multiengine airplanes, it must be designed to account for the unsymmetrical loads resulting from flight with the engines on one side of the plane of symmetry inoperative and the remaining engines at takeoff power. For single-engine airplanes, and multiengine airplanes with no slipstream effects on the flaps, it may be assumed that 100 percent of the critical air load acts on one side and 70 percent on the other.

20. Section 23.771 is amended by striking out the word "and" at the end of paragraph (a) and by redesignating paragraph (b) as paragraph (c) and by adding a new paragraph (b) to read as follows:

§ 23.771 Pilot compartment.

* * * * *

(b) Where the flight crew are separated from the passengers by a partition, an opening or openable window or door must be provided to facilitate communication between flight crew and the passengers; and

* * * * *

21. Section 23.773 is amended as follows:

a. By striking out the word "and" at the end of paragraph (a)(1);

b. By deleting the period at the end of paragraph (a)(2), and inserting "; and" in place thereof; and

c. By adding a new paragraph (a)(3) to read as follows:

§ 23.773 Pilot compartment view.

(a) * * *

(3) Internal fogging of the windows covered under paragraph (a)(1) of this section can be easily cleared by each pilot unless means are provided to prevent fogging.

* * * * *

22. Section 23.787 is amended by amending paragraphs (b) and (c) and by adding new paragraphs (d) and (e) to read as follows:

§ 23.787 Cargo compartments.

* * * * *

(b) There must be means to prevent the contents of any cargo compartment from becoming a hazard by shifting, and to protect any controls, wiring, lines, equipment or accessories whose damage or failure would affect safe operations.

(c) Where the cargo compartment is located aft of occupants and separated from them by structure, there must be means within the cargo compartment to protect the occupants from injury by the contents of the cargo compartment when the ultimate forward inertia force is 4.5g.

(d) Cargo compartments must be constructed of materials which are at least flame resistant.

(e) Designs which provide for cargo to be carried in the same compartment with the occupants must have means to protect the occupants from injury under the ultimate inertia forces specified in § 23.561(b)(2).

23. Section 23.841 is amended to read as follows:

§ 23.841 Pressurized cabins.

(a) If certification for operation over 31,000 feet is requested, the airplane must be able to maintain a cabin pressure altitude of not more than 15,000 feet in event of any probable failure or malfunction in the pressurization system.

(b) Pressurized cabins must have at least the following valves, controls, and indicators, for controlling cabin pressure:

(1) Two pressure relief valves (at least one of which is the normal regulating valve) to automatically limit the positive pressure differential to a predetermined value at the maximum rate of flow delivered by the pressure source. The combined capacity of the relief valves must be large enough so that the failure of any one valve would not cause an appreciable rise in the pressure differential. The pressure differential is positive when the internal pressure is greater than the external.

(2) Two reverse pressure differential relief valves (or their equivalent) to automatically prevent a negative pressure differential that would damage the structure. However, one valve is enough if it is of a design that reasonably precludes its malfunctioning.

(3) A means by which the pressure differential can be rapidly equalized.

(4) An automatic or manual regulator for controlling the intake or exhaust airflow, or both, for maintaining the required internal pressures and airflow rates.

(5) Instruments to indicate to the pilot the pressure differential, the absolute pressure in the cabin, and the rate of change of the absolute pressure.

(6) Warning indicators at the pilot station to indicate when the safe or preset pressure differential and absolute cabin pressure limits are exceeded.

(7) A warning placard for the pilot if the structure is not designed for pressure differentials up to the maximum relief valve setting in combination with landing loads.

(8) A means to stop rotation of the compressor or to divert airflow from the cabin if continued rotation of an engine-driven cabin compressor or continued flow of any compressor bleed air will create a hazard if a malfunction occurs.

24. Section 23.853 is amended to read as follows:

§ 23.853 Compartment interiors.

For each compartment to be used by the crew or passengers:

(a) The materials must be at least flame-resistant;

(b) If smoking is to be allowed:

(1) There must be an adequate number of self-contained ash trays;

(2) Where the crew compartment is separated from the passenger compartment, there must be an illuminated no smoking sign (or signs) controllable from a flight crew station and readable from each passenger seat to indicate when smoking is prohibited;

(c) If smoking is to be prohibited, there must be a placard so stating; and

(d) Lines, tanks, or equipment containing fuel, oil, or other flammable fluids may not be installed in such compartments unless adequately shielded, isolated, or otherwise protected so that any breakage or failure of such an item would not create a hazard.

25. A new § 23.865 is added to read as follows:

§ 23.865 Fire protection of flight controls and other flight structure.

Flight controls, engine mounts, and other flight structure located in the engine compartment must be constructed of fireproof material or shielded so that they will withstand the effect of a fire.

26. Section 23.903 is amended by designating the former requirement of § 23.903 as paragraph (a), reserving paragraph (b), and adding new paragraphs (c), (d), and (e) to read as follows:

§ 23.903 Engines.

(a) Each engine must be type certificated under Part 33.

(b) [Reserved]

(c) The powerplants must be arranged and isolated from each other to allow operation, in at least one configuration, so that the failure or malfunction of any engine, or the failure or malfunction (including destruction by fire in the engine compartment) of any system that can affect an engine (other than a fuel tank if only one fuel tank is installed), will not:

(1) Prevent the continued safe operation of the remaining engines; or

(2) Require immediate action by any crewmember for continued safe operation of the remaining engines.

(d) *Starting and stopping (piston engine).* The design of the installation must be such that risk of fire or mechanical damage to the engine or airplane, as a result of starting the engine in any conditions in which starting is to be permitted, is reduced to a minimum. Any techniques and associated limitations for engine starting must be established and included in the Airplane Flight Manual, approved manual material, or applicable operating placards. For multiengine airplanes, means must be provided for stopping and restarting each engine in flight. For single-engine airplanes, means must be provided for stopping the engine in flight after engine failure if overspeeding might be caused by windmilling of the propeller.

(e) *Starting and stopping (turbine engine).* Turbine engine installations must comply with the following:

(1) The design of the installation must be such that risk of fire or mechanical damage to the engine or the airplane, as a result of starting the engine in any conditions in which starting is to be permitted, is reduced to a minimum. Any techniques and associated limitations must be established and included in the Airplane Flight Manual, approved manual material, or applicable operating placards.

(2) Means must be provided for stopping combustion and rotation of any engine. All those components provided for compliance with this requirement, which are within any engine compartment, on the engine side of the firewall, must be at least fire resistant.

(3) It must be possible to restart an engine in flight. Any techniques and associated limitations must be established and included in the Airplane Flight Manual, approved manual material, or applicable operating placards.

(4) It must be demonstrated in flight that when restarting engines following a false start, all fuel or vapor is discharged in such a way that it does not constitute a fire hazard.

27. A new § 23.929 is added to read as follows:

§ 23.929 Engine installation ice protection.

Propellers (except wooden propellers) and other components of complete engine installations must be protected against the accumulation of ice as necessary to enable satisfactory functioning without appreciable loss of power when

operated in the icing conditions for which certification is requested.

28. Section 23.939 is amended by amending the heading and paragraph (b) to read as follows:

§ 23.939 Powerplant operating characteristics.

* * * * *

(b) No hazardous malfunction of the powerplant may occur when the airplane is operated at the negative acceleration within the flight envelope prescribed in § 23.333 that is most critical. This must be shown for the greatest duration expected for that acceleration.

* * * * *

29. Paragraph (d) of § 23.967 is amended and a new paragraph (e) is added to § 23.967 to read as follows:

§ 23.967 Fuel tank installation.

* * * * *

(d) No fuel tank may be installed in the personnel compartment of a multiengine airplane. If a fuel tank is installed in the personnel compartment of a single-engine airplane, it must be isolated by fume and fuel-proof enclosures that are drained and vented to the exterior of the airplane. A bladder type fuel cell, if used, must have a retaining shell at least equivalent to a metal fuel tank in structural integrity.

(e) Fuel tanks must be designed, located, and installed so as to retain fuel:

(1) Under the inertia forces prescribed for the emergency landing conditions in § 23.561; and

(2) Under conditions likely to occur when an airplane lands either with its landing gear retracted or one landing gear collapsed, or when an engine mounting tears away.

30. A new § 23.979 is added to read as follows:

§ 23.979 Pressure fueling systems.

For pressure fueling systems, the following apply:

(a) Each pressure fueling system fuel manifold connection must have means to prevent the escape of hazardous quantities of fuel from the system if the fuel entry valve fails.

(b) An automatic shutoff means must be provided to prevent the quantity of fuel in each tank from exceeding the maximum quantity approved for that tank. This means must allow checking for proper shutoff operation before each fueling of the tank.

(c) A means must be provided to prevent damage to the fuel system in the event of failure of the automatic shutoff means prescribed in paragraph (b) of this section.

(d) All parts of the fuel system up to the tank which are subjected to fueling pressures must have a proof pressure of 1.33 times, and an ultimate pressure of at least 2.0 times, the surge pressure likely to occur during fueling.

31. A new paragraph (f) is added to § 23.995 to read as follows:

§ 23.995 Fuel valves and controls.

* * * * *

(f) Each check valve must be constructed, or otherwise incorporate provisions, to preclude incorrect assembly or connection of the valve.

32. Section 23.1017 is amended by amending paragraph (b)(1) and by adding a new paragraph (b)(5) to read as follows:

§ 23.1017 Oil lines and fittings.

* * * * *

(b) *Breather lines.* * * *

(1) Condensed water vapor or oil that might freeze and obstruct the line cannot accumulate at any point.

* * * * *

(5) The breather outlet is protected agianst blockage by ice or foreign matter.

33. A new paragraph (d) is added to § 23.1027 to read as follows:

§ 23.1027 Propeller feathering system.

* * * * *

(d) Provision must be made to prevent sludge or other foreign matter from affecting the safe operation of the propeller feathering system.

34. A new paragraph (f) is added to § 23.1141 to read as follows:

§ 23.1141 Powerplant controls: General.

* * * * *

(f) The portion of each powerplant control located in the engine compartment that is required to be operated in the event of fire must be at least fire resistant.

35. A new paragraph (c) is added to § 23.1163 to read as follows:

§ 23.1163 Powerplant accessories.

* * * * *

(c) Each generator rated at or more than 6 kilowatts must be designed an installed to minimize the probability of a fire hazard in the event it malfunctions.

36. Under the heading Powerplant Fire Protection, a new § 23.1182 is added to read as follows:

§ 23.1182 Nacelle areas behind firewalls.

Components, lines, and fittings, except those subject to the provisions of § 23.1351(e), located behind the engine-compartment firewall must be constructed of such materials and located at such distances from the firewall that they will not suffer damage sufficient to endanger the airplane if a portion of the engine side of the firewall is subjected to a flame temperature of not less than 2000° F for 15 minutes.

37. Paragraph (a) of § 23.1183 is amended to read as follows:

§ 23.1183 Lines and fittings and components.

(a) Except as a provided in paragraph (b) of this section, each component, line, and fitting carrying flammable fluids, gas, or air in any area subject to engine fire conditions must be at least fire resistant. Flexible hose assemblies (hose and end fittings) must be approved.

* * * * *

38. A new paragraph (c) is added to § 23.1189 to read as follows:

§ 23.1189 Shutoff means.

* * * * *

(c) Power operated valves must have means to indicate to the flight crew when the valve has reached the selected position and must be designed so that the valve will not move from the selected position under vibration conditions likely to exist at the valve location.

39. A new § 23.1192 is added to read as follows:

§ 23.1192 Engine accessory compartment diaphragm.

For aircooled radial engines, the engine power section and all portions of the exhaust system must be isolated from the engine accessory compartment by a diaphragm that meets the firewall requirements of § 23.1191.

40. Paragraph (a)(1) of § 23.1301 is amended to read as follows:

§ 23.1301 Function and installation.

(a) Each item of installed equipment required by this chapter or otherwise essential to safe operation must:

(1) Adequately perform its intended function under all probable operating conditions.

* * * * *

41. New paragraphs (q) and (r) are added to § 23.1305 to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(q) A low oil pressure warning means for each turbine engine.

(r) An induction system air temperature indicator for each engine equipped with a preheater and having induction air temperature limitations which can be exceeded with preheat.

42. Under the heading "General", a new § 23.1309 is added to read as follows:

§ 23.1309 Equipment systems and installations.

(a) Each item of equipment, when performing its intended function, may not adversely affect:

(1) The response, operation, or accuracy of any equipment essential to safe operation; or

(2) The response, operation, or accuracy of any other equipment unless there is a means to inform the pilot of the effect.

(b) The equipment, systems, and installations of a multiengine airplane must be designed to prevent hazards to the airplane in the event of a probable malfunction or failure.

(c) The equipment, systems, and installations of a single-engine airplane must be designed to minimize hazards to the airplane in the event of a probable malfunction or failure.

43. Paragraph (a) of § 23.1321 is amended and a new paragraph (d) is added to read as follows:

§ 23.1321 Arrangement and visibility.

(a) Each flight, navigation, and powerplant instrument for use by any pilot must be plainly visible to him from his station with the minimum practicable deviation from his normal position and line of vision when he is looking forward along the flight path.

* * * * *

(d) For each airplane of more than 6,000 pounds maximum weight, the flight instruments required by § 23.1303, and as applicable, by Part 91 of this chapter must be grouped on the instrument panel and centered as nearly as practicable about the vertical plane of the pilot's forward vision. In addition:

(1) The instrument that most effectively indicates the attitude must be on the panel in the top center position;

(2) The instrument that most effectively indicates airspeed must be adjacent to and directly to the left of the instrument in the top center position;

(3) The instrument that most effectively indicates altitude must be adjacent to and directly to the right of the instrument in the top center position; and

(4) The instrument that most effectively indicates direction of flight, other than the magnetic direction indicator required by § 23.1303(c), must be adjacent to and directly below the instrument in the top center position.

44. Section 23.1351 is amended as follows:

a. By striking out the word "and" at the end of paragraph (b)(1)(i).

b. By striking out the period and adding the words "; and" at the end of paragraph (b)(1)(ii).

c. By striking out the word "and" at the end of paragraph (c)(2).

d. By striking out the period and adding the words "; and" at the end of paragraph (c)(3).

e. By adding a new paragraph (b)(1)(iii), a new paragraph (c)(4), and a new paragraph (e) to read as follows:

§ 23.1351 General.

* * * * *

(b) *Functions.* (1) * * *

(iii) So designed that the risk of electrical shock to crew, passengers, and ground personnel is reduced to a minimum.

(c) *Generating system.* * * *

(4) There must be a means to give immediate warning to the flight crew of a failure of any generator.

* * * * *

(e) *Fire resistance.* Electrical equipment must be so designed and installed that in the event of a fire in the engine compartment, during which the surface of the firewall adjacent to the fire is heated to 2,000° F for 5 minutes or to a lesser temperature substantiated by the applicant, the equipment essential to continued safe operation and located behind the firewall will function satisfactorily and will not create an additional fire hazard.

45. Section 23.1365 is amended by amending the heading and paragraph (b) to read as follows:

§ 23.1365 Electric cables and equipment.

* * * * *

(b) Each cable and associated equipment that would overheat in the event of circuit overload or fault must be at least flame resistant and may not emit dangerous quantities of toxic fumes.

46. Section 23.1419 is amended to read as follows:

§ 23.1419 Ice protection.

If certification with ice protection provisions is desired, compliance with the following requirements must be shown:

(a) The recommended procedures for the use of the ice protection equipment must be set forth in the Airplane Flight Manual or in approved manual material.

(b) An analysis must be performed to establish, on the basis of the airplane's operational needs, the adequacy of the ice protection system for the various components of the airplane. In addition, tests of the ice protection system must be conducted to demonstrate that the airplane is capable of operating safely in continuous maximum and intermittent maximum icing conditions as described in Appendix C of Part 25 of this chapter.

(c) Compliance with all or portions of this section may be accomplished by reference, where applicable because of similarity of the designs, to analysis and tests performed for the type certification of a type certificated aircraft.

(d) When monitoring of the external surfaces of the airplane by the flight crew is required for proper operation of the ice protection equipment, external lighting must be provided which is adequate to enable the monitoring to be done at night.

47. Paragraph (a) of § 23.1435 is amended to read as follows:

§ 23.1435 Hydraulic systems.

(a) *Design.* Each hydraulic system must be designed as follows:

(1) Each hydraulic system and its elements must withstand, without yielding, the structural loads expected in addition to hydraulic loads.

(2) A means to indicate the pressure in each hydraulic system which supplies two or more primary functions must be provided to the flight crew.

(3) There must be means to ensure that the pressure, including transient (surge) pressure, in any part of the system will not exceed the safe limit above design operating pressure and to prevent excessive pressure resulting from fluid volumetric changes in all lines which are likely to remain closed long enough for such changes to occur.

(4) The minimum design burst pressure must be 2.5 times the operating pressure.

* * * * *

48. Paragraph (c)(2) of § 23.1557 is amended to read as follows:

§ 23.1557 Miscellaneous markings and placards.

* * * * *

(c) *Fuel and oil filler openings.* * * *

(2) The word "oil" and the oil tank capacity and, for those aircraft for which no approved Airplane Flight Manual or approved manual material is required, the approved grade and specification of oil. (If an approved Airplane Flight Manual or approved manual material is provided, the approved grade and specification of oil may appear therein).

* * * * *

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

Issued in Washington, D.C., on November 7, 1973.

JAMES E. DOW,
Acting Administrator.

[FR Doc.73-24430 Filed 11-16-73;8:45 am]

[Docket No. 73-SO-72; Amdt. 39-1746]

PART 39—AIRWORTHINESS DIRECTIVES

Semco Models 30-AL, TC-4A and Model T Series Balloons

There has been an inflight fire on a balloon, when the fuel line was disconnected by a person on board, that resulted in a forced landing. Since this condition is likely to exist or develop in other balloons of the same type design, an airworthiness directive is being issued to require the replacement or modification of a fuel system coupling assembly.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), 39 CFR 39.13 is amended by adding the following new airworthiness directive:

SEMCO: Applies to Model 30-AL, Serial Numbers SEM C1, SEM C2, SEM 11 to SEM 118 inclusive, Model TC-4A, Serial Numbers SEM 81 to SEM 118 inclusive, and Model "Model T," Serial Numbers SEM 78 to SEM 118 inclusive balloons certificated in all categories.

Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

To prevent inadvertent fuel leakage accomplish either 1 or 2 below:

1. (a) Remove the Amflo quick change female coupler part number C-2 from the lower end of the Imperial fuel hose Part Number Y905. NOTE: This is the vertical fuel hose connecting the tank to the burner valve.

(b) Install an Amflo quick change male plug Part Number CP-2 or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, on the lower end of the Imperial fuel hose Part Number Y905.

(c) Remove the Amflo quick change male plugs Part Number CP-1 from the fuel tank ¼" brass tee.

(d) Install an Amflo quick change female coupler Part Number C-1 or an equivalent part approved by Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, into the fuel tank ¼" brass tee.

2. (a) Remove the Amflo quick change female coupler Part Number C-2 from the lower end of the Imperial fuel hose part number Y905. NOTE: This is the vertical fuel hose connecting the tank to the burner valve.

(b) Remove the Amflo quick change male plug, Part Number CP-1, from the fuel tank ¼" brass tee.

(c) Install an AN 901-2 coupling and the Amflo quick change male plug part number CP-1 which was removed in step (b) or equivalent parts approved by the Chief, Engineering and Manufacturing branch, Federal Aviation Administration, Southern Region, onto the lower end of the Imperial fuel hose Part Number Y905.

(d) Install an AN 911-2 nipple and the Amflo quick change female coupling Part Number C-2 which was removed in step (a) or equivalent parts approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region, into the ¼" brass tee at the fuel tank.

This amendment becomes effective November 26, 1973.

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

Issued in East Point, Georgia, on November 8, 1973.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.73-24540 Filed 11-16-73;8:45 am]

[Airspace Docket No. 72-GL-78]

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

Alteration of Control Zone and Transition Area

On page 1940 of the FEDERAL REGISTER dated January 19, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend 14 CFR 71.171 and 71.181 so as to alter the control zone and transition area at Iron Mountain, Michigan.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the proposed amendments are hereby adopted without change and are set forth below.

These amendments shall be effective 0901 G.m.t., January 3, 1974.

(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 Des Plaines, Illinois, on October 24, 1973.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

In § 71.171 (38 FR 351), the following control zone is amended to read:

IRON MOUNTAIN, MICH.

Within a 7-mile radius of Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 3 miles each side of the Iron Mountain VORTAC 192° radial, extending from the 7-mile-radius zone to 8 miles south 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.

In § 71.181 (38 FR 435), the following transition area is amended to read:

IRON MOUNTAIN, MICH.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Iron Mountain VORTAC; within 6 miles west and 9½ miles east of the iron Mountain ILS localizer south course extending from the 10-mile-radius area to 24 miles south of the Ford Airport (latitude 45°48'57" N., longitude 88°06'56" W.); within 5 miles each side of the Iron Mountain ILS localizer north course extending from the 10-mile radius to 18 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within a 15½-mile radius of the Iron Mountain VORTAC; within 4½ miles east and 11½ miles west of the Iron Mountain ILS localizer north course extending from the 15½-mile radius to 25 miles north of the airport.

[FR Doc.73-24541 Filed 11-16-73;8:45 am]

[Airspace Docket No. 73-SW-62]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Lafayette, La., transition area.

On September 25, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 26733) stating the Federal Aviation Administration proposed to alter the Lafayette, La., transition area.

Interested persons were afforded an opportunity to participate in the rule making through 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., January 31, 1974, as hereinafter set forth.

In § 71.181 (38 FR 435), the Lafayette, La., transition area is amended to read:

LAFAYETTE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lafayette Airport (latitude 30°12'00" N., longitude 91°59'40" W.); within 2 miles each side of the Lafayette ILS localizer north course extending from the OM to the 5-mile radius area; within 2 miles each side of the Lafayette ILS localizer south course extending from the 5-mile radius area to the 5-mile radius area of the Abbeville Municipal Airport (latitude 29°58'19" N., longitude 92°-05'06" W.); within 2 miles each side of the Lafayette VORTAC 171° radial extending from the 5-mile radius area of the Lafayette Airport to 8 miles south of the VORTAC; within 2 miles each side of the 276° bearing from the Lafayette RBN (latitude 30°11'35" N., longitude 91°52'58" W.) extending from the RBN to the 5-mile radius area; within 2 miles each side of the Lafayette VORTAC 206° radial extending from the VORTAC to the 5-mile radius area of the Abbeville Airport; within a 5-mile radius of Acadiana Regional Airport (latitude 30°02'15" N., longitude 91°53'00" W.); within 2 miles each side of the Lafayette VORTAC 139° radial extending from the 5-mile radius area of Lafayette Airport to the 5-mile radius area of Acadiana Airport; within 3 miles each side of the Lafayette VORTAC 145° radial extending from the 5-mile radius area of Acadiana to 17.5 miles from the Lafayette 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 Fort Worth, Tex., on November 9, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-24538 Filed 11-16-73;8:45 am]

[Airspace Docket No. 73-RM-29]

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

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to change the title and the using agency of Restricted Areas R-6402 and R-6407.

The title of R-6402 is now recorded in Part 71 of the Federal Aviation Regulations as Deseret Test Center, Utah, and the title of R-6407 is recorded as Dugway West, Utah. The title of both R-6402 and R-6407 is now recorded in Part 73 of the Federal Aviation Regulations as Deseret Test Center, Dugway, Utah, and the using agency for both restricted areas is designated as the Commanding General, Deseret Test Center, Dugway, Utah. The Department of Army has requested that the title for both restricted areas be changed to Dugway Proving Ground, Dugway, Utah, and that the using agency for each be changed to Commanding Officer, Dugway Proving Ground.

These amendments are minor in nature and they are amendments upon which members of the public are not particularly interested. Therefore, notice and public procedure thereon are unnecessary, and they may become effective immediately.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective on November 19, 1973, as hereinafter set forth.

1. In § 71.151 (38 FR 341):

a. "R-6402 Deseret Test Center, Utah" is deleted and "R-6402 Dugway Proving Ground, Dugway, Utah" is substituted therefor.

b. "R-6407 Dugway West, Utah" is deleted and "R-6407 Dugway Proving

Ground, Dugway, Utah" is substituted therefor.

2. In § 73.64 (38 FR 670):

a. The title and the using agency for R-6402 Deseret Test Center, Dugway, Utah, are amended to read as follows:

R-6402 DUGWAY PROVING GROUND, DUGWAY, UTAH

Using agency. Commanding Officer, Dugway Proving Ground.

b. The title and the using agency for R-6407 Deseret Test Center, Dugway, Utah, are amended to read as follows:

R-6407 DUGWAY PROVING GROUND, DUGWAY, UTAH

Using agency. Commanding Officer, Dugway Proving Ground.

(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 Washington, D.C., on November 12, 1973.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-24539 Filed 11-16-73;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-831; Amdt. 288-17]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Rate Adjustment To Reflect Fuel Cost Increase

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on November 14, 1973.

On August 27, 1973, Overseas National Airways, Inc. (ONA), filed a petition with the Board requesting the institution of a rule making proceeding to adopt a limited amendment to Part 288. The amendment would (1) increase immediately the minimum rates for MAC Logair and Quicktrans domestic services to be provided with DC-9-30 and LX188C aircraft in the future, to the extent necessary to offset increases incurred since July 1, 1971,[1] in the price of fuel purchased from the Department of Defense (DOD), and (2) provide for an automatic rate adjustment clause which would alter Logair and Quicktrans domestic rates to reflect future fluctuations in the price of such fuel. In an answer in support of ONA's petition, Saturn Airways, Inc. (Saturn)[2] has further requested that the amended rates be applied retroactively, in order to compensate the carriers for each fuel cost increase since the current rates were established. Saturn also requests that the automatic rate adjustment clause be made effective September 1, 1973.

[1] The effective date of the current rates.

[2] ONA and Saturn are the only two air carriers currently providing Logair and Quicktrans domestic transportation.

In addition to Saturn's response, an answer has been filed by DOD in which it states it has no objection to the Board's prospectively amending the rates and adding a fuel price adjustment clause. Moreover, DOD would apply the amendment to all relevant aircraft types. All comments and supporting materials before the Board have been carefully considered, and all contentions not otherwise disposed of herein are rejected.

ONA's petition stresses that it is not requesting a full-scale rate review, but rather an immediate increase to reflect the very sizable increases in fuel cost which have taken place since the base period for the current rate. However, to increase the rates on the basis of past fuel cost increases alone would violate long-standing Board policy against piece-meal rate reviews. The Board does not favor opening a rate for alteration based on a change in only one element of cost, since the rate represents a composite of many factors bearing on cost, some of which may be improving and some becoming less favorable. Rather, when establishing new rates, we look at all cost and operational factors which should be reflected in the total cost of providing a service. These same considerations weigh even more heavily against Saturn's proposal, which has the additional drawback that it seeks retroactive compensation for a change in a single cost element. Except in the most unusual circumstances we do not make effective a change in a closed rate for MAC services to a date prior to our commencement of a rate-making proceeding. Instead, the Board affords finality to its rate determinations, thus avoiding the uncertainty and instability which would ensue if none could know whether rates for past services were final.[3] Accordingly, we will deny the requests for rulemaking to effect an immediate rate increase to reflect past increases in fuel cost.

However, as to the future, the Board recognizes that the United States is in the midst of a fuel shortage which will inevitably continue to make fuel prices extremely volatile.[4] In light of this fuel supply crisis, all of the parties hereto agree that a rate adjustment clause based on the cost of fuel is a reasonable amendment to the present rates. In these unusual circumstances, the Board feels that the addition of a rate adjustment clause for future application is warranted, in order to maintain the reasonableness of the Logair and Quicktrans domestic rates in the face of currently anticipated future fluctuations in fuel prices. A similar clause was added to MAC international rates by ER-819, adopted August 28, 1973. The clause will only affect the current rate level when there is a future variation, up or down, from present costs of fuel purchased from the military. The new base prices are those currently in effect by DOD as set forth in a schedule embodied in the modified Logair and Quicktrans rate provisions. As recommended by DOD, the rate adjustment clause will be applicable to all types of aircraft used for Logair and Quicktrans domestic services as specified in § 288.7(b).

This amendment also corrects two minor clerical errors which were made in ER-819, with respect to the effective dates and rates for international services.

For reasons previously set forth, we have determined to grant only that portion of the request for institution of a rulemaking proceeding which concerns a prospective addition of an automatic rate adjustment clause. Since all of the carriers which provide MAC domestic service and the DOD have made their views known on this narrowly defined issue and the rate revision should be promptly established in light of anticipated fluctuations in fuel costs, we find that the notice and public procedures hereon are impracticable and unnecessary and that, since no affected person is opposed to its promulgation, the rule may be made effective immediately.

In consideration of the foregoing, the Board hereby amends Part 288 of the Economic Regulations (14 CFR Part 288) effective November 14, 1973, as follows:

§ 288.7 [Amended]

1. Amend § 288.7(a)(1) to clarify the table entitled "Amended Rates Effective August 28, 1973" to show the mixed passenger-cargo per revenue plane-mile rate for one way service with B-727 aircraft in "All other" operations with 46 passengers and 4 pallets as "$5.449", the figure presently being illegible.

2. Amend § 288.7(b) to read as follows:

(b) For Logair and Quicktrans services, other than specified in paragraph (c) of this section:

(1) * * * *Provided, however,* That, effective November 14, 1973, if the price of any fuel or petroleum product purchased from DOD for such services varies from the base levels specified below, the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product below, times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided. The base levels are as follows:

[3] The recent action in ER-819 correcting a significant error in underlying calculations which was called to the Board's attention shortly after the rate was adopted is clearly distinguished. There was no factual error concerning fuel costs in the base period for Logair and Quicktrans rates, and changes in this cost element were not made the basis for a proposed rate change until ONA's petition was filed herein.

[4] In Order 73-7-147, issued July 27, 1973, the Board acknowledged that "the President, noting America's 'serious energy problem,' made fuel conservation a national priority."

	Standard price per U.S. gallon
AVGAS:	
115/145	$0.264
100/130	.502
91/96	.502
80/87	.502
JET:	
JP-4	.149
JP-5	.162
AVOIL:	
Recip Eng Oil (MIL-L-22851)	.52
Jet Eng Oil Petroleum Base (MIL-L-6081)	.31
Jet Eng Oil Synth Base (MIL-L-7808/23699)	7.44

3. Amend § 288.7(d)(1)(i) and (2)(i) to read as follows:

(d) For Category A transportation:

(1) Passengers:

(i) For services performed between July 1, 1972, and June 12, 1973, and August 13, 1973 and August 27, 1973, 3.778 cents per passenger-mile.

* * * * *

(2) Cargo:

(i) For services performed between July 1, 1972, and June 12, 1973, and August 13, 1973 and August 27, 1973, 15.276 cents per ton-mile.

(Secs. 204, 403, and 416, Pub. L. 85-726, as amended, 72 Stat. 743, 758, and 771, as amended (49 U.S.C. 1324, 1373, 1386).)

Effective date: November 14, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-24603 Filed 11-16-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket 8860-o]

PART 13—PROHIBITED TRADE PRACTICES

ITT Continental Baking Co., Inc., and Ted Bates and Co., Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.20 *Comparative data or merits;* § 13.45 *Content;* § 13.170 *Qualities or properties of product or service;* 13.170-52 Medicinal, therapeutic, healthful, etc; 13.170-64 Nutritive § 13.190 *Results;* § 13.205 *Scientific or other relevant facts;* § 13.285 *Value.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 *Comparative data or merits;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts;* § 13.1775 *Value.* Subpart—Offering unfair, improper and deceptive, inducements to purchase or deal: § 13.2063 *Scientific or other relevant facts.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52 [Cease and desist order, ITT Continental Baking Company, Inc., et al., Rye, New York, Docket 8860, October 19, 1973].)

In the matter of ITT Continental Baking Company, Inc., a corporation and Ted Bates & Company, Inc., a corporation.

Order requiring a Rye, New York, manufacturer, seller, and distributor of bakery products, "Wonder Bread" and "Hostess" snack cakes, and its advertising agency, among other things to cease misrepresenting the nutritional content, efficacy or functional value of its products.

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

It is ordered, That the following Findings of Fact of the Administrative Law Judge are adopted as Findings of Fact of the Commission:

Findings 1-5, 7, 13-16, 18-21, 23-27; the first two sentences of Finding 28; Findings 36-37; the first sentence of Finding 46; Findings 47-50, 52; the first sentence of Finding 53; the first sentence of Finding 64; Finding 65; the first sentence of Finding 97; Findings 98-100; the first two sentences of Finding 101; Finding 109; the first sentence of Finding 111; the first two sentences of Finding 112; Findings 114, 128, 168-169, 224, and 226.

It is further ordered, That the following cease and desist order be, and it hereby is, entered:

I. *It is ordered,* That respondent ITT Continental Baking Company, Inc., a corporation, and respondent Ted Bates and Company, Inc., a corporation, their successors and assigns and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any food product, do forthwith cease and desist from:

1. Dissemination, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication.

a. The nutritional properties of any such product in generalized terms such as "rich in nutrients," vitamins or iron fortified, "enriched," or other similar nutritional references, without identifying the basis relied upon for the nutritional claims, and unless the advertised nutritional value can be substantiated for the average and ordinary use of the product by consumers or by particular groups of consumers provided they are specified.

b. The comparative nutritional efficacy or value of the product without stating the brand, product or product category to which the comparison is being made.

c. The essentiality of the product as a source of a particular nutritional value if there are other food product categories which are also sources of the same or similar nutritional values, and unless the claim can be substantiated for the normal use of the product by consumers or by a particular group of consumers provided that they are specified.

d. The functional value or other attributes of any such product to a user through the use of demonstrations or other visual techniques unless the demonstrations are actual depictions of the actual value of the product by actual persons and represent the average and ordinary experience of consumers with the use of the product.

2. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that any such product will contribute to the rapid or proper growth of children by providing dramatic or substantial benefits for such growth or development unless such product, by itself, will in fact make a significant contribution to such rapid or proper growth.

3. Disseminating, or causing the dissemination of, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which misrepresents, in any manner, the nutritional content, efficacy or functional value to the user for the normal use of any such product by consumers.

4. Disseminating or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraph 1 above or the misrepresentations prohibited in Paragraph 2 above.

It is further ordered, That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

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

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

It is further ordered, That the remainder of the Initial Decision be vacated and the following supplementary Findings of Fact made by the Commission itself, after a consideration of the entire record, be substituted therefor:

By the Commission. Chairman Engman not concurring in that portion of the Opinion which dismisses charges of unfairness against advertising claims directed primarily at children and submitting a separate statement; Commissioner Jones recorded as dissenting in

part for the reasons set forth in her dissenting statement; and Commissioner Thompson not participating since this matter was tried and argued before he was sworn in.[1]

Issued: October 19, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-24544 Filed 11-16-73;8:45 am]

[Docket C-2444]

PART 13—PROHIBITED TRADE PRACTICES

G. B. Enterprises, Inc., Trading as Lee Used Ford Sales

Correction

In FR Doc. 73-21716 appearing at page 28261 in the issue for Friday, October 12, 1973, make the following changes:

1. Delete the last line of the first paragraph and insert instead "13.1905-60 Truth in Lending Act".

2. In the last line of the source citation, the reference to "S-2444" should read "C-2444".

PART 429—COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

"Notice of Cancellation"

Correction

In FR Doc. 73-23292, appearing at page 30104, in the issue for Thursday, November 1, 1973, on page 30105, delete the line reading, "Effective: November 1, 1973." and insert instead "Section 429.1 is amended as above on November 1, 1973."

Title 21—Food and Drugs

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

SUBCHAPTER J—RADIOLOGICAL HEALTH

PART 1002—RECORDS AND REPORTS

Diagnostic X-ray Systems; Applicability of Requirements for Assemblers and Component Manufacturers

On May 9, 1973, the Commissioner of Food and Drugs published a notice of proposed rule making in the FEDERAL REGISTER (38 FR 12129) to amend § 278.701 of Subpart H (21 CFR 278.701) (now § 1002.1 of Subchapter J, recodified in the FEDERAL REGISTER of October 15, 1973 (38 FR 28623)) to set forth the applicability of the record keeping and reporting requirements of that subpart to assemblers and manufacturers of diagnostic x-ray components. The proposed amendment included a revision of § 1002.1(b) such that the requirements of Subpart H (now Part 1002) would be applicable to manufacturers who certify diagnostic x-ray components pursuant to § 278.213-1(c) (now 1020.30(c)). A new paragraph (d) was also added excluding assemblers of such components from the requirements of Part 1002, except for § 278.705 (now § 1002.20), provided the assembler has submitted the report required by § 1020.30(d), and retains a copy of the report for a period of five years.

Interested persons were given the opportunity to participate in the rule making procedure through the submission of comments within sixty days after the date of publication of the proposed rule in the FEDERAL REGISTER. One letter commenting on the proposed rule was received. This letter pointed out that assemblers of x-ray equipment, who are also dealers in such equipment, might construe the proposed rule as an exemption from the requirements of §§ 278.730 and 278.731 (now §§ 1002.40 and 1002.41) regarding the maintenance and forwarding of purchase information.

The exemption in paragraph (d) would apply only to assemblers. Individuals acting both as a dealer and an assembler assume the responsibilities of a dealer specified in Part 1002. Therefore, an assembler-dealer who fails to forward information specified in § 1002.40(b) regarding the purchasers of certified diagnostic X-ray components to the component manufacturer(s) or does not notify the Bureau of Radiological Health and the component manufacturer(s) of his election to maintain this information, is in violation of section 360B of the Radiation Control for Health and Safety Act of 1968.

On July 31, 1973, the Commissioner published in the FEDERAL REGISTER (38 FR 20356) a notice to manufacturers who elect to certify diagnostic X-ray components in accordance with § 1020.30(c) prior to August 1, 1974, and to assemblers who install such components into an X-ray system prior to August 1, 1974. Dealers and distributors of X-ray components which are certified prior to August 1, 1974, must obtain the information specified in § 1002.40 necessary to permit tracing specific products to specific purchasers, and forward such information to the appropriate manufacturers or maintain such information themselves in accordance with § 1002.41.

Therefore, pursuant to the provisions of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 360A, 360B, 82 Stat. 1182-84; 42 U.S.C. 263i, 263j) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 1002 is amended by revising § 1002.1 to read as follows:

§ 1002.1 Applicability.

The provisions of this part are applicable to manufacturers, dealers, and distributors of electronic products as specified herein, but, except for § 1002.20, are not applicable to:

(a) Manufacturers of electronic products intended solely for export if such product is labeled or tagged to show that the product is intended for export, and the product meets all the applicable requirements of the country to which such product is intended for export:

(b) Manufacturers of electronic products listed in § 1002.61 if sold exclusively to other manufacturers for use as components of electronic products to be sold to purchasers, with the exception that the provisions are applicable to those manufacturers certifying components of diagnostic X-ray systems pursuant to provisions of § 1020.30(c) of this chapter.

(c) Manufacturers of electronic products which are intended for use by the U.S. Government and whose function or design cannot be divulged by the manufacturer for reasons of national security, as evidenced by government security classification.

(d) Assemblers of diagnostic X-ray equipment subject to the provisions of § 1020.30(d) of this chapter, provided the assembler has submitted the report required by § 1020.30(d) (1) or (2) of this chapter and retains a copy of such report for a period of five years from its date.

Effective date. This order shall become effective November 29, 1973.

(Secs. 360A, 360B, 82 Stat. 1182-84 (42 U.S.C. 263i, 263j).)

Dated: November 12, 1973.

WILLIAM F. RANDOLPH, *Acting Associate Commissioner for Compliance.*

[FR Doc.73-24573 Filed 11-16-73;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER J—RIGHT-OF-WAY AND ENVIRONMENT

PART 720—LAND ACQUISITION

Appraisal Function

This amendment adds Part 720, Subpart B, to the regulations of the Federal Highway Administration.

Part 720, Subpart B, prescribes the Federal Highway Administration policies, procedures, standards and requirements related to the appraisal function.

In consideration of the foregoing, effective November 1, 1973, 23 CFR ch. I, is amended by adding to Part 720, Land Acquisition, Subpart B—The Appraisal Function. Subparts A and C through D remain reserved.

Subpart B—The Appraisal Function

Sec.

AUTHORITY: 23 U.S.C. 315, 42 U.S.C. 4633, 23 CFR 1.32.

Subpart B—The Appraisal Function

§ 720.200 Policy.

(a) *Purpose.* This section prescribes Federal Highway Administration policies related to the appraisal function.

(b) *Applicability.* The policies of this section are applicable, to the greatest

[1] Statements by Chairman Engman and Commissioner Jones filed as part of the original documents.

extent practicable under State law, to all States and political subdivisions thereof that appraise or obtain appraisals of real property for any highway or highway related project in which Federal funds will participate in any part of the cost of the project.

(c) *Policies.* (1) Real property shall be appraised before the initiation of negotiations with an owner.

(2) The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) The acquiring agency shall establish an amount which it believes to be just compensation for the acquisition of real property before the initiation of negotiations with an owner.

(4) Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property.

(5) Appraisers shall not give consideration to nor include in their appraisals any allowance for relocation assistance benefits.

§ 720.201 Appraisal and specialty reports.

(a) *Purpose.* This section prescribes Federal Highway Administration (FHWA) standards and requirements for the preparation of appraisal and specialty reports of real property needed for highway and related purposes. The purpose of the requirements is to obtain uniformity in the requisite elements of any and all appraisal reports while providing sufficient latitude for additional elements of an appraisal report to be determined by the complexity of the appraisal problem.

(b) *Applicability.* (1) Except as provided in paragraph (b) 2 and 3 of this section, the provisions of this section are applicable, to the greatest extent practicable under State law, to all States and political subdivisions thereof when they obtain appraisal and specialty reports for any parcel of real property for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project.

(2) The provisions of this section are not applicable to those programs and projects specifically excluded by law or by agreement with the FHWA.

(3) The provisions of this section are applicable to the appraisal of outdoor advertising signs and sites, junkyards, and scenic easements except as provided by Subpart D of Part 750 of this chapter or PPM 80-9.

(c) *Number of reports.*—(1) *Appraisal reports.* When real property is to be acquired, the acquiring agency shall, before the initiation of negotiations, secure at least one appraisal report for each parcel to be acquired or damaged. At least two reports shall be obtained on all acquisitions for which the compensation for the acquisition can reasonably be expected to be in excess of $50,000.

(2) *Specialty reports.* When a separate valuation of machinery, equipment, or other specialty items is necessary, one report is required when the value of or compensation for the items to be acquired can reasonably be expected to be under $50,000, and two reports are required when the same can reasonably be expected to exceed $50,000.

(3) *Exceptions.* The number of appraisal or specialty reports to be obtained on each parcel shall be as prescribed above except where the State has submitted a different plan of operation and it has been approved by FHWA. Deviation from the States' approved plan of operation is permitted where the State has requested and received prior FHWA approval to obtain a greater or lesser number of reports on specific parcels or projects.

(d) *Reimbursement.* (1) If otherwise eligible, Federal funds may participate in the cost of appraisal and specialty reports obtained by the State in accordance with its accepted plan of operation. Federal funds may participate in the cost of additional appraisal or specialty reports when:

(i) Additional reports have been requested by FHWA.

(ii) The State has requested and received prior FHWA approval for participation in the cost of additional reports. Requests and approvals may be on specific parcels or on a project by project basis covering specific types of acquisitions.

(2) Where the State prescribes a minimum payment, not to exceed $100, for the acquisition of a parcel, although the approved appraisal estimate of just compensation reflects a lesser or even a zero consideration, Federal participation shall be allowed if such payment is otherwise eligible.

(e) *Retention of reports.* A record copy of all appraisal and specialty reports shall be retained by the acquiring agency. Where correction or revision is necessary, the appraiser shall furnish corrected, revised or supplemental pages or portions of the report for attachment to the record copy. All copies except the record copy of the report may be returned to the appraiser for necessary corrections or revisions. Any request for a substantive correction or revision of an appraisal or specialty report shall be documented in the acquiring agency's files.

(f) *Appraisal reports.* (1) For FHWA purposes, an appraisal report is a written document which, as a minimum, contains the following:

(i) The purpose of the appraisal which includes a statement of value to be estimated and the rights or interests being appraised.

(ii) Identification of the property and its ownership.

(iii) Statement of appropriate contingent and limiting conditions, if any.

(iv) An adequate description of the neighborhood, the property, the portion of the property or interest therein being acquired, and the remainder(s), if any.

(v) Identified photographs of the subject property including all principal aboveground improvements or unusual features affecting the value of the property to be acquired or damaged.

(vi) An identification or listing of the buildings, structures, and other improvements on the land as well as the fixtures which the appraiser considered to be a part of the real property to be acquired.

(vii) The estimate of just compensation for or resulting from the acquisition. In the case of a partial acquisition, where appropriate, either in the report or in a separate statement, a reasonable allocation of the estimate of just compensation for the real property to be acquired and for damages to remaining real property.

(viii) The data and analyses, or reference to same, to explain, substantiate and thereby document the estimate of just compensation.

(ix) The date(s) on which and/or as of which, as appropriate, the just compensation is estimated.

(x) The certification, signature, and date of signature of the appraiser.

(xi) Other descriptive material (maps, charts, plans, photographs).

(xii) The Federal-aid project number and parcel identification.

(2) Where an entire property is to be acquired, the estimate of just compensation would be the fair market value of the property. Where only a part of a property is to be acquired, the estimate of just compensation would be that amount arrived at in accordance with the laws governing just compensation applicable to the acquiring agency, including those laws governing compensable and noncompensable items and the treatment of general and special benefits.

(3) Appraisal reports shall be independently prepared by qualified staff or fee appraisers.

(4) Appraisal reports shall be prepared in ink or typewritten, dated and signed by the individual making the appraisal prior to being submitted to a review appraiser.

(5) Each appraisal report shall contain an appraiser's certification incorporating as a minimum the requirements in Appendix I to § 720.203. A new certificate shall be prepared where there is a change in the appraisal report which affects the estimate of just compensation or changes the date of valuation.

(6) In estimating just compensation for the acquisition of real property, appraisal reports shall, to the greatest extent practicable under State law, disregard any decreased or increase in the fair market value of the real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner.

(7) Documentation of estimates of value (either the before, the after, or the acquisition value), of damages, and/or

of benefits shall be by the most applicable and appropriate means available. If support for the after value by the usual methods of market or income data or indications from severance damage studies is not feasible, the appraiser shall so state and explain why it is not feasible. In such instances, the appraiser must then fully explain the reasoning for his after value estimate.

(g) *Specialty Reports.* (1) For FHWA purposes, a specialty report is a written document which, as a minimum, contains the following:

(i) Statement of purpose of report.

(ii) Definition of value(s) reported, i.e., fair market value, salvage value, etc.

(iii) Identification of the property and its ownership.

(iv) Statement of appropriate contingent and limiting conditions, if any.

(v) Identification of the value problem.

(vi) The estimate of value(s).

(vii) The data and analysis to explain, substantiate and thereby document the estimate of value(s).

(viii) The date(s) on which and/or as of which the estimate of value(s) is made.

(ix) The certification, signature, and date of signature of the specialist.

(x) Other descriptive material (maps, charts, plans, photographs).

(xi) The Federal-aid project number and parcel identification.

(2) Specialty reports shall be independently prepared by qualified staff or fee specialists.

(3) Specialty reports shall be prepared in ink or typewritten, dated, and signed by the individual making the report prior to being submitted to a review appraiser or other specialist for review.

(4) Each specialty report shall contain a certification incorporating requirements similar to those in Appendix I to § 720.204. A new certificate shall be prepared where there is a change in the specialty report which affects the estimate of value or changes the date of valuation.

§ 720.202 Review of appraisal and specialty reports.

(a) *Purpose.* This section prescribes Federal Highway Administration (FHWA) standards and requirements for the review of appraisal and specialty reports of real property needed for highway and related purposes. The purpose of the requirements is to insure that the approved estimate of just compensation is reasonable and adequately supported.

(b) *Applicability.* (1) Except as provided in paragraph (b)(2) of this section, the provisions of this section are applicable, to the greatest extent practicable under State law, to all States and political subdivisions thereof when they review appraisal and specialty reports for any parcel of real property for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project.

(2) The provisions of this section are not applicable to those programs and projects specifically excluded by law, or by agreement with the FHWA.

(c) *Responsibility.* It is the responsibility of the appropriate acquiring agency to review all appraisal and specialty reports of real property to be acquired in connection with Federal-aid highway programs or projects and to establish an amount which it believes to be just compensation for such acquisitions before the initiation of negotiations or the exercise of the power of eminent domain.

(d) *Estimate of just compensation by reviewing appraiser.* Qualified reviewing appraisers shall establish the amount of just compensation to be offered an owner for the acquisition of real property. To the greatest extent practicable under State law, any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded by the reviewing appraiser in establishing the compensation for the property. All estimates by a reviewing appraiser shall be documented and retained as a part of the project or parcel files.

(e) *Review of appraisal reports.* (1) The reviewing appraiser should field inspect the property appraised and the comparable sales considered by the appraiser(s) in arriving at either or both, as appropriate, the fair market value of the whole property and of the remainder(s). If a field inspection is not made, the file shall contain the reason(s).

(2) The reviewing appraiser shall examine the appraisal reports to determine that they:

(i) Are complete in accordance with § 720.201(f) and the State's appraisal specifications.

(ii) Follow accepted appraisal principles and techniques in the valuation of real property in accordance with existing State law.

(iii) Contain or make reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimates of value and/or just compensation contained therein.

(iv) Include consideration of compensable items, damages and benefits, and do not include compensation for items noncompensable under State law.

(v) Contain an identification or listing of the buildings, structures and other improvements on the land as well as the fixtures which the appraiser considered to be a part of the real property to be acquired.

(vi) Contain the estimate of just compensation for or resulting from the acquisition and where appropriate, in the case of a partial acquisition, either in the report or in a separate statement, a reasonable allocation of the estimate of just compensation for the real property acquired and for damages to remaining real property.

(3) Prior to finalizing his estimate of just compensation the reviewing appraiser shall request and obtain corrections or revisions of appraisal reports which do not substantially meet the requirements set forth in § 720.201(f) and in the State's appraisal report specifications. These shall be documented and retained in the parcel file.

(4) The reviewing appraiser shall initial and date his corrections and/or factual data supplements to an appraisal report.

(5) The reviewing appraiser shall place in the parcel file a signed and dated statement setting forth:

(i) His estimate of just compensation including, where appropriate, his allocation of compensation for the real property acquired and for damages to remaining real property, and an identification or listing of the buildings, structures and other improvements on the land as well as the fixtures which he considered to be a part of the real property to be acquired if such allocation or listing differs from that of the appraisal(s).

(ii) That as a part of the appraisal review there was or was not a field inspection of the parcel to be acquired and the comparable sales applicable thereto. If a field inspection was not made, he shall state the reason(s).

(iii) That he has no direct or indirect present or contemplated future personal interest in such property or in any monetary benefit from its acquisition.

(iv) That his estimate has been reached independently, without collaboration or direction, and is based on appraisals and other factual data.

(v) His value estimate of items compensable under State law but not eligible for Federal reimbursement, if any.

(f) *Review of specialty reports.* (1) When a separate valuation of machinery, equipment or other specialty items is required and when the acquiring agency has retained the specialist, it shall have his report reviewed by a reviewing appraiser or other specialist before its distribution to the fee or staff appraisers. The individual responsible for the review should field inspect the property. If a field inspection is not made, the file shall contain the reason(s).

(2) Before distribution to the appraisers, the reviewing appraiser or other specialist shall examine the reports to determine that they:

(i) Are complete in accordance with the requirements of § 720.2011(g) and the State's own requirements.

(ii) Follow accepted principles and techniques for the valuation of the subject of the report.

(iii) Contain the information necessary to explain, substantiate, and thereby document the conclusions and estimates of value contained therein.

(iv) Include consideration of compensable items and do not include compensation for items noncompensable under State law.

(3) Each acceptable estimate prepared by a specialist retained by the acquiring agency shall be made available to all appraisers for analysis and incorporation into their appraisal reports to the extent deemed appropriate by the individual appraiser.

(4) In those instances when a fee appraiser has retained a specialist and incorporated the specialist's report in his

appraisal report, the review of the "package" shall be in accordance with the applicable review requirement in this section and those of the State.

§ 720.203 Qualifications of appraisers and reviewing appraisers.

(a) *Purpose.* This section establishes criteria for determining the qualifications of appraisers and reviewing appraisers used by a State highway department or other political subdivision of a State on federally assisted highway programs and projects. It also requires a State highway department to establish procedures for continuing evaluation of the qualifications and performance of both fee and staff appraisers and reviewing appraisers it employs.

(b) *Applicability.* (1) Except as provided in paragraph (b)(2) of this section, the provisions of this memorandum are applicable, to the extent described herein, to all State highway departments or other political subdivisions of a State which acquire real property for any highway or highway related project in which Federal funds will participate in any part of the cost of the project.

(2) The provisions of this memorandum are not applicable to those programs and projects specifically excluded by law, or by agreement with the Federal Highway Administration (FHWA).

(c) *Qualifications.* It is the responsibility of the State highway department to establish qualifications required of all appraisers and reviewing appraisers used by it or its political subdivisions in connection with acquisition of real property for any highway or highway related project in which Federal funds will participate in any part of the cost of the project. Such qualifications shall be consistent with criteria for establishing the qualifications of appraisers and reviewing appraisers shown in Appendix I of this section.

(d) *Performance evaluation.* The State highway department shall establish procedures for continuing evaluation of the qualifications and performance of both fee and staff appraisers and reviewing appraisers that it employs. Sufficient information shall be maintained to show that the appraisers and reviewing appraisers used are qualified and do perform efficiently.

APPENDIX I

CRITERIA FOR THE ESTABLISHMENT OF MINIMUM QUALIFICATIONS FOR APPRAISERS AND REVIEWING APPRAISERS

The following criteria have been developed for use in establishing qualifications for appraisers and reviewing appraisers.

Staff appraisers

Appraiser classification	*Qualifications*
Step I	College degree or 4 years verified active experience in the real estate field leading to a basic knowledge of real property valuation; or any combination of such experience and college study to provide a total of 4 years beyond high school graduation of education and experience of the types named.
Step II	At least 1 year of satisfactory training and work performance at Step I level that has led to a demonstrated knowledge and understanding of appraisal principles and techniques; or if initially employed at this level, basic education and experience requirements for Step I plus 2 years verified and active experience in the appraisal of less complex rural or urban real property.
Step III	Two years progressively responsible and satisfactory work performance at Step II level that has demonstrated the knowledge and ability to appraise less complex rural and urban real property; or if initially employed at this level, the basic education and experience requirements of Step I plus 4 years of verified active experience in appraisal of both rural and urban real properties.
Step IV	Three years progressively responsible and satisfactory work performance at Step III level that has demonstrated the knowledge and ability to appraise complex rural and urban properties of all types; supervisory experience; and knowledge of overall right-of-way procedures including acquisition and condemnation practices.

Fee Appraisers

The State should secure the best qualified appraisers available for the particular job to be done. It is necessary for the appraiser's ability to be evaluated on an individual basis. Fee appraisers should have verified specific appraisal experience in the type of property they are employed to appraise.

Reviewing Appraisers

Reviewing appraisers should be thoroughly qualified appraisers and should have a background at least equivalent to Step III above. Every reviewing appraiser should have knowledge of the principles and techniques pertinent to appraising and the ability to independently appraise properties of the type for which he is to review appraisal reports by others.

§ 720.204 Appraisal fees, contracts and agreements.

(a) *Purpose.* This section prescribes Federal Highway Administration (FHWA) requirements for contracts or agreements between an acquiring agency (a State highway department or other political subdivision of a State) and fee appraisers and specialists on federally assisted highway programs and projects. It also describes the conditions under which Federal funds will participate in the cost of employing fee appraisers and specialists and prescribes criteria for establishing fees for such services.

(b) *Applicability.* (1) Except as provided in Paragraph (b)(2) of this section, the provisions of this section are applicable to the employment of fee appraisers and specialists by an acquiring agency for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project.

(2) The provisions of this section are not applicable to those programs and projects specifically excluded by law, or by agreement with the FHWA.

(c) *Employment of fee appraisers and specialists.* (1) Federal funds may participate in the cost of employing fee appraisers and specialists to provide cost studies, estimates or appraisals when:

(i) The staff personnel of the acquiring agency is insufficient to perform the work within a reasonable time.

(ii) A fee appraisal or specialist report is needed for use in a condemnation case.

(iii) The unusual character of the work requires the services of a person or persons with highly specialized knowledge and experience not available on the staff of the acquiring agency.

(2) Fee personnel shall be retained directly by the acquiring agency and required, by written contract, to personally perform the services contracted for, except as hereinafter provided. When services of a highly specialized nature are required to assist in the preparation of the appraisal, the employment of specialists should be handled by the acquiring agency. However, in appropriate instances such employment may be accomplished by the contract appraiser responsible for the appraisal of the entire property. If the latter course is followed, the acquiring agency shall reserve to itself the approval of the selection of the specialist by the contract appraiser.

(d) *Fees.* (1) The basis of payment set forth in the agreement covering more than one parcel shall not be computed on an average rate per parcel. The agreement shall itemize the actual amount to be paid per parcel, or such itemization shall be by a separate statement.

(2) In instances where special use or other unusual properties are involved, the division engineer may give prior approval to the use of a per diem rate contracting method with a stated overall limit which should not be exceeded except by supplemental agreement.

(3) Provision shall be made in the agreement for a per diem rate to be paid to the fee appraiser or specialist in the event court appearances or conferences preparatory thereto become necessary. This contingent cost shall be separate and apart from the fee or the overall limit specified in the agreement for completion of the services covered by the agreement.

(4) There shall be no Federal reimbursement for compensation paid by an acquiring agency for revision or correction of a report required by the appraiser's or specialist's failure to comply with contract specifications and standards in the agreement.

(5) There shall be no Federal participation in the appraisal or specialist fee or the amount paid for a parcel where the appraisal or specialist fee is determined as a percentage of the appraised value or assessed value.

(6) The amount of the fee shall represent a fair payment for the services performed whether it be for the initial valuation, a new valuation occasioned by a change in the taking, or a subsequent updating requested by the acquiring agency. In the instance of a new valuation or updating, a flat percentage of the original fee is not acceptable as representative of fair payment. Experience of the acquiring agency and any other available guides should be considered in arriving at an equitable fee. A qualified individual from the acquiring agency's right-of-way organization should visit the project site to identify the valuation problem, determine the number and type of reports needed, and estimate a fee per parcel. The estimate shall be made prior to requesting a proposal from fee personnel and shall be retained in the acquiring agency's file. A predetermined schedule of fees for different types of properties may be utilized provided documentation to support such schedule(s) is available in the acquiring agency's files. In determining the basis of payment and the actual fees to be paid, consideration should be given to:

(i) The complexity of the appraisal or other work to be undertaken and the skills necessary to provide such services.

(ii) The number of parcels included in the assignment.

(iii) The amount of information and data provided fee personnel by the acquiring agency, and the extent of information that must be developed independently.

(iv) The location and conditions pertinent to the project for which the fee service is to be provided.

(v) The time allowed for performance of the assignment.

(e) *Requirements for contracts and agreements.* Contracts, agreements, or assignment letters for fee appraisal and specialist services shall contain as a minimum the following provisions and clauses:

(1) Date of agreement.

(2) The complete name and address of each party to the agreement whether individual, partnership, firm or corporation. If a corporation is one of the parties, identify the State in which it is incorporated. Where a contract is with a partnership, firm or corporation, the agreement or supplement thereto shall identify the person who will perform the valuation service and, if necessary, testify in a condemnation action.

(3) Federal-aid project number and location.

(4) Description of the work to be done in sufficient detail to show the nature and extent of the services contemplated.

(5) Provision for the appraiser or specialist to testify in court if the need arises.

(6) Specifications as to the content and format of reports.

(7) Data to be furnished by the acquiring agency.

(8) Date completed reports are due.

(9) The basis of payment for the services to be furnished.

(10) The following clause:

The appraiser (specialist) warrants that he has not employed or retained any company, firm or person, other than a bona fide employee working solely for him, to solicit or secure this agreement, and that he has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for him, any fee commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the (agency) shall have the right to annul this agreement without liability.

(11) Provisions that would permit the negotiation for mutual acceptance of major changes in the scope, character, or estimated total cost of the work to be performed if such changes become necessary as the work progresses.

(12) Provision that would permit termination of the agreement by the acquiring agency in case the appraiser (specialist) is not complying with the terms of the agreement, the progress or quality of work is unsatisfactory, or for other stated reasons. Provision covering the ownership of work completed or partially completed and basis of payment therefor in the event of termination of the agreement by the acquiring agency.

(13) Provision for a procedure for resolving any dispute concerning a question of fact in connection with the work not disposed of by agreement between the parties, conforming to the practice followed by the acquiring agency in resolving disputes in other contractual matters.

(14) An expressed prohibition against the subletting or transfer of any of the work except as is otherwise provided for in the agreement.

(15) Instructions that the appraiser (specialist) is to follow accepted principles and techniques in the valuation of real property in accordance with existing State law.

(16) Provision for itemizing the fee per parcel within the agreement or by a separate statement.

(17) Provision for updating reports at request of the acquiring agency.

(18) Provision for execution of certification statement. See Appendix 1 to this section for the certificate of appraiser and § 720.201(g)(4) for requirements of a specialist's certification.

(19) The clauses set forth in Appendix A of the Civil Rights Assurances.

(20) Properly executed signature and dates.

APPENDIX I

Federal Project No. _____
Parcel No. _____

CERTIFICATE OF APPRAISER

I hereby certify:

That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal.

That to the best of my knowledge and belief the statements contained in the appraisal herein set forth are true, and the information upon which the opinions expressed therein are based is correct; subject to the limiting conditions therein set forth.

That I understand that such appraisal may be used in connection with the acquisition of right-of-way for a project to be constructed by the _____ of _____ with the assistance of Federal-aid highway funds, or other Federal funds.

That such appraisal has been made in conformity with the appropriate State laws, regulations and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are noncompensable under the established law of said State.

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein.

That I have no direct or indirect present or contemplated future personal interest in such property or in any monetary benefit from the acquisition of such property appraised.

That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the acquiring agency of said State or officials of the Federal Highway Administration and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

That my opinion of just compensation for the acquisition as of the ____ day of _____ 19__, is _____ based upon my independent appraisal and the exercise of my professional judgment.

_____
(Date)

_____
(Signature)

NOTE: Other statements, required by the regulations of an appraisal organization of which the appraiser is a member or by circumstances connected with the appraisal assignment or the preparation of the report, may be inserted where appropriate. Additionally, it is recommended that, to the extent practicable under State law, appropriate statements be included to cover the following provisions of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970:

a. The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

b. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

Issue date: November 1, 1973.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.73-24588 Filed 11-16-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7290]

INCOME TAX AND FOUNDATION EXCISE TAXES

Adoption of Form 990–PF for Private Foundations

This document contains amendments to the Income Tax Regulations, (26 CFR Part 1) Foundation Excise Tax Regulations (26 CFR Part 53) and the Regulations on Procedure and Administration (26 CFR Part 301) under sections 507, 509, 4945, 6033, 6056, and 6104 of the Internal Revenue Code of 1954 to provide for the use of Form 990–PF by private foundations. Previously, private foundations as defined in section 509(a), along with other organizations exempt under section 501(a), filed Form 990 as the annual information return required by section 6033. The Service has now developed Form 990–PF, an annual information return exclusively for private foundations. Other organizations exempt under section 501(a), except those described in section 401(a), will continue to use the Form 990.

Adoption of amendments to the regulations. The Income Tax Regulations (26 CFR Part 1), the Foundation Excise Tax Regulations (26 CFR Part 53) and the Regulations on Procedure and Administration (26 CFR Part 301) are amended as follows:

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

PARAGRAPH 1. Paragraph (b)(9) of § 1.507–1 is amended to read as follows:

§ 1.507–1 General rule.

* * * * *

(b) *Termination under section 507(a)(1).* * * *

(9) A private foundation which transfers all of its net assets is required to file the annual information return required by section 6033, and the foundation managers are required to file the annual report of a private foundation required by section 6056, for the taxable year in which such transfer occurs. However, neither such foundation nor its foundation managers will be required to file such returns for any taxable year following the taxable year in which the last of any such transfers occurred, if at no time during the subsequent taxable years in question the foundation has either legal or equitable title to any assets or engages in any activity.

* * * * *

PAR. 2. Section 1.507–2 is amended by revising (A) and (B) of paragraph (a)(5)(iii), and subparagraphs (1) and (2) of paragraph (g) to read as follows:

§ 1.507–2 Special rules; transfer to, or operation as public charity.

(a) *Transfer to public charities.* * * *

(5) *Special transitional rules.* * * *

(iii) * * *

(A) Complete and file its annual return, including the line relating to excise taxes on investment income, by such date, and pay the tax on investment income imposed under section 4940 at the time it files its annual return. If such organization subsequently terminates its private foundation status under section 507(b)(1)(A) within the period specified in subdivision (ii) of this subparagraph, it may file a claim for refund of the tax paid under section 4940; or

(B) Complete and file its annual return, except for the line relating to excise taxes on investment income, by such date, and, in lieu of paying the tax on investment income imposed under section 4940, file a statement with its annual return which establishes that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b)(1)(A). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b)(1)(A). Such affirmative action may include making application to the appropriate State court for approval of the distribution of all net assets pursuant to section 507(b)(1)(A) in the case of a charitable trust, or the passage of a resolution by the organization's governing body directing the distribution of all net assets pursuant to section 507(b)(1)(A) in the case of a not-for-profit corporation. A written commitment or letter of agreement by the trustee or governing body to one or more section 509(a)(1) distributees indicating an intent to distribute all of the organization's net assets to such distributees will also constitute appropriate affirmative action for purposes of this subdivision. An organization may take such affirmative action and may terminate its private foundation status under section 507(b)(1)(A) in reliance upon 26 CFR 13.12 (rev. as of Jan. 1, 1972) and upon the provisions of the notices of proposed rule making under sections 170(b)(1)(A), 507(b)(1), and 509. Thus, if a distributee organization meets the requirements of the provisions of the notices of proposed rule making under sections 170(b)(1)(A), 507, or 509 as a distributee under section 507(b)(1)(A), the distributor organization may terminate its private foundation status under section 507(b)(1)(A) in reliance upon such provisions prior to the expiration of the period described in subdivision (ii) of this subparagraph. If such organization, however, fails to terminate its private foundation status under section 507(b)(1)(A) within the period specified in subdivision (ii) of this subparagraph by failing to meet the requirements of either the notices of proposed rulemaking under section 170(b)(1)(A), 507(b)(1), or 509 or the final regulations published under these Code sections, the tax imposed under section 4940 shall be treated as if due from the due date for its annual return (determined without regard to any extension of time for filing its return).

* * * * *

(g) *Special transitional rules for organizations operating as public charities.* * * *

(1) Complete and file its annual return including the line relating to excise taxes on investment income, by such date, and pay the tax on investment income imposed under section 4940 at the time it files its annual return. If such organization subsequently terminates its private foundation status under section 507(b)(1)(B) within a period specified in paragraph (c)(3)(i) of this section, it may file a claim for refund of the tax paid under section 4940; or

(2) Complete and file its annual return, except for the line relating to excise taxes on investment income, by such date, and in lieu of paying the tax on investment income imposed under section 4940, file a statement with its annual return which establishes that the organization has taken affirmative action by such date to terminate its private foundation status under section 507(b)(1)(B). Such statement must indicate the type of affirmative action taken and explain how such action will result in the termination of its private foundation status under section 507(b)(1)(B). Such affirmative action may include making application to the appropriate State court for approval to amend the provisions of the organization's trust instrument to limit payments to specified section 509(a)(1) or (2) beneficiaries pursuant to section 509(a)(3) in the case of a charitable trust; commencing a fund-raising drive among the general public in the case of an organization seeking to become a section 170(b)(1)(A)(vi) or 509(a)(2) organization; or the passage of a resolution by the organization's governing body or the filing of an amendment to the organization's articles of incorporation permitting a change in the operations of the organization to enable it to conform to the provisions of section 509(a)(1), (2), or (3) in the case of a not-for-profit corporation. An organization may take such affirmative action and may terminate its private foundation status under section 507(b)(1)(B) in reliance upon 26 CFR 13.12 (rev. as of Jan. 1, 1972) and upon the provisions of the notices of proposed rulemaking under sections 170(b)(1)(A), 507(b)(1), and 509. Thus, if an organization meets the requirement of the provisions of the notice of proposed rulemaking as a section 509(a)(3) organization, such organization may terminate its private foundation status under section 507(b)(1)(B) in reliance upon such provisions prior to the expiration of the period described in paragraph (a)(5)(ii) of this section. If such organization, however, fails to terminate its private foundation status under section 507(b)(1)(B) within the period specified in paragraph (a)(5)(ii) of this section by failing to meet the requirements of either the notices of proposed rulemaking under section 170(b)(1)(A), 507(b)(1), or 509 or the final regulations published under these Code sections, the tax imposed under section 4940 shall be treated as if due from the

due date for its annual return (determined without regard to any extension of time for filing its return).

* * * * *

PAR. 3. Paragraph (a)(3) of § 1.509(a)–5 is amended to read as follows:

§ 1.509(a)–5 Special rules of attribution.

(a) *Retained character of gross investment income.* * * *

(3) An organization seeking section 509(a)(2) status shall file a separate statement with its return required by section 6033, setting forth all amounts received from organizations described in paragraph (a)(1) (i) or (ii) of this section.

* * * * *

PAR. 4. Section 1.6033–2 is amended by revising paragraph a(2)(i), (ii)(e), and (iv) and paragraphs (b), (c), (e), (h)(1), and (j) to read as follows:

§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

(a) *In general.* * * *

(2)(i) Except as otherwise provided in this paragraph and paragraph (g) of this section, every organization exempt from taxation under section 501(a), and required to file a return under section 6033 and this section (including, for taxable years ending before December 31, 1972, private foundations, as defined in section 509(a)), other than an organization described in section 401(a) or 501(d), shall file its annual return on Form 990. For taxable years ending on or after December 31, 1972, every private foundation shall file Form 990–PF as its annual information return.

(ii) * * *

(e) A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information relating to the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the return required by this section. Such schedule shall be supplemented by attachments where appropriate.

* * * * *

(iv) *Listing of States.* A private foundation is required to attach to its return required by this section a list of all States—

(*a*) To which the organization reports in any fashion concerning its organization, assets, or activities, or

(*b*) With which the organization has registered (or which it has otherwise notified in any manner) that it intends to be, or is, a charitable organization or a holder of property devoted to a charitable purpose.

* * * * *

(b) *Accounting period for filing return.* A return required by this section shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, such return shall be on the basis of the calendar year.

(c) *Returns when exempt status not established.* An organization claiming an exempt staus under section 501(a) prior to the establishment of such exempt status under section 501 and § 1.501(a)–1, shall file a return required by this section in accordance with the instructions applicable thereto. In such case the organization must indicate on such return that it is being filed in the belief that the organization is exempt under section 501(a), but that the Internal Revenue Service has not yet recognized such exemption.

* * * * *

(e) *Time and place for filing.* The annual return required by this section shall be filed on or before the 15th day of the fifth calendar month following the close of the period for which the return is required to be filed. The annual return on Form 1065 required to be filed by a religious or apostolic association or corporation shall be filed on or before the 15th day of the fourth month following the close of the taxable year for which the return is required to be filed. Each such return shall be filed in accordance with the instructions applicable thereto.

* * * * *

(h) *Records, statements, and other returns of tax-exempt organizations.* (1) An organization which is exempt from taxation under section 501(a) and is not required to file annually an information return required by this section shall immediately notify in writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

* * * * *

(j) *Special rule for private foundations.* A private foundation shall attach to each copy of the annual report required by section 6056 which its foundation managers send to a State Attorney General a copy of the return required by this section, and a copy of the Form 4720, if any, filed by the foundation with the Internal Revenue Service for the year. For provisions relating to annual reports, see section 6056 and the regulations thereunder.

* * * * *

PAR. 5. Paragraphs (a)(2) and (b)(3) of § 1.6056–1 are amended to read as follows:

§ 1.6056–1 Annual reports by private foundations.

(a) *Annual reports* * * *

(2) *Form of annual report, time and place of filing.* The annual report required by this paragraph may be in printed, typewritten, or other form, provided that it readily and legibly discloses the information required by section 6056 and this section. Form 990–AR, Annual Report of Private Foundation, may be used for this purpose. The annual report shall be filed at the place specified in the instruction applicable to the return required by section 6033 at the same time as such return.

* * * * *

(b) *Special rules.* * * *

(3) *Furnishing of copies to State Officers.* The foundation managers of a private foundation shall furnish a copy of the annual report required by section 6056 and this section to the Attorney General of: (i) Each State which the foundation is required to list on its return pursuant to § 1.6033–2(a)(2)(iv), (ii) the State in which is located the principal office of the foundation, and (iii) the State in which the foundation was incorporated or created. The annual report shall be sent to each Attorney General described in paragraph (b)(3)(i), (ii), or (iii) of this section at the same time as it is sent to the Internal Revenue Service. Upon request the foundation managers shall also furnish a copy of the annual report to the Attorney General or other appropriate State officer (within the meaning of section 6104(c)(2)) of any State. The foundation managers shall attach to each copy of the annual report sent to State officers under this subparagraph a copy of the returns required by section 6033, and a copy of the Form 4720, if any, filed by the foundation for the year.

* * * * *

PART 53—FOUNDATION EXCISE TAXES

PAR. 6. Paragraph (d)(4) of § 53.4945–5 is amended to read as follows:

§ 53.4945–5 Grants to organizations.

* * * * *

(d) *Reporting to the Internal Revenue Service by grantor.* * * *

(4) *Reports received after the close of grantor's accounting year.* Data contained in reports required by this paragraph, which reports are received by a private foundation after the close of its accounting year but before the due date of its information return for that year, need not be reported on such return, but may be reported on the grantor's information return for the year in which such reports are received from the grantee.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 7. Paragraphs (a)(1) and (c)(1) and (2) of § 301.6104–2 are amended to read as follows:

§ 301.6104–2 Publicity of information on certain information returns and annual reports.

(a) *In general.* * * *

(1) Except as otherwise provided in section 6104 and the regulations thereunder, the information required by section 6033 and the information furnished on Form 4720.

* * * * *

(c) *Procedure for public inspection*—(1) *Requests for inspection.* The information furnished pursuant to section 6033 and 6034, the annual report required by section 6056, and Form 4720 shall be available for public inspection under section 6104(b) only upon request. If inspection at the National Office is desired, the request shall be made in writing to the Commissioner of Internal Revenue, Attention: Director, Public Affairs Division, Washington, D.C. 20224. Requests for inspection in the office of a district director or Director of the Internal Revenue Service Center, Philadelphia, Pennsylvania, shall be made in writing to the district director or Director of the Service Center. All requests for inspection must include the name and address of the organization which filed the return or report, the type of return or report, and the taxable year for which filed, except that requests for inspection of entire sections of the microfilm file need only designate the appropriate section desired.

(2) *Time and extent of inspection.* A person requesting public inspection in the manner specified in subparagraph (1) of this paragraph shall be notified by the Internal Revenue Service when the material he desires to inspect will be made available for his inspection. Information on returns required by sections 6033 and 6034, the annual report required by section 6056 and the information furnished on Form 4720 will be made available for public inspection at such reasonable and proper times, and under such conditions, that will not interfere with their use by the Internal Revenue Service and will not exclude other persons from inspecting them. In addition, the Commissioner, Director of the Service Center, or district director may limit the number of returns to be made available to any person for inspection on a given date. Inspection will be allowed only in the presence of an internal revenue officer or employee and only during the regular hours of business of the Internal Revenue Service office.

* * * * *

PAR. 8. Paragraphs (a)(1)(i) and (ii) of § 301.6104–3 are amended to read as follows:

§ 301.6104–3 Disclosure of certain information to State officers.

(a) *Notification of determinations*—(1) *Automatic notification.* * * *

(i) In the case of any organization described in section 501(c)(3), the State in which the principal office of the organization is located (as shown on the last-filed return required by section 6033, or on the application for exemption if no return has been filed), and the State in which the organization was incorporated, or if a trust, in which it was created, and

(ii) In the case of a private foundation, each State which the organization was required to list as an attachment to its last-filed return pursuant to § 1.6033–2(a)(2)(iv).

* * * * *

Because this Treasury decision amends existing regulations by providing rules relating to administrative practice and procedure, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805).)

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: November 13, 1973.

JOHN H. HALL,
Deputy Assistant Secretary of the Treasury.

[FR Doc.73–24605 Filed 11–16–73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL

[CGD 73–125R]

PART 110—ANCHORAGE REGULATIONS

Anchorage Grounds, Baltimore Harbor, Maryland

Correction

In FR Doc. 73–23610, appearing on page 30740 in the issue for Wednesday, November 7, 1973, in § 110.158, in the 10th line of paragraph (a)(6), the words "longitude 74°–" should read "longitude 76°–".

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–38—MOTOR EQUIPMENT MANAGEMENT

Defense of Suits Against Federal Employees

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, a new Subpart 114–38.54 is added to Part 114–38, Chapter 114, Title 41, of the Code of Federal Regulations as set forth below.

This regulation updates and codifies existing Departmental regulations related to the defense of suits against Federal employees resulting from operation of motor vehicles. It is therefore, determined that the public rule-making procedure is unnecessary and this new subpart shall become effective on November 19, 1973.

November 9, 1973.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Subpart 114–38.54—Defense of Suits Against Federal Employees

Sec.

Subpart 114–38.54—Defense of Suits Against Federal Employees

§ 114–38.5400 Authority.

The Act of September 21, 1961, 75 Stat. 539, 28 U.S.C. 2679(b)(e) (1970), commonly known as the Government Drivers Act, amended the Federal Tort Claims Act to provide that any civil action or proceeding brought against any employee of the Government, or his estate, for damage to property or for personal injury, including death, resulting from the operation of any motor vehicle (Government-owned or leased, or privately owned) while the employee was acting within the scope of his employment will be deemed to be an action or proceeding against the United States and will be defended by the Attorney General. In practical terms this means that the Department of Justice and the local United States Attorney will defend the civil action or proceeding brought in any State or Federal Court against the Federal employee (or his estate) whose act or omission gave rise to the claim.

§ 114–38.5401 Determination by the Department of Justice.

The Department of Justice is the agency charged with making the determination of whether the Federal employee involved in such a suit was acting within the scope of his employment at the time the accident occurred. In order to enable the Department of Justice to make such determination, the Bureau or Office of this Department employing the person involved in the accident must submit to the Solicitor's Office Form 26 for transmittal to the Department of Justice which contains detailed information concerning the question whether or not the employee was acting within the scope of his employment at the time of the accident out of which the suit arose.

§ 114–38.5402 Purpose of subpart.

The purpose of this chapter is to provide a cross-reference to 451 DM 4 which prescribes procedures for the execution and submission of the necessary papers and reports to the Department of Justice and to the appropriate United States Attorney.

[FR Doc.73–24532 Filed 11–16–73;8:45 am]

Title 42—Public Health

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

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

Loan Guarantees and Interest Subsidies To Assist in Construction of Teaching Facilities for Health Professions Personnel

In the FEDERAL REGISTER of May 14, 1973 (38 FR 12614), the Acting Director, National Institutes of Health, with the

approval of the Secretary of Health, Education, and Welfare, proposed to amend part 57 by adding thereto a new Subpart W governing loan guarantee and interest subsidy agreements made pursuant to section 729 of the Public Health Service Act.

Interested persons were afforded the opportunity to participate in the rule making through submission of comments on or before June 13, 1973. Only one response was received, suggesting: (1) That the requirements with respect to the design and construction of the project in § 57.2205(a)(1) of the proposed regulations be relaxed, and (2) That the requirement in § 57.2205(c) of the proposed regulations that the Secretary may not approve an application for interest subsidy assistance unless he determines that without such payments the applicant would not, over a substantial portion of the loan term, be able to repay the loan without jeopardizing the quality of its educational program be deleted. After due consideration these suggestions were not adopted. The first suggestion was not followed because of the substantial Federal commitment under this program in assisting eligible entities in constructing "approved construction projects," necessitating inclusion of design and construction requirements as proposed. As to the second, the requirement to show need was retained in order to carry out the purposes of the legislation, within the limits of funds available, by directing assistance to approved projects which could not be constructed without such assistance.

There have been however, several changes made in the regulations as proposed, a number of which, notably in § 57.1514(a), are editorial and technical in nature and have been made in the interest of clarity. Three of the changes, however, are substantive in nature.

The first appears in § 57.1505(a)(1) which, as modified, will require that with respect to other than interim facilities the title assurance period shall not be less than 20 years or the term of the guaranteed loan. This modification was necessary in order to assure that the applicant will have sufficient title to the site to allow him to use it for the purposes for which constructed during the entire period of the Federal interest.

The second change involves the addition of three separate paragraphs to § 57.1514(b), which, in sum, indicate that the Secretary's obligation to make interest subsidy payments ceases where the applicant is found to be in noncompliance with either section 799A of the Public Health Service Act, title VI of the Civil Rights Act of 1964, or title IX of the Education Amendments of 1972. Furthermore, these paragraphs state that the Secretary shall resume making interest subsidy payments where he subsequently determines that the applicant is again in compliance with the requirements of such provisions.

A third change is the addition of § 57.1514(a)(6) to clarify that the Secretary shall not guarantee disbursements made to an applicant subsequent to notification by the Secretary to a lender that the applicant has ceased to comply with section 799A of the Public Health Service Act, which prohibits discrimination on the basis of sex.

In addition, the subpart has been redesignated subpart P and the sections have been renumbered accordingly.

Effective date. The regulations as set forth below shall be effective on November 19, 1973.

Dated: October 1, 1973.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: November 13, 1973.

CASPAR W. WEINBERGER,
Secretary.

Subpart P—Loan Guarantees and Interest Subsidies to Assist in Construction of Teaching Facilities for Health Profession Personnel

Sec.
57.1501 Applicability.
57.1502 Definitions.
57.1503 Eligibility.
57.1504 Application.
57.1505 Approval of applications.
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57.1508 Amount of interest subsidy payments; limitations.
57.1509 Forms of credit and security instruments.
57.1510 Security for loans.
57.1511 Opinion of legal counsel.
57.1512 Length and maturity of loans.
57.1513 Repayment.
57.1514 Loan guarantee and interest subsidy agreements.
57.1515 Loan closing.
57.1516 Right of recovery—subordination.
57.1517 Waiver of right of recovery.

AUTHORITY: Sec. 727, 77 Stat. 170, as amended, (42 U.S.C. 293g.)

Subpart P—Loan Guarantees and Interest Subsidies to Assist in Construction of Teaching Facilities for Health Profession Personnel

§ 57.1501 Applicability.

The regulations of this subpart are applicable to loan guarantees and interest subsidy payments made pursuant to section 729 of the Public Health Service Act (42 U.S.C. 293i) to assist nonprofit private entities which are eligible for grants under subpart B of this part in carrying out projects for construction of teaching facilities for health professions personnel.

§ 57.1502 Definitions.

As used in this subpart:

(a) All terms not defined herein shall have the same meanings as given them in section 724 of the act.

(b) "Act" means the Public Health Service Act, as amended.

(c) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(d) "School" means a school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health which provides a course of study or a portion thereof which leads respectively to a degree of doctor of medicine, doctor of dental surgery or an equivalent degree, doctor of osteopathy, doctor of optometry or an equivalent degree, doctor of podiatry or an equivalent degree, bachelor of science in pharmacy or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or a graduate degree in public health, and which is accredited as provided in section 721(b)(1) of the act.

(e) "Affiliated hospital" or "affiliated outpatient facility" means a hospital or outpatient facility (as defined in section 645 of the act) which, although not owned by such school, has a written agreement with a school of medicine, osteopathy, or dentistry eligible for assistance under subpart B of this part, providing for effective control by the school of the health professions teaching program in the hospital or outpatient facility.

(f) "Nonprofit" as applied to any school, hospital, outpatient facility, or other entity means one which is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure to the benefit of any private shareholder or individual.

(g) "Council" means the National Advisory Council on Health Professions Education (established pursuant to sec. 725 of the act).

§ 57.1503 Eligibility.

(a) *Eligible applicants.*—In order to be eligible for a loan guarantee or interest subsidy under this subpart, the applicant shall:

(1) Be a nonprofit private school of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine, or public health, or any combination of such schools, or a nonprofit private affiliated hospital or affiliated outpatient facility: *Provided, however,* That in the case of an affiliated hospital or affiliated outpatient facility, an application which is approved by the school of medicine, osteopathy or dentistry with which the hospital or outpatient facility is affiliated and which otherwise complies with the requirements of subpart B of this part may be filed by any nonprofit private entity qualified to file an application under section 605 of the act; and

(2) Otherwise meet the applicable requirements set forth in section 721(b) of the act and § 57.103 with respect to eligibility for grants for construction of teaching facilites for health professions personnel.

(b) *Eligible loans.*—Subject to the provisions of this subpart, the Secretary may guarantee payment, when due, of principal and interest on, or may pay interest subsidies with respect to, or may both guarantee and pay interest subsidies with respect to any loan or portion thereof made to an eligible applicant by a non-Federal lender: *Provided,* That no

such guarantee or interest subsidy shall apply to any loan the interest on which is exempt from Federal income taxation.

§ 57.1504 Application.

Each applicant desiring to have a loan guaranteed or to have interest subsidies paid on its behalf, or any combination of such loan guarantee or interest subsidies, shall submit an application for such assistance in such form and manner and at such time as the Secretary may require.[1]

(a) The application shall contain or be supported by such information as the Secretary may require to enable him to make the determinations required of him under the act and this subpart.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any loan guarantee or agreement to pay interest subsidies, including the applicable regulations of this subpart.

§ 57.1505 Approval of applications.

(a) *General.*—Any application for loan guarantee or interest subsidies, or for a combination of both, may be approved by the Secretary, after consultation with the Council, only if he makes each of the applicable determinations set forth in section 721(c) of the act. In addition:

(1) Any such approval shall be subject to compliance by the applicant with the applicable provisions set forth in §§ 57.106, 57.107, 57.108, and 57.110: *Provided however,* That for purposes of the title assurance in § 57.107(a) the period shall be not less than 20 years or the term of the guaranteed loan, whichever is longer or in the case of interim facilities, the term of the guaranteed loan, and

(2) Any such application may be approved by the Secretary only if he determines:

(i) That the applicant will have sufficient financial resources to enable him to comply with the terms and conditions of the loan;

(ii) That the applicant has the necessary legal authority to finance, construct, and maintain the proposed project, to apply for and receive the loan, and to pledge or mortgage any assets or revenues to be given as security for such loan;

(iii) That the loan will be made only with respect to the initial permanent financing of the project;

(iv) That the loan will be secured by a lien against the facilities to be constructed or against other security satisfactory to the Secretary specified in § 57.2210;

(v) That the rate of interest on the loan does not exceed such percent per annum as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States; and

(vi) Such additional determinations as the Secretary finds necessary with respect to particular applications in order to protect the financial interests of the United States.

(b) *Loan guarantees.*—In addition to the requirements of paragraph (a) of this section, any application for a loan guarantee may be approved by the Secretary only if he determines that the loan with respect to which such guarantee is sought would not be available to the applicant on reasonable terms and conditions without such guarantee. To assist the Secretary in making such determination, each applicant for a loan guarantee shall submit statements from at least three non-Federal institutions normally engaged in making long-term loans for construction, describing whether, and the terms and conditions under which, each institution would make a loan to the applicant for the project described in the application.

(c) *Interest subsidies.*—In addition to the requirements of paragraph (a) of this section, any application for interest subsidies may be approved by the Secretary only if he determines that without such interest subsidy payments the applicant would not, over a substantial portion of the loan term, be able to repay the principal and interest of the loan without jeopardizing the quality of the educational program.

§ 57.1506 Priority.

(a) Priority in approving applications for loan guarantee and/or interest subsidies shall be determined in accordance with the factors specified in section 721(d) of the act, and the following: (1) The relative need for increased enrollment and the availability of students; (2) the relative effectiveness of the project relative to the cost to the Federal Government; and (3) the relative ability of the applicant to make efficient and productive use of the facility constructed.

(b) In the case of applications to aid in the construction of new schools of medicine, osteopathy, or dentistry, the Secretary shall give special consideration to those applications which contain or are reasonably supported by assurances that, because of the use that will be made by such school of already existing facilities (including Federal medical or dental facilities), the school will be able to accelerate the date on which it will begin its teaching program.

§ 57.1507 Limitations applicable to loan guarantee.

(a) The amount of loan with respect to which a guarantee is made under this subpart shall be determined by the Secretary based upon such considerations as the availability of funds and the applicant's need therefor:

Provided, That: (1) Subject to paragraph (a)(2) of this section, no loan with respect to which a guarantee is made for any project under this subpart may be in an amount which, when added to the amount of any grant made with respect to such project under part B of title VII of the act or any other law of the United States, or to the total of such grants, exceeds 90 percent of the eligible cost of construction of such project as determined by the Secretary;

(2) Notwithstanding paragraph (a)(1) of this section, the Secretary may in particular cases guarantee loans in excess of the amount specified in paragraph (a)(1) of this section where he determines that, because of special circumstances, such additional loan guarantee will further the purposes of part B of title VII of the act. In making such determinations, the Secretary will in each case consider the following factors:

(i) The need for the project in the area to be served;

(ii) The availability of financing for the project on reasonable terms and conditions without such additional loan guarantee;

(iii) Whether the project can be constructed without such additional loan guarantee; and

(iv) Other relevant factors consistent with the purpose of part B of title VII of the act and this subpart.

(3) In determining the cost of construction of the project there shall be excluded from such cost all fees, interest, and other charges relating or attributable to the financing of the project except the following:

(i) Reasonable fees attributable to services rendered by legal counsel in connection with such loan;

(ii) With the approval of the Secretary, reasonable fees attributable to the services of a financial advisor in assisting the applicant in securing the loan and arranging for repayment thereof; and

(iii) Interest attributable to the interim financing of construction of the project prior to the initial permanent financing thereof.

(b) No loan guarantee under this subpart shall apply to more than 90 percent of the loss of principal of and interest on such loan incurred by the holder of such loan upon default by the applicant.

§ 57.1508 Amount of interest subsidy payments; limitations.

The length of time for which interest subsidy payments will be made under the agreement, the amount of loan with respect to which such payments will be made, and the level of such payments shall be determined by the Secretary on the basis of the availability of funds and his determination of the applicant's need therefor taking into consideration his analysis of the present and reasonable projected future financial ability of the applicant to repay the principal and interest of the loan without jeopardizing the quality of its educational program:

[1] Applications and instructions are available from the Division of Physician and Health Professions Education, Bureau of Health Manpower Education, National Institutes of Health, Bldg. 31, 9000 Rockville Pike, Bethesda, Md. 20014.

Provided however, That each such interest subsidy payment shall not exceed the amount necessary to reduce by 3 percent per annum the net effective interest rate otherwise payable on the loan or the portion thereof with respect to which such interest subsidy is paid.

§ 57.1509 Forms of credit and security instruments.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be evidenced by a credit instrument and secured by a security instrument in such forms as may be acceptable to the Secretary.

§ 57.1510 Security for loans.

Each loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be secured in a manner which the Secretary finds reasonably sufficient to insure repayment. The security may be one or a combination of the following:

(a) A first mortgage on the facility and site thereof.

(b) Negotiable stocks or bonds of a quality and value acceptable to the Secretary.

(c) A pledge of unrestricted and unencumbered income from an endowment or other trust fund acceptable to the Secretary.

(d) A pledge of a specified portion of annual general or special revenues of the applicant acceptable to the Secretary.

(e) Such other security as the Secretary may find acceptable in specific instances.

§ 57.1511 Opinion of legal counsel.

At appropriate stages in the application and approval procedure for a loan guarantee or interest subsidy, the applicant shall furnish to the Secretary a memorandum or opinion of legal counsel with respect to the legality of any proposed note issue, the legal authority of the applicant to issue the note and secure it by the proposed collateral, and the legality of the issue upon delivery. "Legal counsel" means either a law firm or individual lawyer, thoroughly experienced in the long-term financing of construction projects, and whose approving opinions have previously been accepted by lenders or lending institutions. The legal memorandum or opinion to be provided by legal counsel in each case shall be as follows:

(a) A memorandum, submitted with the application for a loan guarantee or interest subsidy, stating that the applicant is or will be lawfully authorized to finance, construct, and maintain the project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority; and

(b) A final approving opinion, delivered to the Secretary at the time of delivery of the evidence of indebtedness to the lender, stating that the credit and security instruments executed by the applicant are duly authorized and delivered and that the indebtedness of the applicant is valid, binding, and payable in accordance with the terms on which the loan guarantee was approved by the Secretary.

§ 57.1512 Length and maturity of loans.

The repayment period for loans with respect to which guarantees are made or interest subsidies paid under this subpart shall be limited to 30 years:

Provided, That: (a) The Secretary may, in particular cases where he determines that a repayment period of less than 30 years is more appropriate to an applicant's total financial plan, approve such shorter repayment period;

(b) The Secretary may, in particular cases where he determines that, because of unusual circumstances, the applicant would be financially unable to amortize the loan over a repayment period of 30 years, approve a longer requirement period which shall in no case exceed 40 years; and

(c) In no case shall a loan repayment period exceed the useful life the facility to be constructed with the assistance of the loan.

§ 57.1513 Repayment.

Unless otherwise specifically authorized by the Secretary, each loan with respect to which a guarantee is made or interest subsidies are paid shall be repayable in substantially level total annual installments of principal and interest, sufficient to amortize the loan through the final year of the life of the loan.

§ 57.1514 Loan guarantee and interest subsidy agreements.

For each application for a loan guarantee or interest subsidy, or combination thereof, which is approved by the Secretary under this subpart, an offer to guarantee such loan and/or make interest subsidy payments with respect thereto will be sent to the applicant, setting forth the pertinent terms and conditions for the loan guarantee and/or interest subsidy, and will be conditioned upon the fulfillment of such terms and conditions. The accepted offer will constitute the loan guarantee agreement, the interest subsidy agreement, or the loan guarantee and interest subsidy agreement, as the case may be. Each such agreement shall include the applicable provisions set forth below:

(a) *Loan guarantee.*—Each agreement pertaining to a loan guarantee shall include the following provisions:

(1) That the loan guarantee evidenced by the agreement shall be incontestable (i) in the hands of the applicant on whose behalf such loan guarantee is made except for fraud or misrepresentation on the part of such applicant, and (ii) as to any person who makes or contracts to make a loan to such applicant in reliance on such guarantee, except for fraud or misrepresentation on the part of such other person.

(2) That the applicant shall be permitted to prepay up to 15 percent of the original principal amount of such loan in any calendar year without additional charge. The applicant and the lender may further agree that the applicant shall be permitted to prepay in excess of 15 percent of the original amount of the loan in any calendar year without additional charge, but no such payment in excess of 15 percent shall be made without the prior written approval of the Secretary.

(3) That if the applicant shall default in making periodic payment, when due, of the principal and interest on the loan guaranteed under the agreement, the holder of the loan shall promptly give the Secretary written notification of such default. The Secretary shall, immediately upon receipt of such notice, provide the holder with written acknowledgement of such receipt.

(4) That if such default in making periodic payment when due of the principal and interest on the guaranteed loan is not cured within 90 days after receipt by the Secretary of notice of such default, the holder of the loan shall have the right to make demand upon the Secretary, in such form and manner as the Secretary may prescribe, for payment of 90 percent of the amount of the overdue payments of principal and accrued interest, together with such reasonable late charges as are made in accordance with the terms of the credit instrument or security instrument evidencing or securing such loan. The Secretary shall pay such amount from funds available to him for these purposes.

(5) That in the event of exercise by the holder of the loan of any right to accelerate payment of such loan as a result of the applicants default in making periodic payment when due of the principal and interest on the guaranteed loan, the Secretary shall, upon demand by the holder not less than 90 days after receipt by the Secretary of notification of such default, pay to such holder 90 percent of the total amount of principal and of interest on the loan remaining unpaid after the holder has exercised his right to foreclose upon and dispose of the security and has applied the proceeds thereby received to reduce the outstanding balance of the loan, in accordance with applicable law and the terms of the security instrument.

(6) That the Secretary shall not guarantee any funds which are disbursed by a lender following notification by the Secretary to such lender that the Assurance executed by the Applicant under section 799A of the Act is no longer satisfactory.

(b) *Interest subsidy.*—Each agreement pertaining to the payment of interest subsidies with respect to a loan shall include the following provisions:

(1) That the holder of the loan shall have a contractual right to receive from the United States interest subsidy payments in amounts sufficient to reduce by up to 3 percent per annum the net effective interest rate determined by the Secretary to be otherwise payable on such loan.

(2) That payments of interest subsidies pursuant to subparagraph (1) of this

paragraph will be made by the Secretary, in accordance with the terms of the loan with respect to which the interest subsidies are paid, directly to the holder of such loan, or to a trustee or agent designated in writing to the Secretary by such holder, until such time as the Secretary is notified in writing by the holder that such loan has been transferred. Pursuant to such written notification of transfer, the Secretary will make such interest payments directly to the new holder (transferee) of the loan: *Provided, however*, That it shall be the responsibility of the holder to remit any payments of interest subsidy to the new holder which the Secretary may have made to the holder after such transfer and prior to receipt of such written notice, and the Secretary shall not be liable to any party for amounts remitted to the holder prior to receipt of such written notice and acknowledgment in writing by the Secretary of receipt of such notice.

(3) That the holder of the loan will promptly notify the Secretary of any default or prepayment by the applicant with respect to the loan.

(4) In the event of any exercise by the holder of the loan of the right to accelerate payment of such loan, whether as a result of default on the part of the applicant or otherwise, the Secretary's obligations with respect to the payment of interest subsidies shall cease.

(5) Where, during the life of the loan with respect to which interest subsidies are to be paid, the applicant ceases to use the facility for the purposes for which constructed, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided, however*, That where the applicant is continuing to use the facility for purposes eligible for support under part B of title VII of the act, the Secretary may make a determination, based upon the health manpower needs of the community served by the facility as well as other relevant factors, to continue to make interest subsidy payments in accord with the agreement.

(6) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined, after an opportunity for a hearing pursuant to 45 CFR Part 83, that the Assurance executed by the Applicant under Section 799A of the Act, is no longer satisfactory, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he determines that a subsequent Assurance submitted by the applicant is satisfactory.

(7) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined by the Secretary, after an opportunity for a hearing pursuant to 45 CFR Parts 80 and 81, that the applicant has ceased to comply with the Assurance it has executed under 45 CFR 80.4(d) concerning nondiscrimination on the basis of race, color or national origin, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of title VI of the Civil Rights Act of 1964 and implementing regulations.

(8) Where during the life of the loan with respect to which interest subsidies are to be paid, it is determined by the Secretary after an opportunity for a hearing pursuant to title IX of the Education Amendments of 1972, that the applicant has ceased to comply with such title, and its implementing regulations, the Secretary's obligation with respect to the payment of interest subsidies shall cease: *Provided however*, That the Secretary shall resume making interest subsidy payments if he subsequently determines that the applicant has come into compliance with the requirements of title IX of the Education Amendments of 1972 and implementing regulations.

(c) *General.*—In addition to the applicable requirements of paragraphs (a) and (b) of this section, each agreement, whether pertaining to a loan guarantee or interest subsidy or both, shall contain such other provisions as the Secretary finds necessary in order to protect the financial interests of the United States.

§ 57.1505 Loan closing.

Closing of any loan with respect to which a guarantee is made or interest subsidies are paid under this subpart shall be accomplished at such time as may be agreed upon by the parties to such loan and found acceptable to the Secretary.

§ 57.1516 Right of recovery-subordination.

(a) The United States shall be entitled to recover from the applicant for a loan guarantee under this subpart the amount of any payment made pursuant to such guarantee, unless the Secretary waives such right of recovery as provided in § 57.1517.

(b) Upon making of any payments pursuant to a loan guarantee under this subpart, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

§ 57.1517 Waiver of right to recovery.

In determining whether there is good cause for waiver of any right of recovery which he may have against an applicant by reason of any payments made pursuant to a loan guarantee under this subpart, the Secretary shall take into consideration the extent to which:

(a) The facility with respect to which the loan guarantee was made will continue to be devoted by the applicant or other owner to the teaching of health professions personnel, or to other purposes in the sciences related to health for which funds are available under part B of title VII of the act and these regulations;

(b) A hospital or outpatient facility will be used as provided for under title VI of the act;

(c) There are reasonable assurances that for the remainder of the repayment period of the loan other facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and extent for such purposes; and

(d) Such recovery would seriously curtail the training of qualified health professions personnel in the area served by the facility.

[FR Doc.73-24595 Filed 11-16-73;8:45 am]

Proposed Rules

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

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1301]

CONTROLLED SUBSTANCES

Reporting of In-Transit Losses

Evaluation by the Drug Enforcement Administration has disclosed that many in-transit losses of controlled substances have not been reported to Drug Enforcement Administration. Registrants have indicated that the regulations are uncertain as to whether the supplier or the purchaser should report an in-transit loss, therefore, in many instances, no report of a loss has been filed. Section 1301.74(e) provides, in part, "The registrant shall notify the Regional Office" of any theft or significant loss of controlled substances. Section 1301.74(e) specifies that a registrant is responsible for selecting common or contract carriers which provide adequate security to guard against in-transit loss of controlled substances. However, the regulations do not specifically provide for the reporting of losses from these non-registrant carriers.

In order to provide Drug Enforcement Administration with this significant information concerning patterns and methods of diversion of controlled substances, it is proposed that the registrant responsible for reporting in-transit losses be specifically designated as the supplier.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by 28 CFR 0.100, the Administrator proposes that 21 CFR 1301.74 be amended to read:

§ 1301.74 Other Security Controls for Non-Practitioners.

* * * * *

(c) The registrant shall notify the Regional Office of the Administration in his region of any theft or significant loss of any controlled substances upon discovery of such theft or loss. The supplier shall be responsible for reporting in-transit losses of controlled substances by the common or contract carrier selected pursuant to § 1304.74(e), upon discovery of such theft or loss. The registrant shall also complete DEA Form 106 regarding such theft or loss. Thefts must be reported whether or not the controlled substances are subsequently recovered and/or the responsible parties are identified and action taken against them.

Dated November 13, 1973.

JOHN R. BARTELS, Jr.,
Administrator, Drug Enforcement Administration.

[FR Doc.73-24570 Filed 11-16-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-SW-73]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Bastrop, La., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 19, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

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

In § 71.181 (38 FR 435), the Bastrop, La., transition area is amended to read:

BASTROP, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Morehouse Memorial Airport (latitude 32° 45'25" N., longitude 91°52'50" W.) and within 2 miles each side of the Monroe VORTAC 030° T (024° M) radial extending from the 5-mile radius area to 19 miles northeast of the VORTAC and within 3 miles each side of the 159° T (153° M) bearing from the NDB (latitude 32°45'28" N., longitude 91°52'53" W.) extending from the 5-mile radius area to 8 miles southeast of the NDB.

Alteration of the transition area is necessary to provide controlled airspace for the instrument approach procedure predicated on the Bastrop NDB.

(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 Fort Worth, TX, on November 9, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-24537 Filed 11-16-73;8:45 am]

[14 CFR Part 71]

(Airspace Docket No. 73-SW-75)

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Fairview, Okla.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 19, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the

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

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

In section 71.181 (38 FR 435), the following transition area is added:

FAIRVIEW, OKLA.

Within a 5-mile radius of the Fairview, Okla., Municipal Airport (latitude 36°17'12" N., longitude 98°28'00" W.) and within 3.5 miles either side of the 351° M. (360° T) bearing of the Fairview RBN (latitude 36°17'10" N., longitude 98°28'06" W.) extending from the 5-mile radius zone to 2.5 miles north.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at the Fairview, Okla., Municipal Airport.

(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 Fort Worth, TX, on November 9, 1973.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.73-24536 Filed 11-16-73;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Parts 571, 575]

[Docket Nos. 1-7, 25; Notice 3, 7]

NEW PNEUMATIC TIRES FOR PASSENGER CARS AND UNIFORM TIRE QUALITY GRADING

Requirements for Tire Traction

This notice proposes to amend Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires" (49 CFR 571.109) to establish minimum traction performance requirements for passenger car tires. It also modifies the proposed Uniform Tire Quality regulation to make the grading scheme for tire traction consistent with the proposed minimum performance criteria.

An advance notice of proposed rulemaking regarding tire traction was published October 14, 1967 (32 FR 14278). That notice requested information on the traction ability of tires for use on passenger cars, multipurpose passenger vehicles, trucks, trailers, buses, and motorcycles, including information on drive traction, braking traction, and lateral traction, on various types of surfaces, such as concrete and asphalt, and on various surface conditions, such as dry, wet, ice, and slush, with particular emphasis on hydroplaning properties. Comments were also requested on requirements for tire handling properties, such as cornering stiffness, with consideration of tire composition, tread configuration, and depth.

The NHTSA has for several years attempted to develop a technical basis for setting minimum performance levels and comparative grading for tire traction. As a result of these efforts it recently proposed comparative grading requirements for tire traction in the proposed Uniform Tire Quality Grading regulation (38 FR 6194, March 7, 1973). These requirements, which deal with braking traction, serve as the basis for this proposal. The requirements proposed herein would apply only to tires manufactured for use on passenger cars. Requirements for tire traction for tires for use on multipurpose passenger vehicles, trucks, trailers, buses, and motorcycles will be issued at a later time when further data is assembled.

The proposal specifies the use as a test device of a two-wheeled test trailer, capable of water delivery, that is constructed essentially as that specified in the American Society for Testing Materials Method E-274-70. In the test procedure proposed, as in the proposed Quality Grading regulation, the trailer is equipped with two identical "control tires" and towed over two test surfaces, described by skid number, at 20, 40, and 60 miles per hour. Certain comments to the Quality Grading proposal have argued that an appropriate surface description should include, in addition to skid number, a specification for the test surface. Although this notice does not contain these specifications the NHTSA will take appropriate steps with respect to both this proposal and the Quality Grading regulation if it determines that specifications for the test surfaces are necessary.

The control tires would be those specified in the notice proposing the Uniform Tire Quality Grading regulation: 2-ply rayon tires of bias construction, in sizes 6.50-13, 7.75-14, and 8.55-15, whose precise specifications have been proposed in the Quality Grading regulation and would be incorporated into this amendment. To promote uniformity, they would, similar to the conditions set forth in the Quality Grading proposal, be available from a source specified by NHTSA. During the test runs, average retarding force at each speed would be computed in wheel lock-up condition. The same test would then be run using the manufacturer's tires. To meet the performance level established by the standard, the manufacturer's tires would have to provide traction performance equal to at least 90 percent of the appropriate control tire performance (viz., the control tire having the same nominal rim diameter as the manufacturer's tire), computed using a formula specified in the standard.

The comments to the Advance Notice were mostly general in nature. Many comments took the position that tire traction should not be considered separately from vehicle handling. Others stated the conflicting view that tire performance under a safety standard should be divorced from the effects of vehicle suspension. While most comments indicated that traction requirements were desirable, many stated that numerous types of traction performance existed and should be considered, noting as well potential difficulties in establishing such requirements due to the lack of data on both desirable performance levels and appropriate test procedures. The NHTSA believes that the procedure proposed will provide a satisfactory basis for measuring at least directional, wet-surface, locked-wheel traction, and that the performance level proposed, 90 percent of control tire performance, provides a reasonable minimum safety level that is well within the ability of tire manufacturers to meet. While some comments noted that suitable methods for testing traction had not been developed, the NHTSA has tentatively determined that the trailer method proposed has been sufficiently refined that it can serve to satisfactorily evaluate tire braking traction.

The proposed traction requirement would necessarily eliminate the grade representing less than 90 percent of control tire traction (—) in the proposed Quality Grading regulation. That grade would no longer be appropriate as it would represent a level of performance below the minimum acceptable level under the National Traffic and Motor Vehicle Safety Act.

In light of the above, it is proposed to amend Chapter V of Title 49, Code of Federal Regulations, as follows:

PART 571—MOTOR VEHICLE SAFETY STANDARDS

§ 571.109 [Amended]

1. S1., *Scope*, of 49 CFR 571.109 (Motor Vehicle Safety Standard No. 109) would be amended to read:

S1. *Scope.* This standard specifies passenger car tire dimensions and requirements for tire bead unseating resistance, strength, endurance, traction, and high speed performance; defines tire load ratings; and specifies labeling requirements.

2. A new S1.1, *Purpose*, would be added to § 571.109 to read:

S1.1 *Purpose.* The purpose of this standard is to provide minimum performance requirements for passenger car tires according to load rating, materials, and construction; to ensure uniformity of tire size designations; and to provide adequate sidewall information for purposes of appropriate application and defect notification.

3. S4.2.2.1, *Test sample*, of § 571.109 would be amended to read:

S4.2.2.1 *Test sample.* For each test sample use—

(a) One tire for physical dimensions, resistance to bead unseating, and strength, in sequence;

(b) A second tire for tire endurance;

(c) A third tire for high-speed performance, and;

(d) A fourth and a fifth tire for traction.

4. A new S4.2.2.7, *Traction*, would be added to § 571.109 to read:

S4.2.2.7 *Traction.* When tested in accordance with S5.6, the value obtained

pursuant to S5.6.2.11 shall be not less than 90 percent.

5. A new S5.6, *Traction*, would be added to § 571.109 to read:

S5.6 *Traction.*

S5.6.1 *Conditions.*

S5.6.1.1 The control tires are the 2-ply rayon tires specified in paragraph (i) of (proposed) § 575.104 of this chapter in sizes 6.50–13, 7.75–14, and 8.55–15.

S5.6.1.2 A control tire is discarded when its non-skid depth is worn 0.100 inches at any point.

S5.6.1.3 Before testing, protuberances (except for treadwear indicators) that are not part of the tread design are removed from candidate and control tires.

S5.6.1.4 Ambient temperatures are any temperatures between 40° F. and 90° F.

S5.6.2 *Procedures.*

S5.6.2.1 Mount two identical control tires on a test trailer built in conformity with the specifications in Paragraph 3, "Apparatus," of American Society for Testing Materials Method E–274–70, except that—

(a) "Wheel load" in paragraph 3.2.2 of that method shall be as specified in S5.6.2.3; and

(b) Tire and rim specifications in paragraph 3.2.3 of that method shall be candidate and control tires, as appropriate, and rims for the size of tire tested.

S5.6.2.2 Inflate the tires to a cold inflation pressure of 24 psi.

S5.6.2.3 Load the trailer so that the load on each tire equals the tire's maximum design load at 24 psi as specified in the 1972 Tire and Rim Association, Inc., Yearbook.

S5.6.2.4 Tow the trailer at 20 mph.

S5.6.2.5 On a surface having a wet skid number of 30, determined pursuant to American Society for Testing and Materials Method E–274–70, "Skid Resistance of Paved Surfaces, Using a Full-Scale Tire," except that the control tire specified in S5.6.1.1 rather than the ASTM tire shall be used to determine skid number, lock the trailer's brakes for 2 seconds while maintaining its forward speed.

S5.6.2.6 Record the retarding force on the tire at the tire-ground interface continuously from 0.2 to 1.2 seconds after wheel lockup, and compute the average retarding force over that interval.

S5.6.2.7 Compute the average coefficient of friction at the tire-ground interface (u_{30}) in the manner specified for calculating skid number (SN) in paragraphs 8.1 and 8.2 of American Society for Testing and Materials Method E–274–70.

S5.6.2.8 Repeat the procedures specified in S5.6.2.1 through S5.6.2.7, except with the trailer towed at 40 mph, and again at 60 mph.

S5.6.2.9 Repeat the procedures specified in S5.6.2.1 through S5.6.2.8, except on a surface with a wet skid number of 50, determined pursuant to American Society for Testing and Materials Method E–274–70, "Skid Resistance of Paved Surfaces Using a Full-Scale Tire," except that the control tire specified in S5.6.1.1 rather than the ASTM tire shall be used to determine skid number.

S5.6.2.10 Equip the trailer with 2 candidate tires, of the same type, tradename or line, and size designation, and having the same rim size as the control tire, inflated to a cold inflation pressure 8 pounds less than their maximum permissible inflation pressure, loaded to the weight specified for the tire at that inflation pressure in Appendix A of this section, and repeat the procedures specified in S5.6.2.4 through S5.6.2.9.

S5.6.2.11 Compute the candidate tire's traction performance as the ratio of its average friction coefficient to that of the control tire, expressed as a percentage (Q), as follows:

$$Q=\frac{u_{30}+u_{40}+u_{50}+u'_{30}+u'_{40}+u'_{50}}{v_{30}+v_{40}+v_{50}+v'_{30}+v'_{40}+v'_{50}}\times 100$$

where u and v refer to the average, measured friction coefficient for a test of candidate and control tires respectively, on a surface with wet skid number of 30, u' and v' the same for a surface with wet skid number of 50, and the subscripts refer to the test speeds in mph.

PART 575—CONSUMER INFORMATION REGULATIONS

§ 575.104 [Amended]

1. In the proposed 49 CFR 575.104, 38 FR 6194 (Uniform Tire Quality Grading), paragraph (d)(3)(i) would be revoked, and the corresponding entry in Figure 1, "DOT Tire Quality Grades", of the lowest grade for traction, "—* * * Below 90 percent of NHTSA control tire" would be deleted.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. 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 Administration 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 material.

Comment closing date: January 18, 1974.

Proposed effective date: September 1, 1974.

These proposed amendments are related directly to the requirements for traction grading proposed as part of the Uniform Tire Quality Grading regulation, and the NHTSA has tentatively determined that they should be effective concurrently with that regulation.

(Sec. 103, 112, 119, 201, 202, 203, Pub. L. 89–563, 80 Stat. 718, 15 U.S.C. §§ 1392, 1401, 1407, 1421, 1422, and 1423; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on November 13, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.73–24530 Filed 11–16–73;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 30, 40, 50, 51, 70]

ENVIRONMENTAL PROTECTION

Licensing and Regulatory Policy and Procedures; Corrections

In FR Doc. 73–23297 appearing on page 30203 in the issue of Thursday, November 1, 1973, the following changes should be made:

1. In the third column on page 30205, the twenty-fourth line in § 51.20(a) should read "commitments of resources which would".

2. In the second column on page 30206, the third line in § 51.23(a) should read "fied in § 51.20(a) or § 51.21, as appro-".

3. In the second column on page 30207, the first line in § 51.40 should read "Applicants for permits, licenses, and".

4. In the third column on page 30207, the twelfth line in § 51.51 should read "permits, orders, renewals, amendments, or".

5. In the second column on page 30208, the fifth line in § 51.54(a) should read "make the list available for public inspec-".

Dated at Germantown, Maryland, this 13th day of November 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73–24568 Filed 11–16–73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26092]

[14 CFR Parts 217, 239, 242, 243, 298]

REPORTING AND FILING TIME REQUIREMENTS

Proposed Changes and Clarifications

NOVEMBER 12, 1973.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 217, 239, 242, 243, and 298 which would: (1) Require that certain reports due under these Parts be received, rather than postmarked, by a specified due date; (2) prescribe a list of due dates for such filings; (3) require that requests for extensions of time for such filings be received not later than three (3) days prior to the due date; and (4) clarify the applicability of Part 239 to foreign carriers.

The principal features of the proposed amendments are described in the attached Explanatory Statement and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of sections

204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 17, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

Presently, financial and statistical reports filed in accordance with Parts 217, 242, 243, and 298 of the Economic Regulations are required to be postmarked, and those filed in accordance with Part 239 are required to be received, not more than a prescribed number of days after the end of the reporting period to which the particular schedule relates. These Parts also provide for the filing of requests for extension of filing times if the prescribed due dates cannot be met.

The within proposed rule would amend these parts to: (1) Require that certain prescribed reports thereunder are to be filed so as to be received by the Board, rather than postmarked, by a specific due date; (2) prescribe a list of due dates for such filings; and (3) require that requests for extensions of time for such filings be received not later than three (3) days prior to the due date. These amendments, if adopted, would make the reporting requirements of these Parts consistent with those in Part 241, one of the Board's primary information systems. The Board's reasons for proposing and adopting these reporting changes in Part 241, as set forth in EDR-227, and ER-773, respectively, included: (1) Although the time allowed for filing will be lessened by the change from postmark to receipt filings, the resulting burden is minimal; (2) the widespread use of postage meters has rendered somewhat obsolete the postmark test for timeliness of filing; (3) a list of specific due dates will eliminate any confusion involved in computing the correct filing date; (4) sufficient time is required to properly evaluate requests for extension of filing time and to notify the requesting carrier of the Board action; (5) public policy requires timely reporting of information obtained by the Board; and (6) administrative difficulties caused by irregularity of receipts of reports, including the enforcement of timely reporting and the scheduling of coding, key punching, editing, and processing of reported data will be eliminated. The Board has tentatively concluded that the foregoing reasons warrant the same reporting changes to Parts 217, 239, 242, 243, and 298.

As noted in ER-773, the proposed regulation does not present a novel approach to the problem of on-time reporting, as it has long been our practice to require that documents presented in proceedings before the Board be actually received on the date set for their filing, without regard to the mode of delivery.

We are also taking this occasion to point out, as was noted in EDR-227, that, while requests for extension under the proposed rule—as under the present rule—would continue to be entertained on less than the prescribed notice, in cases of emergency, the term "emergency" will henceforth be strictly construed. For example, an employee's illness or an incomplete audit will not necessarily be regarded as an emergency sufficient to justify the granting of an extension of time on less than three days' notice.

Additionally, the Board proposes to amend Part 239 to clarify the applicability of that Part to foreign carriers. Presently, the regulation states that foreign route air carriers "engaged in scheduled air services" or "serving the United States" are subject to the provisions of Part 239. Some confusion apparently exists as to the status of foreign route air carriers which are authorized to perform these services but are not actually engaged in doing so. Thus, although some foreign carriers which are authorized to perform these services have not been filing the appropriate schedules of Form 239, the Board encounters difficulty in ascertaining whether such failure to file schedules is due to simple delinquency or to the foreign carrier's contention that the rule is inapplicable because of the carrier's actual operations. The proposed amendments will change the language of the regulation to state clearly that it applies to foreign route air carriers which are "authorized to engage in scheduled air services" and which are "authorized to serve the United States."

Finally, appropriate footnotes have been added to indicate that reporting forms are available in the publications section of the Board, and for the sake of uniformity, modifications have been made to the requirements for the preparation and filing of certification statements covering reported data.

Since implementation of the rules proposed herein would impose no significant hardships upon the carriers, interested parties are hereby advised that we contemplate concluding this rulemaking proceeding as expeditiously as possible, so that such proposed changes as we may determine to make final may be made effective beginning with reports covering periods ended Decembr 31, 1973.

It is proposed to amend Parts 217, 239, 242, 243, and 298 of the Economic Regulations (14 CFR Parts 217, 239, 242, 243 and 298) as follows:

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

1. Amend paragraph (b) of § 217.3 to read as follows:

§ 217.3 Report of civil aircraft charters performed by foreign air carriers.

* * * * *

(b) Three copies of CAB Form 217[1] shall be filed for the quarters ending March 31, June 30, September 30, and December 31 of each calendar year. These reports shall be submitted to the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, so as to be received on or before the due dates indicated below:

SCHEDULE OF DUE DATES

Filing for quarter ended	*Due date*
March 31	May 10.
June 30	August 10.
September 30	November 10.
December 31	February 10.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

2. Amend § 217.4 to read as follows:

§ 217.4 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If a request is denied, the foreign air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

PART 239—REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

1. Amend paragraphs (a), (b), and (d) of § 239.2, and reserve paragraph (e) thereof. The section, as amended, to read in part is as follows:

§ 239.2 Applicability of part and CAB Form 239 filing requirements.

(a) This part applies to all certificated route carriers and certificated supplemental air carriers, commuter air carriers under Part 298 of the Board's Economic Regulations (14 CFR Part 298), air freight forwarders and international air freight forwarders under Part 296 or 297 of the Board's Economic Regulations, respectively (14 CFR Parts

[1] CAB Form 217 may be obtained from the Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

296, 297), and foreign route air carriers authorized to engage in scheduled air services.

(b) Two copies of each schedule in the CAB Form 239[1] report entitled "Report of Freight Loss and Damage Claims," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 239 Report," so as to be received on or before the due date specified in that list.

[1] CAB Form 239 may be obtained from the Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

LIST OF SCHEDULES IN CAB FORM 239 REPORT

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10.
A	Report of freight loss and damage claims paid	do	Do.
B	Analysis of shortage	do	Do.
C	Analysis of claims processed	do	Do.
D	Summary of freight loss and damage claims paid	Annually	Feb. 10.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

* * * * *

(d) Schedules B and D shall be filed by all certificated route air carriers, certificated supplemental air carriers, commuter air carriers, air freight forwarders and international air freight forwarders and foreign route air carriers.[2]

(e) [Reserved]

* * * * *

2. Redesignate footnote "33" to paragraph (d) of § 239.2 as footnote "2" and amend its text to read as follows:

3. Amend § 239.3 to read as follows:

§ 239.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

4. Amend section 239.4 to read as follows:

§ 239.4 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in duplicate, shall accompany each Form 239 filed with the Board. This certificate is the cover sheet of Form 239 and applies to all schedules and documents filed therewith.

[2] Only foreign route air carriers authorized to serve the United States are required to file Schedules B and D of CAB Form 239. Data called for in such reports shall relate only to freight traffic from and/or to the United States and claims relating thereto.

PART 242—REPORTING RESULTS OF SCHEDULED ALL-CARGO SERVICES

1. Amend the table of contents as follows:

Sec.
242.2 CAB Form 242—Report of Scheduled All-Cargo Services; filing requirements.

2. Amend § 242.2 by deleting the present section in its entirety and inserting in lieu thereof a new § 242.2, to read as follows:

§ 242.2 CAB Form 242—Report of Scheduled All-Cargo Services; filing requirements.

(a) Two copies of each schedule in the CAB Form 242 report[1] entitled "Report of Scheduled All-Cargo Services," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 242 Report," so as to be received on or before the due date specified in that list.

(b) List of Schedules in CAB Form 242 Report.

[1] CAB Form 242 may be obtained from the Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Semiannually	August 15 and April 5.
B	Invested capital-scheduled all-cargo services	do	Do.
P	Operating statement-scheduled all-cargo services.	do	Do.
T	Aircraft statistics-scheduled all-cargo services	do	Do.
	Statement of allocation procedures	Initially and upon revision.	With other schedules when required.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

3. Amend § 242.3 to read as follows:

§ 242.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

PART 243—REPORT OF CHARTER SERVICES PERFORMED FOR THE MILITARY AIRLIFT COMMAND

1. Amend § 243.2 by deleting the present section in its entirety and inserting in lieu thereof a new § 243.2, to read as follows:

§ 243.2 Applicability and CAB Form 243 filing requirements.

(a) This part applies only to certificated air carriers performing Category B, Logair, or Quicktrans charter services under fiscal year contracts with the Military Airlift Command. Scheduled carriers operating full planeload Category X charters may include the results of such operations with Category B charters: *Provided*, That all Category X data are included—i.e., revenues, expenses, and traffic statistics; and *Provided further*, That no data for "quasi-Category X" scheduled services are included.

(b) Three copies of each schedule in the CAB Form 243[1] report, entitled "Report of Charter Services Performed for the Military Airlift Command," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 243 Report," so as to be received on or before the due date specified in that list.

(c) List of schedules in CAB Form 243 Report.

[1] CAB Form 243 may be obtained from the Publications Section, Civil Aeronautics Board, Washington, D.C. 20428.

Schedule No.	Schedule title	Filing frequency	Due date
	Certification	Quarterly	June 1, Sept. 1, Dec. 1, Mar. 30.
D-1	Summary of invested capital—MAC charter contracts.	do	Do.
D-2	Summary of financial results of operations—MAC charter contracts.	do	Do.
D-3	Summary of operating statistics and aircraft utilization—MAC charter contracts.	do	May 10, Aug. 10, Nov. 10, Feb. 10.
D-4	Statement of allocation procedures—MAC charter contracts.	Initially and upon revision.	May 10, Aug. 10, Nov. 10, Feb. 10, when required.
D-4a	Certification of previously filed allocation procedures—MAC charter contracts.	Annually	Aug. 10 (not required if D-4 is filed).

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

2. Amend § 243.3 to read as follows:

§ 243.3 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

3. Amend § 243.5 to read as follows:

§ 243.5 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in triplicate, shall be filed quarterly with the Board. This certificate is the cover sheet of Form 243 and applies to all schedules and documents filed therewith and those that have been submitted previously as parts of this report for each quarter.

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

1. A. Amend § 298.60 by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 298.60 Report of scheduled air taxi operations.

* * * * *

(b) Three copies of each schedule in the CAB Form 298-C report entitled "Report of Scheduled Operations of Commuter Air Carriers," shall be filed with the Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428, in accordance with the following list, entitled "List of Schedules in CAB Form 298-C Report," so as to be received on or before the due date specified in that list.

(c) List of Schedules in CAB Form 298-C Report.

Schedule No.	Schedule title	Filing frequency	Due dates
	Certification	Quarterly	May 10, Aug. 10, Nov. 10, Feb. 10.
A-1	Report of aircraft operated	do	Do.
T-1	Report of on-line origin and destination of traffic	do	Do.
T-2	Report of flight operated	do	Do.

Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

B. Delete footnote 25 to old paragraph (b).

2. Amend § 298.61 to read as follows:

§ 298.61 Filing of flight schedules—current schedules and subsequent modifications.

Each commuter air carrier shall file with the Director, Office of Facilities and Operations, Civil Aeronautics Board, Washington, D.C. 20428, to be received within thirty (30) days after commencing operations, a copy of its most recent published flight schedules, along with a statement of rates and fares charged for transportation on scheduled flights. Thereafter, if any modification in such schedules or statement of rates or fares is made, a copy of such modifications shall be filed, to be received by the Board, not later than ten (10) days after the modification becomes effective.

3. Amend § 298.62 to read as follows:

§ 298.62 Extension of filing time.

If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If the request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

4. Amend § 298.63 to read as follows:

§ 298.63 Certification.

The certificate of the officer in charge of the carrier's accounts, executed in triplicate, shall be filed quarterly with the Board. This certificate is the cover sheet of Form 298-C and applies to all schedules and documents filed therewith.

[FR Doc.73-24501 Filed 11-16-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19692]

SAMPLING SYSTEMS FOR ANTENNA MONITORS IN CERTAIN BROADCAST STATIONS

Order Extending Time for Filing Reply Comments

In the matter of amendment of Part 73 of the Commission's rules and regulations to establish standards for the design and installation of sampling systems for antenna monitors in standard broadcast stations with directional antennas.

1. On February 21, 1973, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on March 2, 1973, 38 FR 5666. The date for filing comments has expired and the present date for filing reply comments is November 13, 1973 (38 FR 29820).

2. On November 9, 1973, the Association of Federal Communications Consulting Engineers (AFCCE) requested that the time for filing reply comments be extended to and including November 30, 1973. It states that the additional time is needed in order to discuss the reply comments of its general membership meeting to be held on November 15.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered*, That the date for filing reply comments is extended to and including November 30, 1973.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commissions' rules.

Adopted: November 12, 1973.

Released: November 13, 1973.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-24583 Filed 11-16-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19831; RM-2044]

FM BROADCAST STATIONS IN INDIANA AND MICHIGAN

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of section 73.202(b), table of assignments, FM

broadcast stations. (Goshen and South Bend, Indiana, and Dowagiac, Michigan.)

1. On September 26, 1973, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on October 9, 1973, 38 FR 27845. Comment and reply comment dates are presently designated as November 9 and November 19, 1973, respectively.

2. On November 7, 1973, Dowagiac Broadcasting Company, Inc., licensee of Station WDOW-FM, Dowagiac, Michigan (Dowagiac), requested that the time for filing comments and reply comments be extended to and including November 30 and December 10, 1973, respectively Dowagiac states that the additional time is necessary to complete exhaustive engineering studies.

3. It appears that the requested extention is warranted. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including November 30 and December 10, 1973, respectively.

4. This action is taken pursuant to authority found in section 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: November 9, 1973.

Released: November 12, 1973.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 73-24582 Filed 11-16-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 17]

MEDICAL BENEFITS

Expansion of Health Care

It is proposed to amend 38 CFR Part 17 to implement the provisions of Public Law 93-82 (87 Stat. 179), cited as the "Veterans Health Care Expansion Act of 1973."

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before December 19, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted effective in accordance with the provisions of Public Law 93-82. Regulations pertaining to reimbursement for loss of personal effects by natural disaster and reimbursement of certain medical expenses will be effective on January 1, 1971. Regulations pertaining to providing assistance to the Republic of the Philippines will be effective on July 1, 1973. All other amendments will be effective September 1, 1973.

The proposed changes to Part 17 will:

a. Permit the furnishing of certain medical services on an outpatient or ambulatory basis to any person eligible for Veterans Administration hospital care where such care is reasonably necessary to obviate the need for hospital admission.

b. Place peacetime veterans on the same basis as wartime veterans for hospital and nursing home benefits.

c. Provide outpatient care for any non-service-connected disability for veterans having an 80 percent service-connected rating.

d. Provide for furnishing of hospital and medical care for the wife or child of a permanently and totally disabled service-connected veteran and to the surviving widows and children of veterans who die as a result of a service-connected disability. Such care will be provided only if not otherwise provided under CHAMPUS, the medical program for certain dependents and survivors of active duty and retired members of the Armed Forces. This care is to be provided in the same or similar manner and is subject to the same or similar limitations as presently apply to Armed Forces dependents. The Veterans Administration is authorized to enter into contracts with the Department of Defense for this purpose. Care may also be provided for the subject group of dependents in Veterans Administration facilities where these facilities are particularly equipped to provide the most effective care and treatment and are not being utilized for the care of eligible veterans.

e. Permit the direct admission to non-Veterans Administration nursing homes for care in the case of service-connected veterans requiring such care for their service-connected disabilities upon determination of need therefor by a Veterans Administration staff or fee basis doctor, thus removing the requirement that these persons be first hospitalized in a Veterans Administration facility. The law also authorizes direct transfer of military personnel from military hospitals to Veterans Administration nursing home care facilities.

f. Authorize the Veterans Administration to enter into contracts to provide scarce medical specialist services at Veterans Administration facilities with medical schools, clinics, or any other group or individual capable of furnishing such services, including physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel.

g. Permit agreements to be entered into for sharing medical resources with medical schools and clinics regardless of whether or not they have hospital facilities.

h. Permit reimbursement of veterans in Veterans Administration hospitals or domiciliaries for loss of personal effects sustained by fire, earthquake, or other natural disaster. Previous law permitted reimbursement only in case of loss by fire.

i. Authorize reimbursement of certain costs to veterans who have service-connected disabilities, under limited circumstances, for the reasonable value of hospital care or medical service furnished by other than Veterans Administration sources. The new law codifies the authority for the payment and reimbursement of the expenses of medical services not previously authorized which is presently contained in §§ 17.80 through 17.91. The new law, however, also authorizes such reimbursement when the services were rendered for any disability of a veteran who has a total disability permanent in nature from a service-connected disability.

j. Clarify the term "Veterans Administration facilities" as it relates to provision of care in private facilities for Veterans Administration beneficiaries.

k. Extend with some changes the Veterans Administration authority to continue grants for hospital and medical care of veterans in the Republic of the Philippines until June 30, 1978.

l. Increase the per diem rate for "grant-in-aid" reimbursements of State soldiers' homes which provide care for veterans who are eligible for admission to Veterans Administration medical and domiciliary facilities. Under the new law reimbursement may also be provided to State home facilities where care is furnished veterans whose service occurred after January 31, 1955 in addition to that provided for war veterans.

m. Increase the percentage of the allowable contribution under the program of grants to States for construction, alteration, and renovation of State veterans' homes to 65 percent of the estimated costs of such projects.

n. Increase the formula for determining adequate State nursing home beds from 1½ beds to 2½ beds per 1,000 war veterans in any State.

1. In § 17.30, paragraphs (l) and (m) are amended to read as follows:

§ 17.30 Definitions.

* * * * *

(l) *Hospital care.* The term "hospital care" includes:

(1) Medical services rendered in the course of hospitalization of any veteran and transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation; and

(2) Such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving

care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of Title 38, United States Code under the terms and conditions set forth in the applicable Veterans Administration travel regulations of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or, in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such a veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and

(3) Medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care in a Veterans Administration medical facility and transportation and incidental expenses for a dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.

(m) *Medical services.* The term "medical services" includes, in addition to medical examination and treatment, such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care in a Veterans Administration medical facility, optometrists' services, dental and surgical services, and except under provisions of § 17.60(e), dental appliances, wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies as the Administrator determines to be reasonable and necessary.

* * * * *

2. The centerhead immediately preceding § 17.36 is changed and § 17.36 is revised to read as follows:

HOSPITAL OR NURSING HOME CARE AND MEDICAL SERVICES IN FOREIGN COUNTRIES

§ 17.36 Hospital or nursing home care and medical services in foreign countries other than the Philippines.

No person shall be entitled to receive hospital, nursing home or domiciliary care or medical services in a foreign country other than the Republic of the Philippines, except as provided in paragraphs (a) and (b) of this section:

(a) Hospital or nursing home care or medical services for otherwise eligible veterans who are citizens of the United States sojourning or residing abroad and in need of treatment for an adjudicated service-connected disability, or non-service-connected disability associated with and held to be aggravating a service-connected disability.

(b) Hospital or nursing home care or medical services for a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and who is medically determined to be in need of care or treatment for any of the following reasons:

(1) To make possible his entrance into a course of training; or

(2) To prevent interruption of a course of training; or

(3) To hasten the return to a course of training of a veteran in interrupted or leave status, when a cessation of instruction has become necessary because of illness, injury, or a dental condition.

3. Section 17.37 is revised to read as follows:

§ 17.37 Hospital or nursing home care in the Philippines in facilities other than Veterans Memorial Hospital.

Hospital or nursing home care may be authorized in the Republic of the Philippines in facilities other than the Veterans Memorial Hospital for any veteran, if:

(a) *For United States veterans.* He is a United States veteran and is eligible for hospital or nursing home care under § 17.47 (a) or (b), or a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and hospital care has been determined necessary for any of the reasons enumerated in § 17.36(b), or

(b) *For Commonwealth Army veterans or new Philippine Scouts.* He is a Commonwealth Army veteran or a new Philippine Scout in need of hospital or nursing home care for service-connected disability or non-service-connected disability associated with and held to be aggravating a service-connected disability and (1) facilities in the Veterans Memorial Hospital are being used to the maximum extent feasible in hospitalizing such veterans, or (2) he is suffering from leprosy, or (3) use of the facility is required in emergency circumstances.

4. In § 17.38, the headnote, the introductory portion preceding paragraph (a) and paragraphs (b)(2) and (c) are amended and paragraphs (d) and (e) are added so that the amended and added material reads as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Hospital, Philippines.

Hospital or nursing home care at the Veterans Memorial Hospital, Quezon City, Republic of the Philippines, may be authorized by the United States Veterans Administration pursuant to the terms and conditions set forth in §§ 17.350 through 17.370, for the following persons:

* * * * *

(b) *For new Philippine Scouts.* Care at the Veterans Memorial Hospital may be authorized for any person who served as a new Philippine Scout, if:

* * * * *

(2) He enlisted before July 4, 1946, he is in need of care for non-service-connected disability, and he is unable to defray the expenses of such care and so states under oath.

(c) *For United States veterans.* (1) Care at the Veterans Memorial Hospital may be authorized for any service-connected disability of a veteran of service in the Armed Forces of the United States (including veterans of service in the Philippine Scouts under laws in effect prior to the enactment of section 14 of the Armed Forces Voluntary Recruitment Act of 1945), who is eligible for hospital care under § 17.47 (a) or (b).

(2) Care at the Veterans Memorial Hospital may be authorized for a veteran of any war for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care and so states under oath.

(d) *Transfers for nursing home care.* Transfer of any veteran hospitalized in the Philippines at Veterans Administration expense to a nursing home facility may be authorized subject to the following:

(1) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(2) The cost of the nursing home care in such institution does not exceed 50 per centum of the Veterans Memorial Hospital per diem rate jointly determined for each fiscal year by the two governments to be fair and reasonable.

(3) The nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this subparagraph is not subject to any limitation.

(e) *Extensions of community nursing home care beyond 6 months.* The Chief Medical Director or his designee may authorize, for any veteran whose hospitalization was not primarily for a service-connected disability, an extension of nursing care in a contract nursing care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

5. Sections 17.39 and 17.40 are revised to read as follows:

§ 17.39 Outpatient care in the Philippines for United States veterans.

Outpatient care in the Republic of the Philippines may be authorized for any United States veteran eligible for such care under § 17.60.

§ 17.40 Outpatient care for Commonwealth Army veterans and new Philippine Scout veterans.

Outpatient care may be authorized in Veterans Administration facilities by contract or agreement between the two

governments for any Commonwealth Army veteran or new Philippine Scout veteran for the treatment of a service-connected disability, or for a nonservice-connected disability associated with and held to be aggravating a service-connected disability.

6. In § 17.46b, the headnote, the introductory portion preceding paragraph (a) and paragraphs (a) and (c) are amended to read as follows:

§ 17.46b Hospital care for certain retirees with chronic disability (Executive Orders 10122, 10400 and 11733).

Hospital care may be furnished when beds are available to members or former members of the uniformed services (Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, now National Oceanic and Atmospheric Administration hereinafter referred to as "NOAA", and Public Health Service) temporarily or permanently retired for physical disability or receiving disability retirement pay who require hospital care for chronic diseases and who have no eligibility for hospital care under laws governing the Veterans Administration, or who having eligibility do not elect hospitalization as Veterans Administration beneficiaries. Care under this section is subject to the following conditions:

(a) Persons defined in this section who are members or former members of the active military, naval, or air service must agree to pay the subsistence rate set by the Administrator of Veterans Affairs, except that no subsistence charge will be made for those persons who are members or former members of the Public Health Service, Coast Guard, Coast and Geodetic Survey now "NOAA", and enlisted personnel of the Army, Navy, Marine Corps, and Air Force.

* * * * *

(c) In the case of persons who are former members of the Coast and Geodetic Survey, care may be furnished under this section even though their retirement for disability was from the Environmental Science Services Administration or NOAA.

7. In § 17.47, paragraphs (a), (b), (c) (1), (d), and (f) are amended to read as follows:

§ 17.47 Eligibility for hospital, domiciliary or nursing home care of persons discharged or released from active military, naval, or air service.

Within the limits of Veterans Administration facilities, hospital, domiciliary, or nursing home care may be furnished the following applicants.

(a) Hospital or nursing home care for veterans in need of such care for an adjudicated service-connected disability or for a non-service-connected condition which is associated with and held to be aggravating such disability (see § 17.33 with respect to presumption relating to psychosis).

(b) Hospital or nursing home care:

(1) Hospital or nursing home care for veterans discharged or released for disability incurred or aggravated in line of duty when in need of hospital or nursing home care for the disability for which discharged or released, or for a non-service-connected condition which is associated with and held to be aggravating such disability.

(2) Hospital care for persons defined in § 17.46b who require hospitalization for chronic diseases incurred in line of duty.

(c) Hospital, nursing home or domiciliary care:

(1) Hospital or nursing home care for veterans discharged or released for disability incurred or aggravated in line of duty, or persons in receipt of or but for the receipt of retirement pay would be entitled to disability compensation for a service-connected disability, when suffering from non-service-connected disabilities requiring hospital care.

* * * * *

(d) Hospital or nursing home care for any veteran, domiciliary care for veterans of a war provided they swear they are unable to defray the expense of hospital or domiciliary care except veterans in receipt of pension shall not have to state under oath that they are unable to defray the expense of hospital or domiciliary care, and who are suffering from a disability, disease, or defect which, being susceptible to cure or decided improvement, indicates need for hospital care, or which, being essentially chronic in type, is producing disablement of such degree and of such probable persistency as will incapacitate from earning a living for a prospective period, and thereby indicates need for domiciliary care. Transportation at Government expense will not be provided to such veterans unless they make the statement under oath that they are unable to defray the expenses of transportation. The additional requirements for eligibility for domiciliary care enumerated in paragraph (c) (3) of this section are also for application to these veterans applying for domiciliary care.

* * * * *

(f) Hospital or nursing home care for any veteran for a non-service-connected disability if such veteran is 65 years of age or older.

8. In § 17.48, paragraphs (c) (2) and (f) are amended to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital or domiciliary care.

* * * * *

(c) Under paragraph (d) of § 17.47: * * *

(2) "Unable to defray the expense of hospital or domiciliary care"—the affidavit of the applicant on VA Form 10–10 that he is unable to defray the expenses of hospital or domiciliary care or that he is unable to defray the expenses of transportation to and from a Veterans Administration facility will constitute sufficient warrant to furnish hospitalization or domiciliary care or Government transportation.

* * * * *

(f) Within the limits of Veterans Administration facilities, any veteran who is receiving hospital or nursing home care in a hospital under the direct and exclusive jurisdiction of the Veterans Administration, or hospital care in a Federal hospital under agreement, may be furnished medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and such services are reasonably necessary to protect the health of such veteran.

9. In § 17.49, the headnote is amended; in paragraph (a) (3), subdivisions (vi) through (ix) are amended and subdivision (x) is added; and paragraph (c) is added so that the added and amended material reads as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration hospital in the following order: * * *

(3) *Priority groups.* * * *

(vi) Group VI includes veterans eligible under § 17.47 (d) or (f) not hospitalized by the Veterans Administration (are not in hospitals or are in non-Veterans Administration hospitals but not under Veterans Administration authorization).

(vii) Group VII includes persons eligible under § 17.54 requiring hospital care.

(viii) Group VIII includes persons eligible under § 17.46 (b), (c), or (d) (active duty or retired military personnel beneficiaries from other Federal agencies, veterans of nations allied with the United States in World War I or II, persons treated under sharing agreements, etc.).

(ix) Group IX includes patients in Veterans Administration hospitals who have requested transfer, at their own expense for personal reasons, to another appropriate Veterans Administration hospital which is not nearest their home, provided the clinical findings indicate that such patients will require hospital care for a period of 6 months or more in the latter hospital.

(x) Group X includes veterans eligible under § 17.47 (d) or (f) requiring hospital care (*a*) for an occupational injury or disease incurred in or as a result of their employment who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by means of some form of industrial coverage provided by their employer or under a workmen's compensation statute or law or (*b*) who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by reason of some other form of insurance. An applicant will be classified in paragraph (a) (3) (x) (*a*) or (*b*) of this section only when an employer or insurer has admitted liability and advised the Veterans Administration in writing that the veteran is eligible for the necessary

medical and hospital care at no expense to himself. If such information is not available, the application will be placed in group VI and no action will be taken to ascertain liability prior to admission of the veteran.

* * * * *

(c) *Priorities for nursing home care.* Priorities for nursing home care will follow the same sequence as that provided in paragraph (a) of this section for hospital care, except in the case of nursing home care for a service-connected disability, priority will be given to veterans transferred from Veterans Administration hospitals to Veterans Administration nursing homes over veterans directly admitted.

10. Section 17.50 is revised to read as follows:

§ 17.50 Use of Department of Defense, Public Health Service or other Federal hospitals with beds allocated to the Veterans Administration.

Hospital facilities operated by the Department of Defense or the Public Health Service (or any other agency of the United States Government) may be used for the care of Veterans Administration patients pursuant to agreements between the Veterans Administration and the department or agency operating the facility. When such an agreement has been entered into and a bed allocation for Veterans Administration patients has been provided for in a specific hospital covered by the agreement, care may be authorized within the bed allocation for any veteran eligible under § 17.47. Care in a Federal facility not operated by the Veterans Administration, however, shall not be authorized for any military retiree whose sole basis for eligibility is under § 17.46b, or, except in Alaska and Hawaii, for any retiree of the uniformed services suffering from a chronic disability whose entitlement is under §§ 17.46b, 17.47(b)(2) or 17.47 (c)(2) regardless of whether he may have dual eligibility under other provisions of § 17.47.

11. In § 17.50b, paragraphs (a), (d), (e), and (f) are amended to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

When it is in the best interests of the Veterans Administration and Veterans Administration patients, contracts may be entered into for the use of public or private hospitals for the care of veterans. When demand is only for infrequent use, individual authorizations may be used. Admissions in public or private facilities, however, subject to the provisions of § 17.50c, will only be authorized, whether under a contract or as an individual authorization, for any veteran, if:

(a) *For service-connected disability or disability for which discharged.* The veteran is in need of hospital care or medical services for an adjudicated service-connected disability, or for a disability for which he was discharged from service and which was incurred or aggravated in line of duty, or

* * * * *

(d) *For women veterans.* The veteran is a women veteran in need of hospital care, or

(e) *For veterans in Puerto Rico and other possessions.* The veterans is a veteran in need of hospital care in the Commonwealth of Puerto Rico or other Territory, Commonwealth or possession of the United States (except the authority under this paragraph expires December 31, 1978), or

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran in need of hospital care in Alaska or Hawaii whose public or private hospital admission can be accommodated within an average daily patient load per thousand veteran population at Veterans Administration expense in Federal, public or private hospital facilities in Alaska or Hawaii not exceeding the average daily patient load per thousand veteran population hospitalized by the Veterans Administration within the 48 contiguous States (except the authority under this paragraph expires December 31, 1978), or

* * * * *

12. Sections 17.51, 17.51a, and 17.51b are revised to read as follows:

§ 17.51 Use of community nursing homes.

(a) Nursing home care in a contract public or private nursing home facility may be authorized for the following:

(1) Any veteran eligible for hospital care under § 17.47 (a), (b), (c), (d) or (f) who has attained the maximum hospital benefit and for whom a protracted period of nursing home care will be required.

(2) Any person who has been furnished care in any hospital of any of the Armed Forces, who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and who upon discharge therefrom will become a veteran.

(3) Any veteran who requires nursing home care for a service-connected disability without first requiring a period of hospitalization. Admission may be authorized upon a determination of need therefor by a physician employed by the Veterans Administration or, in areas where no such physican is available, by carrying out such function under contract or fee arrangement.

(b) Such nursing home care will be subject to the following restrictions:

(1) Any veteran eligible under paragraph (a)(1) of this section shall be transferred to the nursing home care facility from a hospital under the direct and exclusive jurisdiction of the Veterans Administration, except as provided for in § 17.51b, and

(2) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(3) The cost of the nursing home care will not exceed 40 percent of the cost of care furnished by the Veterans Administration in a general medical and surgical hospital as determined from time to time, and

(4) Except as provided for in § 17.51a, nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this section is not subject to any time limitation.

(5) The standards prescribed by the Chief Medical Director and any report of inspection of institutions furnishing nursing home care to veterans shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

§ 17.51a Extensions of community nursing home care beyond 6 months.

The Chief Medical Director, his deputy, Associate Chief Medical Director for Operations, or the Director, Field Operations may authorize, for any veteran whose hospitalization was not primarily for service-connected disability, an extension of nursing care in a public or private nursing home care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care, or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

§ 17.51b Transfers from facilities for nursing home care in Alaska and Hawaii.

Transfer of any veteran hospitalized in a non-Veterans Administration hospital facility at Veterans Administration expense to a community nursing home facility in Alaska or Hawaii may be authorized subject to the provisions of § 17.51, except paragraph (b)(1).

13. A new centerhead and § 17.54 are added to read as follows:

MEDICAL CARE FOR SURVIVORS AND DEPENDENTS OF CERTAIN VETERANS

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for:

(1) The wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

(2) The widow or child of a veteran who died as a result of a service-connected disability who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS).

(b) Medical care authorized by paragraph (a) of this section shall be provided in the same or similar manner and subject to the same or similar limitations as medical care furnished to certain dependents and survivors of active duty and retired members of the Armed Forces being furnished such care as beneficiaries of the Armed Forces. Furthermore, it shall be provided in accordance with the terms and conditions set forth in an agreement between the Administrator and the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, he enters into to provide medical care to beneficiaries of the Armed Forces, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purpose of affording the medical care authorized in this section.

(c) In limited situations, the Chief Medical Director or his designee may authorize care and treatment to the class of beneficiaries covered by this section in specialized Veterans Administration medical facilities which are uniquely equipped to provide the most effective care and treatment, and which are not otherwise being utilized for the care of veterans. Such medical care may be furnished on either an inpatient or outpatient basis and may be furnished in either Veterans Administration hospitals or in Veterans Administration outpatient clinics.

14. In § 17.60, the headnote and paragraphs (e), (f), and (h) are amended to read as follows:

§ 17.60 Outpatient care for eligible persons.

Medical services may be furnished to the following applicants under the conditions stated, except that applicants for dental treatment, as defined in paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(e) *For pre-hospital care.* Persons eligible for hospital care under § 17.47, where a professional determination is made that such care is reasonably necessary in preparation for admission of such persons or to obviate the need for bed care.

(f) *For post hospital care.* Persons eligible for hospital care under § 17.47 who have been granted hospital care, and outpatient care is reasonably necessary to complete treatment incident to such hospital care. (38 U.S.C. 612(f)(1)(B))

* * * * *

(h) *For veterans 80 percent or more disabled from a service-connected disability.* Outpatient care, except outpatient dental treatment, may be authorized to treat any non-service-connected disability of a veteran who has a service-connected disability rated at 80 percent or more.

* * * * *

15. The centerhead preceding § 17.75 is changed and §§ 17.75, 17.76 and 17.77 are revised to read as follows:

REIMBURSEMENT FOR LOSS BY NATURAL DISASTER OF PERSONAL EFFECTS OF HOSPITALIZED OR NURSING HOME PATIENTS

§ 17.75 Conditions of custody.

When the personal effects of a patient who has been or is hospitalized or receiving nursing home care in a Veterans Administration hospital or center were or are duly delivered to a designated location for custody and loss of such personal effects has occurred or occurs by fire, earthquake, or other natural disaster, either during such storage or during laundering, reimbursement will be made as provided in §§ 17.76 and 17.77.

§ 17.76 Submittal of claim for reimbursement.

The claim for reimbursement for personal effects damaged or destroyed will be submitted by the patient to the Director. The patient will separately list and evaluate each article with a notation as to its condition at the time of the fire, earthquake, or other natural disaster whether new, worn, etc. The date of the fire, earthquake, or other natural disaster will be stated. It will be certified by a responsible official that each article listed was stored in a designated location at the time of loss by fire, earthquake, or other natural disaster or was in process of laundering. He will further state whether the loss of each article was complete or partial, permitting of some further use of the article. The responsible official will certify that the amount of reimbursement claimed on each article of personal effects is not in excess of the fair value thereof at time of loss. The certification will be prepared in triplicate, signed by the responsible officer who made it, and countersigned by the Director of the hospital or center. After the above papers have been secured, voucher will be prepared, signed, and certified, and forwarded to the Fiscal Officer for his approval, payment to be made in accordance with fiscal procedure. The original list of property and certificate are to be attached to voucher.

§ 17.77 Claims in cases of incompetent patients.

Where the patient is insane and incompetent, he will not be required to make claim for reimbursement for personal effects lost by fire, earthquake, or other natural disaster as required under the provisions of § 17.76. The responsible official will make claim for him, adding the certification in all details as provided for in § 17.76. After countersignature of this certification by the Director, payment will be made as provided in § 17.76, and the amount thereby disbursed will be turned over to the Director for custody.

16. In § 17.78, that portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 17.78 Adjudication of claims.

(a) *Claims comprehended.* Claims for reimbursing Veterans Administration employees for cost of repairing or replacing their personal property damaged or destroyed by patients or members while such employees are engaged in the performance of their official duties will be adjudicated by the Director of the station concerned. Such claims will be considered under the following conditions, both of which must have existed and, if either one is lacking, reimbursement or payment for the cost or repair of the damaged article will not be authorized:

* * * * *

17. The centerhead preceding § 17.80 is changed and § 17.80 is revised to read as follows:

PAYMENT AND REIMBURSEMENT OF THE EXPENSES OF MEDICAL SERVICES NOT PREVIOUSLY AUTHORIZED

§ 17.80 Payment or reimbursement of the expenses of hospital care and other medical services not previously authorized.

To the extent allowable, payment or reimbursement of the expenses of care, not previously authorized, in a private or public (or Federal) hospital not operated by the Veterans Administration, or of any medical services not previously authorized including transportation (except prosthetic appliances, similar devices, and repairs) may be paid on the basis of a claim timely filed, under the following circumstances:

(a) *For veterans with service-connected disabilities.* Care or services not previously authorized were rendered to a veteran in need of such care or services: (1) For an adjudicated service-connected disability; (2) for non-service-connected disabilities associated with and held to be aggravating a service-connected disability; (3) for any disability of a veteran who has a total disability permanent in nature resulting from a service-connected disability; (4) for any illness, injury or dental condition in the case of a veteran who is found to be in need of vocational rehabilitation and for whom an objective had been selected or who is pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment for any of the reasons enumerated in § 17.36(b); and

(b) *In a medical emergency.* Care and services not previously authorized were rendered in a medical emergency of such nature that delay would have been hazardous to life or health, and

(c) *When Federal facilities are unavailable.* Veterans Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practicable, or treatment had been or would have been refused.

18. Section 17.82 is revised to read as follows:

§ 17.82 Claimants.

A claim for payment or reimbursement of services not previously authorized may be filed by the veteran who received the services (or his guardian) or by the hospital, clinic, or community resource which provided the services, or by a person other than the veteran who paid for the services.

19. In § 17.83, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 17.83 Preparation of claims.

Claims for costs of services not previously authorized shall be on such forms as shall be prescribed and shall include the following:

* * * * *

20. In § 17.84, the introductory portion preceding paragraph (a) and paragraph (d) are amended and paragraph (f) is revoked to read as follows:

§ 17.84 Where to file claims.

Claims for payment or reimbursement of the expenses of services not previously authorized should be filed as follows:

* * * * *

(d) *For services rendered in other foreign countries.* Claims for the expenses of care or services rendered in other foreign countries should be filed with the American Embassy or Consulate, and

* * * * *

(f) [Revoked]

21. In § 17.85, the introductory portion proceding paragraph (a) and paragraph (b) are amended and paragraph (c) is added so that the amended and added material reads as follows:

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of medical care or services not previously authorized must be filed within the following time limits:

* * * * *

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowance, or

(c) Claims for medical care and services rendered on or after January 1, 1971 for treatment of a non-service-connected illness or injury for a veteran who has a total disability permanent in nature resulting from a service-connected disability must be filed by August 2, 1975. Claims filed after August 2, 1975, will be subject to the time limit stated in paragraph (a) of this section.

22. Section 17.86 is revised to read as follows:

§ 17.86 Date of filing claims.

The date of filing any claim for payment or reimbursement of the expenses of medical care and services not previously authorized shall be the postmark date of a formal claim, or the date of any preceding telephone call, telegram, or other communication constituting an informal claim.

23. 17.88 and 17.89 are revised to read as follows:

§ 17.88 Retroactive payments prohibited.

When a claim for payment or reimbursement of expenses of services not previously authorized has not been timely filed in accordance with the provisions of § 17.85, the expenses of any such care or services rendered prior to the date of filing the claim shall not be paid or reimbursed. In no event will a bill or claim be paid or allowed for any care or services rendered prior to the effective date of any law, or amendment to the law, under which eligibility for the medical services at Veterans Administration expense has been established.

§ 17.89 Payment for treatment dependent upon preference prohibited.

No reimbursement or payment of services not previously authorized will be made when such treatment was procured through private sources in preference to available Government facilities.

24. Section 17.95 and 17.96 are revised to read as follows:

§ 17.95 Authority to adjudicate reimbursement claims.

The Veterans Administration medical installation having responsibility for the fee basis program in the region or territory (including the Republic of the Philippines) served by such medical installation shall adjudicate all claims for the payment or reimbursement of the expenses of services not previously authorized rendered in the region or territory.

§ 17.96 Authority to adjudicate foreign reimbursement claims.

The Veterans Administration Hospital, Washington, D.C., shall adjudicate claims for the payment or reimbursement of the expenses of services not previously authorized rendered in any foreign country except the Republic of the Philippines.

25. Section 17.98 is revised to read as follows:

§ 17.98 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.

The Chief Medical Director is delegated authority to enter into: (a) Sharing agreements authorized under the provisions of 38 U.S.C. 5053 and § 17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8-3.204(c); (b) contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans Administration facilities (including but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel); and (c) when a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 213 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements negotiated at the field station level. Such approval, however, will be necessary in the case of any purchase order or individual authorization for which authority has been delegated in § 17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR Chapters 1 and 8.

26. In § 17.100, paragraph (a)(1) is amended to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense will be authorized eligible claimants and beneficiaries of the Veterans Administration for these purposes:

(a) *Admission.* (1) Hospital admission of applicants under §§ 17.47 (a) and (b) and 17.54.

* * * * *

27. In § 17.166, paragraph (a) is amended to read as follows:

§ 17.166 Aid for domiciliary care.

Aid may be paid to the designated State official for domiciliary care furnished in a recognized State home for any veteran if:

(a) The veteran is a veteran of a war or of service after January 31, 1955, and

* * * * *

28. In § 17.166a, the introductory portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 17.166a Aid for nursing home care.

Aid may be paid to the designated State official for nursing home care furnished in a recognized State home for any veteran if:

(a) The veteran needs nursing home care and is a veteran of a war or of service after January 31, 1955, and in addition:

* * * * *

29. In § 17.166b, paragraph (a) is amended to read as follows:

§ 17.166b Aid for hospital care.

Aid may be paid to the designated State official for hospital care furnished in a recognized State home for any veteran if:

(a) The veteran is a veteran of a war or of service after January 31, 1955, and

* * * * *

30. Section 17.166c is revised to read as follows:

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $4.50 for domiciliary care, $6 for nursing home care, and $10 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home.

§ 17.170 [Amended]

31. The note immediately preceding § 17.170 is revised to read as follows:

NOTE: The purpose of the regulations concerning State home facilities for furnishing nursing home care is to effectuate the provisions of 38 U.S.C. 5031–5037 to assist the several States to construct State home facilities for furnishing nursing home care to war veterans and veterans with service after January 31, 1955.

32. In § 17.170, paragraph (f) is added to read as follows:

§ 17.170 Definitions.

* * * * *

(f) The term "veteran" means a veteran of a war or of service after January 31, 1955.

33. In § 17.171, paragraph (a) is amended to read as follows:

§ 17.171 Nursing home beds required for war veterans by State.

(a) For purposes of the regulations concerning State home facilities furnishing nursing home care, Appendix "A" prescribes the number of beds required to provide adequate nursing home care to war veterans residing in each State. Such number does not exceed two and one-half beds per 1,000 war veteran population of such State.

* * * * *

34. In § 17.173(a), subparagraph (1) is amended and subparagraph (4) is added and paragraphs (c) and (d) are amended to read as follows:

§ 17.173 Applications with respect to projects.

(a) A State desiring to receive assistance for construction of facilities for furnishing nursing home care must submit an application in writing for such assistance to the Administrator. The applicant will submit as part of the application or as an attachment thereto:

(1) The amount of the grant requested with respect to such project which may not exceed 65 per centum of the estimated cost of construction of such project,

* * * * *

(4) Any comments or recommendations made by appropriate State clearing houses pursuant to policies outlined in Part I, Office of Management and Budget Circular A–95 (revised).

* * * * *

(c) The Administrator will approve any such application if he finds that:

(1) There are sufficient funds available to make the grant requested with respect to such project,

(2) The proposal has been favorably reviewed by the State or local clearing house as required in paragraph (a) of this section,

(3) Such grant does not exceed 65 per centum of the estimated cost of construction of such project,

(4) The application contains such assurances as to use, title, financial support, reports and access to records, payment of prevailing rates of wages, and compliance with the provisions of Executive Order 11246 (3 CFR Ch. IV) as required in paragraph (b) of this section,

(5) The plans and specifications for such project are in accord with VA general standards, appendix "B", and,

(6) The construction of such project, together with other projects under construction, and other facilities will not exceed the two and one-half beds per thousand war veterans population limitation prescribed in § 17.171.

(d) The Administrator shall certify applications which he approves to the Secretary of the Treasury in the amount of the grant requested, but in no event an amount greater than 65 per centum of the estimated cost of construction of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid for the construction of an approved project will be used solely for carrying out such project as so approved.

35. Section 17.175 is revised to read as follows:

§ 17.175 Recapture provisions.

If, within 20 years after completion of any project for construction of facilities for furnishing nursing home care with respect to which a grant has been made under the regulations concerning State home facilities for furnishing nursing home care, such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for nursing home care to war veterans, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such facilities, 65 per centum of the then value of such facilities, as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated (38 U.S.C. 5036).

36. In § 17.180, paragraph (e) is added to read as follows:

§ 17.180 Definitions.

* * * * *

(e) The term "veteran" for purposes of §§ 17.180 through 17.184 means a veteran of a war or of service after January 31, 1955.

37. Section 17.181 is revised to read as follows:

§ 17.181 Scope of grant program.

Subject to availability of an appropriation, a grant may be made to a State which has submitted, and has had approved by the Administrator, an application for assistance in remodeling, modification or alteration of existing domiciliary and hospital facilities in State homes providing care and treatment of war veterans and recognized by the Veterans Administration for the purpose of payment of Federal aid pursuant to 38 U.S.C. 641. The amount of the grant requested with respect to such project may not exceed 65 percent of the estimated total cost of construction of such project nor may one State receive a commitment of more than 20 percent of the amount appropriated for the grant program for that fiscal year. Grants shall include fixed equipment included in construction contracts, but shall not be made for construction of new buildings or for additions to existing buildings.

38. In § 17.182(b), the period at the end of subparagraph (7) is changed to "; and" and a new subparagraph (8) is added; in paragraph (c), subparagraph (2) is amended, the period at the end of subparagraph (5) is changed to "; and" and a new subparagraph (6) is added; and paragraph (d) is amended so that the amended and added material reads as follows:

§ 17.182 Project applications.

* * * * *

(b) The applicant must furnish reasonable assurance in writing that:

* * * * *

(8) The proposal has been favorably reviewed by the appropriate State or local clearing house pursuant to policies outlined in Part I, Office of Management and Budget Circular A–95 (revised).

(c) The Administrator will approve any such application if he finds that:

* * * * *

(2) Such grant does not exceed 65 percent of the estimated cost of construction of such project and does not result in a commitment of more than 20 percent of the amount appropriated for that fiscal year;

* * * * *

(6) The proposal has been favorably reviewed by the State or local clearing house pursuant to policies outlined in Part I, Office of Management and Budget Circular A–95 (revised).

(d) The Administrator shall certify applications which he approves to the Secretary of the Treasury in the amount of the grant requested but in no event an amount greater than 65 percent of the estimated (or actual) cost of construction of the project, which shall not have resulted in commitment in any fiscal year of more than 20 percent of the amount appropriated for that fiscal year,

and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid for the construction of an approved project will be used solely for carrying out such project as so approved.

* * * * *

39. In § 17.210, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 17.210 Sharing specialized medical resources.

Subject to such terms and conditions as the Chief Medical Director shall prescribe agreements may be entered into for sharing medical resources with other hospitals, including State or local, public or private hospitals or other medical installations having hospital facilities or medical schools or clinics in a medical community with geographical limitations determined by the Chief Medical Director, provided:

* * * * *

40. Sections 17.352 and 17.353 are revised to read as follows:

§ 17.352 Amounts and use of grant funds for the replacement and upgrading of equipment.

Grants awarded under § 17.351 shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for the purpose. Funds appropriated for the upgrading and replacement of equipment at the Veterans Memorial Hospital, or for rehabilitating its equipment, shall remain available in consecutive fiscal years until expended, but in no event shall exceed the amount of $50,000 per year. It is not intended that such funds will be utilized to expand the hospital facilities. Upgrading of equipment, however, would permit purchase of new and additional equipment not now possessed by the hospital.

§ 17.353 Grants for education and training.

Grants to the Republic of the Philippines to assist the Veterans Memorial Hospital in medical education and training of health service personnel, which the Administrator may make under the authority cited in § 17.350, shall be subject to such terms and conditions as he shall prescribe. Among such terms and conditions to which the grants will be subject will be United States Veterans Administration approval of all education and training programs to be supported by grant funds. Grants under this section shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for such purpose and in no event shall exceed $50,000 for each fiscal year during the 5 years beginning with fiscal year 1973.

41. Sections 17.360 and 17.361 are revised to read as follows:

§ 17.360 Payments for medical care in lieu of grants.

Subject to the provisions of §§ 17.361 through 17.370, payments in lieu of grants for reimbursement of medical expenses, may be made for hospital and nursing home care, outpatient care, and transportation furnished Commonwealth Army veterans or new Philippine Scout veterans in connection with treatment at the Veterans Memorial Hospital (or at a facility under contract or subcontract) authorized under § 17.37(b), 17.38 (a) or (b), 17.40, or 17.41. Costs for outpatient care shall be segregated from inpatient care costs. Hospital and nursing home costs shall be computed on the basis of per diem costs as agreed upon for each fiscal year by the Government of the United States and the Government of the Republic of the Philippines, and the expenses for services, supplies, and other items to be included in the per diem rate shall be as agreed upon by the two Governments.

§ 17.361 Limitations on payments for medical and nursing home care.

Payments in lieu of grants under § 17.360 shall not exceed the amounts provided by the appropriation act of the Congress of the United States for such purpose, and in no event shall exceed $2 million for each fiscal year during the 5 years beginning with fiscal year 1974. This sum shall include an amount not to exceed $250,000 for any one such fiscal year for nursing home care. In determining these limitations the following costs shall:

(a) Exclude all medical and nursing home care and transportation costs incurred in connection with authorized treatment at the Veterans Memorial Hospital of United States veterans, and

(b) Include all medical care and transportation costs incurred in connection with outpatient treatment authorized under § 17.40 for Commonwealth Army or new Philippine Scout veterans.

42. Section 17.362 is revised to read as follows:

§ 17.362 Acceptance of medical supplies as payment.

Upon request of the Government of the Republic of the Philippines, payment for medical and nursing home services for which payment may be authorized under § 17.360, may consist in whole or in part, of available medicines, medical supplies, or equipment furnished by the Veterans Administration to the Veterans Memorial Hospital at valuations determined by the Administrator. Such valuations shall not be less than the cost of the items and shall include the cost of transportation, arrastre, brokerage, shipping and handling charges.

43. Section 17.365 is revised to read as follows:

§ 17.365 Admission priorities.

In determining admissions or transfers of eligible Commonwealth Army veterans, new Philipipne Scout veterans and United States veterans to Veterans Memorial Hospital, and in determining discharges, the following priorities shall be observed:

(a) First priority shall be given to the admission and retention of eligible Commonwealth Army veterans and new Philippine Scouts in need of care for service-connected disability or non-service-connected disability associated with and held to be aggravating a service-connected disability, and

(b) Second priority shall be given to the admission and retention of United States veterans who are in need of treatment for service-connected disabilities or non-service-connected disabilities associated with and held to be aggravating a service-connected disability, and

(c) Third priority shall be given the admission or retention of Commonwealth Army veterans, new Philippine Scout veterans and United States veterans in need of hospital care for non-service-connected disabilities.

Approved: November 13, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-24575 Filed 11-16-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF MISSISSIPPI, ALABAMA AND FLORIDA

Oil and Gas Lease Sale

BID SUBMISSION PROCEDURES

1. Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462 (43 U.S.C. sec. 1331–1343)) and the regulations issued thereunder (43 CFR Part 3300), sealed bids mailed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, The Plaza Tower, Suite 3200, 1001 Howard Avenue, New Orleans, Louisiana 70113, must be received by 9:30 a.m., c.s.t. on December 20, 1973, for the lease of oil and gas in tracts described in paragraph 14 herein, in areas of the Outer Continental Shelf (OCS) adjacent to the states of Mississippi, Alabama, and Florida. Bids delivered in person to the Manager will be received at his office at the above address through 4:15 p.m., c.s.t., December 19, 1973; on December 20, 1973, bids may be delivered in person to the Manager only at the Tulane Room, Braniff Place, 1500 Canal Street, New Orleans, Louisiana 70112, between 8:30 a.m., c.s.t. and 9:30 a.m., c.s.t. Bids received by the Manager after 9:30 a.m. on that date will be returned to the bidders unopened. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager by 9:30 a.m., December 20, 1973. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR 3302.1, 3302.4, and 3302.5.

FORM OF BID

2. A separate bid in a separate envelope must be submitted for each tract. The envelope should be endorsed "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10 a.m., c.s.t., December 20, 1973." A suggested form of bid is set out in paragraph 18. Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check, or money order, payable to the order of the Bureau of Land Management. Oil payment, overriding royalty, logarithmic or sliding scale bids may not be submitted. No bid for less than a full tract as listed in paragraph 14 will be considered. Bidders are warned against violation of Section 1860 in Title 18 U.S.C. prohibiting unlawful combination or intimidation of bidders.

3. Each bidder must have submitted by 9:30 a.m., c.s.t., December 20, 1973, the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375, on Form 1140–8 (November 1973) and Form 1140–7 (December 1971).

4. The official leasing maps on which tracts being offered for lease may be located, may be purchased in a set of 11 maps at $11.00 per set or singly for $1.00 each. The maps which contain the tracts being offered for lease are: Mobile, NH 16–4; Mobile South No. 1, NH 16–7; Pensacola South No. 1, NH 16–8; Apalachicola South, NH 16–12; Tarpon Springs, NH 17–10; Tampa, NG 17–1. These maps and copies of the Compliance Report Certification Form 1140–8 (November 1973) and copies of the Affirmative Action Program Representation Form 1140–7 (December 1971) may be obtained from the Manager, New Orleans Outer Continental Shelf Office at the above address or the Director, Eastern States Office, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

BID OPENING

5. Bids will be opened on December 20, 1973, at 10 a.m., c.s.t., in the Tulane Room, Braniff Place at the above address. The opening of bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, December 20, 1973, that bid will be returned unopened to the bidder as soon thereafter as possible.

6. Any cash, checks, drafts, or money orders submitted with the bids may be deposited in an unearned escrow account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bids on behalf of the United States.

ACCEPTANCE OR REJECTION OF BIDS

7. No bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless the bidder has complied with all requirements of this notice, his bid is the highest valid cash bonus bid for that tract, and the amount of the bonus bid has been determined to be adequate by the United States. No bid will be considered for acceptance unless it offers a cash bonus in the amount of $25 or more per acre or fraction thereof. The United States reserves the right to reject any bid submitted, including, but not by way of limitation, the right to reject any bid for inadequacy even though the bonus bid is in the amount of $25 or more per acre or fraction thereof.

LEASE TERMS

8. Leases issued as a result of this sale will be on Form 3300–1 (February 1971), as modified in accordance with paragraphs 9, 10, 11, and 12 and containing the rental and royalty provisions of paragraph 13 of this notice. Attention is directed to the Equal Opportunity Clause in section 3(h) and the Certification of nonsegregated facilities clause in section 3(i) of the lease. Copies of the lease form, without the stipulations to be included according to the terms of paragraphs 9, 10, 11, and 12 and the provisions included in paragraph 13 of this notice are available from the Manager, New Orleans Outer Continental Shelf Office or the Director, Eastern States Office.

9. All leases issued as a result of this lease sale will contain the following stipulations:

(1) The lessee agrees that, prior to any drilling activity or the construction or placement of any structures for exploration or development (including, but not limited to, well drilling and pipeline and platform placement), it will utilize the services of recognized professional underwater archaeologists to study and, if necessary, survey the immediate area of the OCS to be affected by such activity, construction, or placement of structures, in order to discover any site, structure, or object of historical, architectural, or archaeological significance (all of which such sites, structures, or objects are hereafter in this stipulation included in the term "cultural resource"). Upon completion of such study or survey, and before drilling, construction, or placement of structures for exploration or development begins, the archaeological study or survey report shall be forwarded to the Manager, New Orleans OCS Office, Bureau of Land Management, and to the Supervisor. Should the archaeological report indicate that no cultural resource exists or is likely to exist in the immediate area to be affected by exploration or development activity, such activity may proceed. Should the archaeological report indicate that a cultural resource does exist, the Manager shall consult the National Park Service concerning its disposition. Where possible, and subject to the Supervisor's approval, exploration and development activity shall be conducted with every reasonable effort to avoid the disturbance of cultural resources so identified. Where disturbance is unavoidable, the lessee shall utilize the services of recognized underwater archaeologists to arrange for the salvage recovery of data and materials before exploration or development commences. While such archaeological study or survey and salvage procedures should result in the identification of all cultural resources prior to drilling, construction, or placement of structures, it is agreed that, if

any cultural resource should be accidentally discovered after the completion of the archaeological study or survey and salvage, the operator in charge of any activity related to OCS oil and gas exploration or development, including, but not limited to, well-drilling and pipeline and platform placement, shall immediately report such findings to the Manager, New Orleans OCS Office, Bureau of Land Management, and to the Supervisor, and shall make every reasonable effort to preserve and protect the cultural resource from damage. The Manager shall consult the National Park Service concerning the disposition of the cultural resource discovered, including, if appropriate, salvage recovery of data and materials by archaeologists.

(2) Structures for drilling or production, including pipelines, shall be kept to the minimum necessary for proper exploration, development, and production and, to the greatest extent consistent therewith, shall be placed so as not to interfere with other significant uses of the Outer Continental Shelf, including commercial fishing. To this end, no structure for drilling or production, including pipelines, may be placed on the Outer Continental Shelf until the Supervisor has found that the structure is necessary for the proper exploration, development, and production of the leased area and that no reasonable alternative placement would cause less interference with other significant uses of the Outer Continental Shelf including commercial fishing. The lessee's exploratory and development plans, filed under 30 CFR 250.34, shall identify the anticipated placement and grouping of necessary structures, including pipelines, showing how such placement and grouping will have the minimum practicable effect on other significant uses of the Outer Continental Shelf, including commercial fishing.

(3) The lessor specifically reserves the right to require any pipelines between a structure on the Outer Continental Shelf and an onshore facility to be placed in certain designated areas or corridors through the submerged lands of the Outer Continental Shelf.

(4) The lessee shall have the pollution containment and removal equipment available as required by OCS Order No. 7, of August 28, 1969, as may be amended. Within 12 hours after notification by the Operator to the Supervisor of a significant oil spill as defined by OCS Order No. 7, or an oil spill of any size or quantity which cannot be immediately controlled, the operator shall have the appropriate equipment in use at the site of the oil spill, unless, because of weather and attendant safety of personnel, the Supervisor shall modify this requirement.

(5) No production other than that needed for well testing purposes will be barged to shore except as approved by the Supervisor in case of emergency or special circumstances relating to safe development.

10. Leases issued as a result of this lease sale embracing tracts 32–21; 32–25; 32–33 through 32–41, inclusive; and 32–61 through 32–130 inclusive, will contain the following stipulations relating to Department of Defense activities:

(1) Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occurs in, on, or above the Outer Continental Shelf, to any person or persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors or subcontractors doing business with the lessee in connection with any activities being performed by the lessee in, on, or above the Outer Continental Shelf, if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with, the programs and activities of the Gulf Test Range, the Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, or Tyndall Air Force Base. The lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against, and to defend at its own expense the United States against, all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installations, whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, or subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under theories of strict or absolute liability or otherwise.

(2) The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate onshore military installation, i.e., Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, or Tyndall Air Force Base, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities, conducted within individual designated warning areas. Necessary monitoring, control, and coordination with the lessee, his agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area: *Provided, however,* That control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

(3) The lessee, when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate onshore military installation, i.e., Pensacola Naval Air Station, Eglin Air Force Base, MacDill Air Force Base, Tyndall Air Force Base, utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating into the warning areas at all times.

11. Further, leases issued as a result of this lease sale embracing tracts 32–67 through 32–101 inclusive, will contain the following stipulation relating to Department of Defense activities:

When the activities of the Armament Development and Test Center at Eglin Air Force Base may endanger personnel or property, the lessee agrees, upon receipt of a directive from the Secretary, to evacuate all personnel from all structures on the lease and to shut-in and secure all wells and other equipment, including pipelines on the lease, within forty-eight (48) hours or within such longer period as may be specified by the directive. Such directive shall not require evacuation of personnel and shutting-in and securing of equipment for a period of time greater than seventy-two (72) hours; however, such period of time may be extended by a subsequent directive from the Secretary. Equipment and structures may remain in place on the lease during such time as the directive remains in effect.

12. In addition, leases issued as a result of this lease sale, embracing tracts 32–102 through 32–130 inclusive, will contain the following stipulation to provide additional protection for certain high value reef sites within the area known as the Florida Middle Grounds. This area is located in the vicinity of latitude 28°11′ N. to 28°45′ N. and longitude 84°00′ W. to 84°25′ W.

No drilling permits will be issued by the Supervisor, until he has found that the lessee's exploratory and development plan filed under 30 CFR 250.34 is adequate to insure that exploration and production operations on the leased area will have no significant adverse effect on the biotic community of high value reef sites within the Florida Middle Grounds Area. To aid him in his findings, he shall request reports on these potential effects and recommended measures that may be necessary to prevent or mitigate them from the Manager, New Orleans OCS Office, Bureau of Land Management, and the Regional Director, Bureau of Sport Fisheries and Wildlife, Atlanta, Georgia.

13. Leases will provide for a royalty rate of one-sixth and yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an acceptable surety bond as required in 43 CFR 3304.1 prior to the issuance of each lease.

TRACT DESCRIPTION

14. The tracts offered for bid are as follows:

OFFICIAL LEASING MAP, MOBILE, NH 16-4

(Approved October 10, 1972)

Tract No.	Block	Description	Acreage
32-1	N 688 E 073	All	5760
32-2	N 688 E 077	All	5760
32-3	N 688 E 078	All	5760
32-4	N 688 E 080	All	5760

OFFICIAL LEASING MAP, MOBILE SOUTH NO. 1, NH 16-7

(Approved October 10, 1972; Revised February 15, 1973; Revised Aug. 1, 1973)

Tract No.	Block	Description	Acreage
32-5	N 666 E 069	All	5760
32-6	N 667 E 069	All	1552.86
32-7	N 667 E 070	All	5544.50
32-8	N 668 E 070	All	876.52
32-9	N 670 E 074	All	848.26
32-10	N 670 E 075	All	4455.95
32-11	N 673 E 088	All	1449.62
32-12	N 674 E 087	All	2531.43
32-13	N 674 E 088	All	4202.62
32-14	N 676 E 087	All	5760
32-15	N 676 E 088	All	5760
32-16	N 677 E 087	All	5760
32-17	N 677 E 088	All	5760
32-18	N 679 E 081	All	4538.04
32-19	N 679 E 082	All	5760
32-20	N 679 E 083	All	5760
32-21	N 679 E 088	All	5760
32-22	N 680 E 080	All	4156.82
32-23	N 680 E 081	All	5715.90
32-24	N 680 E 082	All	5760
32-25	N 680 E 088	All	5760
32-26	N 681 E 079	All	5004.44
32-27	N 681 E 080	All	5659.67
32-28	N 681 E 081	All	5760
32-29	N 681 E 082	All	5760
32-30	N 682 E 079	All	5760
32-31	N 682 E 080	All	5760
32-32	N 682 E 081	All	5760
32-33	N 682 E 085	All	5760
32-34	N 682 E 086	All	5760
32-35	N 682 E 087	All	5760
32-36	N 683 E 085	All	5760
32-37	N 683 E 086	All	5760
32-38	N 683 E 087	All	5760
32-39	N 684 E 085	All	5760
32-40	N 684 E 086	All	5760
32-41	N 684 E 087	All	5760
32-42	N 685 E 074	All	5760
32-43	N 685 E 075	All	5760
32-44	N 686 E 073	All	5760
32-45	N 686 E 074	All	5760
32-46	N 686 E 075	All	5760
32-47	N 686 E 078	All	5760
32-48	N 686 E 079	All	5760
32-49	N 686 E 080	All	5760
32-50	N 687 E 072	All	5760
32-51	N 687 E 073	All	5760
32-52	N 687 E 074	All	5760
32-53	N 687 E 079	All	5760
32-54	N 687 E 080	All	5760

OFFICIAL LEASING MAP, PENSACOLA SOUTH NO. 1, NH 16-8

(APPROVED OCTOBER 10, 1972; REVISED AUGUST 1, 1973)

Tract No.	Block	Description	Acreage
32-55	N 673 E 089	All	4985.70
32-56	N 674 E 089	All	5454.72
32-57	N 675 E 089	All	5760
32-58	N 676 E 089	All	5760
32-59	N 676 E 091	All	5760
32-60	N 677 E 091	All	5760
32-61	N 678 E 095	All	5760
32-62	N 678 E 096	All	5760
32-63	N 679 E 089	All	5760
32-64	N 679 E 095	All	5760
32-65	N 679 E 096	All	5760
32-66	N 680 E 089	All	5760
32-67	N 681 E 123	All	5760
32-68	N 681 E 124	All	5760
32-69	N 682 E 118	All	5760
32-70	N 682 E 119	All	5760
32-71	N 682 E 120	All	5760
32-72	N 682 E 121	All	5760
32-73	N 682 E 122	All	5760
32-74	N 682 E 123	All	5760
32-75	N 682 E 124	All	5760
32-76	N 683 E 118	All	5760
32-77	N 683 E 119	All	5760
32-78	N 683 E 120	All	5760
32-79	N 683 E 121	All	5760
32-80	N 683 E 122	All	5760
32-81	N 683 E 123	All	5760
32-82	N 683 E 124	All	5760
32-83	N 684 E 118	All	5760
32-84	N 684 E 119	All	5760
32-85	N 684 E 120	All	5760
32-86	N 684 E 121	All	5760
32-87	N 684 E 122	All	5760
32-88	N 684 E 123	All	5760
32-89	N 684 E 124	All	5760
32-90	N 685 E 118	All	5760
32-91	N 685 E 119	All	5760
32-92	N 685 E 120	All	5760
32-93	N 685 E 121	All	5760
32-94	N 685 E 122	All	5760
32-95	N 685 E 123	All	5760
32-96	N 686 E 118	All	5760
32-97	N 686 E 119	All	5760
32-98	N 686 E 120	All	5760
32-99	N 686 E 121	All	5760
32-100	N 687 E 118	All	5760
32-101	N 687 E 119	All	5760

OFFICIAL LEASING MAP, APALACHICOLA SOUTH, NH 16-12

(Approved October 10, 1972; Revised August 1, 1973)

Tract No.	Block	Description	Acreage
32-102	N 650 E 157	All	5760
32-103	N 650 E 158	All	5760
32-104	N 651 E 157	All	5760
32-105	N 651 E 158	All	5760
32-106	N 652 E 157	All	5760
32-107	N 652 E 158	All	5760
32-108	N 653 E 157	All	5760
32-109	N 653 E 158	All	5760
32-110	N 653 E 159	All	5760
32-111	N 654 E 157	All	5760
32-112	N 654 E 158	All	5760
32-113	N 654 E 159	All	5760
32-114	N 655 E 158	All	5760
32-115	N 655 E 159	All	5760
32-116	N 656 E 158	All	5760
32-117	N 656 E 159	All	5760
32-118	N 657 E 157	All	5760
32-119	N 657 E 158	All	5760
32-120	N 657 E 159	All	5760
32-121	N 658 E 157	All	5760
32-122	N 658 E 158	All	5760
32-123	N 658 E 159	All	5760
32-124	N 659 E 157	All	5760
32-125	N 659 E 158	All	5760
32-126	N 659 E 159	All	5760
32-127	N 660 E 156	All	5760
32-128	N 660 E 157	All	5760
32-129	N 660 E 158	All	5760
32-130	N 660 E 159	All	5760

OFFICIAL LEASING MAP, TARPON SPRINGS, NH 17-10

(Approved October 10, 1972)

Tract No.	Block	Description	Acreage
32-131	N 642 E 048	All	5760
32-132	N 642 E 049	All	5760
32-133	N 642 E 050	All	5760
32-134	N 643 E 048	All	5760
32-135	N 643 E 049	All	5760
32-136	N 643 E 050	All	5760

OFFICIAL LEASING MAP, TAMPA, NG 17-1

(Approved October 10, 1972)

Tract No.	Block	Description	Acreage
32-137	N 639 E 052	All	5760
32-138	N 639 E 053	All	5760
32-139	N 639 E 054	All	5760
32-140	N 639 E 055	All	5760
32-141	N 640 E 050	All	5760
32-142	N 640 E 051	All	5760
32-143	N 640 E 052	All	5760
32-144	N 640 E 053	All	5760
32-145	N 641 E 049	All	5760
32-146	N 641 E 050	All	5760
32-147	N 641 E 051	All	5760

15. Some of the tracts offered for lease may fall in fairway areas (including the prolongations thereof) or anchorage areas, or both, as designated by the District Engineers, New Orleans District and Mobile District, Corps of Engineers, U.S. Army. For the location of those areas and operational restrictions imposed by that agency, the District Engineer should be consulted.

WITHDRAWAL OF TRACTS

16. The United States reserves the right to withdraw any tract from this sale prior to the issuance of a written acceptance of a bid for that tract.

17. Prospective participants in this lease offering are advised that the Department of the Interior intends to continually evaluate and study the possibility of hazardous conditions to men and equipment that exist or may result from Department of Defense operations above certain of the tracts and from hazardous military ordnance that may exist on and under the ocean floor. To this end the Secretary of the Interior expressly reaffirms that he may exercise his discretionary authority to delete tracts from the proposed offering prior to the time any bids are accepted by the authorized officer.

SUGGESTED BID FORM

18. It is suggested that bidders submit their bids addressed to:

Manager, Outer Continental Shelf Office, Bureau of Land Management, Department of the Interior, The Plaza Tower, Suite 3200, 1001 Howard Avenue, New Orleans, Louisiana 70113.

In the following form:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the land of the Outer Continental Shelf specified below:

Official Leasing Map Name .....; Official Leasing Map No. .....

Tract No.	Total amount bid	Amount per acre	Amount submitted with bid

.....
(Signature)
(Please type signer's name under signature)

N. O. Misc. No. ..... Percent .....
.....
(Company)

19. Bidders are reminded that the bid must be accompanied by one-fifth of the total amount bid. This amount may be paid in cash or by money order, cashier's check, certified check, or bank draft. A separate bid must be made for each tract.

IMPORTANT

20. It is strongly recommended that prior to conducting any drilling activity, lessees who may acquire leases pursuant to this offering inspect the ocean floor and remove all hazardous military ordnance from the immediate drilling area.

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved: November 16, 1973.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.73-24721 Filed 11-16-73;10:00 am]

DEPARTMENT OF THE INTERIOR

National Park Service

MIDWEST REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Midwest Regional Advisory Committee will be held at 8:30 a.m., c.s.t., November 29 and 30 at the Ramada Inn-West, I-680 and Pacific Street, Omaha, Nebraska.

The committee was established pursuant to Public Law 91-383 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on programs and problems pertinent to the Midwest Region of the National Park Service.

Members to the committee are:

Honorable Robert W. Berrey III (Chairman); Mrs. Harold Fryslie (Secretary); Mr. Harry Barker, Jr.; Mr. Ralph M. Clark; Mr. John J. Franke, Jr.; Dr. John D. Hunt; Mr. William Walker Robinson; Mr. Erwin D. Stias; and Mr. Webster A. Two Hawk

The matters to be discussed at this meeting include:

1. Proposals relative to a Prairie national park.
2. Wilson's Creek National Battlefield master plan.
3. Regional administrative management.
4. Items of special interest in management of the Midwest Region.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Bill W. Dean, Assistant Regional Director, Cooperative Activities, Midwest Regional Office, at Area Code 402, 221-3481. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102.

Dated: November 13, 1973.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.73-24574 Filed 11-16-73;8:45 am]

Office of Petroleum Allocation

[Advisory Notice 2]

MIDDLE DISTILLATE FUELS

Allocation Preferences

In order to relieve unintended results under the Mandatory Allocation Program for Middle Distillate Fuels, it has been determined that pursuant to section 12 of the regulations (EPO Reg. 1; 38 FR 28660) for a period of 60 days effective immediately, suppliers shall give preference in the allocation of diesel fuels in the middle distillate range to the following purposes:

(1) For the operation of prime movers or power units necessary for the exploration, production, refining, and distribution of fossil fuels which includes petroleum, natural gas, and coal.

(2) For the operation of mobile and fixed farm and ranch equipment essential to the planting, growth, or harvesting of crops and/or livestock.

(3) For the operation of public mass transportation systems within metropolitan areas when certified as essential to the public welfare by the Governor of the State to the Administrator.

It is intended that the preference granted herein shall apply only to delivery of diesel fuels in the middle distillate range during the 60-day period and does not apply to orders placed on a supplier for delivery beyond the next 60 days.

Purchasers requesting assistance under this notice are cautioned to limit their requests to actual current requirements as it is intended that quantities of such fuels delivered during the 60-day period will be assessed against their adjusted total annual allocation.

ELI T. REICH,
Administrator.

NOVEMBER 15, 1973.

[FR Doc.73-24716 Filed 11-16-73;9:14 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00059-00-14200. Applicant: University of California, Facility for Advanced Instrumentation, Davis, California 95616. Article: Accessory Model Quantimet 720R (Pattern Recognition Unit) for Image Analysing Computer, manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The foreign article is intended to be used in research on the predator-prey relationship between *Bdellovibrio bacteriovorus* and its bacterial host by detection of the change in shape of the host cell from a rod to a sphere when attacked successfully by *Bdellovibrio*. Detection of induced variations will determine the susceptibility of a given host and possibly determine whether such variations were genetically stable or simply controlled by ambient environmental conditions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.73-24578 Filed 11-16-73;8:45 am]

NEW YORK STATE INSTITUTE FOR BASIC RESEARCH IN MENTAL RETARDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00056-33-46500. Applicant: New York State Institute for Basic Research in Mental Retardation, 1050 Forest Hill Road, Staten Island, New York 10314. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The foreign article is intended to be used in the study of human murine cytomegalovirus and suitable host cells infected with virons to determine the sequence of events which take place in both abortively and productively infected cells. The article will also be used in training research scientists in specimen preparation for electron microscope studies without the use of a specified course.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of a similar foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is . . . a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with still another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.5 to 10 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of October 26, 1973 that cutting speeds in excess of 4 mm/sec are pertinent to the applicant's research studies. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,
Director,
Special Import Programs Division.

[FR Doc.73-24577 Filed 11-16-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CERTAIN ADVISORY COMMITTEES

Notice of Meetings; Correction

In FR Doc. 73-22608, appearing at page 29508 in the issue of Thursday, October 25, 1973, the following changes are made:

1. For Panel on Review of Contraceptives and Other Vaginal Drug Products (Committee No. 10), the open portion is changed from 1 hour to all day on November 19.

2. For Panel on Review of Internal Analgesic Including Antirheumatic Drugs (Committee No. 12), the open portion is changed from November 19 to November 20.

Dated: November 13, 1973.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.73-24572 Filed 11-16-73;8:45 am]

Office of Education

STRENGTHENING DEVELOPING INSTITUTIONS

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 304 of title III of the Higher Education Act of 1965 (20 U.S.C. 1054) applications are being accepted from institutions of higher education for grants under both the Basic and Advanced Institutional Development Programs (title III, HEA, 20 U.S.C. 1051 et seq.). In order to receive consideration, such applications must be received by the Office of Education not later than December 19, 1973. Such applications shall be submitted to the Application Control Center, Contracts and Grants Division, ROB 3, Room 5673, Office of Education, Washington, D.C. 20202. Application forms may be obtained from the Division of College Support, Bureau of Higher Education, Office of Education, Washington, D.C. 20202.

(Catalog of Federal Domestic Assistance Number 13.454; Higher Education—Strengthening Developing Institutions Program)

Dated: November 15, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-24681 Filed 11-16-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-261]

CAROLINA POWER AND LIGHT CO.

Notice and Order Scheduling Prehearing Conference

In the matter of Carolina Power and Light Company (H. B. Robinson, Unit No. 2).

Notice is hereby given that, in accordance with the Commission's "Notice of Hearing Pursuant to 10 CFR Part 50, Appendix D, Section B" dated September 28, 1973, and published in the FEDERAL REGISTER on October 3, 1973 (38 FR 27433) a prehearing conference will be held in the above-captioned proceeding on Friday, November 30, 1973, at 10 a.m. local time, in the Center Theatre Assembly Room, Second Floor, 212 North Fifth Street, Hartsville, South Carolina.

The prehearing conference shall deal with the following matters:

1. Further identification and clarification of the issues.
2. The status of any discovery initiated by the parties.
3. The need for further discovery, and the time require to complete preparation for Evidentiary Hearing.
4. Any pending motions.
5. Scheduling of Evidentiary Hearing.
6. Such other matters as may aid in the orderly and expeditious conduct of the hearing.

The attorneys for the respective parties are directed to confer in advance of the prehearing conference in any appropriate manner, and to report to the Licensing Board at said conference on any stipulations regarding matters in controversy.

Members of the public are welcome to attend the prehearing conference. However, no evidence will be received at the prehearing conference of November 30, 1973 which will be a conference of Counsel for the various parties with the Board to develop procedures for the Evidentiary Hearing which will be scheduled for a later date. Members of the public are invited to attend the Evidentiary Hearing at which time statements of persons making limited appearances will be received. Notice of the date of the commencement of the Evidentiary Hearing will be given both by publication in the FEDERAL REGISTER and by Notice sent by mail directly to all members of the public who have requested to be so notified.

It is so ordered.

Issued at Washington, D.C., this 13th day of November, 1973.

The Atomic Safety and Licensing Board.

JOHN F. WOLF,
Chairman.

[FR Doc.73-24567 Filed 11-16-73;8:45 am]

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (INDIAN POINT NUCLEAR GENERATING UNIT 3)

Order Convening Special Prehearing Conference

The Atomic Safety and Licensing Board has determined in accordance with procedures established at the first special prehearing conference convened on May 21, 1973, and in response to inquiries by the Board that all parties are ready for a special prehearing conference on November 27, 1973.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that a special prehearing conference shall convene at 1:30 P.M. on Tuesday, November 27, 1973 in the Regency Room of the Springvale Inn, 500 Albany Post Road, Croton-on-Hudson, New York 10520.

Issued: November 13, 1973, Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.73-24640 Filed 11-16-73;8:45 am]

[Dockets Nos. 50-269A, 50-270A, 50-287A, 50-369A, 50-370A]

DUKE POWER COMPANY (OCONEE UNITS 1, 2, AND 3; McGUIRE UNITS 1 AND 2)

Notice and Order

At the request of the parties, and the Board agreeing thereto, the Prehearing Conference in the above identified proceeding, currently scheduled for November 20, 1973 is hereby canceled. It will be reset for a later date as soon as a need therefor is seen by the Board; or it may be rescheduled upon motion of any party.

By request dated November 8, 1973, the Department of Justice, citing Applicant's agreement to same, moves this Board for an extension of time until November 28, 1973, within which to reply to certain interrogatories and document production request of Applicant. Good cause having been shown, and with no objection of any party, said request is granted.

Issued at Washington, D.C., this 13th day of November, 1973.

THE ATOMIC SAFETY AND LICENSING BOARD,
WALTER W. K. BENNETT,
Chairman.

[FR Doc.73-24639 Filed 11-16-73;8:45 am]

PAST-DUE ACCOUNTS

Increase in Interest Rate

The U.S. Atomic Energy Commission (AEC) hereby announces an increase in the interest rate charged for overdue accounts.

A similarly entitled notice published in the FEDERAL REGISTER on October 21, 1969 (34 FR 17077) is hereby superseded.

1. The interest rate charged for overdue accounts is 12 percent per annum. This interest rate is not applicable to outstanding contracts and agreements which specify a different rate.

Effective date. This notice is effective November 19, 1973.

Dated at Germantown, Maryland, this 14th day of November 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-24676 Filed 11-16-73;8:45 am]

Civil Aeronautics Board

FIVE STAR AIR FREIGHT CORP.

Application for Tariff Filing Authority Pick-Up and Delivery Zone

NOVEMBER 12, 1973.

In accordance with Part 222 (14 CFR Part 222) of the Board's Economic regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 26091, from Five Star Air Freight Corporation, 1414 Calcon Hook Road, Sharon Hill, Pennsylvania 19079, for authority to provide pick-up and delivery service between Cranbury, New Jersey, and Flemington, New Jersey, through airport city of Philadelphia, Pennsylvania. Both points are approximately 28½ miles from city limits of Philadelphia.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application on or before December 4, 1973. An executed original and nineteen copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-24600 Filed 11-16-73;8:45 am]

[Docket No. 23333; Order 73-11-40]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Issued under delegated authority November 9, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 29, 1973.

Specific Commodity Item No.	*Description and Rate*
4115	Aircraft Engines weighing more than 3,000 kilos each, excluding parts: 75 cents per kg., minimum weight 3,000 kgs. From Frankfurt to New York, 76 cents per kg., minimum weight 3,000 kgs. From New York to Frankfurt.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, it is ordered, That:

1. Agreement C.A.B. 24042 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73-2-24 of February 6, 1973, Order 73-7-9 of July 5, 1973, and Order 73-9-109 of September 28, 1973, and are subject to all the provisions of such orders.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-24602 Filed 11-16-73;8:45 am]

[Docket No. 25960]

MODERN AIR TRANSPORT, INC. AND GAC CORP.

Proposed Approval of Application

In the matter of application of Modern Air Transport, Inc. and GAC Corporation for approval of a corporate reorganization pursuant to section 408 of the Federal Aviation Act of 1958, as amended, Docket 25960.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded until November 28, 1973, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 14, 1973.

[SEAL] WILLIAM B. CALDWELL, Jr.,
Director, Bureau of Operating Rights.

ORDER APPROVING REORGANIZATION

Issued under delegated authority.

Application of Modern Air Transport, Inc. and GAC Corp. for approval of a corporate reorganization pursuant to section 408 of the Federal Aviation Act of 1958, as amended.

Modern Air Transport, Inc. (Modern), and GAC Corporation (GAC) have filed an application for approval of a reorganization which will leave the present corporate structure intact, but which will change the status of GAC Corporation, Modern's parent, from that of a Pennsylvania to a Delaware corporation, effective December 31, 1973.

Upon consummation of the transaction, all of the assets of GAC-Pennsylvania will become assets of GAC-Delaware, which will likewise assume and become responsible for all liabilities and obligations of GAC-Pennsylvania. It is stated that Modern will not be affected by this transaction in any manner, either in its relations with its parent company or otherwise.

No comments or requests for a hearing have been received.

Inasmuch as the reorganization will result in the transfer of control of Modern from GAC-Pennsylvania to a totally separate legal entity, GAC-Delaware, the transaction is subject to section 408(a)(5) of the Act.

However, it is concluded that the reorganization effecting a domicile change should be approved. The transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation,[1] does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest is requesting a hearing, and it is concluded that one is not required in the public interest. Notice of intent to dispose of the application without hearing has been published in the Federal Register and a copy of such notice has been furnished by the Board to the Attorney General not later than one day following such publication, per 49 U.S.C. 1378(b).

Pursuant to authority duly delegated by the Board in its regulations, 14 CFR 385.13, it is found that the application should be approved.

Accordingly, it is ordered, That:

The application for approval in Docket 25960 be and it hereby is granted, *provided, however,* That the provisions of Order 72-3-24, currently applicable to GAC Corporation of Pennsylvania, shall apply equally to GAC Corporation of Delaware.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

By William B. Caldwell, Jr., Director, Bureau of Operating Rights.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-24604 Filed 11-16-73;8:45 am]

[1] See Modern Air Transport, Inc. and GAC Corporation, Order 72-3-24; The Flying Tiger Line, Order 69-12-121.

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from November 5 through November 9, 1973.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DELAWARE RIVER BASIN COMMISSION

Draft

Martins Creek Stream Electric Station, Pennsylvania, November 7: Proposed is the addition of Units 3 and 4 to the Martins Creek Stream Electric Station, which is located on the west bank of the Delaware River 10 miles north of Easton. The two oil-fired generating units will have capacities of 800 MW each. Additional facilities will include a 414 foot high, 280,000 gpm natural draft cooling tower, a 600 foot high chimney, a 930,000 barrel storage tank, and water inlet works. Cooling activities will draw water from, and add heat to, the Delaware River. (ELR Order No. 31759.) (NTIS Order No. EIS 73 1759-D.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-7168.

Draft

Milwaukee Harbor, Wis., November 5: The proposed project is the maintenance dredging of the Milwaukee Harbor. Disposal of spoils from the navigation project will take place within the dike containment structure located in the south outer harbor. Adverse impacts stemming from the project are disruption and destruction of bethnic organisms, increased turbidity, and redistribution of toxic and nutritive substances (42 pages). (ELR Order No. 31742.) (NTIS Order No. EIS 73 1742-D.)

Final

Lake Okeechobee, Fla., November 8: The statement refers to the proposed raising of the lake level from its current schedule of 13.5 to 15.5 feet mean sea level an additional two feet to a variance of 15.5 to 17.5 feet mean sea level. Storage capacity of the lake will thus be increased by 1 million acre-feet. The additional water will be used to supply all project purposes, including the Everglades National Park. Approximately 14,000 acres will be inundated, including agricultural land and major recreation facilities. (This statement is the first of a series of four for Central and Southern Florida) (156 pages). Comments made by: USDA, DOI, DOT, EPA, HUD, OEO, (ELR Order No. 31765.) (NTIS Order No. EIS 73 1765-F.)

Tombigbee River, East Fork, Miss., Itawamba County, November 5: The statement refers to the existing flood control project on the Tombigbee River in Itwamba County. Maintenance work consists of the removal of snags and drift jams along 53 miles of the Tombigbee River. Adverse impacts include increased turbidity and loss of and disruption of fish habitat (33 pages). Comments made by: USDA, DOI, DOT, EPA, and State agencies. (ELR Order No. 31749.) (NTIS Order No. EIS 73 1749-F.)

Wister Lake Operation and Maintenance Program, Okla., LeFlore and Latimer Counties, November 5: The statement refers to the operation and maintenance activities at Wister Lake, including reservoir regulation, tree and grass planting, and cooperative wildlife management, among others. There is soil erosion due to heavy recreational use and the effects of pool fluctuation (81 pages). Comments made by: AHP, USDA, DOC, DOI, DOT, EPA, HEW, HUD, OEO, and State and private agencies. (ELR Order No. 31750.) (NTIS Order No. EIS 73 1750-F.)

Lakeview Lake, Mountain Creek, Trinity River, Tex., November 7: The proposed project is the construction of Lakeview Lake for flood control, water supply, and recreation. The project will require 21,051 acres of land. Twenty-five miles of Mountain Creek and Walnut Creek will be inundated. The project will displace 210 residences, 150 graves, and an unspecified number of businesses. Major utility relocations will occur. Other adverse impacts are the loss of agricultural land and wildlife habitat, and the inundation of several archeological sites. (Fort Worth District) (113 pages). Comments made by: USDA, DOI, DOT, EPA, FPC, and State agencies. (ELR Order No. 31760.) (NTIS Order No. EIS 73 1760-F.)

ENERGY POLICY OFFICE

Final

Priorities, Low Sulfur Petroleum Products, November 8: The proposed action would temporarily prohibit utilities and other large fuel users from switching from coal or residual fuel oil to lower-sulfur petroleum fuels and prohibit increases in the quality of distillates blended into residual oils, except where such actions are absolutely necessary to meet primary ambient air quality standards. The short duration and relatively small quantities of coal and oil affected by the proposal will cause only very limited environmental impacts. The main impact would be on air quality; the proposed action would defer altogether for less than a year the improvement of air quality standards in the areas affected. Minor land use and water quality impacts would occur also (31 pages). Comments made by: EPA. (ELR Order No. 31766.) (NTIS Order No. EIS 73 1766–F.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202–386–6084.

Draft

Cascogas, Algonquin Gas, LNG Permits, Rhode Island, November 8: The statement refers to the proposed authorization of LNG importation from Algeria by Cascogas, LNG, Inc.; and the construction of receiving, storing, revaporizing, and distributing facilities in Providence by Algonquin, LNG, Inc. Impact would result from construction activity. (ELR Order No. 31767.) (NTIS Order No. EIS 73 1767–D.)

Rock Island Project No. 943, Wash., Chelan and Douglas Counties, November 5: The action involved is the amendment of an existing major license, held by Public Utility District No. 1 of Chelan County. The amendment would allow the construction of a second powerhouse at the Rock Island Project, on the Columbia River. The new construction would include eight 51.3 MW generator units, a new fish passage facility, two miles of transmission line, and related work. Impact will include the inundation of 335 acres of land, and encroachment of waters upon roadways and railroad. (ELR Order No. 31743.) (NTIS Order No. EIS 73 1743–D.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202–343–4161.

Final

Federal Youth Center, Richmond, Fla., Dade County, November 8: The statement refers to the proposed construction of a 15 building complex on a 205 acre wooded site. The complex will house a Federal Youth Center for correctional purposes, to be operated by the Bureau of Prisons. There will be construction disruption from the project (110 pages). Comments made by: USDA, HEW, HUD, DOI, AHP, AEC, EPA, FPC, State and local agencies, and private organizations. (ELR Order No. 31762.) (NTIS Order No. EIS 73 1762–F.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410, 202–755–5980.

Final

Wilkes-Barre Urban Renewal Project, Pennsylvania, November 5: The statement refers to a proposed urban renewal project for the City of Wilkes-Barre. The project is intended to compensate for damage caused by Tropical Storm Agnes in 1972. The project area encompasses 207.73 acres. A total of 249 buildings will be cleared for renewal operations. There will be construction disruption (87 pages). Comments made by: COE, DOI, EPA, HEW, and State agencies. (ELR Order No. 31751.) (NTIS Order No. EIS 73 1751–F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

BUREAU OF RECLAMATION

Final

Pond-Poso Improvement District, Calif., Kern County, November 5: The proposed project involves the construction of an irrigation distribution system, which would consist of lined and unlined canals, pipelines, pumping plants, and related works. Approximately 67,000 acre ft. of water per year would be drawn from the California aqueduct and used for the irrigation of 22,300 acres. An estimated 220 acres of land would be taken for use as right-of-way (56 pages). Comments made by: USDA, COE, DOI, HEW, EPA, and State and private agencies. (ELR Order No. 31741.) (NTIS Order No. EIS 73 1741–F.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Graham Municipal Airport, Tex., Young County, November 6: The proposed project calls for the acquisition of 4 acres of land to construct a 75' x 3870' NE/SW runway, and a 40' x 1700' connecting taxiway, and to install medium intensity runway and taxiway lighting, and VASI lights. Adverse impacts are the displacement of wildlife, and the increase of noise and air pollution levels (22 pages). (ELR Order No. 31757.) (NTIS Order No. EIS 73 1757–D.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

71st Street and Metcalf Ave., Overland Park, Kans., Johnson County, November 5: The project calls for the improvement of the intersection at 71st Street and Metcalf Ave., in Overland Park, Kansas. An unspecified amount of land will be acquired for right-of-way. Trees will be lost and increases in noise and air pollution levels will occur (29 pages). (ELR Order No. 31753.) (NTIS Order No. EIS 73 1753–D.)

U.S. 10, Minn., Otter Tail County, November 6: Proposed is the improvement of a 9.6 mile segment of U.S. 10 to a four lane expressway. The project will extend from southeast of Perhem to the junction of T. H. 106, bypassing the Village of New York Mills. Approximately 290 acres of additional right-of-way will be acquired for the facility; three families will be displaced. Other adverse effects of the action are temporary increases in noise and air pollution during construction, and loss of vegetative cover. (ELR Order No. 31754.) (NTIS Order No. EIS 73 1754–D.)

N–15 and U.S. 6, Nebr., Saline and Seward Counties, November 5: The project involves the reconstruction of 8.8 miles of US 6 and N–15. The project will require 86 acres of land. Two bridges will be replaced, one over Johnson Creek and one over the west fork of the Big Blue River. A 4(f) review has been filed to obtain land from the Blue River State Wayside Area, for right of way. Adverse impacts are: loss of land and wildlife habitat, and increased water pollution due to the bridge crossing (25 pages). (ELR Order No. 31740.) (NTIS Order No. EIS 73 1740–D.)

U.S. 30, Nebr., Platte County, November 5: The proposed project is the improvements of US 30 for 0.9 mile. The improvement includes widening the existing viaduct over the Union Pacific Railroad tracks. Two service stations and 3 houses will be displaced. An increase in noise levels will occur (20 pages). (ELR Order No. 31746.) (NTIS Order No. EIS 73 1746–D.)

U.S. 4, 202, and N.H. 9, N.H., Merrimack County, November 5: The proposed project is the relocation and construction of U.S. Routes 4, 202 and New Hampshire Route 9 for 3.3 miles. The facility will be on new alignment and will consist of 2 lanes of an ultimate 4 lane road. Approximately 170 acres of land will be acquired for right-of-way. Four families and one business will be displaced. Increases in siltation will occur during the construction of a bridge over the Merrimack River. Approximately 1.5 acres of Fort Eddy Pond and 3.0 acres of Sugar Pond will be filled. Increases in noise and air pollution will occur (95 pages). (ELR Order No. 31748.) (NTIS Order No. EIS 73 1748–D.)

I–78, New Jersey, Union County, November 5: The project involves the construction of a 6-lane Interstate highway for 5.2 miles. The facility will require an unspecified amount of land for right-of-way, and will displace an unspecified number of families. A 4(f) review has been filed to obtain 116 acres of land from the Watchung Reservation. The facility will substantially increase water, noise, and air pollution levels in the area (276 pages). (ELR Order No. 31747.) (NTIS Order No. EIS 73 1747–D.)

I 194, Bismarck South Bypass, N. Dak., Burleigh and Morton Counties, November 8: The proposed project consists of constructing an interchange at the end of the I–194 Spur west of the existing Memorial Bridge; constructing a four-lane divided roadway from the proposed interchange to a junction with U.S. Highway 10; and constructing a new bridge across the Missouri River. Project length is 5.3 miles. Adverse impact will include: the taking of 99 acres for right-of-way; the increase of noise levels; the taking of 7.3 acres from two city parks; the relocation of one residence; and the possibility of effects to business activity in downtown Bismarck (70 pages). (ELR Order No. 31763.) (NTIS Order No. EIS 73 1763–D.)

State Trunk Highway 33, Wis., Washington and Dodge Counties, November 8: The statement refers to the proposed construction of a complete or parital relocation of seven miles of STH 33 between County Trunk Highway "WW" and County Trunk Highway "P". The number of families and businesses displaced and the amount of land required for right of way will depend upon the corridor selected (93 pages). (ELR Order No. 31761.) (NTIS Order No. EIS 73 1761–D.)

Final

Alabama State Route 188, Ala., Mobile County, November 6: The proposed project is the improvement of 3400 feet of SR 188. The project will displace between 7 and 12 businesses and 8 families. Approximately 2.5 to 4 acres of private land will be acquired for right of way. A Shrimp Boat Memorial will be required to relocate (69 pages). Comments made by: USDA, EPA, DOC, HUD, DOI, State and regional agencies. (ELR Order No. 31755.) (NTIS Order No. EIS 73 1755–F.)

U.S. 51—Kingsley Street Couple, Ill., McLean County, November 5: The proposed project is the use of U.S. 51 and Kingsley Street as a traffic couplet. Seventeen families, four mobile homes, and five commercial businesses will be displaced. Increases in noise will have adverse impacts (63 pages). Comments made by: AHP, USDA, COE, DOI, DOT, EPA, FPC, HEW, HUD, OEO and State

agencies. (ELR Order No. 31745.) (NTIS Order No. EIS 73 1745-F.)

Cross Range Expressway (U.S. 169), Minn., St. Louis County. The statement refers to the proposed construction of an 8.5 mile segment of Trunk Highway 169 in the Mesabi Iron Range. The project will provide a four-lane divided expressway for the mining range and connect with the adjacent section of "Cross Range Expressway" already completed. Five families and two businesses may be displaced; 13.25 acres of undeveloped Section 4(f) land from the Bahl Village Park may be committed to right of way (68 pages). Comments made by: USDA, DOI, OEO, and State agencies. (ELR Order No. 31752) (NTIS Order No. EIS 73 1752-F.).

Tennessee S.R. 1—(U.S.-11W), Tennessee, Hawkins County, November 6: The proposed project is the improvement and relocation of S.R. 1 (U.S. 11W). Project length is 12 miles. Depending upon the alternate chosen, between 150 and 175 acres of land would be acquired for right-of-way; 20 to 30 families and 0 to 1 businesses would be displaced. The facility will traverse four streams, causing siltation, sedimentation and erosion that will be detrimental to the aquatic life found in the streams. Other adverse effects will be loss of wildlife and increased noise and air pollution (81 pages). Comments made by: USDA, DOI, DOT, EPA, HEW, HUD, TVA. (ELR Order No. 31756) (NTIS Order No. EIS 73 1756-F)

U.S. COAST GUARD

Final

Intervention on the High Seas Act November 5: Proposed is a bill to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969. The basic concept of the bill is to reduce oil pollution damage to the coastlines or related interests of the United States (29 pages). Comments made by: DOT, EPA, STAT, USN, (ELR Order No. 31744) (NTIS Order No. EIS 73 1744-F.).

U.S. WATER RESOURCES COUNCIL

Contact: Mr. Don Maughan, Director, 2120 L Street NW., 8th Floor, Washington, D.C. 20037, (202)-254-6303.

Final

Pearl River Comprehensive Report, Louisiana and Mississippi, November 6: The statement refers to the comprehensive planning program for the Pearl River Basin. Structural measures would include three major multiple purpose reservoirs, 179 floodwater retarding structures, 29 multiple purpose structures, 1,202 miles of channel development, 82 recreational areas, and the development of 302 miles of recreational boating. Adverse impact would be to 10,000 acres of farm and forest wildlife habitat; additionally, 70 miles of free flowing river would be converted to impounded flat water, and 52,000 acres of bottomland forest would be cleared (63 pages). Comments made by: NASA, agencies of Louisiana and Mississippi (ELR Order No. 31758) (NTIS Order No. EIS 73 1758-F)

NEIL OHLOFF,
Counsel.

[FR Doc.73-24592 Filed 11-16-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

REGISTRATION OF PESTICIDES

Consideration of Data by the Administrator in Support of Applications; Interim Policy

The Federal Environmental Pesticide Control Act of 1972 (FEPCA) made a significant amendment to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) with respect to consideration of data by the Administrator for the purpose of supporting applications for registration of pesticides. The 1972 Act amended FIFRA to provide, in sec. 3(c)(1)(D), that each applicant for registration of a pesticide shall file

(D) If requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of other applications for registration unless such other applicant shall have first offered to pay reasonable compensation for producing the test data to be relied upon and such data is not protected from disclosure by sec. 10(b).

Section 3(c)(1)(D) continues, after the language just quoted, as follows:

If the parties cannot agree on the amount and method of payment, the Administrator shall make such determination and may fix such other terms and conditions as may be reasonable under the circumstances. The Administrator's determination shall be made on the record after notice and opportunity for hearing. If the owner of the test data does not agree with said determination, he may, within thirty days, take an appeal to the federal district court for the district in which he resides with respect to either the amount of the payment or the terms of payment, or both. In no event shall the amount of payment determined by the court be less than that determined by the Administrator; * * *

Under section 4 of FEPCA, registration of new applications under the amended registration provisions of FIFRA is to commence no later than two years after enactment of FEPCA. The Administrator has discretionary authority to implement the amended registration provisions in part before full implementation. Certain segments of private industry have urged that sec. 3(c)(1)(D) of amended FIFRA be made operative before the time required by section 4 of FEPCA.

This publication gives notice that the Administrator has determined that it is in the public interest to make effective immediately the portion of sec. 3(c)(1)(D) appearing in the first quotation above, which limits consideration of data by the Administrator. It does not make effective at this time the portion of sec. 3(c)(1)(D) appearing in the second quotation above, relating to determination of compensation by the Administrator. This latter provision would be implemented when regulations are promulgated on sec. 3(c)(1)(D) in its entirety.

Under procedures for registration of pesticides in effect prior to this publication, applicants were not as a rule required to furnish efficacy and human and environmental effects data or references to data if the application involved an active ingredient, formulation and use pattern previously accepted for registration. FIFRA prior to amendment by FEPCA did not constrain the Administrator from using efficacy or effects data contained in or provided in connection with applications previously filed as a basis for acting on other applicants' applications. The applicant was required, however, to furnish in all cases a complete statement of the formulation of the product for which he sought registration, or if such formula information was not furnished by the applicant, to obtain authorization from a registrant or applicant who had previously furnished the formula to permit the Agency to refer to the formula.

The major purpose of sec. 3(c)(1)(D) is to foster research and development of new pesticides by assuring a degree of protection for the investment made by the developer in procuring the efficacy and human and environmental effects data submitted by him to the Administrator to secure registration of the new pesticide. Such protection is clearly not intended to limit fair economic competition nor to extend existing protection of inventions beyond that already provided by patent and similar laws. Thus, it is the Agency's purpose to implement sec. 3(c)(1)(D) in such manner as to provide reasonable protection and compensation for the production of new data consistent with the foregoing principles, while at the same time assuring that competition is not unduly affected nor the use of available knowledge of pesticides restricted to the detriment of the public interest.

Further, the registration of pesticide products is a highly complex regulatory process. These products are by their very nature toxic to at least some organisms and are distributed directly to the environment where contact with non-target organisms, including man, frequently occurs. These products, more than most, must therefore be closely examined with regard to possible risks to human health and the environment. In order to provide better controls over pesticides, especially their use, FEPCA amended FIFRA in a number of ways which have the incidental effect of making the registration process even more complex, especially during the next few years. Consequently, another principal EPA concern in implementing sec. 3(c)(1)(D) is to add as little complexity as possible to the process of registering a pesticide product and to minimize the burden upon persons claiming compensation for data previously filed with the Administrator, new applicants who wish to use data and the Administrator, who must register the pesticides and may be requested to make determinations of amounts of compensation.

With these considerations in mind, and in light of the matters below, EPA decided that the effective date for the first quoted portion of sec. 3(c)(1)(D) and policies and procedures for implementing it should be the date of publication of this notice. Announcement of the decision without making it effective immediately would result in severe disruption of the orderly submission and processing by EPA of applications for registration. Some applicants would defer filing and processing in the belief that it would be more advantageous to them

to await final promulgation of new policies and procedures. Others would be uncertain as to whether to proceed without any clear guide as to their best interest. It must be remembered that EPA receives some 35,000 applications a year. Furthermore, immediate effectiveness is clearly in the public interest to avoid encouraging early submission of large numbers of applications based upon established use patterns for the purpose of avoiding the applicability of new policies and procedures to those applications. If the latter situation were to occur, it would largely circumvent the decision to make the mentioned portion of sec. 3(c)(1)(D) effective before the end of the two year period allowed by FEPCA. Finally, the Agency believes it desirable to further the purposes of sec. 3(c)(1)(D) now, consistent with its ability to implement it at the present time. Accordingly, the policies and procedures set forth below will apply to all applications received by EPA on or after November 19, 1973, except those mailed and postmarked before such date.

The Agency believes, nevertheless, that the foregoing decision should not preclude a full opportunity for public review of and comment on the policies and procedures set forth below. The development of policy and procedures for implementing sec. 3(c)(1)(D) has proved to be an exceedingly difficult task because of the many substantive issues involved and the objective of striking a balance among competing considerations and equities. Accordingly, EPA solicits the submission of comments on all policy and procedural issues related to the action described in this notice, and will review all comments received with a view toward possible amendment of its policies and procedures when demonstrated to be desirable. Comments should be addressed to Hearing Clerk, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. EPA will also consider holding a hearing on this matter if it determines, on the basis of comments submitted, that a hearing will substantially facilitate resolution of factual or other issues.

Until amendment, however, the Agency's policies with respect to the administration of 3(c)(1)(D) and its procedures for implementing those policies will be as follows:

All applications for registration, whether for new registrations, amendment of existing registrations or renewals, submitted to EPA on or after the date of this notice shall contain:

1. An express, written offer to pay reasonable compensation to the extent provided under sec. 3(c)(1)(D) for use of any test data submitted to EPA in connection with an application for registration for the first time on or after October 21, 1972; and

2. One of the following:

(a) All required supporting data;

(b) Specific references to all required data to be considered in support of the application; such references may be to data contained in or submitted in connection with other applications or other registrations, or in the open literature, but shall be to sources easily available to the Agency and shall be clearly identified; or

(c) A request that registration proceed on the basis of use patterns, efficacy and safety previously established unler FIFRA. An applicant proceeding under this paragraph (c) may submit additional data to support the efficacy and safety of specified uses contained in his application; as to such data, the application will be treated as proceeding under paragraph (a).

Unless the applicant requests otherwise in writing, an application proceeding under 2(a) or 2(b) will be processed to completion in the usual manner. Any claims for compensation that may exist will remain for future resolution. All parties should understand, however, that it is EPA's interpretation of sec. 3(c)(1)(D) that an offer to pay reasonable compensation contained in the application of an applicant is binding and may not be withdrawn once registration is issued, even if the registered product is never marketed under the registration.

EPA will upon receipt of every application publish in the FEDERAL REGISTER a notice of the application containing at least the following:

1. The name and address of the applicant;

2. EPA registration number or file symbol;

3. The name of the product; and

4. A listing of the active ingredients of the product and their percentages.

The labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, 401 M Street SW., Washington, D.C.

Any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under sec. 3(c)(1)(D) against an applicant proceeding under 2(c) with respect to data contained in or submitted in connection with such person's application, and (c) wishes to preserve his opportunity for determination of the amount of reasonable compensation by the Administrator under sec. 3(c)(1)(D) must, within 60 days following the FEDERAL REGISTER publication of notice, notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant shall, at a minimum, include the following information in his notice to the Administrator and the applicant:

1. The claimant's name and address;

2. The name of the product as to which claimant was an applicant and in connection with which application the data were submitted as to which claimant wishes to assert a right of compensation;

3. The EPA registration number or file symbol for the application in connection with which the data were submitted;

4. Date of the submission of the data;

5. Applicable active ingredients;

6. A specific reference to the data as to which claimant wishes to assert a right of compensation;

7. For the purpose of identifying the application and applicant against whom claim is being made, the first three items (mentioned above) of the FEDERAL REGISTER notice covering such application together with the date of the FEDERAL REGISTER notice.

If following publication of the FEDERAL REGISTER notice no notice of claim is received by the Agency within the 60-day period as to an application proceeding under 2(c), the registration review will proceed to completion according to normal procedures for products following established use patterns. In the case of any application proceeding under 2(c), if no notice of claim for compensation is given or if notice of claim is received by the Administrator after the 60-day period, the Administrator will not at any time accept a request to make a determination of reasonable compensation with respect to the claim under sec. 3(c)(1)(D). It must be recognized that in the case of a product proceeding to registration under 2(c), it may be impossible to determine in the future what specific data if any were considered by EPA in support of the application for registration.

If a notification of claim as provided above is received by the Administrator within the 60-day period, the applicant against whom the claim is asserted will be notified. If the application proceeded under 2(a) or 2(b), the applicant may request EPA not to proceed with registration review if registration has not already been issued; unless such a request is made, EPA will proceed with review to completion of registration proceedings. If the application proceeded under 2(c), the applicant is required to do one of the following:

a. Submit a revised application meeting the requirements of 2(a) or 2(b);

b. Acknowledge in writing that his application relies on the data that the claimant has identified as the data as to which he wishes to assert a right of compensation, and request EPA to consider those data in support of the application; or

c. Obtain EPA approval to continue to proceed under 2(c) without reliance on the data that the claimant has identified as the data as to which he wishes to assert a right of compensation, but relying only on other relevant data specified by applicant as supporting his application; EPA will not give such approval unless it believes that rights under sec. 3(c)(1)(D) will not be prejudiced by so doing.

As soon as the applicant meets such requirement, the Agency will process his application to completion according to normal procedures for products following established use patterns and on the basis of the data submitted or referred to, as appropriate to the course chosen by the applicant.

Except during the 60-day notice period for applicants proceeding under 2(c) or if so requested by an applicant proceeding under 2(a) or 2(b), consideration of data by the Administrator in reviewing applications will not be held in abeyance because a claim for compensation does

or may exist. It is the Agency's policy to separate the issue of whether an application is supported by adequate data and registration is therefore justified from the issue of reasonable compensation. While sec. 3(c)(1)(D) establishes certain rights regarding compensation, it clearly does not require the registration process to be held in abeyance pending attempts by the parties, EPA, or the courts to settle such claims.

In reviewing an application for registration, EPA will consider only the following data in support of the application:

1. If an application proceeds at any time under 2(a) or 2(b), only the data contained in the application or referenced in it.

2. If an application proceeds originally under 2(c) and a claim for compensation is received by the Administrator within 60 days as provided above, the data specified by the applicant, as indicated above, in regard to matters supported by the data that a claimant has identified as the data as to which he wishes to assert a right to compensation, and in regard to other matters, any data available to EPA, including data submitted by other applicants.

3. If an application proceeds under 2(c) and no claim is received by the Administrator within 60 days as provided above, any data available to EPA, including data submitted by other applicants.

It is the Agency's policy that claimants for compensation and applicants against whom claims are asserted shall use their best efforts and exhaust all available mechanisms and remedies to resolve disputes as to reasonable compensation prior to requesting a determination of reasonable compensation by the Administrator under sec. 3(c)(1)(D). EPA will develop and promulgate at a future date, after opportunity for public review and comment, detailed regulations covering the policies and procedures set forth in this notice, procedures for determining reasonable compensation, and related matters. Until such time as these regulations have been promulgated, the portion of sec. 3(c)(1)(D) quoted above relating to determination of reasonable compensation by the Administrator will not be placed in effect.

Dated: November 14, 1973.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.73-24715 Filed 11-16-73;8:45 am]

LEAD-DEADWOOD SANITATION DISTRICT PROJECT

Public Hearing

Notice is hereby given that on December 11, 1973, commencing at 9:30 a.m. in the Masonic Temple at Deadwood, South Dakota, a public hearing will be held to reconsider alternatives to and to reevaluate EPA project #C 460200 proposed pursuant to an EPA construction grant tendered to the Lead-Deadwood Sanitation District No. 1, and to discuss the potential environmental impacts of said project.

Oral statements on the subject and the hearing will be received from interested Federal, State, and local agencies and from private organizations and individuals. Written statements will also be received at or in advance of the hearing and should be directed to:

Environmental Protection Agency, Office of the Regional Counsel, 1860 Lincoln Street, Suite 300, Denver, Colo. 80203, 303-837-3826.

Detailed information on the presently proposed project, including copies of the grant application, grant offer, and the final environmental impact statement previously filed are available for public inspection at the following locations:

U.S. Post Office Building, Deadwood, S. Dak.
Deadwood-Carnegie Library, Deadwood, S. Dak.

SUPPLEMENT #1 TO ENVIRONMENTAL IMPACT STATEMENT

LEAD-DEADWOOD SANITATION DISTRICT PROJECT #C 460200, SOUTH DAKOTA

OCTOBER 26, 1973.

On December 21 and 22, 1971, a hearing was held in Deadwood, South Dakota, as a part of the preparation of an impact statement, prior to the tendering of a grant for construction of a wastewater treatment facility to serve the Lead-Deadwood Sanitation District.

As a result of that hearing and in response to concerns in regard to possible groundwater pollution resulting from the storage of industrial wastewaters and tailings resulting from mining operations, certain conditions were attached to the subsequent grant offer, requiring the grantee to employ measures to minimize infiltration to the groundwaters in the area.

Information developed during final design of this facility indicates the presence of unexpected geological features in the reservoir area and it appears that insufficient subsurface site information was available at the time of the hearing to fully assess the effects of the storage of the industrial wastes and trace metals contained in the tailings and their relationship to infiltration into the groundwater aquifers.

The Bureau of Reclamation, U.S. Department of the Interior, has been retained as consultants to the EPA on the design of the dam and the subsurface exploration activities relating to the tailings lagoon. The Bureau has reviewed the latest engineering data, has met with the consultants for the District, and is satisfied that the construction features are feasible. The Bureau has not been involved in the cost analysis of any phase of this project, with the question of possible groundwater contamination, or with general environmental concerns.

In addition, current cost estimates, which include measures to provide a suitable foundation for the dam and to provide a lining for the reservoir in order to minimize loss of liquids into the subsurface strata, now indicate an increase in project cost to approximately 250 percent over the original cost estimates. These new estimated costs now indicate the desirability of reevaluating all feasible alternative methods of disposal and/or treatment of industrial and municipal wastes, in order to determine the most cost effective solution to the problem.

Consequently, the environmental impact statement process will be reopened and public comment received, at a public hearing and otherwise, to reevaluate the project as presently proposed and to reconsider alternative solutions to the problem. A revised environmental impact statement will be prepared and distributed in accordance with the Council on Environmental Quality's Guidelines.

A key issue in this matter is the question of what effect this proposed project at the Centennial Valley site would have on groundwater quality. EPA has required the Lead-Deadwood Sanitation District as a grant condition to demonstrate to EPA's satisfaction that groundwater quality will not be adversely affected. The District has engaged the Colorado School of Mines to collect data necessary to analyze and evaluate the groundwater quality implications of constructing this proposed project at the Centennial Valley site.

While geologic information has been collected, the hydrologic data (permeability tests) have not. It is possible at this time to evaluate the structural implications of the proposed project based on the geologic information. However, until the hydrologic data is available and has been analyzed and evaluated in conjunction with the geologic data, no firm conclusions on groundwater quality impacts can be drawn by EPA.

Dated: November 14, 1973.

SHELDON MEYERS,
Director,
Office of Federal Activities.

[FR Doc.73-24714 Filed 11-16-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RI74-32]

CHAMPLIN PETROLEUM CO.

Petition for Special Relief

NOVEMBER 12, 1973.

Take notice that on August 27, 1973, Champlin Petrolem Company (Petitioner), 1800 First National Building, Fort Worth, Texas 76102, filed a petition for special relief in Docket No. RI74-32. Petitioner requests that it be granted special relief from the area rate established in Opinion No. 595 with respect to a proposed new sale of gas to Tennessee Gas Pipeline Company from Nueces County, Texas. Petitioner seeks its initial contract rate of 35 cents per Mcf at 14.65 psia.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24545 Filed 11-16-73;8:45 am]

[Docket No. CP74-114]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on October 29, 1973, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed in Docket No. CP74-114 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7 (b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing March 1, 1974, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally co-extensive with said system.

Applicant states that the total cost of all facilities will not exceed $7,000,000, with no single project to exceed a cost of $1,000,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24552 Filed 11-16-73;8:45 am]

[Docket Nos. CP66-110, et al.]

GREAT LAKES GAS TRANSMISSION CO.

Petition To Amend Certificate and Import Authorizations

NOVEMBER 12, 1973.

Take notice that on October 23, 1973, Great Lakes Gas Transmission Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket Nos. CP66-110, et al., CP70-19, et al., CP70-100, and CP71-222, et al., a petition to amend the orders of the Commission heretofore issued in said dockets pursuant to sections 3 and 7 of the Natural Gas Act, by authorizing continued importation of natural gas, at an increased pressure, which Petitioner receives from Canada, at Emerson, Manitoba, from TransCanada Pipe Lines Limited (TransCanada) and by extending the time for construction of compression facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of June 20, 1967, accompanying Opinion No. 521 (37 FPC 1070) in Docket No. CP66-110, et al.; the order of April 30, 1970, accompanying Opinion No. 577 (43 FPC 635) in Docket No. CP 70-19, et al.; the order of April 30, 1970 (43 FPC 653), in Docket No. CP70-100; and the order of June 1, 1971 (45 FPC 1034), in Docket No. CP71-222, et al., Petitioner was authorized inter alia, to import natural gas into the United States from Canada. The subject gas is purchased by Petitioner from TransCanada pursuant to contracts entered into by said parties providing for, among other things, a delivery pressure of 550 psig.

Pursuant to an agreement between the parties dated October 22, 1970, which terminated October 31, 1971, Petitioner received gas from TransCanada at a pressure of 750 psig, with deliveries thereafter to be made at a pressure of 550 psig. In an agreement dated June 11, 1971, said parties agreed to a continuance of such deliveries at 750 psig for a period ending October 31, 1973. Petitioner stated at that time that such a continuance of deliveries at the higher delivery pressure would permit Petitioner to effect substantial cost savings by allowing Petitioner to defer until the summer of 1973 the installation of additional compressor facilities at its Compressor Station No. 1 near St. Vincent, Minnesota. By the order issued on April 24, 1972, in the instant dockets, the Commission authorized Petitioner to continue to receive natural gas from TransCanada at a pressure of 750 psig for a period ending October 31, 1973, and by an order issued May 19, 1972, in Docket No. CP70-19, et al., extended until November 1, 1973, the time in which Petitioner was authorized to install the additional 20,000 horsepower compressor unit at its Compressor Station No. 1.

Petitioner and TransCanada have entered into an agreement dated November 20, 1972, providing for the continuance of deliveries at 750 psig for a period extending through October 31, 1975. Petitioner requests the Commission to amend further its authorizations in the captioned proceedings to allow Petitioner to continue to receive natural gas from TransCanada at a pressure of 750 psig at TransCanada's Emerson, Manitoba, delivery point and to extend the time within which Petitioner may install the additional 20,000 horsepower compressor unit at Station No. 1 through October 31, 1975.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24553 Filed 11-16-73;8:45 am]

[Docket No. CI74-291]

GREAT SOUTHERN OIL & GAS CO., INC.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on November 5, 1973, Great Southern Oil & Gas Co., Inc. (Applicant), P.O. Box 52957, Oil Center Station, Lafayette, Louisiana 70501, filed in Docket No. CI74-291 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Gas Transmission Corporation from the South Bayou Mallet Field, Acadia Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has commenced the sale of natural gas within the contemplation of section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale within the contemplation of section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) for one year from the first day of the month following the month

in which a certificated sale is commenced. Applicant proposes to sell approximately 27,000 Mcf of gas per month at 50.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24554 Filed 11-16-73;8:45 am]

[Docket No. CP74-118]

INDUSTRIAL GAS CORP.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on November 1, 1973, Industrial Gas Corporation (Applicant), P.O. Box 1473, Charleston, West Virginia 25325, filed in Docket No. CP74-118 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by §§ 157.7(b) and 157.7(c) of the Commission's regulations thereunder (18 CFR 157.7(b) and 157.7(c)), for a certificate of public convenience and necessity authorizing the construction during the twelve-month period commencing July 1, 1973, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas purchased from producers thereof and certain natural gas sales and transportation facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is (1) to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system and (2) to enable Applicant to construct and operate certain natural gas sales and transportation facilities to enable Applicant to make sales of natural gas to existing distributors or consumers or to permit miscellaneous rearrangements not resulting in any change in service in areas located in proximity to its pipeline system. Applicant does not propose under § 157.7(c) to construct and operate facilities for the transportation and sale of natural gas for direct sales.

Applicant states the total estimated cost of the gas purchase facilities is anticipated to be $45,000 and the total estimated cost for construction of the proposed new transmission facilities is anticipated to be $80,000. Applicant states that the proposed facilities will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference with said application should on or before December 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 73-24555 Filed 11-16-73;8:45 am]

[Docket No. CI73-931]

LONE STAR PRODUCING CO.

Order Granting Petition To Intervene

NOVEMBER 1, 1973.

On June 28, 1973, Lone Star Producing Company (Lone Star) filed an application in Docket No. CI73-931 for a sale to Natural Gas Pipeline Company (Natural) pursuant to section 2.75[1] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455.[2]

Notice of Lone Star's application in Docket No. CI73-931 was noticed on July 10, 1973, and was published in the FEDERAL REGISTER on July 19, 1973 (38 FR 19245). Petitions to intervene were due on or before July 23, 1973. A timely petition to intervene in support of the application was filed by Natural in compliance with the Commission's Rules of Practice and Procedure.

On September 20, 1973, the American Public Gas Association (APGA) filed a petition to intervene on behalf of itself and its member systems.[3] This petition was filed 59 days after the time for filing such a petition had expired, and 71 days after issuance of the Commission's notice. APGA offers no explanation of its two-month delay in requesting intervention. Such late intervention obviously is filed in an untimely and egregious manner.

On October 1, 1973, Lone Star filed an answer to the petition of APGA to intervene. Lone Star opposes APGA's petition on grounds that (1) APGA's petition reflects concern with pregranted abandonment, when in fact no such matter is involved in Lone Star's proposal, and (2) APGA offers no explanation of its two month delay in requesting intervention. Natural, in its response to APGA's petition to intervene, set forth a schedule of Natural's need for additional supplies of gas.

Despite the aforementioned untimely petition, the Commission shall permit the intervention of APGA in this proceeding. The Commission, however, notes that APGA has requested and received permission to intervene in hearings at which APGA failed to enter an appearance or otherwise participate in the proceeding.[4]

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[1] 18 CFR 2.75 (1973).

[2] Statement of Policy Relating to Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R-441, 48 FPC 218 (issued August 3, 1972, appeal pending sub nom. John E. Moss, et al. v. F.P.C. No. 72-1837 (D.C. Cir.)).

[3] APGA states in its petition that it is the national association of municipal gas distributor systems with over 200 members.

[4] The apparent lack of care exercised by APGA in examining applications noticed by the Commission, and in requesting permission to intervene in Commission proceedings is evident in APGA's petition to intervene in the instant proceeding where APGA states that "if the application contemplates pregranted abandonment effective at the end of the twenty-year term, it is contrary to section 7(b) of the Natural Gas Act." (Emphasis supplied).

Set forth below is a list of hearings in which APGA was granted permission to intervene and in which it failed even to enter an appearance:

Texas Gas Exploration Corporation, Docket No. CI73-681.
McCulloch Oil Corporation of Texas, Docket No. CI73-430.
Pennzoil Producing Company Midwest Oil Corporation, Docket No. CI72-321, Docket No. CI73-755.
Pennzoil Company, Docket No. CI73-202.
McCulloch Oil Corporation, Docket No. CI73-521.

The Commission also notes that in his initial decision, issued October 5, 1973, in McCulloch Oil Corporation of Texas, Docket No. CI73-430, Presiding Administrative Law Judge Levy observed that APGA, inter alia, was granted permission to intervene in the McCulloch proceeding. Judge Levy noted that at the McCulloch hearing the applicant, the pipeline customer and the Commission's Staff appeared, but there were no other appearances at the hearing.

The Commission orders:

The petition of the American Public Gas Association to intervene in Docket No. CI73-931 is granted.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24548 Filed 11-16-73;8:45 am]

[Docket No. RP73-102]

MICHIGAN-WISCONSIN PIPELINE CO.

Further Extension of Time

NOVEMBER 12, 1973.

On November 7, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by notice issued September 19, 1973, and for leave to file testimony late. The motion states that there was an agreement by all parties at the prehearing conference that the procedural schedule should be revised. The motion also requests an extension of time to file depreciation testimony.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Prehearing Conference, November 15, 1973 (10 a.m., e.s.t.).
Intervenor Service of Testimony, November 27, 1973.
Service of Staff Depreciation Testimony, November 30, 1973.
Company Rebuttal Testimony Served, December 12, 1973.
Hearing, January 15, 1974, (10 a.m., e.s.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-24556 Filed 11-16-73;8:45 am]

[Docket No. CP74-30]

NORTHERN NATURAL GAS CO.

Notice of Petition To Amend

NOVEMBER 12, 1973.

Take notice that on October 26, 1973, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP74-30 a petition to amend the order issued in said docket on October 29, 1973, pursuant to section 7(c) of the Natural Gas Act granting a certificate of public convenience and necessity authorizing the construction and operation of an additional delivery station to serve the community of Millard, Nebraska, and the realignment, by community, certain firm gas entitlements for its Peoples Natural Gas Division (Peoples), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in order to meet the requirements of extensive residential and small volume commercial load growth in and around Millard, Peoples requested realignment of its firm gas entitlements, by community, to provide an additional 2,335 Mcf of natural gas per day to Millard for the 1973-74 heating season. In order to accommodate the anticipated delivery of such increased volumes Petitioner requested authorization to install an additional delivery station to connect with Peoples' existing distribution system. Petitioner states that subsequent to its filing of application in the instant docket the community of Millard was annexed by the city of Omaha and that Petitioner has been advised by Peoples that arrangements have been made with Metropolitan Utilities District (MUD), the natural gas distributor serving the city of Omaha, for MUD to transport and deliver natural gas into the Millard area, as a result of which the proposed additional delivery station will no longer be needed.

Petitioner states that pursuant to this arrangement Petitioner will deliver up to 4,000 Mcf of natural gas per day to MUD at the existing Omaha TBS #1a delivery station for the account of Peoples and MUD will transport and deliver such volumes to Peoples for distribution and sale in the community of Millard. Petitioner states further that Peoples and MUD are presently negotiating the sale and transfer of Peoples distribution properties to MUD to enable MUD to succeed Peoples as distributor for the Millard area.

Petitioner states as a result of these subsequent developments it requests the Commission to amend its order to delete authorization for the construction and operation of an additional delivery station. Petitioner states further, however, that its request for authorization to realign, by community, certain firm gas entitlements for Peoples, as granted in the order of October 29, 1973, remains unaltered to assure reliable and adequate service to People's high-priority consumers in and around the community of Millard for the 1973-74 heating season.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24557 Filed 11-16-73;8:45 am]

[Docket No. E-8152]

OTTER TAIL POWER CO.

Order Accepting Filing, Denying Request for Relief, Instituting Investigation and Hearing, Providing for Notice, and Permitting Intervention

OCTOBER 31, 1973.

On July 23, 1973, Otter Tail Power Company (Otter Tail), submitted a First Amended Complaint and Petition in Docket No. 8152, responding to a request by the Village of Elbow Lake, Minnesota (Elbow Lake), a Complainant before the Commission in Docket No. E-7278, to change Otter Tail's wholesale service arrangements to Elbow Lake[1] so as to provide an interconnection to furnish wheeling service pursuant to the Federal District Court ruling in United States of America v. Otter Tail Power Company, 331 F.Supp. 54 (September 9, 1971).[2]

By its submittal, Otter Tail petitions the Commission to determine (1) whether such an interconnection to provide wheeling service falls within the public interest and should be so ordered under the Federal Power Act; (2) just and reasonable rates for wheeling; and (3) a reasonable severance charge for abandonment of the present service, so as to prevent the fixed and embedded costs of such service from being unduly passed on and borne by remaining Otter Tail customers. In claiming no compensatory rates for wheeling service on file with the Commission, Otter Tail submits suggested wheeling contract charges of $21.05/kW per year for firm transmission service, $27.72/kW per year for replacement power and energy in the event of failure by the supplier, and $0.6896/kW for excess energy subject to a fuel adjustment clause and a 100 percent billing demand ratchet.

Otter Tail's filing, amending an April 23, 1973 Complaint and Petition, is in response to an April 5, 1973 notice from Elbow Lake calling for termination

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[1] As so ordered in FPC Opinion No. 603, issued September 13, 1971, 46 FPC ------.

[2] As affirmed by the United States Supreme Court in Otter Tail Power Company v. United States of America, ------ U.S. ------, 35 L.Ed. (2d) 359, 93 S.Ct. ------ (February 22, 1973).

of firm electric service and initiation of wheeling of United States Bureau of Reclamation (USBR) power in lieu thereof, to commence no later than July 10, 1973, pursuant to the 90-day termination clause of the current contract between Otter Tail and Elbow Lake.

By Answer and Request for Affirmative Relief submitted June 29, 1973, Elbow Lake asserts (1) that Commission Opinion No. 603 establishing the interconnection determined the public interest question raised by Otter Tail, and (2) that the Otter Tail filing constitutes a rate schedule for wheeling service which is unduly discriminatory because the suggested rates fall far in excess of those on file for 17 municipalities for similar service. After suffering long and costly litigation to secure USBR power and costs approximately double those in effect for other municipalities receiving preference power through Otter Tail, Elbow Lake requests Commission (1) acceptance of Otter Tail's Petition as a rate filing and initiation of a hearing to determine the lawfulness thereof, and (2) approval of USBR power transmission service at rates consistent with those on file for similar service.

The Missouri Basin Power Agency, comprising 45 municipal utilities in Minnesota and Iowa, filed a timely Petition to Intervene on June 21, 1973 requesting participation herein to protect the interests of eight of its members receiving wheeling service from Otter Tail. Comments received in support of Elbow Lake's position from the American Public Power Association on June 26, 1973 urged swift Commission disposition.

On July 12, 1973, Otter Tail filed a Reply to Elbow Lake's Answer and Request for Affirmative Relief, noting that: (1) Otter Tail presently furnishes wholesale service to Elbow Lake pursuant to Commission Opinion No. 603; (2) Elbow Lake's request seeks to change the nature thereof to that of wheeling service; (3) although enjoined from refusal to wheel, Otter Tail may charge a compensatory rate for wheeling; (4) the contract with USBR whereby Otter Tail provides transmission service was vitiated by the Supreme Court determination that a provision therein limiting wheeling service was invalid; and (5) the Otter Tail-USBR contract and related municipal agreements on file constitute a package deal establishing wheeling rates which are not compensatory. Otter Tail asks the Commission to deny Elbow Lake's request and initiate a proceeding to resolve issues raised thereby.

On July 16, 1973, a letter urging Commission issuance of an interim order providing for immediate commencement of wheeling service under rates deemed appropriate, subject to retroactive adjustment or refund, was received from the Department of the Interior. Noting a lack of Otter Tail response to a Departmental request for wheeling service to deliver USBR power to Elbow Lake pursuant to the Otter Tail-USBR contract, the Department asserts its readiness to execute a contract with Elbow Lake upon consummation of transmission arrangements.

Elbow Lake additionally submitted on September 26, 1973 a motion for immediate consideration, noting that continued deferral of Commission action herein works irreparable burden upon Elbow Lake's ratepayers. Otter Tail's response which was filed on October 4, 1973, labels the Elbow Lake motion inappropriate due to its redundancy.

Otter Tail currently wheels preference power to 17 municipalities within its service area pursuant to a contract with USBR [3] which provides for wheeling by both parties at a 1 mill/kWh, if Otter Tail determines each fourth year that it possesses available excess transmission capacity. Otter Tail contracts additionally with individual municipalities for Transmission Firming Service for 1.5 mills/kWh, discounted for customers with generation.

Elbow Lake incurred average payments to Otter Tail of 16.7 mills/kWh for the 12-month period ending May, 1973, and estimates comparable payments of from 6.05 to 6.8 mills/kWh for USBR power and Otter Tail Transmission Firming Service. The Commission calculates payments by Elbow Lake of 10.5 mills/kWh for (1) USBR power at a cost of 5.3 mills/kWh, plus (2) wheeling service at a rate of 5.2 mills/kWh as filed by Otter Tail.[4]

The Commission will not, without hearing order Otter Tail to file a rate which differs from that submitted. Although Opinion No. 603 provided for the interim nature of Otter Tail's interconnection and wholesale service ordered therein and anticipated future sale of USBR power to Elbow Lake, Otter Tail's submittal cannot realistically qualify as a change in rate schedule pursuant to § 35.13 of our Regulations because it effects a change in the nature of service to Elbow Lake by supersedence of all-requirements wholesale service by wheeling of USBR power.

The Otter Tail filing amounts to a new rate for a new type of service and should so qualify pursuant to Section 205 of the Federal Power Act and § 35.12 of the Regulations issued thereunder.

The Federal District Court ruling determined that initiation of wheeling service falls within the public interest. It is left for the Commission to give effect to that mandate to implement wheeling service to Elbow Lake by accepting and determining rates therefor which are compensatory, non-discriminatory, just and reasonable. Lest we act in derogation of Sections 205 and 206 of the Federal Power Act and Part 35.1 of our Rules and Regulations, the Commission should (1) accept the filed rate as an initial rate schedule in order to implement wheeling service as directed, and (2) enter upon a hearing to determine the justness and reasonableness thereof. Acceptance of the Otter Tail submittal as an initial rate filing permits the Commission to (1) effect an immediate reduction in power costs to Elbow Lake from 16.8 mills/kWh to 10.5 mills/kWh, and (2) set in motion proceedings to determine if further reduction thereof is warranted, and whether the accepted rate is unduly discriminatory or preferential.

Written notice of the Otter Tail filing was issued by the Commission on May 30, 1973 and published in the FEDERAL REGISTER on June 4, 1973 (38 FR 14722), stating that any person desiring to be heard or to make any protest with reference to the filing should on or before June 22, 1973, file with the Federal Power Commission petitions or protests. It is in the public interest to extend the period within which to file petitions in this docket.

The Commission finds:

(1) There is no need at this time to determine whether a change in the nature of service to Elbow Lake falls within the public interest since the District Court ruling, Commission Opinion No. 603, and the present rate schedule already provide for termination of present service when wheeling of USBR power is requested by Elbow Lake.

(2) The filed rate is an initial rate schedule which effectuates a new type of service.

(3) The tendered rate for wheeling service to Elbow Lake should be accepted for filing and made effective as of the date of issuance of this order.

(4) Pursuant to the provisions of sections 205, 206 and 307 of the Federal Power Act, an investigation and hearing should be instituted for the purpose of determining whether the rate schedule for wheeling service, contained in Otter Tail's Complaint and Petition—Amendment No. 1 filed on July 23, 1973, is just and reasonable, unduly discriminatory or preferential.

(5) Elbow Lake's request for affirmative relief should be denied.

(6) The Missouri Basin Power Agency should be permitted to intervene in this proceeding, subject to the Commission's rules and regulations.

(7) It is in the public interest to extend the period within which to file petitions in this docket.

The Commission orders:

(A) The rate for wheeling service to Elbow Lake tendered by Otter Tail in this docket on July 23, 1973, is hereby accepted for filing and made effective as of the date of issuance of this order.

(B) Pursuant to the provisions of sections 205, 206 and 307 of the Federal Power Act, an investigation and hearing is hereby instituted for the purpose of determining whether the rate schedule for wheeling service accepted herein is just and reasonable, unduly discriminatory or preferential.

(C) A prehearing conference shall be held on December 10, 1973, at 10 a.m., for the purpose of establishing necessary hearing procedures, including a schedule for the submission of evidence, if any, by the parties to the proceeding, and for the expeditious resolution of other related matters as may be required.

(D) Elbow Lake's request for affirmative relief is denied.

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[3] Otter Tail Rate Schedule FPC No. 84.

[4] Elbow Lake's "Answer," page 4.

(E) The Missouri Basin Power Agency is permitted to intervene in this proceeding, subject to the Commission's Rules and Regulations.

(F) Any person desiring to intervene in this proceeding should file a petition to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with § 1.8 of the Rules of Practice and Procedure (18 CFR 1.8). All such petitions should be filed on or before November 5, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-24549 Filed 11-16-73;8:45 am]

[Docket No. CP74-112]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on October 26, 1973, Panhandle Eastern Pipe Line Company (Applicant), filed in Docket No. CP 74-112 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to deliver to and exchange with Colorado Interstate Gas Company, a division of Colorado Interstate Corporation, volumes of natural gas and the construction and operation of certain related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that under the gas exchange agreement dated September 1, 1973, it has agreed to deliver to CIG such volumes of natural gas as Applicant may have available in Adams County, Colorado, and CIG will return equivalent volumes of gas on an exchange basis by delivery to Applicant in Texas County, Oklahoma, and Grant County, Kansas. Applicant states exchanged volumes are to have a heating value of not less than 975 Btu per cubic foot with redeliveries to commence with the date of the first delivery by Applicant and any imbalance in such account to be cured during the next succeeding month.

Applicant states that because of the wet condition of gas at the wellhead and in order to bring it within the quality and delivery conditions of the exchange agreement, Applicant has entered into a processing agreement with Tom Vessels (Vessels) dated October 19, 1973. Pursuant to the latter agreement Applicant requests authorization to construct and operate certain connections between pipeline facilities currently being constructed by Applicant under Commission authorization issued March 30, 1973, in Docket No. CP72-181 (49 FPC ____) and, a point or points on Vessels' existing high-pressure gathering system appurtenant to Vessels' Irondale Plant and at the inlet of Vessels' Bennet Plant as mutually agreed to by Applicant and Vessels. Applicant states that Vessels has agreed to receive and process all such gas at said plants and to deliver the residue to CIG at existing points of interconnection at the tailgate of Vessels' processing plant or plants.

Additionally, Applicant requests authorization to install a 300 horsepower compressor unit rented by Applicant to increase pressure to that required for delivery by said agreements.

Applicant states that the proposed exchange is required due to drainage of gas from wells dedicated to Applicant and the resulting threat of cancellation of gas purchase and sales agreements with the resulting loss of such gas to the interstate market.

Estimated cost of measurement and delivery facilities is $13,200, which Applicant will finance with funds on hand.

Any person desiring to be heard or to make any protest with reference with said application should on or before December 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-24558 Filed 11-16-73;8:45 am]

[Docket No. RP73-108]

PANHANDLE EASTERN PIPE LINE CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

NOVEMBER 12, 1973.

On October 26, 1973, Staff Counsel filed a request for an extension of the procedural dates fixed by order issued June 28, 1973, in the above-designated matter. The request states that counsel for Panhandle Eastern Pipe Line Company nor the interveners contacted had any objection to the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Staff Service of Evidence, January 11, 1974.
Prehearing Conference, January 17, 1974 (10 a.m., e.s.t.).
Interveners' service of Direct Case, February 1, 1974.
Service of Panhandle Rebuttal, February 22, 1974.
Cross-Examination, March 5, 1974 (10 a.m., e.s.t.).

MARY B. KIDD, *Acting Secretary.*

[FR Doc.73-24559 Filed 11-16-73;8:45 am]

[Docket No. CI74-289]

PATRICIA J. MITCHELL

Notice of Application

NOVEMBER 12, 1973.

Take notice that on November 5, 1973, Patricia J. Mitchell (Applicant), c/o O. R. Mitchell, 1130 Broadway, San Antonio, Texas 78215, filed in Docket No. CI74-289 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation from the Karon Field Unit, Live Oak County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that she intends to commence the sale of natural gas for sixty days within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 30,000 Mcf of gas per month at 50.0 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24560 Filed 11-16-73;8:45 am]

[Docket No. E-7317]

PENNSYLVANIA POWER CO.

Order Instituting Investigation

NOVEMBER 12, 1973.

On October 21, 1966, the Borough of Ellwood City, Pennsylvania, (Ellwood), filed a formal complaint and petition for investigation under section 306 of the Federal Power Act against the Pennsylvania Power Company (PPC). PPC is the sole supplier of electric utility service to Ellwood and such service is subject to the jurisdiction of this Commission. Ellwood alleges that during the period December 12, 1939 to September 3, 1964, PPC collected from Ellwood approximately $272,500 of revenues in excess of PPC's legal rates. Ellwood requests that this Commission institute an investigation concerning the alleged charges by PPC, and that it determine the amount of revenue excess and order the appropriate refunds. On January 26, 1967, PPC answered Ellwood's complaint and in addition, moved to dismiss the complaint. On April 19, 1967, Ellwood filed a Reply to PPC's motion to dismiss.

The pleadings in this docket may fairly be characterized as a series of allegations by Ellwood and disclaimers thereto by PPC without adequate supporting evidence, data or explanation of PPC's system and operations in terms of the relevant judicial and Commission determinations relied upon in asserting or disclaiming FPC jurisdiction over PPC's sales to Ellwood during the period involved. As a result, the pleadings do not provide an adequate or proper basis for determination of the complex jurisdictional issues involved. Accordingly, Ellwood's request for an investigation pursuant to section 306 concerning Ellwood's allegations against PPC will be granted and PPC's motion for dismissal of the complaint will be denied.

The purpose of this investigation will be to determine whether this Commission had jurisdiction over the sales of electric energy to Ellwood for the period 1939 to 1964. Assuming this Commission had jurisdiction, the parties' evidence to be submitted should address itself to the issue of whether excess charges have been collected and, if so, how such excess charges should be measured.

In order to aid the Commission in reaching a determination of the issues in this docket, we request certain additional information in the subsequent ordering paragraphs which we deem necessary to the investigation. This request for additional information is by no means intended to limit the scope of the investigation nor the right of the parties to submit all facts, data, evidence and other information relevant to the issues of jurisdiction, remedies and equitable considerations.

The Commission finds:

(1) Good cause exists to institute an investigation pursuant to the Federal Power Act as hereinafter ordered.

(2) Good cause exists to deny PPC's motion to dismiss.

The Commission orders:

(A) Pursuant to the Provisions of the Federal Power Act, particularly sections 306, 307, 308 and 309 thereof, and the Commission's rules and regulations, an investigation and hearing are hereby instituted concerning the issues raised by Ellwood's complaint against PPC filed on October 21, 1966.

(B) On or before November 30, 1970, Ellwood and PPC shall serve their respective cases-in-chief. On or before December 21, 1973, both parties shall serve their rebuttal evidence. Cross-examination of the evidence shall commence at 10 a.m. on January 15, 1974, in a hearing room of the Federal Power Commission.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose (See Delegation of Authority, 13 CFR 3.5(d)), shall preside at the hearing in this proceeding, and shall prescribe relevant procedural matters not herein provided, and shall conduct the proceeding in accordance with the Commission's rules of practice and procedure and the provisions of this order.

(D) PPC shall provide, at the time of its filing of its case-in-chief, the following information:

(1) The basis for PPC's statement that its sales of electric energy to Ellwood were "subject to the jurisdiction of the State commission for the period December 12, 1939 to September 3, 1964".

(2) A detailed analysis of PPC's transmission and generation facilities including: (a) the date on which PPC began generating its own electric energy; (b) the dates on which new generators were added to PPC's facilities and the total capability of PPC's system after these new generators were added; (c) the amounts (in kilowatts and dollars) of electric energy purchased from sources outside the PPC system for the period of December 12, 1939 to September 3, 1964; (d) a tracking of the electric energy sold to Ellwood by PPC; and (e) the average yearly peak demands of the PPC system for the years 1939 through 1964.

(E) Ellwood shall provide, at the time of its filing of its case-in-chief, the following information:

(1) An explanation of the derivation, including all calculations, of the amount of $272,570 appearing at page 8 of Ellwood's complaint.

(F) PPC's motion to dismiss Ellwood's complaint is hereby denied.

(G) The secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73-24550 Filed 11-16-73;8:45 am]

[Docket No. CI74-288]

SEAL GATHERING CO.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on November 5, 1973, Seal Gathering Company (Applicant), P.O. Box 515, Alief, Texas 77411, filed in Docket No. CI74-288 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Company from the Clear Creek Oil Field, Allen Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 1,000 Mcf of gas per day for one year at 45.0 cents per Mcf at 15.025 psia, subject to upward and downward B.t.u. adjustment from a base of 1,000 B.t.u. per cubic foot, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Upward B.t.u. adjustment is limited to 1,200 B.t.u. per cubic foot. Estimated, monthly sales are 30,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject

to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24561 Filed 11-16-73;8:45 am]

[Docket Nos. CP73-87, et al.]

SEA ROBIN PIPELINE CO. ET AL.

Postponement of Procedural Dates

NOVEMBER 12, 1973.

In the matter of Sea Robin Pipeline Company, United Gas Pipe Line Company and Southern Natural Gas Company.

On November 9, 1973, Sea Robin Pipeline Company filed a motion for an extension of time from November 13, 1973, to November 28, 1973, within which the Applicants shall file their direct testimony and exhibits and for a postponement of the prehearing conference from November 15, 1973, to December 11, 1973. The motion states that Commission Staff Counsel and the other parties concur in the motion.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Direct Testimony and Exhibits by Applicants and Persons in Support of Application, November 28, 1973.

Prehearing Conference December 11, 1973 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24563 Filed 11-16-73;8:45 am]

[Docket No. RP73-47]

SEA ROBIN PIPELINE CO.

Notice of Certification of Settlement

NOVEMBER 12, 1973.

Take notice that on October 5, 1973, the Presiding Administrative Law Judge in the above-captioned proceeding certified to the Commission a Stipulation and Agreement of Settlement filed by the Sea Robin Pipeline Company (Sea Robin). Sea Robin states that agreement was reached by all interested parties on all issues with the exception of the issue of the proper rate of book depreciation, which is to be reserved and tried in the future. The settlement provides for an effective date of April 15, 1973.

Copies of this filing are on file with the Commission and are available for public inspection. Any person desiring to comment upon the settlement offer should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 23, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24562 Filed 11-16-73;8:45 am]

[Docket No. E-8224]

SIERRA PACIFIC POWER CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

NOVEMBER 12, 1973.

On November 8, 1973, Sierra Pacific Power Company filed a motion for the revision of the procedural dates fixed by order issued July 26, 1973. The motion states that neither Staff Council nor any of the parties had any objection to the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Testimony and Exhibits by Interveners, December 4, 1973.
Service of Rebuttal Evidence by Sierra, December 28, 1973.
Prehearing Conference, January 15, 1974 (10 a.m., e.s.t.).
Cross-Examination, January 16, 1974 (10 a.m., e.s.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-24564 Filed 11-16-73;8:45 am]

[Docket No. E-8176]

SOUTHERN CALIFORNIA EDISON CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

NOVEMBER 12, 1973.

On November 7, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued July 6, 1973, in the above-designated matter. The motion states that there were no objections by any of the parties to the motion.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Staff Service of Evidence, December 7, 1973.
Intervener Service, January 18, 1974.
Prehearing Conference, January 24, 1974 (10 a.m., e.s.t.).
Company Rebuttal, February 15, 1974.
Hearing, March 4, 1974 (10 a.m., e.s.t.).

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-24565 Filed 11-16-73;8:45 am]

[Docket Nos. RP72-74, RP74-6]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing Tendered Tariff Sheets, Suspending Tariff Sheets, Granting Interventions, Denying Motion To Reject, Consolidating Dockets, Providing for Hearing and Establishing Procedures; Correction

NOVEMBER 1, 1973.

Page 3, paragraph (4): In the second line, change "Docket No. RP72-74 and RP74-76" to read "Docket Nos. RP72-74 and RP74-6."

In the last line, change "Docket No. RP74-76" to read "Docket No. RP74-6."

Page 4, paragraph (G): In the first line, change "November 6, 1973" to read "November 9, 1973."

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24547 Filed 11-16-73;8:45 am]

[Docket No. RI74-48]

SUN OIL CO.

Petition for Special Relief

NOVEMBER 12, 1973.

Take notice that on September 7, 1973, Sun Oil Company (Petitioner), P.O. Box 2880, Dallas, Texas 75221, filed a petition for special relief in Docket No. RI74-48, pursuant to Section 2.76 of the Commission's General Policy and Interpretations. Petitioner requests that it be granted special relief from the flowing gas ceiling established in Opinion No. 662, Docket No. AR70-1, Permian Basin Area (Permian II), and that it be permitted to collect a rate of 31 cents per Mcf plus periodic escalations of ¼ cent per Mcf for sales of gas to Northern Natural Gas Company from the Grimmer Well No. 1 under its FPC Gas Rate Schedule No. 413. The Grimmer Well No. 1, which Petitioner seeks to redrill, is located in Crockett County, Texas, and was originally completed as a dry hole in 1962 and plugged and abandoned.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but it will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24546 Filed 11-16-73;8:45 am]

[Docket No. CI74-290]

TERRA RESOURCES, INC. (OPERATOR) ET AL.

Notice of Application

NOVEMBER 12, 1973.

Take notice that on November 5, 1973, Terra Resources, Inc. (Applicant), 5416 South Yale Avenue, Tulsa, Oklahoma 74135, filed in Docket No. CI74-290 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Colorado Interstate Gas Company, a division of Colorado Interstate Corporation, from the Ten Mile Draw Field, Sweetwater County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) for sixty days and proposes to continue said sale for one year from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 90,000 Mcf of gas per month at 40.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-24566 Filed 11-16-73;8:45 am]

[Docket No. CI74-82, CI74-132]

TEXACO, INC. AND TENNECO OIL CO.

Order Consolidating Proceedings, Granting Interventions, and Fixing Date for Hearing

NOVEMBER 1, 1973.

The above-named Applicants have filed an application pursuant to section 7(c) of the Natural Gas Act,[1] and pursuant to § 2.75[2] of the Commission's General Policy Statements, the new Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce.

On August 6, 1973, Texaco, Inc. (Texaco), filed in Docket No. CI74-82 an application for a certificate of public convenience and necessity authorizing the sale of natural gas to Tennessee Gas Pipeline Company (Tennessee) pursuant to the optional certification procedure provided by § 2.75 of the Commission's General Policy and Interpretations. The subject gas would be delivered to Tennessee from Eugene Island Block 338, Offshore Louisiana at an initial rate of 47 cents per Mcf with a 2 cent per Mcf annual escalation throughout the life of the 20 year contract term. Additionally, the basic contract with Tennessee provides for 100 percent reimbursement of any new or additional taxes, downward B.t.u. adjustment from 1,000 B.t.u. per cubic feet and upward B.t.u. adjustment from 1015, and an "area rate" type clause which is prohibited by paragraph (f) of Order No. 455. However, Texaco tendered a waiver of such clause.

A notice of intervention was filed by the Public Service Commission of the State of New York, and timely petitions to intervene were filed by:

Tennessee Gas Pipeline Company.
American Public Gas Association.

On August 20, 1973, Tenneco Oil Company (Tenneco) filed in Docket No. CI74-132 an application for a certificate of public convenience authorizing the sale of natural gas to Tennessee, an affiliate, pursuant to the optional certification procedure provided by § 2.75 of the Commission's General Policy and Interpretations. The subject gas would be produced from Eugene Island Block 338, Offshore Louisiana, under a contract identical to that in Docket No. CI74-82.

A notice of intervention was filed by the Public Service Commission for the State of New York, and timely petitions to intervene were filed by:

Tennessee Gas Pipeline Company.
Associated Gas Distributors.
Columbia Gas Transmission Corporation.

A formal hearing has been requested, and we find a hearing is desirable to determine, on the record, whether the present and future public convenience and necessity will be served by certificating this sale, and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.[4]

Since these applications involve similar questions of law and fact as to the reasonableness of the prices for which certification is sought, the Commission concludes that the ultimate disposition of the above-described proceedings would be best accomplished in a consolidated proceeding. The Commission shall, therefore, consolidate these dockets for hearing and disposition.[5]

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals. See n. 3, supra. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness of the particular sales and rates herein proposed.

Those parties and intervenors desiring to submit cost and non-cost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.[6]

No intervenor has questioned Tennessee's need for the additional natural gas supplies that will be available to it as a result of these purchases. Tennessee has submitted the certification required by § 2.75(h) (18 CFR 2.75(h)). Accordingly, the hearing hereinafter provided for should not explore any issues relative to Tennessee's need. We do require from Tennessee, however, evidence as to whether or not a comparable supply of natural gas is available to Tennessee at any rate lower than the rates proposed in these applications.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed pro-

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[1] 15 U.S.C. § 717, et seq. (1970).

[2] 1 CFR § 2.75.

[3] Statement of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R-441, ——— FPC ——— (issued August 3, 1972), appeal pending sub nom. John E. Moss, et al. v. F.P.C., No. 72-1837 (D.C. Cir.).

[4] Opinion And Order Issuing Certificate of Public Convenience And Necessity And Determining Just And Reasonable Rates, Opinion No. 659, Belco Petroleum Corporation, Agent, et al., Docket Nos. CI73-293, et al., ——— FPC ———, ——— (Issued May 30, 1973, slip op. at para. 21, p. 5).

[5] Opinion No. 659, slip op. at para. 11, p. 5.

[6] Opinion No. 659 gave consideration to such factors as (1) cost, (2) return, (3) alternate supply costs, (4) contract rates for intra- and interstate sales, (5) commodity value, Opinion No. 659, supra.

ceeding be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these proceedings.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I) Docket Nos. CI74–82 and CI74–132 are consolidated for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the proposals of the applicants herein shall be held commencing January 22, 1974, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(D) Applicants and all intervenors supporting the applications shall file their direct testimony and evidence on or before November 30, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(E) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on or before December 18, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(F) All rebuttal testimony and evidence shall be served on or before January 8, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(G) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The contract dated July 5, 1973, between Texaco and Tennessee is hereby accepted for filing to be effective as of the date of initial delivery and designated as Texaco Inc. FPC Gas Rate Schedule No. 498.

(I) The contract dated August 6, 1973, between Tenneco and Texaco is hereby accepted for filing to be effective as of the date of initial delivery and designated as Tenneco Oil Company FPC Gas Rate Schedule No. 286.

(J) The Administrative Law Judge's decision shall be rendered on or before February 15, 1974. All briefs on exceptions shall be due on or before February 22, 1974, and replies thereto shall be due on or before February 28, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73–24551 Filed 11–16–73;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

ADVISORY COMMITTEE ON PROGRAM OF SCIENCE, TECHNOLOGY AND HUMAN VALUES

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the advisory Committee on the Program of Science, Technology and Human Values will be held at 9:30 a.m., on December 12, 1973, in room 540 at 1800 G Street NW., Washington, D.C. 20550. The meeting will be held collaboratively with that of the National Science Foundation's Advisory Committee on Ethical and Human Value Implications of Science and Technology.

The agenda for this meeting will include:

MORNING

Opening Remarks, and Summary of developments since previous meetings of Committees.

Discussion of areas of scientific and technological development whose ethical and human value implications may raise questions of serious social concern.

AFTERNOON

Discussion of definitional scope of programs.

Discussion of program priorities.

The meeting will be open to the public on a space-available basis. Additional information may be obtained from the Advisory Committee Management Officer, Mr. John Jordan, 806 15th Street NW., Washington, D.C. 20506 (telephone 202–382–2031). Individuals planning to attend are requested to notify Mr. Jordan no later than December 7, 1973, but such notification is not a requirement for attendance.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73–24591 Filed 11–16–73;8:45 am]

MUSEUM PANEL

Notice of Meeting

NOVEMBER 12, 1973.

Pursuant to Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Museum Panel will take place in Washington, D.C., on December 6, 7, 1973.

The purpose of the meeting is to review Humanities Program Grant proposals and Development Grant proposals that have been submitted to the Endowment for possible grant funding.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73–24590 Filed 11–16–73;8:45 am]

MUSEUM SUB-PANEL

Notice of Meeting

NOVEMBER 12, 1973.

Pursuant to P.L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Museum Subpanel will take place in Washington, D.C., on November 27, 28, 1973.

The purpose of the meeting is to review Humanities Program Grant proposals and Development Grant proposals that have been submitted to the Endowment for possible grant funding.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.73–24589 Filed 11–16–73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Docket No. SH–322]

SUGARCANE PRICES IN PUERTO RICO

Notice of Hearing and Designation of Officers

Pursuant to the authority contained in section 301(c)(2) of the Sugar Act of 1948, as amended, (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to price proceedings (7 CFR 802.1 et seq.), notice is hereby given that a public hearing will be held in Santurce, Puerto Rico, in the Conference Room, Seventh Floor, Stubbe-Segarra Building, Stop 20, on November 29, 1973, beginning at 10 a.m.

The purpose of this hearing is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices to be paid for the 1973–74 crop of Puerto Rican sugarcane by producers who process sugarcane grown by

other producers and who apply for payment under the act on their own sugarcane production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and to present appropriate data with respect to the subject matter involved.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27 (b)).

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers, and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearing by the presiding officers.

Arthur B. Calcagnini, Leo L. Sommerville, Robert R. Stansberry, Jr., Carlos Troche, James E. Agnew, Jr., William H. Ragsdale, and Thomas M. Popp are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Signed at Washington, D.C., on November 14, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-24580 Filed 11-16-73;8:45 am]

Farmers Home Administration

[Designation Number AO35]

EMERGENCY LOANS

Designation of Eligible Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following parishes in Louisiana:

Acadia. Calcasieu.

The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of excessive rainfall and high winds caused by Tropical Storm Delia occurring during the incidence period September 3 to 14, 1973.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93–24, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for Emergency loans must be received by this Department prior to January 7, 1974, for physical losses and prior to August 8, 1974, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designation area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 12th day of November 1973.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.73-24576 Filed 11-16-73;8:45 am]

Food and Nutrition Service

[FSP 1974-2.1; Amdt. 22]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance—Alaska

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. The first such adjustment is to be implemented commencing January 1, 1974 incorporating the changes in prices of food through August 31, 1973. Therefore, Notice FSP No. 1973–2, which is issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II, Code of Federal Regulations, is superseded, effective January 1, 1974, by this Notice FSP No. 1974–2.1.

As occurred with the July 1973 coupon allotments for some household sizes, the coupon allotments for households of two, six, and eight or more persons are not equally divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotments.

In view of the need for placing this notice into effect on January 1, 1974, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rule making with respect to this notice. Notice FSP No. 1974–2.1 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE; ALASKA

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in Alaska, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in Alaska prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Household size:	*Maximum allowable monthly income standards—Alaska*
One	$220
Two	313
Three	453
Four	573
Five	680
Six	780
Seven	880
Eight	989
Each additional member	+80

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Public Law 91–671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Alaska are as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—ALASKA

Monthly net income	For a household of— 1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is— $52	$94	$136	$172	$204	$234	$264	$294
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $159.99	33	38	40	41	42	43	44	45
$160 to $169.99	37	44	46	47	48	49	50	51
$170 to $179.99	37	50	52	53	54	55	56	57
$180 to $189.99	38	56	58	59	60	61	62	63
$190 to $199.99		62	64	65	66	67	68	69
$200 to $209.99		67	70	71	72	73	74	75
$210 to $219.99		68	76	77	78	79	80	81
$220 to $229.99		68	82	83	84	85	86	87
$230 to $239.99		68	88	89	90	91	92	93
$240 to $249.99			94	95	96	97	98	99
$250 to $259.99			103	104	105	106	107	108
$260 to $269.99			112	113	114	115	116	117
$270 to $279.99			114	122	123	124	125	126
$280 to $289.99			114	131	132	133	134	135
$290 to $299.99				140	141	142	143	144
$300 to $309.99				144	150	151	152	153
$310 to $319.99				144	159	160	161	162
$320 to $329.99				144	168	169	170	171
$330 to $339.99					172	178	179	180
$340 to $349.99					172	187	188	189
$350 to $359.99					172	196	197	198
$360 to $369.99						198	206	207
$370 to $379.99						198	215	216
$380 to $389.99						198	223	225
$390 to $399.99						198	224	234
$400 to $409.99							224	243
$410 to $419.99							224	250
$420 to $429.99							224	250
$430 to $439.99								250
$440 to $449.99								250
$450 to $459.99								250
$460 to $469.99								250

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Total Allotment.* For each person in excess of eight, add $24 to the monthly coupon allotment for an eight-person household.

B. *Purchase Requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $839.99 or less per month.

2. For households with monthly incomes of $840 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $839.99, add $9 to the monthly purchase requirement shown for an eight-person household with an income of $839.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $20 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on January 1, 1974.

Dated: November 13, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-24422 Filed 11-16-73;8:45 am]

Food and Nutrition Service

[FSP No. 1974-3.1]

FOOD STAMP PROGRAM

Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance—Hawaii

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. The first such adjustment is to be implemented commencing January 1, 1974 incorporating the changes in prices of food through August 31, 1973. Therefore, Notice FSP No. 1973-3, which is issued pursuant to a part of Subchapter C—Food Stamp Program, under 7 CFR Chapter II, is superseded, effective January 1, 1974, by this Notice FSP No. 1974-3.1.

As occurred with the July 1973 coupon allotments for some household sizes, the two-, three-, four-, five- and seven-person household coupon allotments are not equally divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirement for such allotments.

In view of the need for placing this notice into effect on January 1, 1974, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rule making with respect to this notice. Notice FSP No. 1974-3.1 reads as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE; HAWAII

As provided in § 271.3(b), households in which all members are included in the federally aided public assistance or general assistance grant shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance or general assistance, in Hawaii, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in Hawaii prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Household size:	*Maximum allowable monthly income standards—Hawaii*
One	$208
Two	313
Three	447
Four	567
Five	673
Six	773
Seven	873
Eight	973
Each additional member	+80

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulations.

Pursuant to section 7 (a) and (b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which the State agency is authorized to issue to any household certified as eligible to participate in the Program and the amount charged for the monthly coupon allotment in Hawaii are as follows:

MONTHLY COUPON ALLOTMENTS AND PURCHASE REQUIREMENTS—HAWAII

Monthly net income	For a household of—							
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons
	The monthly coupon allotment is—							
	$52	$94	$134	$170	$202	$232	$262	$292
	And the monthly purchase requirement is—							
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	37	44	46	47	48	49	50	51
$190 to $229.99	38	50	52	53	54	55	56	57
$210 to $229.99		56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $169.99		67	70	71	72	73	74	75
$270 to $289.99		68	76	77	78	79	80	81
$290 to $309.99		68	82	83	84	85	86	87
$310 to $329.99		68	88	89	90	91	92	93
$330 to $259.99			94	95	96	97	98	99
$360 to $389.99			103	104	105	106	107	108
$390 to $419.99			112	113	114	115	116	117
$420 to $449.99			112	122	123	124	125	126
$450 to $479.99				131	132	133	134	135
$480 to $509.99				140	141	142	143	144
$510 to $539.99				142	150	151	152	153
$540 to $569.99				142	159	160	161	162
$570 to $599.99					168	169	170	171
$600 to $629.99					170	178	179	180
$630 to $659.99					170	187	188	189
$660 to $689.99					170	195	197	198
$690 to $719.99						195	206	207
$720 to $749.99						196	215	216
$750 to $779.99						196	221	225
$780 to $809.99							221	234
$810 to $839.99							222	243
$840 to $869.99							222	247
$870 to $899.99							222	247
$900 to $929.99								248
$930 to $959.99								248
$960 to $989.99								248

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA:

A. *Value of the Total Allotment.* For each person in excess of eight, add $24 to the monthly coupon allotment for an eight-person household.

B. *Purchase Requirement.* 1. Use the purchase requirement shown for the eight-person household for households with incomes of $839.99 or less per month.

2. For households with monthly incomes of $840 or more, use the following formula:

For each $30 worth of monthly income (or portion thereof) over $839.99, add $9 to the monthly purchase requirement shown for an eight-person household with an income of $839.99.

3. To obtain maximum monthly purchase requirements for households of more than eight persons, add $20 for each person over eight to the maximum purchase requirement shown for an eight-person household.

Effective date. The provisions of this notice shall become effective on January 1, 1974.

Dated: November 13, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-24423 Filed 11-16-73;8:45 am]

Forest Service

BOULDER—GROVER ROAD, DIXIE NATIONAL FOREST, UTAH

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the purpose of identifying and evaluating the effects of the proposed reconstruction of the Boulder—Grover Road, Dixie National Forest, Utah. The Forest Service report number is USDA–FS–DES (Adm) 74–38.

The environmental statement considers alternatives and effects of reconstructing this 28.5 mile section of road crossing the east slope of Boulder Mountain on National Forest System land.

The draft environmental statement was filed with CEQ November 12, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, 500 South Main Street, Cedar City, Utah 84720.
USDA, Forest Service, Escalante, Utah 84726.
USDA, Forest Service, South Agricultural Bldg., Room 3231, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, Federal Office Building, Room 2025, 324 25th Street, Ogden, Utah 84401.
USDA, Forest Service, Teasdale, Utah 84773.

A limited number of single copies are available upon request to Forest Supervisor, Dixie National Forest, 500 South Main Street, Cedar City, Utah 84720.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed actions and requests for additional information should be addressed to Forest Supervisor, Dixie National Forest, 500 South Main Street, Cedar City, Utah. Comments must be received by January 12, 1974, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 13, 1973.

[FR Doc.73-24597 Filed 11-16-73;8:45 am]

FOREST REESTABLISHMENT ON NATIONAL FORESTS IN CALIFORNIA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service Department of Agriculture has prepared a draft environmental statement for Forest Reestablishment on National Forests in California, USDA–FS–DES(Adm)–74–39.

The environmental statement concerns the proposed reestablishment of coniferous forest stands on certain commercial forest lands presently occupied by brush and also the reforestation of commercial forest lands following timber harvesting and wildfires. Brush on selected portions of the brush covered commercial forest land as well as brush hindering conifer reestablishment on timber regeneration cut areas, will be modified by various means. A flexible program using all available techniques including mechanical, fire, and herbicides is proposed.

This draft environmental statement was filed with CEQ on November 13, 1973.

Copies are available for inspection during working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, 630 Sansome Street, Room 531, San Francisco, Calif. 94111.
Offices of the Forest Supervisors of the 17 National Forests in Calif.

A limited number of single copies are available upon request to Regional Forester, U.S. Forest Service, 630 Sansome St., San Francisco, Calif. 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22150. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Regional Forester, U.S. Forest Service, 630 Sansome Street, San Francisco, Calif. 94111. Comments must be received on or before January 17, 1973, in order to be considered in the preparation of the final environmental statement.

ADRIAN M. GILBERT,
Acting Deputy Chief, Forest Service.

NOVEMBER 13, 1973.

[FR Doc.73-24599 Filed 11-16-73;8:45 am]

USE OF HERBICIDES IN VEGETATION MANAGEMENT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for The Use of Herbicides in Vegetation Management, Forest Service report number USDA-FS-FES (Adm) 73-66.

The environmental statement concerns proposed herbicide use in the Northern Region. This statement considers the programs in which herbicides may be used, and the biological principles operative in systems when subjected to vegetation manipulation.

This final environmental statement was filed with CEQ on November 13, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Room 3677, Missoula, Mont. 59801.

Copies are also available for inspection at all National Forest and Ranger District Headquarters in the Northern Region.

A limited number of single copies are available upon request to Regional Forester Steve Yurich, USDA, Forest Service, Region 1, Federal Building, Missoula, Mont. 59801.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

NOVEMBER 13, 1973.

[FR Doc.73-24598 Filed 11-16-73;8:45 am]

Soil Conservation Service

SOUTH FORK WATERSHED PROJECT, NEBR.

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the South Fork Watershed Project, Pawnee and Richardson Counties, Nebraska, USDA-SCS-ES-WS-(ADM)-73-18(F).

The environmental statement concerns a plan for watershed protection, flood prevention, grade stabilization, and recreation. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by (1) one multiple-purpose structure for flood prevention and public recreation and associated recreation facilities, (2) two structures for flood prevention, and (3) fourteen grade stabilization structures.

The final environmental statement was transmitted to CEQ on November 7, 1973.

Copies are available for inspection during regular working hours at the following locations.

Soil Conservation Service, USDA, South Agriculture Building Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.
Soil Conservation Service, USDA, 134 South 12th Street, Room 604, Lincoln, Nebraska 68508.

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement. The estimated cost is $4.30.

Dated: November 7, 1973.

WILLIAM B. DAVEY,
Deputy Administator for Water Resources, Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

[FR Doc.73-24579 Filed 11-16-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 388]

ASSIGNMENT OF HEARINGS

NOVEMBER 14, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after November 19, 1973.

MC-106341 Sub 32, Moss Trucking Company, Inc., is continued to February 4, 1974, at Cavalier Inn, Heritage Room, 426 North Tryon Street, Charlotte, North Carolina.
No. 35825, Board of Trade of the City of Chicago-V-The Akron, Canton and Youngstown Railroad Company, Et Al, now assigned January 7, 1974, MC 87720 Sub 139, Bass Transportation Co., Inc., now assigned January 10, 1974, MC-C-8048, Forlow Travel Bureau, Inc.-V-Mrs. Leland (Romine) Hostetler and Mrs. Hugh (Orpha) Easterday, Dba Wana-Go Club, Et Al, now assigned January 11, 1974, MC 138781, Kro-Flite Cartage Co., now assigned January 14, 1974, and MC 135691 Subs 4, 5, 6, 7, and 8, Dallas Carriers Corp., now assigned January 16, 1974, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
MC-100666 Sub 246, Melton Truck Lines, Inc., now assigned December 3, 1973, will be held in Room 273, Fed. Bldg., 600 Fed. Place, Louisville, Ky.
MC-133095 Sub 44, Texas-Continental Express, Inc., now assigned December 5, 1973, will be held in Room 273, Fed. Bldg., 600 Fed. Place, Louisville, Ky.
MC-138279, Conalco Contract Carrier, Inc., now assigned December 10, 1973, will be held in Room 273, Fed. Bldg., 600 Fed. Place, Louisville, Ky.
MC-120981 Sub 15, Bestway Express, Inc., now assigned December 3, 1973 will be held in The State Office Bldg., 4th Floor, Frankfort, Ky.
MC 134358 Sub 3, Central Dispatch, Inc., Extension-Lawson, Mo., now assigned December 4, 1973, at Jefferson City, Mo., will be held in the Penthouse, Jefferson Bldg., 101 Capitol Street.

MC-138168, Load & Go Truck Line, now assigned November 26, 1973, will be held in Room 2, Public Utilities Commission, 1688 West Adams, Phoenix, Ariz.

MC-138168, Load & Go Truck Line, now assigned November 29, 1973, will be held in Room 114, Federal Bldg., 4th and Road Street, Grand Junction, Colo.

MC 83835 Sub 76, Wales Transportation, Inc., application dismissed.

MC 124692 Sub 87, Sammons Trucking, now assigned November 27, 1973, at Phoenix, Ariz., will be held in Suite 502, Ramada Inn East, 3801 East Van Buren.

MC-FC-74065, Riteway Transport, Inc., Phoenix, Arizona, Transferee and Padre Freight Lines, Long Beach, California, Transferor, and MC-FC-74299, Riteway Transport, Inc., Phoenix, Arizona, Transferee and Cibola Freight Lines, Phoenix, Arizona, Transferor, now assigned November 29, 1973, at Phoenix, Arizona, will be held in Room 2, Public Utilities Commission, 1688 West Adams.

MC 127042 Sub 120, Hagen, Inc., and MC 128273 Sub 142, Midwestern Express, Inc., now assigned December 3, 1973, MC 730 Sub 349, Pacific Intermountain Express Co., now assigned December 5, 1973, MC 136762 Sub 1, Osborne Highway Express, now assigned December 10, 1973, and MC 119777 Sub 257, Ligon Specialized Hauler, Inc., now assigned December 12, 1973, at San Francisco, Calif., will be held in Room 13025, 450 Golden Gate Avenue.

I & S M-27194, Alaska Motor Carrier's Ratings, Accessorial and Arbitrary Charges, now assigned December 17, 1973, at Anchorage, Alaska, will be held on the 10th Floor, McKay Building, 338 Delani Street.

MC-128527, Sub 38, May Trucking Co., now assigned December 3, 1973, will be held in Room 113, Interagency Fire Center, 3905 Vista Ave., Boise, Idaho.

MC-F-11918, Lynden Transport, Inc.—Purchase—Alaska Transfer, Inc., now assigned December 10, 1973, will be held in Room 1057, Federal Office Bldg., 909 First Ave., Seattle, Wash.

MC-114416 Sub 6, Elkins Transport Service, Inc., now assigned December 12, 1973, will be held in Room 695, U.S. Courthouse 920 West Riverside Ave., Spokane, Wash.

MC-59135 Dev. 5, Red Star Express Lines, of Auburn, Inc., now assigned December 10, 1973, will be held in the Council Chambers, City Hall, 3rd Floor, Montgomery & Washington Streets, Syracuse, N.Y.

MC 113459 Sub 64, H. J. Jeffries Truck Line, Inc., application is dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-24608 Filed 11-16-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 14, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before December 4, 1973.

FSA No. 42773—*Joint Water-Rail Container Rates—Sea-Land Service, Inc.* Filed by Sea-Land Service, Inc. (No. 78), for itself and interested rail carriers. Rates on general commodities, from ports in Japan and Korea, to rail carriers' terminals on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-24606 Filed 11-16-73;8:45 am]

[Notice No. 392]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 10, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74697. By order entered November 13, 1973, the Motor Carrier Board approved the transfer to Mildred Traver, doing business as Traver Trucking, Sioux City, Iowa, of the operating rights set forth in Permit No. MC-128322 (Sub-No. 2), issued July 7, 1969, to Maurice Traver (Mildred Traver, Executor), doing business as Traver Trucking, Sioux City, Iowa, authorizing the transportation of electronic and electric mechanical computers, uncrated, from Sioux City, Iowa, to points in Big Stone, La Qui Parle, Lincoln, Lyon, Murray, Nobles, Pipestone, Rock, Traverse, and Yellow Medicine Counties, Minn., Cherry, Dixon, Dakota, and Thurston Counties, Nebr., and points in South Dakota, restricted to a transportation service to be performed under a continuing contract, or contracts, with the Burroughs Corporation of Sioux City, Iowa. Mildred Traver, 3415 6th Avenue, Sioux City, Iowa 51106, representative for applicants.

No. MC-FC-74703. By order entered November 13, 1973, the Motor Carrier Board approved the transfer to Blue Angel, Inc., Woodburn, Ind., of the operating rights set forth in Certificate No. MC-125661, issued August 17, 1967, to Dean Barrett and Lois Barrett, doing business as Barrett Trucking Service, Fort Wayne, Ind., authorizing the transportation of lumber and lumber products, roofing, and plumbing supplies, from points in Allen County, Ind., to a described area in Ohio. Larry L. Busick, 1519 Anthony Wayne Bank Building, Fort Wayne, Ind. 46802, attorney for applicants.

No. MC-FC-74774. By order of November 13, 1973, the Motor Carrier Board approved the transfer to Anthony LaPenta, doing business as Shapiro Movers, Brooklyn, N.Y., of Certificate No. MC-11037 issued on July 11, 1973, to Eileen Lombardi, doing business as Buckley Van Lines, Brooklyn, N.Y., authorizing the transportation of household goods between New York, N.Y., on the one hand, and, on the other, points in New York, Connecticut, New Jersey, Pennsylvania, Massachusetts, and the District of Columbia. Mr. Morris Honig, Attorney at Law, 150 Broadway, New York, N.Y., 10038.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-24607 Filed 11-16-73;8:45 am]

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Volume 38 ■ Number 222

PART II

DEPARTMENT OF AGRICULTURE

Forest Service

Office of the Secretary

Rural Electrification Administration

Soil Conservation Service

■

ENVIRONMENTAL IMPACT STATEMENTS

Proposed Guidelines

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIFICATION AND TELEPHONE PROGRAMS

Environmental Protection

Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposed to issue a revision of REA Bulletin 20–21: 320–21, National Environmental Policy Act. The bulletin provides for the implementation of that Act as it relates to the REA rural electric and telephone programs. The proposed revision of REA Bulletin 20–21: 320–21 is in response to the issuance of revised guidelines by the Council of Environmental Quality and its directive that all Federal agencies review and revise their environmental policies and procedures as necessary to conform to the new CEQ guidelines. The proposed revised REA Bulletin was developed in consultation with CEQ.

Interested persons may submit written comments or suggestions to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, on or before January 3, 1974. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Office of Program Development and Analysis, Room 4310, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours.

The text of the proposed revision of REA Bulletin 20–21: 320–21 is as follows:

REA BULLETIN 20–21: 320–21

NATIONAL ENVIRONMENTAL POLICY ACT

I. *Purpose and authority.* This bulletin provides for the implementation of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as it relates to the REA program. Additional authority, directives and instructions are found in: (1) Executive Order 11514, (2) Council on Environmental Quality Guidelines for Preparation of Environmental Impact Statements 40 CFR Part 1500 (38 FR 20550) and (3) USDA Secretary's Memorandum No. 1695.

II. *National Environmental Policy Act.* A. The stated purposes of this act include: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

B. Section 102(2)(C) of the Act requires the preparation of a detailed environmental statement in connection with every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, and requires that such environmental statements shall be made available to the President, the Council on Environmental Quality (CEQ) and to the public and shall accompany the proposal through the agency review process.

III. *Policy*—A. *General.* In accordance with national policy, as stated in the National Environmental Policy Act (NEPA) and elsewhere, REA will assess the environmental aspects of its policies, plans and programs in order to avoid or minimize adverse effects whenever possible and to restore or enhance environmental quality to the fullest extent practicable.

B. *Major actions significantly affecting the quality of the human environment.* As early as possible, and in all cases prior to an agency decision concerning a major action that significantly affects the quality of the human environment, REA will, in consultation with other appropriate Federal, State, and local agencies and the public, assess in detail the potential environmental impact. Alternative actions that will avoid or minimize adverse impacts will be explored. The long- and short-range implications of the proposed actions to man, his physical and social surroundings and to nature will be evaluated.

Initial assessments of the environmental impacts of the proposed action will be undertaken as early as possible. REA will consider the results of its environmental assessments along with its assessments of the economic, technical and other benefits of the proposed action and use all practicable means, consistent with other essential considerations of national policy, to avoid or minimize undesirable consequences for the environment.

Environmental impact statements (EIS's) on major REA actions significantly affecting the quality of the human environment will accompany the proposed action through the existing agency review process. No final decision will be made on a major REA action until the NEPA process has been completed.

C. *Loan contract provisions.* REA will include in all new loan contracts a provision to the effect that the borrower shall observe all applicable Federal, State, and local requirements for the protection of the environment.

D. *Responsible official.* The Assistant Administrators, electric and telephone, are responsible for determining the need for and the preparation of EIS's in connection with a particular REA action. Final EIS's will be issued by the Administrator.

E. *Lead agency.* CEQ Guidelines provide that, in those instances where more than one agency is involved in a project which significantly affects the quality of the human environment, consideration should be given to the possibility of joint preparation of an EIS by all agencies concerned or designation of a single "lead agency" to assume supervisory responsibility for the preparation of the EIS. The Office of the Coordinator of Environmental Quality Activities in the Office of the Secretary will assist in resolving lead agency questions where REA and one or more other Federal agencies are involved. REA, when designated as lead agency, will be responsible for consulting with and obtaining information from other involved agencies with respect to their jurisdiction and expertise.

In some instances REA borrowers may be involved with such projects. If there should be any uncertainty as to whether REA or some other Federal agency will be the "lead agency" for environmental purposes, the borrower should contact REA for advice.

VI. *Types of actions covered.* Section 102(2)(C) of NEPA requires the preparation of a detailed EIS in connection with every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

Implementation of NEPA, as it relates to recommendations or favorable reports on proposals for legislation will be carried out as specified in Secretary's Memorandum No. 1695, Supplement 4.

V. *Administrative actions requiring environmental impact statements.* REA will give consideration to the environmental aspects of all of its proposed administrative actions. Examples of administrative actions include, but are not limited to, loans and loan guarantees, major reclassifications of loan funds, lien accommodations and approvals for the use of general funds. Environmental impact statements will be required in connection with all major REA administrative actions which will significantly affect the quality of the human environment.

"Major" actions and "significant" environmental effects are difficult to define precisely and uniformly because of the great variation in economic, social and ecological condition. While a precise definition of environmental "significance," valid in all contexts, is not possible, areas of environmental impact to be considered in assessing significance include, but are not limited to, air, water, fish and wildlife, solid waste, noise, radiation, hazardous substances, energy supply and natural resources development, and land use management.

It is recognized that the effect on the human environment is determined in part by the nature of the facilities to be constructed, but the effect may also be influenced by special circumstances peculiar to each situation.

The procedures and requirements specified below are written in terms of providing information to REA on the environmental aspects of all loan applications. The procedures and requirements are also applicable in connection with all other administrative actions that may be required of REA.

A. An EIS will normally be required in connection with the consideration of any REA loan for the construction of the following types of facilities and the applicant shall provide REA with the information outlined in Section VIII of this bulletin:

1. Electric generating equipment of more than 25,000 kilowatts capacity (name plate rating);

2. Electric transmission lines and associated equipment designed for or capable of operation at nominal voltage of 230 kilovolts or more.

The Assistant Administrator is authorized to make exceptions for minor projects such as changes in transmission substations or switching stations or for construction of less than a mile of transmission line, provided he determines that the project does not involve a major Federal action significantly affecting the quality of the human environment.

B. In connection with all applications for loans for facilities other than those described in paragraph A above, the applicant shall provide REA with information on the environmental aspects of the proposed construction. This information may be supplied subsequent to the filing of the loan application, but it must be supplied prior to final action by REA. REA will advise the applicant if a formal EIS will be required. This determination will be based on the nature of the facilities to be constructed, considered in conjunction with the local circumstances, which would include any environmental matters which might be highly controversial. Information to be supplied by the applicant to REA shall include the following items:

1. A description of the proposed construction adequate to permit a careful assessment of its environmental impact;

2. A description of the environment, including information on any known environmental problems associated with the loan application. If there is any indication of substantial controversy, it should be described in detail. If there is no indication of environmental controversy, this should be specifically stated;

3. A description of any alternatives to the project that were considered;

4. A description of any property that is listed on, or is known to be considered for listing on, the National Register of Historic Places which might be affected by the proposed action, including a description of any

consultation with state historical or archaeological societies;

5. A description of any special measures or precautions which are being undertaken to minimize environmental problems.

C. In connection with applications for loans for the construction of electric generation or transmission facilities other than those requiring an EIS, the applicant shall make known to the public the general nature and extent of the construction program to be financed as the result of the proposed REA loan. The notification shall include the publication of an appropriate notice in a newspaper, or newspapers, of general circulation in the county in which the principal office of the applicant is located and in the counties in which the proposed construction will take place. This notice shall generally describe the nature, location and extent of the construction program contemplated as the result of the proposed loan and indicate the availability and location of additional information. It shall invite any comments with respect to the environmental aspects of the proposed construction, to be submitted to the applicant on or before December 19, 1973 (see illustrative form of notice given in Exhibit A).

The applicant shall give proper consideration to all comments received. A copy of the newspaper advertisement and copies of all comments received thereon should be forwarded to REA, together with the applicant's recommendations. If there are no comments, this should be stated.

For the purposes of this paragraph, transmission facilities are defined as facilities designed for operation at a nominal voltage of 33,000 volts and above. In the case of substations, this applies to the low voltage side of the substation.

D. In connection with construction pursuant to an REA loan made prior to enactment of NEPA, where the financing of the facilities was not subject to the procedures and determinations specified herein, or in those cases where a project's financing was subject to the procedures and determinations specified in this bulletin but the facilities or their locations are completely different from that proposed at the time the loan was approved, it is necessary for the borrower to follow the policy and procedures set forth in section V, paragraphs A, B, and C, above.

The required actions discussed in section V, paragraphs A, B, and C, should be initiated by the borrower well in advance of the proposed construction in order to avoid any unnecessary delay.

If, in any specific case, a borrower is uncertain whether environmental requirements have already been satisfied, it should make inquiry of the appropriate Area Office.

E. In connection with all REA actions described in paragraph A, above, and those described in paragraph B, above, which are determined to require preparation of an EIS, REA will publish a notice in the FEDERAL REGISTER announcing its intent to prepare an EIS on the proposed action. The notice will also solicit comments from interested parties that may be helpful in preparing the draft EIS. The notice will be published as soon as is practicable after the decision to prepare an EIS is made.

The applicant will also publish a notice in a newspaper, or newspapers, of general circulation in the county in which the principal office of the applicant is located and in the counties in which the proposed construction may take place, announcing REA's intent to prepare an EIS. This notice shall generally describe the nature, location and extent of the construction program contemplated as the result of the proposed loan and solicit comments from interested parties that may be helpful in preparing the draft EIS. The comments should be addressed to the applicant, with a copy to the appropriate Area Director.

A list of REA administrative actions for which EIS's are being prepared will be available for public inspection on request at REA's Washington, D.C., office and will be supplied to CEQ quarterly.

F. If REA decides that an EIS is not necessary for a proposed REA action: (1) Which has been identified in paragraph A, above, as normally requiring preparation of an EIS, (2) which is similar to actions for which REA has prepared a significant number of EIS's, (3) which had previously announced would be the subject of an EIS, or (4) for which REA has made a negative determination in response to a request from CEQ pursuant to 40 CFR 1500.11(f) of the CEQ Guidelines, REA will prepare a publicly available record, briefly setting forth the decision and the reasons for the determination. A list of negative determinations made in accordance with the above provisions will be supplied to CEQ quarterly.

G. If there should be emergency circumstances which make it necessary for REA to take an action with significant environmental impact without observing the provisions of this bulletin concerning minimum periods for agency review and advance availability of EIS's, REA will consult with the Council on Environmental Quality about alternative arrangements. The Council has provided for such contingencies in its Guidelines.

VI. *Submission of environmental analysis.* A. It will be the applicant's responsibility to prepare an Environmental Analysis when application is made for a loan for which an EIS is required. Material in the applicant's Environmental Analysis may be incorporated in whole or in part into the draft and final EIS's which will be prepared by REA. The Environmental Analysis shall discuss the environmental considerations given below. A more detailed guide to the type of information that should be discussed is found in Exhibit B (Guide for the Preparation of an Environmental Analysis for Electric Transmission Facilities) and Exhibit C (Guide for the Preparation of an Environmental Analysis for a New Electric Generating Plant or an Addition to an Existing Plant).

1. A description of the proposed action, including information and technical data adequate to permit a careful assessment of environmental impact by commenting agencies. Where relevant, maps should be provided;

2. The impact of the proposed loan on the environment, including the impact on ecological systems such as wildlife, fish and marine life and the relationship of the proposed action to land use plans, policies and controls for the affected area;

3. Favorable environmental effects;

4. Any adverse environmental effects which cannot be avoided if the proposed facilities are constructed (water or air pollution, damage to life systems, effect on properties listed in the National Register of Historic Places, urban congestion, threats to health or other consequences adverse to environmental goals);

5. Alternatives to the proposed action, including the study, development and description of appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

6. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

7. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

B. To expedite action on the applications, the applicant should request comments on the proposed construction from all State and local agencies which are authorized to develop and enforce environmental standards, including air and water quality, and should attach any comments and views received from such agencies to the Environmental Analysis. The applicant should also request comments on the proposed construction from appropriate Federal agencies, e.g., Forest Service, when national forests and lands are involved. Copies of these comments should be attached to the applicant's Environmental Analysis. One hundred and twenty-five (125) copies of the Environmental Analysis, or such other number as may be requested by the Area Director, should be submitted to REA in support of the loan application. Additional copies may be required in connection with the review process. The applicant should be prepared to furnish additional copies as requested.

VII. *Preparation of environmental impact statements.* A. REA is responsible for preparing the section 102(2)(C) EIS when one is required. The environmental analysis submitted by the borrower may be incorporated in whole or in part into the EIS.

B. The EIS is prepared in two stages. A draft EIS is the first formal statement for filing with CEQ and for review and comment by other agencies and the public. A final EIS reflects the results of the draft review process and it is also filed with CEQ. Comments received will be carefully evaluated and considered in the decisionmaking process.

C. The EIS will cover the items outlined in 40 CFR 1500.8(a) of the CEQ Guidelines. As suggested in the CEQ Guidelines, REA's EIS will be prepared, to the extent possible, to include statements on findings concerning environmental impacts required by other statutes, such as section 106 of the National Historic Preservation Act of 1966. Attention will be given to the substance of the information given, rather than the form, length or detail of the statement.

VIII. *Public information on draft environmental impact statements and on final environmental impact statements.* REA will publish notices in the FEDERAL REGISTER announcing the availability of draft EIS's and final EIS's. Such notices will give a brief description of the nature and location of the proposed facilities, and they will state where copies of the EIS's will be available for public examination, which will include REA's offices in Washington, D.C., and the office of the loan applicant. The notices will state that any comments on the environmental impact of the proposed action must be received by REA within sixty (60) days of the announcement of the availability of draft EIS's in order to be taken into consideration by REA.

Upon receipt of a draft or final EIS, the borrower will publish a notice announcing the availability of the statement for public review at its offices. The notice should be published in a newspaper, or newspapers, of general circulation in the county in which the principal office of the borrower is located and in the counties in which the proposed construction will take place. It is important that the people at the local level who may be most directly affected by the proposed construction be made aware of the EIS and have the opportunity to review and comment on it.

IX. *Provision for public hearings.* A. Public hearings will be held concerning environmental aspects of a proposed loan for which an EIS is required under the provisions of this bulletin in all cases where, in the Administrator's opinion, the need for hearings is indicated in order to bring out adequately the environmental implications of the proposed loan. In cases where hearings are held, notice of the hearings will be published in

the FEDERAL REGISTER at least thirty (30) days in advance of the hearings. The draft EIS will be made available to the public at least fifteen (15) days in advance of the hearings.

B. All persons desiring to make statements at the hearings will be invited to submit a copy of their proposed statement, in writing, but such submission will not be required. The hearings will be informal and will be confined to the environmental aspects of the proposed loan.

X. *Requests for comments on draft environmental impact statements.* A. REA will send copies of the draft EIS to various Federal agencies and offices which have jurisdiction by law or special expertise and the appropriate state, regional and metropolitan clearinghouses and the public requesting comments on the environmental aspects of the proposed action. Comments are to be submitted within sixty (60) days of the date of the transmittal memorandum. The Council on Environmental Quality will also be furnished ten (10) copies of the draft EIS.

B. The final EIS will be issued by the Administrator after consideration of all comments received within the time limits, including any comments obtained in connection with a public hearing, if one is held (see section IX). Ten copies of all comments and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards and of other interested parties, together with the final EIS, will be supplied to the Council on Environmental Quality in the Executive Office of the President.

Copies of final EIS's, with comments attached, will be sent to the appropriate state, regional and metropolitan clearinghouses and all Federal, State, and local agencies that made substantive comments on the draft EIS. The final EIS and the comments received on the draft EIS will be available to the public, as provided for by the Freedom of Information Law (Pub. L. 89-487, 5 U.S.C. 552).

XI. *Agency action on loan applications requiring environmental impact statements.* In the case of loan applications requiring EIS's, the loan will not normally be approved or loan guarantee commitments executed sooner than ninety (90) days after the draft EIS has been circulated for comment, furnished to the Council and made available to the public, or sooner than thirty (30) days after the final text of a statement, together with comments on the draft EIS, has been made available to the Council and the public. The loan may, however, be approved conditionally or loan guarantee commitments may be conditionally executed, with an agreement that no funds will be advanced to the borrower or contracts of guarantee executed sooner than ninety (90) days after the draft EIS has been circulated for comment, furnished to the Council and made available to the public, or sooner than thirty (30) days after the final text of a statement, together with comments on the draft EIS, has been made available to the Council and the public.

XII. *Review of other agencies' environmental impact statements.* REA will review and comment on EIS's initiated by other agencies in the manner as specified in Secretary's Memorandum No. 1695.

XIII. *CEQ requests.* In order to assist CEQ in fulfilling its responsibilities under NEPA and under Executive Order 11514, REA will give careful consideration to requests by CEQ for reports, other information and actions dealing with issues arising in connection with the implementation of NEPA.

EXHIBIT A

SAMPLE ANNOUNCEMENT

The (name and address of borrower) announces that it (has made) (is making) an application for a loan from the Rural Electrification Administration which provides for the construction of about ____ miles of ____ volt transmission line. The transmission line will be located in (name of county). The application will also provide for the construction of a ____ kW generating unit (indicate type of unit and fuel) to be located at (name of location).

These facilities will make it possible for the cooperative to provide service to an estimated ____ new consumers, and to meet the increasing power demands of present consumers.

If there are any comments on the environmental aspects of the proposed construction, they should be submitted to the cooperative within thirty (30) days of the publication of this notice. Additional information may be obtained at the cooperative's office at the above address.

GENERAL

The wording of the announcement should be appropriate to the particular situation. Specific reference should be made to any features of special environmental interest and more specific information should be given as to the location of facilities to be constructed to the extent this is practical. The borrower may include additional information in the announcement if it wishes to do so.

EXHIBIT B—SUPPLEMENT TO REA BULLETIN 20-21:320-21

GUIDE FOR THE PREPARATION OF AN ENVIRONMENTAL ANALYSIS FOR ELECTRIC TRANSMISSION FACILITIES

I. *Suggestions to facilitate submittal of the environmental analysis.* A. REA Bulletin 20-21:320-21 requires the applicant to prepare an Environmental Analysis upon application for a loan or other action for which an Environmental Statement is required. The guidelines included in this supplement are intended to assist in preparing the analysis.

B. Prior to starting the Environmental Analysis, it is recommended that the applicant and/or his consultant meet with the REA staff to discuss the environmental aspects to be considered.

C. The Environmental Analysis should include a cover sheet containing the name of the applicant, the location of the proposed transmission facilities, the identification of the document as an Environmental Analysis, the names of the preparers, and the date the document was completed. A table of contents should follow the cover sheet and should list the topics and subtopics of each section of the analysis. This should be followed by a List of Figures, a List of Tables, and a List of Attachments comprising the Appendix.

D. It is suggested that the applicant submit six draft copies of the proposed Environmental Analysis to REA for review and comment. If the review results in acceptance by REA, 125 additional copies will be requested.

II. *Guide for preparing the analysis.* A. The analysis should be concise but cover each applicable topic in sufficient breadth and depth to permit a reviewer to reach independent conclusions concerning the various environmental considerations.

B. The main body of the analysis should contain an Introduction and seven major sections with data and discussion organized under the seven topics listed in REA Bulletin 20-21:320-21. Following is an outline of the main body of the analysis. It includes topics and subtopics that may be considered pertinent. In certain situations some of the subtopics may take on added importance and should be expanded. Likewise, if a subtopic is not relevant, it may be omitted. Additional subtopics, if relevant, may, of course, be added where appropriate.

In preparing the Environmental Analysis, the topic numbering system used in this outline should be followed to the extent possible.

III. *Outline of Environmental Analysis.* A. Description of the Proposed Project:

1. *Scope of project.* Describe and locate the proposed transmission line, terminals and substations.

2. *Purpose.* Discuss need for proposed transmission facilities and role of project with respect to future plans. In future plans, project as far into the future as possible and give emphasis to service to be rendered to the consumers.

3. *Federal action.* Discuss REA action which requires an Environmental Impact Statement. Identify other necessary authorizations or permits.

4. Scope of existing electrical service:

a. General description and size of area served.

b. Identify distribution cooperatives, municipalities, and other major loads served (if any). Estimate number of ultimate consumers served.

c. Describe pool memberships.

d. Identify interconnections with other systems. Include a regional map showing the network of transmission lines.

e. Describe existing transmission system and attach area map.

5. Description of land use surrounding proposed project:

a. Itemize counties in which facilities will be located.

b. Include map showing location of the proposed transmission facilities in relation to nearby towns, roads, bodies of water, parks, mountains, railroads, etc.

c. Describe the general topography, types of vegetation and wildlife. Include official county data (percent farmland, major crops, local industry, etc.) if available. Indicate trends.

d. Describe area soils classification, seismographic data, rainfall and other water resources, and climate.

e. Summarize (where possible) land crossed by proposed line.

	Estimate
(1) Total length of proposed line	(Miles)
(a) Privately owned land	(Miles)
(b) Publicly owned land	(Miles)
(1) State	(Miles)
(2) County or local	(Miles)
(3) Federal park or forest	(Miles)
(4) BLM	(Miles)
(5) Other, describe	(Miles)
(2) Land use:	
(a) Cropland, describe	(Miles)
(b) Range or pasture	(Miles)
(c) Forest (commercial), describe	(Miles)
(d) Forest (noncommercial), describe	(Miles)
(e) Desert, barren or rock	(Miles)
(f) Residential	(Miles)
(g) Commercial or industrial	(Miles)
(h) Bogs or other wetlands	(Miles)
(i) Other, describe	(Miles)
(3) Relation to existing utilities:	
(a) Adjacent to existing wood structure (voltage)	(Miles)
(b) Adjacent to existing metal structure (voltage)	(Miles)
(c) Adjacent to existing distribution or telephone lines	(Miles)
(d) Adjacent to existing oil or gas pipelines	(Miles)
(e) Within utility corridors	(Miles)
(f) Adjacent to railroads	(Miles)
(4) Visibility:	
(a) Visible from main highways, identify	(Miles)
(b) Visible from secondary roads	(Miles)

	Estimate
(c) Visible from recreational or resort areas, identify	(Miles)
(5) Crossings:	
(a) Main highways, identify	(Each)
(b) Secondary roads, identify	(Each)
(c) Water crossings, identify	(Each)
(6) Areas:	
(a) Total right-of-way	(Acres)
(b) Substations, identify	(Acres)
(7) Access Roads:	
(a) Existing, describe	(Miles)
(b) New, permanent	(Miles)
(c) New, temporary	(Miles)
(8) Fencing, crossed with gates	(Number)
(9) Width of right-of-way	(Feet)
(10) Poles or towers per mile	(Number)

6. Description of proposed construction.

a. Describe line location methods:

(1) Topographical maps

(2) Ground surveys

(3) Aerial surveys

(4) Consultations with various historical, archaeological, State, and Federal agencies

(5) Avoidance of rare ecosystems

b. Describe type of tower or pole structure. Include drawings of typical tangent and angle structure. Indicate preservative treatment and coloring. Describe foundations for steel structures.

c. Describe conductors and insulators and their finish or color.

d. Identify and describe substations and state whether low profile design. Identify major components and include drawings or sketches.

e. Describe the extent and type of new and existing access roads both temporary and permanent.

f. Indicate construction schedule and the preferred season for construction.

g. State whether separate contracts for clearing, constructing, and restoring. Identify supervisory responsibilities.

h. Include samples of contractor's obligations which will be part of specifications or contracts.

i. Describe storage and staging areas.

7. Explain briefly how future plans may relate to the proposed action. Future plans should be developed for as extended a period as possible. A section on this matter may be needed.

B. *Environmental impact of the proposed project.* State that the design, clearing, construction, cleanup, restoration, and maintenance of the proposed project will follow the applicable criteria in the "Environmental Criteria for Electric Transmission Systems" published jointly by the U.S. Department of the Interior and U.S. Department of Agriculture. Include other criteria as applicable.

Under each of the following topics describe the impact during construction and after completion. Where appropriate use supplementary material such as maps, charts, diagrams, tables, photographs, drawings, experts consultants' reports, and citizens' comments. Opinions and consultations with Federal, state and local agencies relating to environmental impacts should be documented.

Discuss in detail the corrective measures to be used to minimize adverse effects.

1. *Impact on soils.* a. Discuss effects of clearing for rights-of-way, access roads, substation and tower sites. Explain mitigative measures to be used such as selective stripping, reseeding and new plantings. Discuss windrowing and shredding of vegetative refuse if applicable.

b. Discuss limitations on use of clear stripping by bulldozers and the limitations on using heavy equipment near waterways.

c. Maximize the use of existing access roads. Discuss restoration of construction roads, minimizing the slope of new roads, efforts to select the route of permanent roads for multiple-purpose use and use of water bars, dikes, soil ridges and terraces to reduce soil erosion.

d. Discuss the method of excavating pole holes. Locate structures so as to avoid river banks and river bottom areas, where possible.

e. Discuss efforts to minimize rutting and to restore the original grade before leaving the construction area.

f. Discuss the coordination for all new plantings with Soil Conservation Service, Forest Service, Bureau of Land Management, and state and other interested parties.

g. Discuss construction schedule with respect to minimizing earth disturbance during wet seasons and to revegetating.

2. *Impact on flora.* a. Identify the types of flora to be traversed and discuss the effects and the scope of their removal from the rights-of-way. Describe in detail the quality of the forest areas to be traversed. Wherever possible, quantify the timber to be removed by species.

b. Discuss the feathering back concept for right-of-way clearing and the efforts to preserve browse-producing shrubs.

c. Explain the effects and limitations on use of area chemical spraying.

d. Describe efforts to restore or replace topsoil that may be disturbed.

e. Discuss the possibility of fire hazards during construction and the method of prevention.

f. Identify sensitive, rare, or endangered species and describe efforts for their preservation.

g. Discuss effects of blade clearing and restraints to be applied to discourage complete vegetative clearing. Describe rehabilitative efforts to restore such areas.

3. *Impact on fauna.* a. Identify and locate the local and migratory wildlife, including birds and fish, and discuss the effects on feeding, grazing, mating, nesting, migration, and habitation due to:

(1) Construction activity and noise.

(2) Altered food supply.

(3) Increased access to hunters.

(4) Loss of cover protection and roosting sites.

b. Identify rare or endangered species and describe measures to be taken for their protection.

c. Discuss restrictions on machine clearing and blasting near streams and waterways.

d. Discuss measures to prevent electrocution of birds and animals that may contact energized conductors.

e. Discuss measures to enhance wildlife environment by stacking cleared brush, creating "edge" areas, and increasing browse.

4. *Impact on aesthetics.* Discuss visual impact as viewed from highways, parks, developed communities, etc., and methods to minimize such impact. Discuss:

a. Selection of routing to provide natural screening.

b. Avoiding long, straight sections of line where contrary to natural terrain.

c. Employing feathering back concept and retaining natural growth.

d. Planting natural screening.

e. Avoiding hill and highway crossings at high points.

f. Type and placement of structures and substations.

g. Location of access roads.

5. *Impact on water resources.* a. Discuss effects of construction caused erosion and drainage on pollution of water resources.

b. Discuss effects of traversing lakes, rivers, streams, etc., and steps taken to minimize adverse effects.

c. Discuss efforts to avoid storage of line materials, chemicals and petroleum products near water bodies.

d. Discuss avoidance of using heavy construction machinery in or near water bodies.

6. *Impact on formally classified areas.* a. Identify any of the following formally classified areas which the proposed facility will traverse, abut, or affect environmentally. Show contact with administering agency and actions taken to comply with its requirements.

(1) Wilderness area.

(2) Primitive area.

(3) Wild and scenic river.

(4) National recreation area.

(5) Natural area.

(6) Scenic area.

(7) Historical area.

(8) Archeological area.

(9) Geological area.

(10) National trail.

(11) National parks and monuments.

(12) Wildlife refuge.

(13) Or similar state or locally designated area.

7. *Maintenance.* a. Frequency of inspection.

b. Methods of inspection: on foot, by vehicle, airplane, helicopter.

c. Discuss the effect of method of inspection upon amount of clearing.

d. Policy concerning use of chemical spraying.

8. *Impact on aviation.* a. Discuss effects on airports and paths of low-flying aircraft.

b. Consider river crossings and canyon crossings.

c. Indicate locations that will require hazard lights or markers.

d. Indicate all situations that require notification or construction permits from Federal Aviation Administration.

9. *Impact on human activity.* a. Discuss resultant effects of closing or opening of affected areas to farming, recreation, hunting or other activities.

b. Discuss the multiple use of proposed rights-of-way for various activities involving people. Include hazards involved and safety measures to be taken.

10. *Impact on economy of the area.* a. Describe significant economic impacts on the affected areas and industries which the proposed facilities will serve. Discuss:

(1) Economic impacts during construction, including increased local employment opportunities, payments for rights-of-way, and income from sale of goods and services to contractors.

(2) Continuing economic impacts, including local employment opportunities for operation and maintenance, increased tax revenues, and increased availability of electric power.

(3) Anticipated impact on development of local industries. Note that this could lead to favorable effects, such as increased job opportunities, but that in some cases there could be unfavorable aspects, such as attracting the large numbers of people to a wilderness area.

11. *Impact from noise and electromagnetic radiation.* a. Estimate the effects of noise pollution from transformer hum, operation of circuit breakers, corona (wet and dry weather).

b. Estimate the effects of electromagnetic radiation, such as creating ozone and electrical interference with radio and television reception or communication circuits.

c. Discuss induced voltages in metal fences, gates, underground and surface piping, etc., and the safety practices involved.

C. *Favorable environmental effects.* Summarize the "favorable environmental effects" described under the subheadings of Section B including the need for electrical power and energy in the area.

D. *Adverse environmental effects.* Summarize the "adverse environmental effects" discussed under the subheadings of Section B which cannot be avoided.

E. *Alternates to the proposed action.* Under the following subheadings discuss and analyze all alternatives to the proposed

action. Analyze in sufficient detail to permit an independent evaluation of the environmental risks of each alternative. Do not exclude consideration of reasonable alternatives for the reason that their implementation might be outside the jurisdiction of REA or the borrower, or solely for economic reasons. Cost data and economic evaluation of all alternates must be included and compared to the proposed action.

1. *Alternatives of "no action" or "no REA loan funds".* a. Discuss the resultant effects of not constructing the proposed project, such as stagnation of local agriculture, industry, and population growth which can increase congestion in existing metropolitan areas.

b. Discuss existing contractual obligations and certifications.

c. Discuss overloading the existing system and effects of reduced voltages.

d. Discuss increased electrical losses.

2. *New generation within the area.* a. Discuss the feasibility of constructing new generation facilities, such as steam, gas turbine, diesel, hydro, nuclear, solar, and geothermal.

b. Discuss the adverse effects of smaller and more numerous generating plants and the need for additional standby or reserve units.

c. Discuss fuel sources, availability, cost and methods of fuel transportation.

3. *Alternate routes for the proposed line and sites for the substations.* a. Describe in detail the alternate line routing and substation sites. Include map locating the alternatives.

b. Provide sufficient information for an independent determination by the reviewer to evaluate all pertinent factors, including environmental impact, vegetation removal, line length, reliability, estimated costs, etc.

c. Substantiate conclusions, where possible, with opinions expressed in letters or reports from expert consultants and other interested persons or organizations.

4. *Alternate construction methods and materials.* a. Describe the effects of alternate methods of construction including costs and reliability. Discuss:

(1) Underground construction.

(2) Delivery of men and materials by helicopter to eliminate need for access roads for all or part of the route.

(3) Tension stringing of conductors.

b. Discuss the effects of using alternate materials, such as:

(1) Wooden poles.

(2) Steel or aluminum structures.

(3) Nonreflective conductor.

5. *Purchased power.* Consider the alternative of purchasing power if available in the area in lieu of constructing the proposed line. Discuss:

(1) Environmental effects resulting from the generation of purchased power.

(2) Availability of purchased power.

(3) Reliability.

(4) Cost.

6. *Upgrading existing transmission lines.* Discuss the effects of upgrading existing lines by adding circuits, reconductoring or increasing voltage.

F. *Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* Consider:

a. Area of land involved and its prior use.

b. Relate the selected area to any public long-range land use plans.

c. Commitment of resources.

d. Long-term effects of bulk power transmission.

G. *Irreversible and irretrievable commitment of resources.* 1. Discuss commitment of labor.

2. Discuss recycling construction materials.

Early consultation with all appropriate Federal, State and local agencies and also with civic and environmental groups on the line routing and substation siting and on the expected environmental impact of the proposed transmission facilities is highly recommended. The analysis should include information on such consultation, as well as a discussion of all permits and approvals required by official agencies and the status of each. If the proposed routing will extensively traverse land subject to the public control (national forests, national or State parks, etc.), it is essential to work with the appropriate controlling agency in developing the proposed routing.

EXHIBIT C—SUPPLEMENT TO REA BULLETIN 20–21: 320–21

GUIDE FOR THE PREPARATION OF AN ENVIRONMENTAL ANALYSIS FOR A NEW ELECTRIC GENERATING PLANT OR AN ADDITION TO AN EXISTING PLANT

I. *Suggestions to facilitate submittal of the environmental analysis.* A. Bulletin 20–21: 320–21 requires the applicant to prepare an Environmental Analysis upon application for a loan or other action for which an Environmental Statement is required. The guidelines included in this supplement are intended to assist in preparing the analysis.

B. Prior to starting the Environmental Analysis, it is suggested that the applicant and/or his consultant meet with the REA staff to discuss the environmental aspects to be considered.

C. The Environmental Analysis should include a cover sheet stating the name of the applicant, the location of the proposed electric generating plant, identify the document as an Environmental Analysis and the date the document was completed. A table of contents should follow the cover sheet. The main body of the analysis should contain the seven major sections with data and discussion appropriately organized under the seven sections outlined in REA Bulletin 20–21: 320–21.

D. It is suggested that the applicant submit three draft copies of the proposed Environmental Analysis to REA for review and comment. If the review results in approval by REA, 125 copies will be requested.

II. *Guide for preparing the analysis.* The analysis should cover each subject in sufficient depth to permit a reviewer to reach independent conclusions concerning the various environmental considerations.

Following is an outline of the details that should be covered in the sections of the main body of the analysis:

A. *Description of project.* 1. Scope of applicant's electrical service:

a. Area served.

b. Number of consumers.

c. Type of facilities, etc.

2. Site:

a. Size and description of plant site including all improvements.

b. Description of present generating units, if any.

3. Present use of land in vicinity of the plant:

a. Maps showing location of site in relation to nearest towns, water bodies and improved roads.

b. Prevailing wind directions, frequency and intensity.

c. Distances and directions to nearby communities and their populations.

d. Nature of surrounding landscape, types of flora and fauna. Include official county data (percent land in farms, type of farmland, timber, urban, major crops, industry, etc.).

e. Stream ecological data—fish and organisms present (benthic, plankton).

4. Description of the proposed project:

a. Type of plant and proposed mode of operation.

b. Capacity of new unit or units (MW).

c. Types of fuel; primary and secondary. Source and method of delivery.

d. Description of cooling system.

e. Sources of water for cooling, sanitation, makeup, etc.

f. Schedule for initial construction and commercial operation.

g. Plans or agreements for coordination with power pool or regional coordination council.

B. *Environmental Impact of the Proposed New Project.* 1. Air—include the following type of information:

a. Analysis of emissions to the atmosphere—SO_2, particulate, NO_x, trace elements.

b. Environmental studies:

(1) Description of ambient monitoring stations and equipment.

(2) Description of emission monitoring program.

(3) Duration and scope of program.

c. Stack location and height.

d. Pertinent air quality standards—Federal, State, and local.

e. Expected emissions compared with emission standards.

f. Calculations using expected emissions on ambient ground level concentrations with respect to standards for each pollutant.

g. Effects of plant effluents on flora and fauna mentioned previously.

h. Description of control equipment and expected reliability.

i. Provisions for operation when control equipment is inoperative e.g., substitution of low sulfur fuel, use of parallel trains of control equipment, etc.

j. Description of planned continuous monitoring program and equipment.

k. Expected reliability of monitoring equipment.

l. Manpower requirements—training, experience, and number of personnel for operation and maintenance of control equipment and monitoring equipment.

2. Water—include the following type of information:

a. Condenser cooling water.

b. Stream flow data—maximum, minimum, average by months. Well water data if applicable—include water table data for site and surrounding areas.

c. Quantity required.

d. Stream temperature data by months:

(1) Where taken.

(2) Source of data.

e. Stream quality data—chemical breakdown, pH, O_2, etc.

f. Quantity returned and consumptive use.

g. Temperature rise through condenser.

h. Chemicals added to keep condenser clean.

i. Types of cooling (tower, spray pond, once-through, etc.).

j. Steps to be taken to minimize temperature rise.

k. Type of mixing with stream.

l. Expected effects of discharge water on stream organisms and fish.

m. Environmental studies and monitoring including:

(1) Length and scope of program.

(2) Monitoring equipment to be used:

(a) On outlet of circulating water.

(b) After mixing zone.

(c) Upstream.

(d) On outlet of ash pond or other discharge.

n. Alternative cooling methods including the benefits and liabilities of each.

(1) Cooling towers (wet and dry):

(a) Discuss possible effects of fog plume, icing.

(b) Discuss consumptive effects.

(2) Cooling ponds.

(3) Once-through condenser.
(4) Spray ponds.
(5) Combination of above methods.
o. Chemical and thermal analysis of effluent before and after mixing zone.
p. Ash pond:
(1) Description of construction features.
(2) Location.
(3) Devices used to ensure protection of environment.
q. Intake structure:
(1) Design features to insure fish protection.
r. Analysis of chemical waste water and method of disposal.
s. Demineralizer regeneration water:
(1) Method of treatment.
(2) Method of disposal.
(3) Quality at point of discharge.
t. Boiler blowdown—same as par. s. (1), (2), and (3) above.
u. Other water and chemicals used—same as par. s. (1), (2), and (3) above.
v. Sanitary wastes:
(1) Method of disposal.
(2) Design capacity vs. anticipated load.
(3) Approval by local or state authorities.
w. Description of recirculated or recycled water.
x. Describe the method of final disposition of each water effluent and tell how this method meets the applicable standards.
y. Status of Corps of Engineers' permit.
3. Other Environmental Effects:
a. Visual considerations.
b. Esthetics of the plant's exterior appearance.
c. Dust control methods:
(1) Transfer locations.
(2) Coal stockpile.
(3) Ash pond.
d. Landscaping.
e. Preserve areas, if any, for wildlife, fish, etc.
f. Experimental devices for fish protection, etc.
g. Aviation (if any).
h. Economics.
i. National and historical landmarks. Check with State and Federal agencies involved. Also check National Register of Historic Places and National Historic Landmarks.
j. Recreation facilities affected or created:
(1) Picnic areas.
(2) Fishing, boating, swimming, etc.
(3) Information center.
4. Environmental effects during construction and details on minimizing effects:
a. Erosion.
b. Water.
c. Air.
d. Construction refuse disposal.
5. Noise:
a. Source and levels.
b. Means of control.
c. Monitoring system.
d. Legal requirements.
6. Fuel—the impact of mining and transporting to the plant large quantities of fuel, such as coal, should be considered. Discuss the requirements that the applicant plans to place on its suppliers to ensure that the fuel supply and transportation will not adversely affect the environment or that adverse effects of such will be minimized.

C. *Favorable environmental effects.* 1. The favorable environmental effects of the project on man's environment should be discussed, such as:

a. Improvement in quality of life, including need for power.

b. New jobs and other economic improvements for the area including the maintenance or improvement of the local competitive position.

c. Contribution by slowing or reversing the movement of people from rural areas to cities.

d. Improve quality and quantity of farm products.

e. Include recreation effects if applicable.

D. *Any adverse environmental effect which cannot be avoided.* (This should discuss the adverse effects that cannot be avoided as identified in B, "Environmental Impact of the Proposed New Unit," above, and actions planned to minimize these effects. While each such effect cannot be completely avoided, REA must be assured that the emissions, discharges, etc., will be minimized and will be within the limits of applicable Federal, State, and local environmental quality control standards.)

E. *Alternatives to the proposed action.* (Review the economic as well as the environmental factors in consideration of the alternatives.)

1. No additional power or no additional REA financing.

2. Alternate fuels considered and reason for selection.

a. Gas.
b. Oil.
c. Coal.
d. Lignite.
e. Nuclear.

3. Alternate locations of plant. Consider environmental effects of differences in bulk transmission requirements associated with alternate location along with other environmental considerations.

4. Shared units with other utilities.

5. Purchase power from others.

F. *Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* 1. Consideration of:

a. Area of the land involved and its prior use.

b. Relate the selected site to any public long-range land use plans for the area.

2. Consideration of water use—total use, consumption condition (chemical content, pH, temp., etc.). Total capacity of available water in the area.

3. Quantity of fuel committed for the estimated useful life of the project.

G. *Irreversible and irretrievable commitments of resources.* 1. Discuss the annual consumption of fuel.

2. Discuss the quantity of water that is consumed or displaced, e.g., use of well water for cooling that is discharged to a stream; possible lowering of water table; possible salt water encroachment where well water is used.

Early consultation with all appropriate Federal, State, and local agencies and also with civic and environmental groups on the siting and on the expected environmental impact of the proposed power plant is highly recommended. The analysis should include information on such consultation, as well as a discussion of all permits and approvals required by official agencies and the status of each.

Dated at Washington, D.C., this 9th day of November 1973.

GEORGE P. HERZOG,
Acting Administrator,
Rural Electrification Administration.

[FR Doc.73-24413 Filed 11-16-73;8:45 am]

Soil Conservation Service

[7 CFR Part 650]

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Proposed Guidelines

Pursuant to the guidelines of the Council on Environmental Quality (CEQ) appearing as 40 CFR Part 1500, published in the FEDERAL REGISTER of August 1, 1973 (38 FR 20549), the Soil Conservation Service (SCS) herewith publishes its proposed revised guidelines for preparation of environmental impact statements required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) January 1, 1970 (Pub. Law 91-190, 83 Stat. 853, U.S.C. (2)(C)). These proposed revised guidelines were developed in consultation with CEQ.

Before taking action to issue the proposed guidelines in final form, SCS will consider comments and suggestions of all interested parties received in writing before January 1, 1974. Comments should be sent to the Administrator, Soil Conservation Service, Washington, D.C. 20250.

Issued in Washington, D.C., on November 9, 1973.

KENNETH E. GRANT,
Administrator,
Soil Conservation Service.

PART 650—PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS—GUIDELINES

Sec.

AUTHORITY: Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321); E.O. 11514, 35 FR 4247; 38 FR 20550.

§ 650.1 Purpose.

These guidelines apply to the preparation, coordination, and review of Environmental Impact Statements (EIS's) as required by section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190, 83 Stat. 852; 42 U.S.C. 4321 et seq.), the Council on Environmental Quality Guidelines for Environmental Impact Statements, August 1, 1973 (38 FR 20550-20562), and Secretary of Agriculture Memorandum 1695, Supplement 4, as revised.

§ 650.2 Scope.

These guidelines apply to those activities of the Soil Conservation Service (SCS) defined as major Federal actions significantly affecting the quality of the human environment. The guidelines also apply to SCS responsibilities for reviewing and commenting on EIS's prepared

by other Federal and non-Federal agencies. The goals and policies of NEPA supplement the goals and policies in existing authorizations for SCS programs.

§ 650.3 Policy.

(a) *SCS mission.* The mission of SCS is to assist in the conservation, development, and productive use of the Nation's soil, water, and related resources so that all Americans may enjoy:

(1) Quality in the natural resource base for sustained use;

(2) Quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; and

(3) Quality in the standard of living based on community improvement and adequate income.

(b) *General.* SCS administers its programs by furnishing assistance to individuals, groups, organizations, cities, towns, counties, State governments, and other decisionmakers in formulating and implementing their land use and soil and water conservation programs and plans. Thus, activities of the SCS are federally assisted actions. The environmental assessment and EIS process should be carried out in harmony with the activities and procedures of those to whom assistance is provided to the extent that responsibilities and standards are not compromised.

(c) *Assessing environmental quality and impacts of proposed actions.* As early as possible, and in all cases prior to deciding on a major action that significantly affects the quality of the human environment, SCS will, in consultation with other appropriate Federal, State, and local agencies, and the public, assess in detail the potential environmental impact. The purpose of the assessment is to avoid or minimize adverse effects whenever possible and to restore or enhance environmental quality to the fullest extent practicable. Alternative actions that will avoid or minimize adverse impacts are to be explored. Both long- and short-range implications of a proposed action to man, his physical and social surroundings, and to nature are to be evaluated. Assessments of environmental impacts of a proposed action are to be undertaken concurrently with initial technical and economic studies. Where required, an EIS is to be prepared and circulated for comment. Draft EIS's on administrative actions are to accompany the proposal through the agency formal review processes and are to be available and submitted to CEQ not later than the time the project proposal is circulated for interagency review.

(d) *Responsible Federal officials.* The Administrator of SCS is the responsible Federal official for purposes of carrying out NEPA for all major SCS federally assisted actions which will affect more than one State, including EIS' needed for programs, legislation, legislative reports, regulations, and policy. State conservationists are the responsible Federal officials for purposes of carrying out NEPA for all other major SCS assisted actions, including watershed projects, resource, conservation, and development (RC&D) measures, and program EIS' which cover several similar actions within a State. The Administrator and State, area, and district conservationists have responsibilities for assuring compliance with policy and for excellence of technical assistance, utilizing procedures which provide for and encourage involvement of individuals, groups, and units of government, including local, State, and Federal agencies in the planning process and decisionmaking, and for encouraging and promulgating procedures which provide for interdisciplinary technical assistance.

(e) *Interdisciplinary planning.* SCS uses an interdisciplinary planning process in which individuals or groups having different technical expertise jointly assess resource conservation opportunities. Those making the joint assessment, together with interested individuals and groups, determine data needs, quality standards to be achieved or to be maintained, and alternative courses of action. The number of discipline groups and agencies to be represented is dependent upon the complexity of problems, diversity of natural resources, and the economic, social, and environmental impacts of the alternative actions. Effective interdisciplinary planning is closely related to public involvement in the planning process.

(f) *Consultation with and response to requests of the Council on Environmental Quality (CEQ).* SCS consults with CEQ on policies, procedures, and the quality of EIS's. Careful consideration will be given to requests by CEQ for reports, other information, and action relating to implementation of NEPA.

(g) *Monitoring.* SCS policy provides for monitoring of programs and projects as necessary to assure compliance with the requirements of NEPA and to cooperate with other agencies in determining that environmental safeguards are executed according to plans.

§ 650.4 References.

Availability in SCS. Information and references pertaining to the guidelines for preparation, coordination, and review of EIS's required by the procedure for carrying out NEPA are available to all field, area, State, and regional technical service center (RTSC) offices, and the national office. The information and references are for the use of SCS employees, and are used as guidelines for planning, assessment, and for preparing EIS's. The following information and references are to be maintained in or available to all SCS offices for review by others having an interest in or a use for the information:

National Environmental Policy Act of 1969 (Pub. L. 91-190).
Executive Order 11507, "Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities."
Executive Order 11514, "Protection and Enhancement of Environmental Quality."
Guidelines for Statements on Proposed Federal Actions Affecting the Environment, Council on Environmental Quality (CEQ).
Section 309 of the Clean Air Act Amendments of 1970 (Pub. L. 91-604).
Right of the Public to Information Act (Pub. L. 89-487).
Section 105 Requirements, Historic Properties Preservation Act (Pub. L. 89-665).
National Register of Historic Places; Advisory Council on Historic Preservation; Protection of Properties on the National Register; Procedures for Compliance, National Park Service.
Executive Order 11593, "Protection and Enhancement of the Cultural Environment."
Act for preservation of historical and archeological data (Pub. L. 86-523).
Secretary of Agriculture Memorandum 1695, Supplement 4, as revised.
Office of Management and Budget (OMB) Circular A-95.
Principles and Standards for Planning Water and Related Land Resources, Water Resources Council.

§ 650.5 Environmental assessment in the planning process.

(a) *General.* Environmental values and studies of probable impacts are given the same consideration throughout the planning and decisionmaking process as economic, engineering, and social values. Environmental assessment is an integral part of the planning process as illustrated in Appendix I to this part. The decision whether to prepare an EIS may be made during the application, preliminary investigation, or detailed planning stage based on the factors in § 650.8. However, the need for an EIS is to be determined as early as possible, usually immediately following the preliminary investigation stage. When adverse impacts are identified and assessed at any stage in the planning process, consideration is to be given to measures which will minimize such impacts.

(b) *Application stage.* When SCS first considers an application with the applicant and other interested groups, full attention to and discussion of environmental values, probable impacts, and concerns are encouraged. Sufficient information is to be gathered, analyzed, and then presented and discussed in general public meetings to identify broad environmental aspects involved and the degree of public interest.

(c) *Preliminary investigation or feasibility study stage.* Following approval of the application by the Governor or by the State agency he designates and acceptance by SCS under delegated authority, SCS conducts preliminary investigations and feasibility studies with participation of applicants, other agencies, and interested parties. Environmental assessment is an integral part of the preliminary stage of planning. This includes a description of the present environment, trends, and preliminary evaluation of the impact of possible alternative actions. Findings of the preliminary studies and environmental assessment are to be presented and discussed at public meetings. The results of the preliminary investigation and the public meetings are to be considered in deciding whether to proceed with planning.

(d) *Detailed planning stage.* Following a decision to proceed with planning, SCS conducts detailed field studies including additional studies on environmental impacts of alternatives. Expertise outside SCS is solicited and, when necessary, special contracts may be nego-

tiated. Information needed to develop a draft plan and draft EIS is obtained in this stage and is to be discussed during public meetings.

(e) *Formal review process.* The draft EIS is circulated for formal review and comment as outlined in § 650.9.

§ 650.6 Obtaining information required for EIS's.

(a) *Interdisciplinary effort.* SCS utilizes a systematic, interdisciplinary approach to insure the integrated use of the natural, physical, and social sciences, and the environmental design arts in furnishing assistance for planning and decisionmaking which may have an impact on man's environment. Where relevant disciplines are not represented on SCS staffs, appropriate assistance is to be obtained from Federal, State, and local agencies and private sources.

(b) *Use of available data.* SCS will make full use of available survey and inventory reports, existing plans and publications which bear directly on a particular situation, and the environmental facts involved. Data sources are to be cited in the EIS.

(c) *Assessment.* An environmental assessment is to be made at the earliest stages of planning to identify potentially significant environmental factors that may be affected by the proposed action. This study will serve to further indicate types of data needed for more detailed study of environmental values when significant impacts on the environment are indicated. As needed, on site environmental assessments are to be made using both SCS and other available expertise to quantify, qualify, and rate the present environmental setting in terms of the major factors and to predict probable impacts of alternative actions.

(d) *Study by others.* If data needed to identify environmental values and the impacts of alternative actions are not available from SCS sources, including the environmental assessment, or from other agencies or organizations with special expertise and responsibility, SCS will enter into arrangements with qualified organizations or individuals to produce needed data. Studies should be designed, to the extent feasible, to produce data to serve the widest possible base of use, both for the immediate action being considered and subsequent similar situations. Consideration is to be given to sharing costs of such studies with other agencies having direct responsibility in the areas of concern.

§ 650.7 Public involvement and coordination.

(a) *General considerations for developing public involvement*—(1) *Identification of individuals, groups, organizations, and agencies.* Public involvement must begin with the initial steps to formulate an action. The State conservationist is to keep a list of all groups, organizations, and governmental agencies which are or may be interested in the project for use by applicants and SCS. Criteria to be used in identifying individuals, groups, and organizations include those who:

(i) May be affected by the project;

(ii) Represent the needs and interests of a community;

(iii) Have views important to balanced planning (important key leaders or organizations may not be directly affected, but their involvement can be vital); or

(iv) Have expressed interest for or against the project.

(2) *Documentation.* Chronological and historical notes on public involvement are to be maintained. These notes will be a part of the working file and will serve to document all formal and informal meetings involved in planning the project. The notes will briefly identify major individual participants, organizations represented, the numbers of people attending meetings, and the substance of the meeting. Especially important is the documentation of discussions and concerns about environmental issues. These planning and implementation notes form important evidence of public involvement and will be available for public inspection. In some cases, verbatim transcripts of formal hearings or meetings may be appropriate.

(b) *Public meetings.* Several types of public meetings may be used by applicants and SCS to encourage public involvement. Any environmental information available will be presented and discussed with appropriate other information at all public meetings. This information is to be made available prior to the meetings. If a preliminary draft or draft EIS has been prepared, it will be made available at least 15 days before the public meetings. Meetings may include:

(1) Information-gathering meetings to help identify local issues, environmental values and concerns, specific problems, the general public attitude towards the undertaking, and to develop information needed for planning;

(2) Evaluation meetings for assessing economic, social, and environmental impacts and developing alternatives; and

(3) Plan-presentation meetings to provide opportunities for people to understand and evaluate proposed project plans and the environmental impacts.

(c) *Public hearings.* Recorded public hearings are to be held jointly by SCS and applicants if necessary to achieve public involvement and understanding of alternative project proposals or if justified by public interest. Information available on environmental assessment, the draft EIS's, or the project formulation should be made available to the public at least 15 days prior to the time of such hearings, or as specified by state law. In deciding whether a public hearing is appropriate, state conservationists and applicants should jointly consider:

(1) Requirements of state or local laws;

(2) The magnitude of the proposal in terms of environmental impact, costs, the geographic area involved, and size of commitment of the resources involved;

(3) The degree of controversy or opposing views likely to surface at the hearing;

(4) The degree of interest in the proposal as evidenced by requests from the public and from Federal, State, and local authorities that a hearing be held;

(5) The complexity of the issue and the likelihood that information presented at the hearing would not otherwise be available to SCS in fulfilling its responsibilities under NEPA; and

(6) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and written comments on the proposed project.

(d) *Availability of EIS's.* Draft and final EIS's will be made available to the public by the responsible Federal official. Enough copies of the EIS are to be printed to meet the anticipated demand of agencies, organizations, and individuals who must receive copies as required by CEQ guidelines and to satisfy a reasonable number of additional requests. The National Technical Information Service will be considered a secondary source to which requests should be directed when an unexpectedly large or late demand occurs. SCS will place a notice in the FEDERAL REGISTER both for draft and final EIS's to advise the public of proposed activities and where copies of the EIS's may be obtained.

§ 650.8 SCS actions covered and excluded.

(a) *Actions which normally require an EIS.* EIS's normally will be prepared for all watershed projects or RC&D measure plans which:

(1) Require approval by congressional committees;

(2) Provide for modification of channel alignment or capacity of any perennial stream, including standing or backwater channels; or

(3) Are expected to be highly controversial.

(b) *Other major SCS assisted actions which may require an EIS.* Actions which do not fall under criteria established by paragraph (a) or (c) of this section will require a decision by the responsible Federal official whether to prepare an EIS based on individual considerations. The decision made is to be based on an appropriate environmental assessment of environmental factors and significant effects, including beneficial and adverse effects. Significant adverse effects may be those which degrade the environment, curtail the use of the environment, or serve only short-term needs. Assessment is to cover secondary effects such as socio-economic impacts as well as direct effects.

(1) *Identifying major actions which may or may not significantly affect the environment.* At least the following environmental factors are to be assessed by the responsible federal official in each project or measure planning area as appropriate to determine whether an EIS is needed:

Upland wildlife habitat.
Bottomland wildlife habitat.
Migration routes.
Bottomland hardwoods.
Stream fisheries including potential not presently productive.

Wetlands.
Rare or endangered animals and plants.
Natural perennial streams.
Man-altered perennial streams.
Natural intermittent streams.
Man-altered intermittent streams.
Archeological and historical resources.
Water quantity.
Water quality.
Appearance of the landscape.

In addition, the degree of public interest, potential controversy, urban or rural setting, and economic and social impacts should be assessed. Factors are to be quantified and qualified to the extent practicable as to the total amount in the planning area, the amount affected by the proposed actions, and the percent of the total resource in the planning area which will be affected. No single or multiple set of factors can give the absolute answer. The data, once assembled for a planning unit, will provide an indication of the probable impact and aid in making a judgment as to whether an EIS is needed.

(2) *Actions authorized prior to passage of NEPA.* In addition to a detailed assessment of factors such as those named in paragraph (b)(1) of this section, the following elements may also be given consideration by the state conservationist in accordance with 40 CFR 1500.13 of the CEQ Guidelines (38 FR 20556) in determining whether the action yet to be taken constitutes a major Federal action which will require preparation of an environmental impact statement:

Total construction costs, including Federal and local share.
Degree of completion of planned work and amount remaining to be done.
Local financial commitments, including easements and rights-of-way.
Degree of public involvement.
Consideration of environmental quality in project formulation.
Administrative documentation of the planning process.

(3) *Negative declaration.* On major SCS actions such as projects or RC&D measures where an environmental assessment indicates no significant impact on the environment and no controversy, a negative declaration is to be prepared by the state conservationist as soon as practicable following his decision. The negative declaration will describe the proposed activity and its effects, document the reasons for concluding that there will be no significant impact, state that no EIS is to be prepared, and designate where the environmental assessment is available for public inspection. Circulation of a notice of negative declaration will normally be the same as for draft EIS's as provided in § 650.9(b). A news release is to be submitted by the responsible Federal official to local papers and other appropriate media informing the public that an impact statement will not be prepared on a particular project. A copy of the environmental impact assessment is to be forwarded to the Director of the appropriate RTSC and the SCS national office. Copies are to be kept on file in the originating office for public inspection and distribution upon request. A list of actions on which EIS's will not be prepared will be maintained by the state conservationist.

(c) *Actions which are normally excluded from the preparation of EIS's.* Proposals including only the following types of actions are not generally defined as major federal actions significantly affecting the human environment and are excluded from the EIS process and negative declarations:

(1) Conservation land treatment.

(2) Nonstructural flood plain management practices.

(3) Critical area treatment measures for erosion and sediment control.

(4) Land stabilization protection, gully control, and other similar practices.

(5) Consolidation and rehabilitation of existing irrigation delivery and drainage systems for water management and conservation.

(6) Individual measures or works of improvement covered by a program statement such as emergency watershed work following natural disasters.

(d) *Program statements.* Two or more similar major Federal actions occurring in the same geographical area such as contiguous watershed projects may be covered by a single "program" EIS. A program EIS may also be needed on newly authorized program responsibilities. In either case, the responsible Federal official will determine if a program EIS is needed and, if so, provide for its development.

(e) *River basin studies.* SCS assists with the preparation of EIS's covering certain river basin studies through the Water Resources Council, river basin commissions, and interagency committees, SCS is the lead agency for the U.S. Department of Agriculture (USDA) in conducting Cooperative River Basin Studies (Type 4). Environmental assessment is to be a part of Type 4 studies. An EIS is to be prepared when implementation authorization for specific projects included in the plan is requested.

(f) *Legislative actions and favorable reports on legislation.* If designated to prepare a legislative proposal or a favorable report when SCS has primary responsibility for the subject matter involved in a bill referred to the USDA, the Administrator is responsible for developing the EIS to accompany the proposal or report.

(g) *EIS's for making, modifying, or establishing regulations, rules, procedures, and policy.* If responsibility for implementing a program or major action is delegated to SCS by the Secretary of Agriculture and regulation or policy formulation is necessary, the need for an EIS will be determined by the Administrator in consultation with the USDA Office of the Coordinator of Environmental Activities and the appropriate USDA assistant secretary. If an EIS proves necessary, it is to be developed in time to accompany the proposal, regulation, or policy through the review process.

(h) *Lead agency.* In certain instances, several USDA agencies may have program responsibilities relative to a major Federal action with significant environmental impact. If SCS is designated as the lead agency, the Administrator will coordinate the input of all concerned agencies in development of the EIS. In actions involving several departments, the role of SCS will be determined in consultation with the USDA Office of the Coordinator of Environmental Activities and the CEQ.

(i) *Early notice system.* A list of major actions in each state on which EIS's are to be prepared is to be furnished by the state conservationist to the Administrator on a quarterly basis for consolidating and forwarding to the CEQ. Each state list will be available at the appropriate SCS state office for public inspection. A list of major actions on which environmental statements will not be prepared (negative declaration) is to be maintained by the state conservationist after individual notices have been circulated.

§ 650.9 Numbering, distributing for comment, and time limits.

(a) *System for numbering EIS's.* (1) SCS will use the following components in numbering EIS's:

USDA	U.S. Department of Agriculture.
SCS	Soil Conservation Service.
EIS	Environmental Impact Statement.
WS	Program designation.
(ADM)	Type of statement.
74	Fiscal year of draft EIS.
11	Sequential number by program by fiscal year.
(D) or (F)	Draft or Final.
AL	State abbreviation as used in the U.S. Postal Service, National Zip Code Directory.

(2) Example: The number of the eleventh draft SCS administrative EIS for the fiscal year 1974 in the watershed program in Alabama would be written as follows:

USDA-SCS-EIS-WS-(ADM)-74-11-(D)-AL*

(3) Program designations presently used include:

WS	Watershed.
FP	Flood Prevention.
RB	River Basin.
RCD	Resource Conservation & Development.

(4) Draft and final EIS's for the same action will carry the same sequential number but will be designated (D) or (F).

(b) *Draft EIS's.* The following steps will be taken in filing and distributing draft EIS's for review and comment:

(1) *CEQ and others.* Ten copies of draft EIS's will be sent to CEQ by the responsible Federal official. At the same time the responsible Federal official will send copies to:

(i) The Federal agencies listed in Appendix II of this part and a copy to the USDA Office of the Coordinator of Environmental Quality Activities. Appendix II to 40 CFR 1500 (CEQ Guidelines) (38 FR 20557) also provides further guidance for considering sources of special expertise in the areas of energy, pollution, and resource and land use.

(ii) State and local agencies. OMB Circular No. A-95 (revised) through its system of State and areawide clearinghouses provides a means for obtaining the views of State and local environmental agencies which can assist in the preparation

and review of EIS's. Instructions for obtaining the views of such agencies are contained in the joint OMB–CEQ memorandum which is attached to the CEQ Guidelines as Appendix IV to 40 CFR 1500 (38 FR 20550).

(iii) Organizations, groups, and individuals. A copy of the draft EIS will be sent to the appropriate official of each organization or group and each individual who has expressed interest or who should receive a copy.

(2) *Time period for comment.* The time period for review shall end 60 days after the date the draft EIS is sent to CEQ and distributed for review as provided in paragraph (b)(1) of this section. (This 60-day period includes the 45-day period from the date published in the FEDERAL REGISTER by CEQ.) A 15-day extension of time for review and comment will be considered by the responsible Federal official when such requests are submitted in writing. Otherwise it will be presumed that at the end of the 60-day period the agency or party from which comments were requested has no comments to make.

(3) *Notice to* FEDERAL REGISTER. The state conservationist will prepare a notice for the FEDERAL REGISTER concerning availability of draft EIS's and forward it to the Administrator for handling.

(4) *News releases.* News releases will be sent to appropriate local media by the responsible Federal official.

(5) *Preparing final EIS's.* At the end of the review period, the responsible Federal official will prepare the final EIS, taking into consideration substantive comments, including opposing viewpoints received. If significant changes in the proposed action are needed, a revised draft EIS may be necessary and recirculated for comment.

(c) *Final EIS's.* The following steps will be taken in filing and distributing final EIS's:

(1) Letters of substantive comment will be appended to all copies of the final EIS's. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the commentators will be appended.

(2) The responsible Federal official shall send 10 copies of the final EIS to CEQ, 1 copy to the USDA Coordinator of Environmental Quality Activities, and a copy to each State and Federal agency, organization, group, or individual who furnished substantive comments on the draft EIS or who requests a copy.

(3) The State conservationist will prepare a notice for the FEDERAL REGISTER concerning availability of final EIS's and forward it to the Administrator for handling. Copies of final EIS's will be made available on request.

(4) No administrative action on implementation is to be taken for 30 days after notice of availability of the final EIS is published in the FEDERAL REGISTER by CEQ.

(d) *Supplements to EIS's.* If necessary, an appropriate revision or supplement to a final EIS on file with CEQ shall be prepared by the responsible Federal official. The extent of the revision and further coordination with other Federal, State, and local governmental agencies and the interested public will be based on the following:

(1) If the final EIS previously filed failed to comply with the requirements of NEPA (e.g., failed to discuss alternatives or failed to disclose the environmental impacts of the proposed action), or if there has been a major change in the plan of development or method of operation of the proposed action, a new draft and final EIS must be prepared as provided in § 650.10 and circulated as provided in paragraph (b) and (c) of this section and filed with CEQ.

(2) If the final EIS on file is deficient because certain environmental effects of the project were not discussed or design features or project purposes were modified subsequent to the filing of the original EIS, an appropriate supplement to the draft and final EIS shall be prepared. The draft and final supplement will be filed with CEQ and circulated to those who received copies of the original final EIS and to other organizations and persons known to have an interest in the project. Time limits specified in paragraphs (b)(2) and (c)(4) of this section will be observed.

(3) If it is necessary to clarify or amplify a point of concern raised after the final EIS was filed with CEQ and the point of concern was considered in making the initial decision, or if comments on the final EIS are received from Federal, State, local governmental agencies, or the public, the clarification, amplification, or response to the comments received shall be prepared and filed with CEQ. Informational copies of the material filed with CEQ will be furnished to those who received copies of the final EIS. Section 1500.11(b) of the CEQ Guidelines (40 CFR Part 1500) (38 FR 20556) would not be applicable. Waiting periods previously outlined in this part are not applicable.

(e) *Expedited procedures.* When emergency circumstances make it necessary to take action with significant environmental impact without observing the provisions of paragraphs (b) and (c) of this section, the state conservationist shall work through the Administrator and the USDA Office of the Coordinator of Environmental Quality Activities in consulting with CEQ about alternative arrangements.

§ 650.10 EIS format and content.

(a) General considerations in preparing EIS's: (1) Environmental studies are to be conducted at the same time, depth, and scope as are economic, engineering, and other related studies.

(2) The EIS is to summarize and document data sources.

(3) Secondary impacts such as socioeconomic effects as well as cumulative effects of other SCS and relevant actions in the area to be influenced are to be considered.

(4) Comments and recommendations by agencies, groups, and individuals are to be given full consideration in planning the project and developing the EIS. Appendix II to 40 CFR 1500 (CEQ Guidelines) (38 FR 20557) is to be used as a guide for determining the expertise and responsibilities of other agencies to be contacted for consultation.

(5) Impacts on historical, archeological, and cultural sites are to be considered.

(6) The U.S. Environmental Protection Agency (EPA) is to be consulted early in the planning process on water and air quality matters to facilitate EPA and SCS responsibilities under section 309 of the Clean Air Act (Pub. L. 91–604, 84 Stat. 1709 (42 U.S.C. 1857h–7)).

(7) Any Federal, State, or local legislation, plan, regulation, standard, or action which may have a bearing on the proposed action is to be considered.

(8) Attention is to be given to the substance of the information rather than the form, length, or detail of the EIS.

(b) The following points are to be covered in accordance with 40 CFR 1500.8 of the CEQ Guidelines (38 FR 20553):

(1) A description of the proposed action, a statement of its purposes, and a description of the environment affected. Include information, summary technical data, and maps and diagrams, where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public.

(2) The relationships of the proposed action to land use plans, policies, and controls for the affected area.

(3) The probable impact of the proposed action on the environment. Include an assessment of the positive and negative effects on both national and international environment.

(4) Alternatives to the proposed action which would reduce or eliminate adverse effects. Include, where relevant, those not within the responsibility of the responsible agency.

(5) Any probable adverse environmental effects which cannot be avoided such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health, or other consequences adverse to the environmental quality goals set out in section 101(b) of NEPA (Pub. L. 91–190, 83 Stat. 852, (42 U.S.C. 4331)).

(6) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.

(8) An indication of other interests and considerations of Federal policy to offset the adverse environmental effects of the proposed action. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse effects. Analyses or summaries of available cost-benefit information are to be attached to the EIS.

(c) Sample procedures for developing an EIS for a complex watershed project are outlined in Appendix III to this part. The outline presents detailed consideration of the elements covered in 40 CFR 1500.8 of the CEQ Guidelines. The outline

is to be used as a guide and adjusted to specific actions as appropriate, keeping in mind the:

(1) Size and complexity of the proposed action;

(2) Range of significant environmental factors likely to be affected;

(3) Number of reasonable alternatives; and

(4) Detail of information necessary to adequately describe and assess resources and impacts.

(d) Statement of reasons: After the final EIS is prepared, the responsible Federal official is to prepare a statement of reasons for the action selected. It is to cover all relevant factors (environmental, social, economic, and political) with as detailed cross-references as possible to the appropriate portions of the administrative record. The completed statement of reasons is to be signed by the responsible Federal official and a copy forwarded with each copy of the final EIS.

§ 650.11 Reviewing and commenting on EIS's prepared by other Federal or nonfederal agencies.

(a) SCS employees assigned to review and comment on EIS's prepared by other Federal and non-Federal agencies are to be thoroughly familiar with SCS policies and guidelines, CEQ Guidelines, and NEPA.

(b) All EIS's received for review by SCS should be responded to promptly even if no comments are offered. Comments are to be objective and factual and presented with a view toward offering suggestions which will help minimze adverse impacts of the proposed action. Comments are to be based on knowledge readily available. Field office technical guides, soil surveys, field investigation reports, and other resource data and reference materials developed by SCS and by other agencies should be used and cited. It is not intended that special surveys or investigations be conducted to acquire additional information for use in preparing comments.

(c) The SCS reviewer is to consider:

(1) *The suitablity or limitations of the soils for the proposed action.* Have the suitabilities and limitations of the soils for the proposed use and action been considered? Would an alternative route, location, or layout minimize land use problems and adverse environmental impacts?

(2) *Provisions for control of erosion and management of water during construction.* Are there resources downstream that would be affected by sediment from the construction area, and does the statement provide for adequate control measures?

(3) *Provisions for conservation land treatment on the project lands, rights-of-way, access roads, and borrow areas.* Does the statement indicate that enduring soil and water practices are to be installed and maintained?

(4) *The effect of water discharges from the project lands or rights-of-way onto other properties or changes in water quality.* Will discharges cause erosion or flooding on other lands?

(5) *The effects of disruption of the natural drainage pattern on other properties.* Does the statement indicate that natural drainage patterns will be maintained or improved, and that bridges, culverts, and other water control structures will be so located that adjacent lands are not flooded or otherwise restricted in use?

(6) *The impact on existing conservation systems.* To what extent will conservation systems such as terrace, drainage, or irrigation be altered, severed, or suffer blocked outlets, and land use or cover be affected as a result? Does the EIS make clear that existing conservation systems, where applicable, are to be protected and kept functional?

(7) *The amount of prime farmland or other significant land and water resource areas being irreversibly or irretrievably lost.* Would an alternative location or route require less prime farmland or have a less adverse effect on other significant resource areas?

(8) *The impact of severance of farmland, woodland, ranchland, or other significant land and water resource areas.* Can adverse effects of severance be reduced by providing for underpasses or access corridors?

(9) *The impact of the proposed action on wetlands.* Does the statement reflect the effect of the proposed action on wetlands as defined in U.S. Department of Interior, Bureau of Sports, Fisheries, and Wildlife Circular No. 39? Can the adverse effects be reduced or eliminated?

(10) *The stockpiling, protection, or proper disposition of topsoil.* If this is a significant consideration, does the statement provide for conserving and using topsoil?

(11) *The impact of the proposed action on pollution of land, water, and air.* Does the statement describe the adverse effects? Can the adverse effects be reduced and, if so, by what means?

(12) *Other related resources.* Does the reviewer have information which would indicate significant effects of the proposed action on fish and wildlife habitat, rare and endangered plant and animal species, historical and archeological sites, natural areas, and major plant communities?

(13) *The effect of the proposed action on SCS or other agency projects.* Does the statement reflect the effect of the proposed action on present or planned SCS assisted projects? Does the reviewer have information on projects of other agencies not recognized in the EIS and which should be called to the attention of the agency which prepared the EIS?

(d) Usually EIS's prepared by other federal agencies are addressed to the USDA and referred to SCS by the USDA Coordinator of Environmental Activities, or are addressed to the SCS national office or an SCS State office.

(1) EIS's referred by the USDA Coordinator of Environmental Activities to the SCS national office may designate SCS as the lead agency for preparing comments for USDA. In this case, the SCS national office determines whether inputs from state conservationists and other USDA agencies are needed. If so, state conservationists and other USDA agencies are requested to furnish comments to be combined for the USDA response.

(2) EIS's received directly by the SCS national office are screened to determine whether inputs from state conservationists are needed. If so, the EIS is sent by the Administrator to the state conservationist concerned. Transmittal of an EIS to a state conservationist shall indicate to whom comments, or copies thereof, are to be sent. If more than one State is involved, the Administrator will designate one state conservationist to coordinate the review and comments.

(3) If a state conservationist receives an EIS directly from another federal agency, he is to respond directly to the initiating agency. A copy of his comments is to be sent to the Administrator and to the USDA Coordinator of Environmental Activities. If the EIS is from a nonfederal agency, the state conservationist is to send a copy of his comments to the Administrator only. If the comments are substantial or controversial, a copy of the draft EIS should be attached to the copy of the comments sent to the Administrator.

(4) Comments on EIS's addressed directly to SCS are to deal primarily with areas of SCS expertise. Copies of draft EIS's reviewed and commented on should be retained by reviewing offices for reference.

(5) Five copies of review comments made by SCS on EIS's prepared by other Federal agencies are to be sent directly to CEQ.

(e) If EIS's are addressed to SCS area or field offices, these offices are to contact the State conservationist for instructions on coordinating and handling the comments.

(f) If EIS's are submitted to conservation districts, the district officials should prepare the comments and reply. SCS may furnish needed soil, water, and related resource information to the district officials.

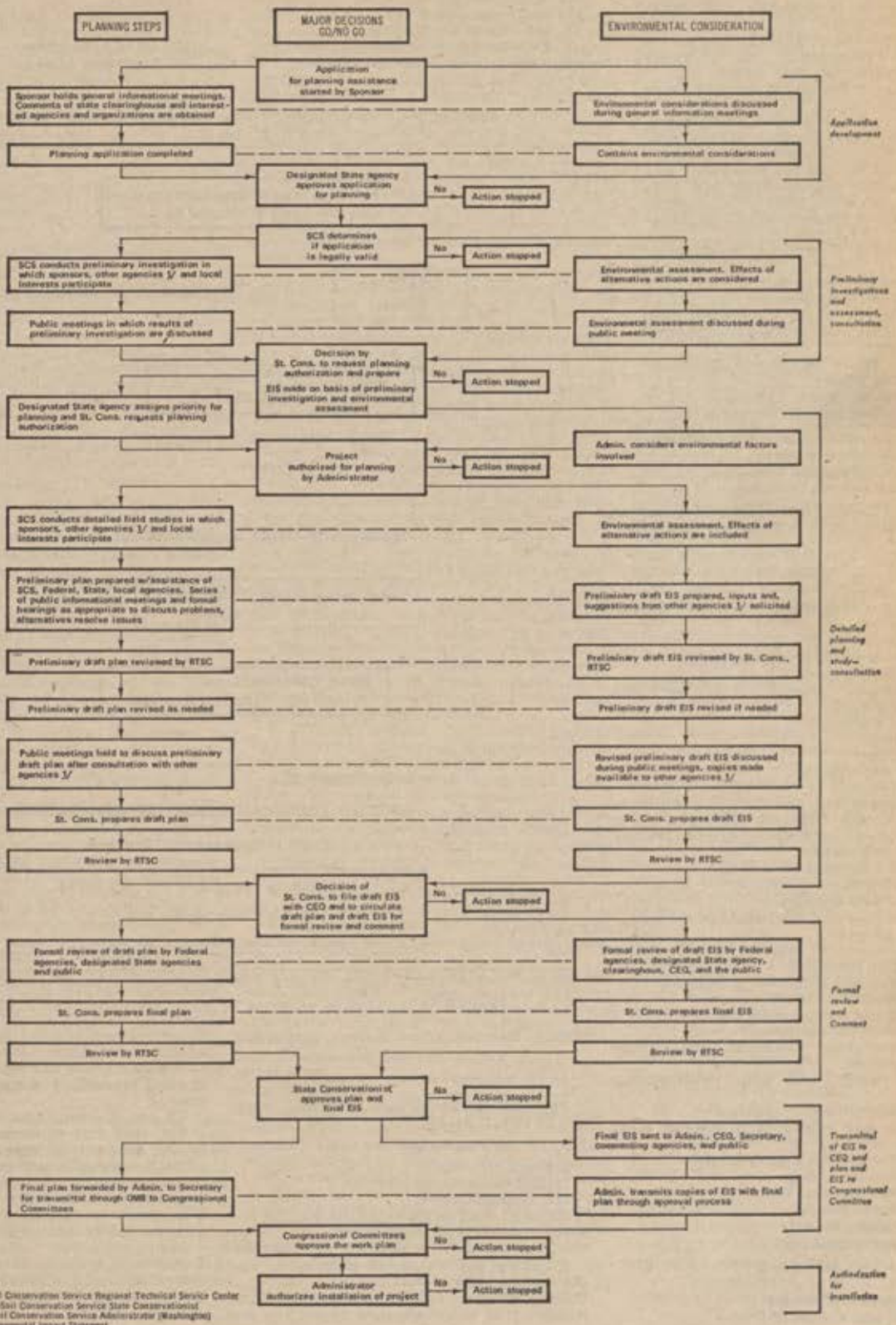
U. S. DEPARTMENT OF AGRICULTURE — SOIL CONSERVATION SERVICE

APPENDIX I

—PLANNING PROCESS—

PL—566 WATERSHED PROJECTS

(Projects Requiring Congressional Committee Approval)



Legend

RTSC—Soil Conservation Service Regional Technical Service Center
St. Cons.—Soil Conservation Service State Conservationist
Admin.—Soil Conservation Service Administrator (Washington)
EIS—Environmental Impact Statement
CEQ—Council on Environmental Quality
1/ Includes interested state, local, and field offices of federal agencies

NOVEMBER 1970

APPENDIX II—INTERAGENCY REVIEW AGENCIES AND NUMBER OF COPIES

Agencies Requested to Review and Comment	*Number of Copies to be sent*
Governor of State or State Agency designated by Governor	1
State, Regional, and Metropolitan Clearinghouse, as appropriate (via State Conservationist)	1
Executive Secretary, Advisory Council on Historic Preservation, 1100 "L" Street NW., Washington, D.C. 20005	1
Chief, Corps of Engineers, Department of the Army [1]	3
Department of the Interior, Washington, D.C., Attention: Office of Environmental Project Review	18
Department of Health, Education and Welfare, 330 Independence Ave. SW., Washington, D.C. 20201	1
Department of Transportation, Washington, D.C.	1
Department of Commerce, Washington, D.C.	5
Environmental Protection Agency [2]	7
Federal Power Commission	3
Appalachian Regional Commission, 1666 Connecticut Avenue NW., Washington, D.C. 20235	1
Tennessee Valley Authority, [2] Knoxville, Tennessee 37919	1
Delaware River Basin Commission, P.O. 360, Trenton, New Jersey 08603 [3]	1

[1] Address to District Engineer if State Conservationist approved plan.
[2] Address to Regional Office.
[3] Only if involved.

APPENDIX III—OUTLINE FOR ENVIRONMENTAL IMPACT STATEMENT FOR COMPLEX WATERSHED

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I. Cover page.
II. Summary.
III. Project identification and environmental setting.
A. Authority.
B. Sponsoring local organization.
C. Project purposes.
1. Watershed protection (Conservation Land Treatment).
2. Flood prevention.
3. Drainage.
4. Irrigation.
5. Fish and wildlife.
6. Recreation.
7. Municipal and industrial water supply.
8., 9., 10., etc. Other(s) (continue list of water management purposes as appropriate).
D. Planned project.
1. Land treatment measures.
2. Nonstructural measures.
3. Structural measures.
4. Operation and maintenance.
5. Project costs.
E. Environmental setting.
1. Physical resources.
2. Present and projected population.
3. Economic resources.
4. Plant and animal resources.
5. Recreational resources.
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7. Soil, water, and plant management status.
8. Projects of other agencies.
F. Water and related land resource problems.
1. Land and water management.
2. Floodwater damage.
3. Erosion damage.
4. Sediment damage.
5. Drainage problems.
6. Irrigation problems.
7. Municipal and industrial water problems.
8. Recreation problems.
9. Plant and animal problems.
10. Water quality problems.
11. Economic and social problems.
IV. Relationship to land use plants, policies and controls.
V. Environmental impact.
A. Conservation land treatment.
B. Nonstructural measures.
C. Structural measures.
D. Economic and social.
E. International impacts.
F. Favorable environmental effects.
G. Adverse environmental effects.
VI. Alternatives.
VII. Short-term vs. long-term use of resources.
VIII. Irreversible and irretrievable commitment of resources.
IX. Consultation and review with appropriate agencies and others.
1. General.
2. Discussion and disposition of each comment on draft environmental statement.
X. List of appendixes.
XI. Signature block.

USDA-SCS-ES-WS-(ADM)- [No. Supplied by W.O.] [(D) -Draft or (F) -Final]

[Name of Watershed Project County(ies) & State(s)]

[DRAFT or FINAL] ENVIRONMENTAL IMPACT STATEMENT

[Name and Title of Responsible Official]

Soil Conservation Service

Sponsoring Local Organizations

[List Names and Addresses (include zip codes)]

[Date Statement Prepared (month & year)]

PREPARED BY

UNITED STATES DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[Address of responsible official
Washington, D.C. 20250
or state office address as appropriate]

Note - explanatory instructions for information to be added is included in boxes.

USDA ENVIRONMENTAL IMPACT STATEMENT

_____ Watershed Project
_____ County(ies)
_____ State(s)

Prepared in Accordance with sec. 102(2)(C) of Pub. L. 91-190

Summary Sheet

I. Draft (or) Final.
II. Soil Conservation Service.
III. Administrative.
IV. Brief description of project purpose and action—indicating what States (and counties) are particularly affected. For example:
A project for watershed protection, flood prevention, and recreation in _____ County (State) to be implemented under authority of the Watershed Protection and Flood Prevention Act (PL 566, 83d Congress, 68 Stat. 666), as amended.
V. Summary of environmental impacts including favorable and adverse environmental effects.
VI. List of alternatives considered.
VII. (For draft statements)—List the following agencies, as appropriate, from which written comments are requested. (Ref. Appendix II, CEQ guidelines)
Department of the Army
Department of Commerce
Department of Health, Education, and Welfare
Department of the Interior
Department of Transportation
Environmental Protection Agency
Advisory Council on Historic Preservation

State Historic Preservation Officer
Appalachian Regional Commission
Delaware River Basin Commission
Federal Power Commission
Tennessee Valley Authority
Governor of ---------- (or designated State agency)
State clearinghouse
Regional or metropolitan clearinghouse
Others (Organizations, Societies, Individuals, etc.)

(For final statements)—List all Federal, State, and local agencies and other sources from which written comments have been received.)

VIII. (Draft or Final) statement transmitted to CEQ on ----------
(date)
(Date to be filled in by transmitting SCS office).

(Final statement only) Draft Statement received by CEQ on ----------
(date)

III. PROJECT IDENTIFICATION AND ENVIRONMENTAL SETTING

USDA SOIL CONSERVATION SERVICE DRAFT (OR FINAL) ENVIRONMENTAL IMPACT STATEMENT[1]

for

A. ---------- Watershed (State)

Installation of this project constitutes an administrative action. Federal assistance will be provided under authority of Pub. L. 83-566, 83d Congress, 68 Stat. 666, as amended.

B. SPONSORING LOCAL ORGANIZATION(S)

(list)

C. PROJECT PURPOSES

This section should clearly describe the goals of the project sponsors, the public and the Soil Conservation Service in achieving: (1) Quality in the natural resource base for sustained use; (2) Quality in the environment to provide attractive, convenient, and satisfying places to live, work, and play; (3) Quality in family standards of living based on community improvement, economic opportunity, wholesome leisure, and cultural and educational opportunities. The goal is to help meet man's requirements for goods and services while the natural environment is maintained in a quality condition. The discussion should include the extent to which the various purposes may involve competing or conflicting uses of the same areas. Each project purpose should be described as follows:

1. *Watershed protection (conservation land treatment).* Clearly describe the goals for achieving adequate land treatment or protection on watershed lands during the project installation period. The level to which land use and treatment should be attained will be determined by an indepth study of the current program and its rate of application. The present erosion rates on cropland, pastureland, and forest land in comparison to the established allowable soil loss should be of prime consideration in setting goals. Trends in farm management, ownership, and tenancy and the probable effectiveness of the sponsors' educational efforts should weigh in setting goals. Management and wise use of the ecosystems and their plant and animal communities are of major importance.

This section should set forth specific goals for achieving conservation land treatment in the watershed project area.

2. *Flood prevention.* The level of protection from flood water, erosion (including flood plain scour and land voiding by gullies), sedimentation, etc., to be achieved should be described in meaningful terms in relation to the planned land use for each separate segment or reach of the flood plain. Independent statements such as: "the goal is to reduce monetary damages by a certain percentage," a "three year level of protection was desired," "the goal was to protect the flood plain to a frequency of once in 100 years," or "it was desired to reduce the average annual acres flooded by 75 percent," should be avoided. The acreage that will flood, be damaged, or be voided each year and the degree of damage should be described for each reach. Tabular listings of acres damaged by reaches for different flood events provide the reader a more vivid picture of the level of protection. The writer should avoid terms that have become "SCS jargon."

3. *Drainage.* Describe the goals to be achieved and the level of drainage to be accomplished consistent with the crops to be grown and the required removal time of internal and surface water. The acres of land already in agricultural or forest production and the present level of drainage should be described. The degree to which efficient and sustained productive use of land and water resources will prevail throughout the life of the project should be described. Similar goals should be described for nonagricultural drainage. If wetlands are to be drained, the types, with a brief definition of each, and their extent should be clearly described. Wetland descriptions should be referenced to Fish and Wildlife Service Circular 39.[1]

4. *Irrigation.* Describe the goals to be achieved, the level of irrigation to be accomplished, and the degree to which it will contribute to efficient and sustained productive use of land and water within the physical and economic limitations expected to prevail during the life of the project. The level of irrigation thus described should be consistent with the crops to be grown, availability of water supply, desired irrigation efficiency, and proper quality of return flows.

5. *Fish and wildlife.* Describe the goals to be achieved in preserving, improving, and developing fish and wildlife habitat.

6. *Recreation.* Describe the goals and the level of recreation development to be achieved. The design capacity (number of people at one time on a Sunday during normal heavy use season) for each major activity (picnicking, camping, swimming, boating, etc.) should be stated.

7. *Municipal and industrial water supply.* Describe the goals to meet present and future demands of the community(ies) expressed in terms of population, per capita demand rate, etc.

8. 9. 10., etc. (Other(s)). List separately and show goals for other project purposes such as water quality management, proper utilization of land, and ground water recharge.

D. PLANNED PROJECT

This section should contain all of the "Works of Improvement To Be Installed," and "Provisions for Operation and Maintenance" sections of the work plan and key elements of the "Project Installation" section on how the project will be installed. Project measures should be described in as nontechnical terms as possible. The description should be in sufficient detail to convey to the reader a complete understanding of all planned work, how it will be installed, and how it will be operated and maintained so this may be related to the environmental factors involved. Some of the items to be described are as follows:

1. *Land treatment measures.* For non-Federal land, explain what will be done without distinction between the going and accelerated phases. This will include: soil surveys and other inventories to be accomplished and plans to be developed. Explain that technical assistance will be provided by SCS throughout the watershed and that by the end of the installation period it is expected to result in adequate protection or treatment of the acres shown in Table 1 of the work plan. Emphasis should be placed on the technical assistance that SCS will provide. It should be clearly evident to the reader that any conservation land treatment resulting from the technical assistance is voluntary action taken by individual farmers and ranchers.

Organize the discussion for each land use category so that treatment for critical areas, flood problem areas, and private, town, county, State, and other nonfederal land is clear and what is to be done is understood.

For Federal land, the narrative should clearly describe the conservation land treatment measures jointly agreed upon between the Service, the land administering agency, and the sponsoring organization.

2. *Nonstructural measures.* Specific provisions for flood plain management by nonstructural means should be described for every watershed project where minimizing flood loss is a project purpose. Each measure or combination of measures should be described as to what it will consist of and how it will be installed or implemented. Flood plain zoning, land acquisition or restrictive easements are some of the land use regulations that should be described. Flood proofing, flood insurance, etc. are among other nonstructural alternatives for flood plain management that should be included where needed and feasible. The narrative should describe how the management practices will be implement and maintained.

3. *Structural measures.* Present pertinent information relating to the *planned* features, construction, functioning, operation and maintenance of the structural measures. Each kind of measure should be separately discussed. Where conditions are similar for measures of one kind, they may be presented together. Any key structural measure should be handled separately. Noncritical features of individual structural measures should be described in a manner that will permit alternative solutions during final design providing the overall performance of the measures or environmental impacts are not affected. The discussion should cover, but not be limited to, the following items if applicable.

a. *Reservoir type structures.* (1) Foundation conditions including whether the principal spillway is on a yielding foundation.

(2) Kind of principal spillway. (Type of inlet and outlet.)

(3) Kind of emergency spillways. (Rock, earth, structural, other.)

(4) Control (percent chance) provided by the principal spillway and retarding storage.

(5) Type of fill material.

(6) Type and extent of clearing to be performed in reservoir area.

(7) Design life of structures and portion of sediment capacity that will initially store water.

(8) Borrow—location, relation to geology, and land rights.

(9) Provisions for safeguarding public health, water quality, sanitation, and safety.

b. Channels:

(1) Characteristics by reach length and location of present conditions along path of

[1] All sources of data will be shown by footnote or bibliography in the work plan and environmental statement. This includes climatologic, hydrologic, geologic, etc. data that are described. All SCS information and data presented should be so referenced. A footnote on the first page of the work plan and environmental statement might be worded as follows: "All information and data, except as otherwise noted were collected during watershed planning investigation by the SCS, USDA."

[1] "Wetlands of the United States," U.S. Department of the Interior, Fish and Wildlife Service Circular 39, 1956, reprinted 1971.

proposed channel work, including material through which channels will be constructed.

(2) Nature of planned construction, operation, and maintenance by the reaches previously established further subdivided as follows:

(a) Establishment of new channel including necessary stabilization measures.

(b) Enlargement or realignment of existing channel or stream.

(c) Clean-out of natural or man-made channel (includes bar removal, removal of loose debris, and major clearing and snagging).

(d) Stabilization as primary purpose (by continuous treatment or localized problem areas—present capacity adequate).

(3) Discuss the presence of rock or other material that will significantly affect the design of the channel.

c. Public Recreation Facilities:

(1) Land and water areas made available for recreational use by project action.

(2) Kind and nature of recreational facilities to be installed. Provide sufficient detail to indicate their quality.

(3) Relationship between the components of the development—water resource improvement(s) and associated facilities.

(4) Provisions for public access, health, sanitation, safety, and the physically handicapped.

d. For Each Structural Measure:

(1) Minimum land rights required (acres and type). Also indicate how many acres will be committed to each use and availability for public use.

(2) Number or amount. Length of channel, levees, floodways, pipelines, etc. should be stated as "approximate."

(3) Planned appurtenances.

(4) Alteration, modification, or change in location of existing improvements.

(5) Relocations that will result from acquisition of and rights. List the estimated number, kind, and general nature of displacements. Also provide the estimated number of displaced persons, and the estimated number of displaced businesses and farm operations.

(6) Features or provisions to mitigate fish and wildlife losses and minimize other adverse effects. For example, describe measures or means provided to prevent or reduce induced damages.

(7) A discussion to describe the action to be taken during construction to minimize soil erosion, water, air, and noise pollution. Explain how features or provisions will function.

(8) Nonproject features.

(9) Notifications, salvage, or other actions to be taken relating to preservation of historical and archeological data, sites, and specimens. Describe the steps to be taken to minimize project effects on these values.

(10) Location or other relationship with respect to resource values or important physical features identified in the Environmental Setting section.

Exhibits should be used to support the narrative description of the structural measures. These may show plan and elevation views of typical and/or specific structures; channel profiles and cross sections; details of special appurtenances; etc. Reference should be made in the narrative to the project map, exhibits and appropriate tables in order that a clear picture of the structural measures and how they function will be presented.

4. *Operation and maintenance.* Describe project operation and maintenance in the same detail as installation. Specific items to be covered are:

a. The establishment period and what responsibilities the Service will assume during this period. The differences between various structural measures should be explained.

b. Operation of structures, including use of water in regulated storage capacity, operation of any control works such as diversions or tide gates and the legal steps required to establish operating authority, etc. Special note should be made of the provisions for operation and maintenance of fish and wildlife features or measures.

c. The kind of operation and maintenance work that will likely be needed. Special note should be made of any unusual operational needs and major maintenance work that may be anticipated.

d. Inspections to be made, how often, kinds of inspections, and frequency of joint inspection by federal and local representatives.

e. Sufficient detail to clearly establish that the requirements for adequate operation and maintenance are fully understood and that arrangements have or can be made to satisfy such requirements. The matter is particularly significant for recreational developments since it is likely that the operation and maintenance effort for even a modest recreational development could comprise over half of the total operation and maintenance functions of the entire project. Since the recreational facilities generally require periodic replacement during the project evaluation period, show the extent to which replacement costs have been included. Custodial, policing, sanitation, safety and other operational services and the manner of financing operation and maintenance costs should be described fully.

If admission or use charges are contemplated, the statement should indicate the basis that will be used for establishing fees.

f. Provisions to assure that the installation and operation and maintenance of the planned features will meet the requirements of appropriate state and local public health agencies. Include provisions for regular monitoring of health and water quality conditions where appropriate. This is especially important when recreation and/or municipal water supply is involved. Identify the agencies involved.

g. A statement that specific operation and maintenance agreements will be executed prior to signing a land rights or project agreement.

h. The local organization that will be responsible for operating and maintaining each planned measure and the manner of financing.

5. *Project costs.* This section should show total project installation cost distributed to Pub. L. 566 and other funds. The total construction cost, distributed to Pub. L. 566 and other funds, should also be shown. These data may be given in tabular form if desired. Include the benefit-cost ratio.

ENVIRONMENTAL SETTING

(This section will be identical to the "Description of the Watershed" section in the work plan.) This material should be in sufficient detail to present a clear and adequate picture of conditions in the watershed as they relate to water and related land resource problems, environmental values and the works of improvement to be installed, as described in the "Planned Project" section. The items to be discussed shall include, but not be limited to the following:

1. *Physical resources.* a. Location and size of the watershed including pertinent information such as the county(ies), towns or cities included, direction and distances to other important cities, position within the state, and rural and urban population. Mention the water resource region and subregion (as delineated by the Water Resources Council) in which the watershed is located. Relate conditions of this watershed to those in the region and subregion.

b. Size, location, and nature of soil and water resource problem areas (flood plain, gullied areas, areas needing drainage, irrigation, etc.). Do not discuss the problems here, details will be furnished in the problems section.

c. Soils, land capabilities, geology, topography and range in elevations, annual rainfall and seasonable distribution, average annual temperature and temperature ranges, growing season, etc.

d. Mineral and ground water resources.

e. Land use including areas and percent of cropland, forest land, grassland, urban, and built-up and other land for the watershed. Provide a general description of the land use in the soil and water resource problem areas (flood plain, gullied areas, areas needing drainage, irrigation, etc.).

f. Surface water resources (natural and man-made) in the watershed. Describe the major water course in the watershed from its source to junction with a major stream or river, name lakes and give approximate areas. Classify all streams in accordance with the classification system established by footnotes 3 and 4 on the exhibit for Table 3A (work plan) and include the water quality classification established by the responsible state agency.

The description should also indicate the present quantity and quality of base flow at representative points on perennial streams. Representative temperatures and sediment concentrations are two of the factors that should be included in the quality evaluation. Other factors that may affect water quality and should be evaluated include, but are not limited to, effects of the use and transport of fertilizers and insecticides and their effect on eutrophication; discharges from feed lots; sewage disposal systems, mine waste areas; etc.

g. Kind, brief description, location, and acres of wetlands as defined in WETLANDS of the UNITED STATES, Department of the Interior, Fish and Wildlife Service, Circular C-39.

h. Any other physical data significant to the problems and their solution.

2. *Present and projected population.* Population projections and growth assumptions based on OBERS information, where available, otherwise on other appropriate projections.

3. *Economic resources.* a. Land ownership including private, local public, State, and Federal. If a significant area of public land exists in the watershed, it should be identified narratively and on the project map.

b. Types of major farm or ranch enterprises, including number and size.

c. Principal crops grown and yields in the watershed as a whole, and in the soil and water problem areas, for conditions without the project.

d. Current land values in upland, flood plain, and other soil and water problem areas.

e. Accessibility of farms or ranches to roads and market.

f. A general assessment of current economic and social conditions including normal employment and unemployment levels, level and sources of income, etc. Specific attention should be given to family farms and their location with respect to the flood plain areas or other potentially benefited areas.

g. Any other information which will give a picture of the over-all economy of the watershed area, as well as significant variations within the watershed. Identify existing or proposed Resource Conservation and Development projects, Regional Development programs (such as Appalachia and TVA) and any river basin authorities that may be involved.

4. *Plant and animal resources.* a. General plant community descriptions, including

dominant species and successional status or trends should be provided by land uses.

b. Population, utilization, and importance of each significant category, group or species of fish, animals and birds which are dependent on conditions in the watershed.

c. Quality and quantity of fish and wildlife habitat resources. Provide a separate description of these resources by reaches or segments along all existing stream channels (natural or man-made), and at potential impoundment sites in the watershed. Carefully consider the data contained in the BSF&W Reconnaissance Report as well as data collected by SCS and other specialists.

d. Influence of pollution and other water quality factors on the fish and wildlife resource values, especially productivity.

e. Public access availability to the existing resource.

f. Special mention should be made of any threatened species.

5. *Recreational resources.* a. Identification of existing recreational resources and the potential for recreational use from sources of data such as: inventories of existing outdoor recreational areas and enterprises; appraisals of potential for outdoor recreational developments; soil surveys (their use and interpretations for recreation); statewide comprehensive outdoor recreational plans, and river basin studies.

b. Present utilization of existing recreational resources.

c. Influence of pollution and water quality on existing recreational resources.

d. Public accessibility and facilities provided for recreational resource use.

6. *Archeological, historical, and unique scenic resources.* Location and nature of known archeological, historical, scientific, and scenic values in the watershed as determined from qualified sources. Identify the source. Reference should be made to the National Register of Historic Places, and to consultation with state, regional, and local societies and organizations with expertise. If it is conclusively determined by SCS investigators or others with expertise that no significant places of value are present, include a brief statement to that effect. It must be evident from the information presented, however, that the Service has fully met its responsibility to determine the significance of its actions on any archeological and historical resources that may be present, including the use of professional archeologists if the presence of such resources is either affirmed or is inconclusive. The "Consultation" section of the environmental statement should show which agency(ies) was contacted.

7. *Soil, water, and plant management status.* a. Identification of trends in land use changes.

b. Status of the land treatment program and the degree to which committed factors of production (land, labor and capital) are employed inefficiently on marginal upland, flood plain areas subject to frequent flooding and areas needing drainage or irrigation.

c. Activities of soil and water conservation districts.

d. Number of cooperators and number of conservation plans.

e. Percent of watershed covered by agreements.

f. Percent of planned practices presently applied, and types of practices planned.

g. Acres, by land use, of land considered adequately treated, or protected.

h. Status of other programs and influences affecting adequacy of management.

8. *Projects of other agencies.* Describe existing or soon to be constructed water resource development projects (county, State, Federal or private) which may have a relationship to the works of improvement included in the plan. Indicate nature of relationship.

WATER AND RELATED LAND RESOURCE PROBLEMS

(This section will be identical in the work plan and environmental statement.) Discuss problems resulting from floodwater, erosion, and sediment damages, and those associated with the conservation, development, utilization, and disposal of water. Problems or needs associated with each category of damage itemized in Tables 5 and 6 of the work plan should be thoroughly described in the environmental statement without reference to Table 5 or 6. Sediment and erosion damages should be described separately from floodwater damages wherever such damage exists. Pictures of typical problem or damage areas should be included as appropriate. Items to be described include, but are not limited to, the following:

1. *Land and water management.* Discuss social and economic problems encountered in encouraging farmers and ranchers to conserve their natural resources. Describe these problems clearly, giving emphasis to: (a) Types of problems including serious erosion rates, low fertility, soil-water relationships, changes in plant communities, (b) need for land use adjustments, (c) need for a more efficient use of committed factors of production in both the upland and potentially benefited areas, and (d) the ability of landowners and operators to install needed land treatment measures.

2. *Floodwater damage.* a. Thorough description of nature and extent of damage and limitations due to flooding.

b. Flood hazard area—Describe the kinds of crops, number of landowners, residences and businesses, etc.

c. Frequency and seasonal occurrence of damaging floods; monetary and physical damages from key flood or recent flood; significance of small frequent floods or large infrequent floods on the total flood problem.

d. Evaluation reaches, including location or limits and significant differences in problems. (Refer to Project Map.)

e. The extent to which floods affect the health or lives of people.

f. Any other pertinent aspects of the problem.

It is desirable to describe a particular flood of record that clearly portrays the flood problem. The frequency of this occurrence should be stated.

3. *Erosion damage.* a. Cross erosion rates in tons per acre over the entire watershed by land use for each type of erosion: sheet and rill, gully, roadside, streambank, etc.

b. Identification and description of severity of critical sediment source areas.

c. Extent of physical erosion damages: (1) Gully—area voided (in acres, feet, etc.), (2) streambank—miles damaged and state of activity, (3) flood plain scour—acres damaged and degree, (4) other.

d. General effect of erosion on agricultural production and the economy of the watershed, including reduced net return.

4. *Sediment damage.* a. Nature and extent of sediment deposition on agricultural lands and in urban areas expressed in acres damaged.

b. Nature and extent of swamping damage, including damage to trees over a long period of time.

c. Loss of capacity of functioning ability of reservoirs and distribution systems, channels, drainage and irrigation developments, transportation facilities, and other. Describe in physical terms.

d. Effect on water quality, especially as related to transporting agricultural chemicals.

e. Average annual sediment yield at the mouth of the watershed and the description of what problems this creates downstream. Also express this in terms of sediment concentration (Mg/l) and relate to stream pollution, when information is available.

5. *Drainage problems.* a. Degree and extent of agricultural areas (including forest land) affected by wet conditions, including rate of deterioration.

b. Limitations on use.

c. Effect on quality, production costs and yield of crops.

d. Local efforts to improve conditions.

e. Need for and kinds of on-farm drains and associated land treatment measures in conjunction with structural system of drainage measures.

f. Soils.

g. Degree and extent of drainage problems and around facilities such as: airports, buildings, recreation areas, urban areas, etc.

h. Any other pertinent items, such as salinity, vector, etc., problems.

6. *Irrigation problems.* a. Present and potential irrigated areas.

b. Source and adequacy of existing water supply including quantity and quality of water.

c. Adequacy and efficiency of existing irrigation systems, and methods.

d. Crop adaptation and suitability of soils, and topographic conditions.

e. Phreatophyte and vector control.

f. Other pertinent items, such as water rights, special uses (frost control, or cooling) salt problems.

7. *Municipal and industrial water problems.* a. Conditions and adequacy of existing supply.

b. Future demands and needs for additional supply.

c. Present status and future of ground water supplies.

d. Anticipated population to be served.

8. *Recreation problems.* a. Water quality and sediment problems in lakes, streams, or ponds having recreational potential.

b. Availability of existing resources to the general public.

c. Present population and future projected population within a reasonable distance of the watershed.

d. Overall lack of or need for additional water-related recreational facilities.

9. *Plant and animal problems.* a. Alteration of plant communities and landscape patterns.

b. Loss of wildlife habitat because of changed or changing (trends) land use.

c. Damage to fish and wildlife resources by flooding, sediment, erosion, and poor water quality.

d. Need for additional fish and wildlife habitat.

e. Endangered species (plant, animal, etc.)

10. *Water quality problems.* a. Nature and extent of pollution in watershed streams, including, but not limited to: Chemicals, sewage, temperatures, etc. Discuss the influence of trends in land use and transport of fertilizers and pesticides.

11. *Economic and social.* a. Extent to which family farms are low income producing units.

b. Extent that the project area is an economically depressed area.

c. Need for additional employment opportunities.

d. Percent of problem area devoted to farms using one and one-half man-years or more of hired labor as contracted to family farms.

e. General need for promoting rural community development in the watershed.

IV. RELATIONSHIP TO LAND USE PLANS, POLICIES AND CONTROLS

This requires a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies and controls, if any, for the

area affected, including those developed in response to the Clean Air Act or the Federal Water Pollution Control Act Amendments of 1972. Where a conflict on inconsistency exists, the statement should describe the extent to which the agency has reconciled its proposed actions with the plan, policy or control, and the reasons why the agency, has decided to proceed notwithstanding the absence of full reconciliation.

V. ENVIRONMENTAL IMPACT

General Instructions. Material in this section will be organized under the following headings: Conservation Land Treatment, Nonstructural Measures, Structural Measures, and Economic and Social. The Economic and Social heading is for overall effects in these categories which are not covered under the other three headings. This section should include a factual and objective description of all effects and the probable impacts, primary and secondary, short-term and long-term, of the planned project. Both beneficial and adverse effects or impacts will be described as they relate to all resources and problems described in earlier sections of the environmental statement. No attempt should be made to classify them as either favorable or adverse. Effects outside the watershed should not be overlooked. Do not state opinions except in reporting the views of others outside the Service. The Service's conclusions with respect to any impact should show the supporting basis in fact, or from the pertinent technical literature, or from a source with expertise outside of the Service.

The effects of construction activity during installation should be described in each subsection, as appropriate. The description will be written in such a manner that watershed residents and the general public will be able to clearly understand what the project will or will not do.

Each impact should be described in detail and quantified. Impacts should be placed in perspective. For example, if 50 acres of a particular type of habitat are to be lost by installation of the project, what relationship does this have to the total amount of this habitat which would exist without the project and what effect will this have on the species which use this habitat?

Some of the more common potential impacts to be addressed include but are not limited to the following:

1. Changes in biological productivity, including fish and wildlife habitat and population losses, impacts on rare and endangered species, and changes in species diversity.

2. Changes in water quality resulting from sedimentation, changes in stream regimen, agricultural chemicals, municipal and industrial pollution, increased recreational activity, and irrigation return flows.

3. Land use changes stimulated by the project including changes in areas of wetlands, bottom land hardwood, flood plain encroachment, etc.

4. Downstream impacts created by sediment deposition, change in flow velocities and flood plain use.

5. Changes in stream configuration (width, depth, length, gradient, oxbows, and meanders) resulting from stream channel work—related impacts on water table levels and biological productivity.

6. Recurring project maintenance practices (mechanical and chemical) and the resulting impacts on stream and habitat recovery.

7. Ground water supply and/or recharge as affected by impoundments or prolonged flows.

Where any of these factors are relevant or are likely to be questioned by readers of the statement, the possible environmental impact should be discussed.

A. *Conservation land treatment.* Although land treatment is generally considered to result in favorable environmental impacts, conflicts in resource use may create situations that might induce adverse effects. Consideration should be given to that which will take place without the project (i.e., clearing of bottom land hardwood, ongoing terrace program, etc.) in establishing the changes which will result from project measures. Probable impacts (or effects) based on an identification of changed conditions are listed below: (not all-inclusive, nor do they apply to all projects).

1. Land adequately and partially protected or treated—acres.
2. Sheet erosion rate—tons per acre per year.
3. Sediment deposition on flood plains—acres, degree and extent.
4. Effect of above impacts on crop production, wildlife, etc.
5. Sediment yield to watershed outlet, streams, and lakes—tons, acre feet per year.
6. Aggradation or degradation in stream reaches—inches or feet.
7. Average annual sediment concentration (suspended and turbidity) in flowing streams—mg/l or ppm. Indicate annual range if available.
8. Quality of runoff water, including average nutrient content (N, P, K) and agricultural chemicals.
9. Land use changes—acres by use.
10. Drainage conditions in wetland areas or bottom land hardwood areas resulting in changed land use.
11. Vector control.
12. Modified flood runoff.
13. Modification of places of archeological or historical or scientific value.
14. Ground water table and ground water recharge.
15. Health and safety of watershed residents.
16. Employment conditions.
17. Social and economic.
18. Esthetics.

B. *Nonstructural measures.* Describe all effects and the related environmental impacts relating to the use of nonstructural measures in the project. Physical, social, and economic impacts may result.

C. *Structural measures.* The installation of structural measures in a watershed project will have definite physical, social and economic effects on the environment and each ecosystem within the watershed. Careful evaluation will be necessary to identify impacts. Many of the same items listed under land treatment will of course apply to structural measures with differing degrees of importance. Additional probable impacts (or effects) based on an identification of changed conditions are listed below: (Not all inclusive nor do they apply to all projects).

1. Terrestrial and/or aquatic habitat modified or lost—acres, miles, etc.
2. Area available for upland game hunting—acres.
3. Acres of warm water lake or stream fishery for ____ fisherman per day.
4. Area available for agricultural production—acres.
5. ---------- miles of roads and number of bridges to be closed or modified due to inundation by reservoir. Relate to increased travel time for certain residents.
6. Degree of flooding to be experienced on various land uses for particular frequency floods.
7. Streambank erosion and flood plain scour.
8. Fish migrations.
9. Rare and endangered plant and animal species.
10. Water-based recreation available—annual recreation visits.
11. Traffic, litter, noise, etc. caused by recreation development.
12. Major plant communities.
13. Water supply.
14. Base flow in perennial streams.
15. Ground water recharge.
16. Temperature of water in perennial streams.
17. Ambient air quality during construction.
18. Noise pollution during construction.
19. Relocations.
20. Tax base.
21. Natural conditions of stream channels, including oxbows and meanders.
22. Social and Economic.

D. *Economic and social.* 1. Effects on the economy, including employment and unemployment, economic base, population retention and distribution, and per capita income.

2. Effects on agricultural efficiency and income stability from supplemental farm enterprises such as recreation and wood products on marginal agricultural lands.

3. Effects on the quality of living for both the beneficiaries and the people relocated.

4. Effects on rural area development.

5. Secondary effects on the region as influenced by the project.

6. Describe the effects which will not or cannot be evaluated in monetary terms in sufficient detail to explain their importance to the community, the region and the Nation.

7. Effects on open space made available through recreational, agricultural or reserved land uses, and vegetation along field borders.

E. *International impacts.* Consider and discuss international impacts, if any.

F. *Favorable environmental impacts.* This section should summarize (from the "Impact" section) any environmental effects which are probably beneficial. The listing in this section should contain only sufficient detail to identify the item.

G. *Adverse environmental effects.* This section should summarize (from the "Impact" section) any environmental effects which are probably adverse and cannot be avoided. The listings should contain only sufficient detail to identify the item.

VI. ALTERNATIVES

Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects as listed in the "Adverse Effects" section is essential.

Justification statements for the nonselection of an alternative should not be included, but the key facts should be presented to enable the reader to judge the relative merits of each alternative. The planned project, described in detail in an earlier section, should not be described or justified in detail in this section. Wording to the effect that an alternative "was considered during project formulation * * *" should be avoided.

All reasonable alternatives should be discussed including any that have been or are likely to be suggested by agencies, groups, or individuals even though they would not meet project objectives, or come within Soil Conservation Service jurisdiction. Reasonable alternatives include those which may be possible under other existing authorities. Alternatives which are deemed remote or speculative are not considered to be reasonable. The courts have ruled that agencies "need not indulge in crystal ball inquiry" in assessing the effects of alternatives.

The foremost requirements of this section are to objectively discuss the available alternatives in sufficient detail for understanding. For each alternative, describe (a) what the alternative consists of, (b) level of protection or development provided, (c) expected environmental impacts, and (d) costs. Present sufficient data and analysis to provide the reader with the rationale for acceptance or rejection of each alternative without giving reasons for nonselection.

The following alternatives always should be considered:

1. Conservation land treatment alone.

2. Nonstructural measures for minimizing flood losses, including zoning, flood proofing, flood insurance, land purchase, warning systems, etc.; either singly or in alternative combinations with structural measures.

Flood plain zoning or flood insurance as alternatives by themselves are often not realistic. To become viable alternatives they frequently need to be combined with other measures.

3. Alternative means of achieving the countervailing benefits claimed for the proposed action.

4. If channel work is planned an alternative that would eliminate some specific parts or all of the channel work should be included.

5. Pump drainage or other design alternatives for achieving the same purposes and level of development or for minimizing adverse impacts should be considered. If pump drainage is included as either a land treatment practice or as a structural measure it may be an alternative to certain reaches of channel work.

6. No project. This alternative should describe anticipated future changes that will affect the environment under current trends of change. This description should be concluded with a statement of the net monetary benefits that would be foregone by not implementing the project (net=annual benefit less annual cost—see Table 6 in the work plan).

It should be realized that the no project alternative would include the ongoing land treatment program. It should also be recognized, and appropriate description provided, that the problems, needs and trends in the project area will continue. Physical impacts of expected trends should be described as well as the monetary benefits foregone. Here is an opportunity to look into the future and describe probable conditions without the proposed project.

VII. SHORT-TERM VS. LONG-TERM USE OF RESOURCES

This section is to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations. It should consider the following:

1. Land use. Consider trends, formal land use plans, regional plans, river basin plans, and the expected future use.

2. Extent to which the project will solve only short-term or immediate problems and reduce the options available for long-term uses.

3. Project compatibility with projected future long-term uses of the land, water, and other natural resources.

4. Extent to which the project will be effective in conserving land and water resources after its designed life.

5. Regional and Cumulative Effect.

a. General description of the status of the PL-566 watershed program (installed, approved, and potential projects) in the water resources region and subregion as designated by the Water Resources Council.

b. Relationship of works of improvement in this project to those in other water resource projects in the region.

c. A description of cumulative effects is to be included when it is reasonable to anticipate a cumulatively significant impact on the environment. These effects will consider all completed, planned, and applied-for water resource projects in a given river basin or region. Regional boundaries for this evaluation will vary with the resource being considered. Influencing factors could be a migratory waterfowl flyway, a coastal marsh area, a particularly important natural habitat for specific fish or wildlife species, a hydrologic unit for downstream effects, etc. Special attention should be given to this item where projects are similar in nature and closely interrelated such that they might be considered a complex of projects. By definition, however, there will always be cumulative effects whenever there are two or more projects in the same area of influence and each has any of the same beneficial or adverse effects.

(RTSC's can provide assistance making maximum use of river basin studies which have been completed or are in progress.)

VIII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

This section identifies the extent to which the action curtails the range of beneficial uses of the environment. It should factually discuss the following:

1. The acres in each present use and the other resource values that are represented in the land to be committed to dams, spillways, lakes, pool areas, channels, recreational facilities, etc.

2. How the commitment of land and water areas to features of the project will preclude these areas from other uses in the future.

3. Labor and capital investments.

IX. CONSULTATION AND REVIEW WITH APPROPRIATE AGENCIES AND OTHERS

1. *General.* Appendix II to the CEQ Guidelines for Preparation of Environmental Impact Statements lists areas of environmental impact and the Federal and Federal-State agencies with jurisdiction by law or special expertise to comment thereon. This list should be used in arranging for appropriate consultation on any environmental issue.

To the extent possible, the NEPA process is to meet the consulting and coordinating requirements of the Fish and Wildlife Coordination Act, the National Historic Preservation Act, section 309 of the Clean Air Act, and other requirements as applicable.

This section will briefly describe the overall processes of consultation and coordination with all interested agencies and individuals during the application, planning, and review stages. Examples of typical contacts are fish and wildlife agencies, health and water quality agencies, archeological and historical authorities, individual concerned landowners, conservation organizations, etc. Written notices and requests for information, public meetings, steering committee meetings, planning and coordinating meetings with Federal, State and local agencies and similar activities should be mentioned. This section should show that the procedures followed provide ample opportunity for the general public, organizations, and other agencies to raise issues and provide inputs. For the draft statement, list the agencies that are being asked to comment on the draft environmental statement and which will be shown in section VII on the Summary Sheet.

2. *Discussion and disposition of each comment on draft environmental statement.* This section is to be included only in the final environmental statement. List all agencies, groups and individuals requested to comment on the draft environmental statement and indicate whether they responded.

Summarize each environmental issue, problem, or objection raised during the formal interagency review of the draft environmental statement and the final work plan. Include the name of the agency, group, or individual making the comment, a meaningful reference to the issue raised, and what disposition was made of it. All issues raised, even though they may appear to have little or no merit, should be discussed, and all opposing views noted.

[FR Doc.73-24412 Filed 11-16-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

ENVIRONMENTAL STATEMENTS

Proposed Guidelines for Preparation

Pursuant to the guidelines of the Council on Environmental Quality (CEQ), as published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20549), appearing as 40 CFR Part 1500, the Forest Service publishes herewith its proposed revised guidelines for preparation of environmental statements required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) dated January 1, 1970 (Pub. L. 91-190, 83 Stat. 853, U.S.C. (2)(C)). These proposed revised guidelines were developed in consultation with CEQ.

Before taking action to issue the proposed guidelines in final form, the Forest Service will consider comments of all interested parties received in writing before January 1, 1974. Comments should be sent to the Chief, Forest Service, Washington, D.C. 20250.

Issued in Washington, D.C., on November 12, 1973.

J. W. DEINEMA,
Acting Chief,
Forest Service.

ENVIRONMENTAL STATEMENTS

8410—FOREST SERVICE ENVIRONMENTAL STATEMENTS

8410—FOREST SERVICE ENVIRONMENTAL STATEMENTS

8401 Authority. The Forest Service is authorized and directed by the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190) to use all practical means and measures in a manner calculated to foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social and economic and other requirements for present and future generations of Americans. The purposes of the act are to: (1) Declare a national policy which will encourage productive and enjoyable harmony between man and his environment; (2) promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) stimulate health and welfare of man; and (4) enrich the understanding of the ecological systems and natural resources important to the Nation.

Section 102(2)(c) of the act requires environmental statements on proposed major Federal actions affecting the environment. The objective of this section is to build into a decisionmaking process an appropriate and careful consideration of the environmental aspects of proposed actions in order that adverse environmental effects may be avoided or minimized or the environment enhanced and to assist agencies in implementing not only the letter, but the spirit of the act.

Additional authority, direction, and instructions are contained in:

1. Executive Order No. 11514.

2. Council on Environmental Quality (CEQ) Revised Guidelines for Statements on the Proposed Federal Action Affecting the Environment as published in the FEDERAL REGISTER, Vol. 38, No. 147 August 1, 1973, Part II.

3. Secretary's Memorandum No. 1695 and supplements.

4. Section 309 Clean Air Act Amendments of 1970.

8402 Purpose of environmental statements. The objective of an environmental statement is to provide a means for giving environmental quality careful and appropriate consideration in the planning and decisionmaking process. The environmental statement must be of sufficient detail to allow a responsible official to make an accurate decision regarding the environmental impacts to be expected from program implementation. This means environmental quality must be objectively weighted with economic development and social well-being goals over both the short and the long run. The environmental statement process also provides a formalized procedure for informing and taking account of comments from other agencies, individuals, and groups having expertise or interest in the subject area under consideration.

The environmental statement should indicate what other interests and considerations of Federal policy might be found to justify those effects. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects. In addition to other economic information available, benefit-cost information or other specific economic analysis should be included with the environmental statement. A sincere effort should be made to discover and discuss all major points of view in the draft environmental statement itself.

Also, it is a requirement that all environmental statements be submitted to the CEQ. While the council does not formally approve or disapprove the statements, they are an arm of the Executive Office of the President. As such, their comments on statements they choose to review must be fully recognized and considered as the voice of this office. The major purpose of Public Law 91-190 is to assure the Executive and the Congress that environmental quality is fully considered in all Federal activities affecting the environment.

8403 Policy. The Forest Service defines the environment to mean the natural, social and economic conditions affecting man and quality of life. Forest Service policy is that the responsible official will not make a decision on a proposed action until the environmental impacts are assessed in detail. If the action requires an environmental statement, the entire process required by the NEPA must be completed prior to approval. Furthermore, the act requires that an environmental statement "accompany the proposal through the existing agency review processes." As early as possible and in all cases prior to agency decision concerning major action or recommendation or a favorable report on legislation that significantly affects the environment, the Forest Service in consultation with other appropriate Federal, State, and local agencies and with the public will assess in detail the potential environmental impacts. Alternative actions that will reduce adverse impacts or enhance positive effects will be thoroughly explored. Long- and short-range implications to man, to his physical and social surroundings, and to nature will be evaluated.

The analysis supporting an environmental statement should utilize a systematic, interdisciplinary approach integrating the natural and social sciences and the environmental design arts in planning and in decisionmaking. The analysis is described in detail in FSM 8310.

All existing policies will be periodically reviewed. If, at any time, a policy is found to be inconsistent with NEPA, the policy will be revised.

In order to more fully implement the act, it is recommended that cooperative agreements with State agencies be amended to include the following clause:

To comply with Public Law 91-190, the National Environmental Policy Act of 1969, the State and the Forest Service agree to direct their program activities covered by this agreement toward managing and enhancing the environment for the widest range of beneficial uses without its degradation or risk to health or safety or other undesirable consequences. The State further agrees to assist the Forest Service in the preparation of environmental statements as required by section 102(2)(C) of Pub. Law 91-190 for all major actions taken under this agreement which might significantly affect the quality of the human environment or be controversial.

8404 Responsibility. Responsibility for preparing Forest Service environmental statements follows the delegations of authority specified in FSM 1230. The regions, areas, and stations have designated environmental coordinators to help meet the requirements of the NEPA. Responsibility for the proposed action determines responsibility for the environmental statement. The procedure specified herein for forwarding statements to the CEQ does not alter these basic delegations of authority.

1. *Responsible official.* Chief, Deputy Chiefs, Regional Foresters, Area Directors, Station Directors, Forest Supervisors and District Rangers are responsible for determining the need for, and preparation of, environmental statements on specific Forest Service actions. Cooperators, such as States can be required to prepare analysis for statements, but the deciding Forest Service official is responsible for the environmental statement. The Washington Office will handle actions relating to legislation, appropriations, and proposed national programs.

2. *Lead Agency.* The "Lead Agency" is defined as the Federal agency having primary authority for committing the Federal Government to a course of action. The Forest Service will prepare an environmental statement when it is the lead agency. The WO can assist in resolving questions of lead agency designation by working through the USDA Office of the Coordinator of Environmental Quality Activities to get assistance from the CEQ. Where determination of lead agency cannot be resolved, then each agency claiming a lead role may have to require a statement adequate for its decisionmaking process. Where the authority of agencies is more-or-less equal and the consequences are major for each agency, statements may be jointly prepared.

The CEQ states that relevant factors in determining the proper agency to assume a lead role include:

a. Relative expertise with respect to the project's environmental effects.

b. Magnitude of respective involvement for evaluation of the entire project.

c. Time sequence in which the agencies become involved in the project. Especially critical is the preparation of the environmental statement before any of the participating agencies have taken major or irreversible action with respect to the project.

These factors and considerations indicate that where National Forest System lands are involved, the Forest Service should exert a strong role in the environmental statement process.

8411 Actions requiring environmental statements. The NEPA requires that environmental statements be prepared and submitted with every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the environment. Such "significant effect" may include actions which may have both beneficial and detrimental effects even if the agency believes that the effect will be more beneficial than detrimental.

Environmental statements are required for proposed actions having major environmental impacts or which are highly controversial.

"Major" actions and "significant" environmental effects are difficult to define precisely and uniformly because of the great variation in social, economic, political, and ecological conditions. The official responsible for taking action must use good judgment in determining when formal environmental statements are appropriate and useful in the decisionmaking and public involvement processes. The following categories of criteria should be considered by officials in determining whether or not a statement is appropriate. In applying this criteria, all lands affected must be considered, including National Forest lands, other Federal lands, State lands, and private lands.

1. Degree of ecosystem disturbance; both onsite and offsite effects should be recognized. Offsite could involve effects on private land, such as triggering land development.

2. Irreversible effects on basic resources; short-term versus long-term commitments.

3. Cumulative effects of many small actions.

4. Chain reactions or secondary effects of interrelated activities.

5. National versus regional and local importance.

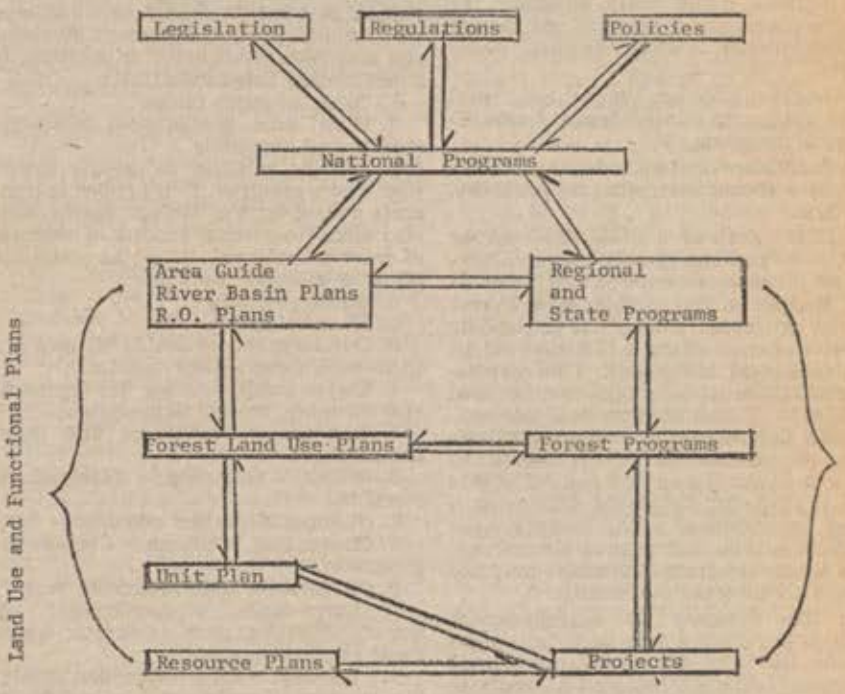
6. Uniqueness or rareness of resource.

7. Scope of anticipated public involvement and controversy anticipated.

The size or scope of an administrative action is a factor which may be considered in determining whether the action is a "major" action.

8411.1 Hierarchy or level of planning and environmental statement. There is a definite hierarchy or level of planning and environmental statements. Each level addresses different types of questions with different degrees of specificity of impacts.

The various levels are interrelated as depicted in the following figure.



8411.2 Legislation. Although the act is not specific, CEQ Guidelines and Office of Management and Budget (OMB) instructions indicate that environmental statements are only needed for favorable reports relating to legislation. Section 102(2)(C) of the act applies to both (1) agency recommendation on their own proposals for legislation and (2) agency reports on legislation initiated elsewhere. In the latter case, only the agency which has primary responsibility for the subject involved will prepare an environmental statement.

8411.3 Service-wide policy, regulations, and procedures. An environmental statement will be prepared for new regulations, policies, and procedures which have major environmental effects.

8411.4 Plans, programs, and major projects. Environmental statements will be prepared on major proposed plans, programs, and major projects directly undertaken by the Forest Service, or supported in whole or in part through land use permits, leases, contracts, grants, cooperative agreements, sudsides, technical assistance, or granting of rights.

8411.41 Actions on which environmental statements are normally required.—1. Area guides.

2. Forest coordinating requirements and/or forest land use plan.

3. Unit plans.

4. Timber management plans including cutting budget.

5. All development activities in inventoried roadless areas not otherwise thoroughly covered by a timely environmental statement on a Unit Plan for the inventoried roadless area (the preceding has no bearing upon the statutory rights of ingress and egress to private lands).

6. All new ski areas where significant construction has not yet been accomplished. Also, expansion at existing ski areas which involves extension of the present special use boundary.

7. Operational or pilot programs or projects involving use of pesticides.

8411.42 Actions excluded. The following types of actions are not major Federal actions significantly affecting the human environment and will not require the preparation of environmental statements.

1. Reorganizations, personnel, and other similar or related types of administrative decisions.

2. Individual actions adequately covered by a timely statement on programs or plans.

8411.43 Actions in which the need for environmental statements will be determined through an environmental analysis. Because of the complexity of Forest Service programs, it may not be possible to determine in advance the need for an environmental statement. The responsible official must consider the criteria in FSM 8411 of this chapter and use reasonable judgment. In many cases program statements will be appropriate in order to assess the environmental effects of a number of individual actions in a given geographical area. However, individual actions not adequately covered by a timely program statement may require an individual statement.

In this category an environmental analysis is required as a basis for determining the need for an environmental statement. The environmental analysis should assess the same areas of environmental impact as would be covered in an environmental statement. In most cases, any activity that will significantly affect the following will require an environmental statement:

1. Formally classified areas, such as the National Wilderness Preservation System, Primitive Areas, Wild and Scenic Rivers, National Recreation Areas, Research Natural Areas, Scenic Areas, Historical Areas, Botanical Areas, Archeological Areas, Geological Areas, Zoological Areas, Paleontological Areas, and National Trails. Also areas being considered or with significant potential for classification.

2. Adjacent national parks and monuments, wildlife refuges, or similar State and locally designated areas.

3. Scenic attractions.

4. Municipal watersheds.

5. Shorelines.

6. Free-flowing streams.

7. Rare and endangered species-plants or animals.

8. Key wildlife or fish areas.

9. Wetlands and estuaries.

10. Air and water quality. (This should include not only quality in terms of legal standards, but aspects for which standards may not be set.)

When the environmental analysis does not indicate controversy or a significant environmental impact, the responsible official may decide that an environmental statement is not required. In these situations the responsible official will make a written report setting forth his determination that there will be no significant impact upon the quality of the environment or controversy if the proposed action is undertaken. The written determination may be part of the environmental analysis report or may be a separate document. (See FSM 8311.10)

In either case, the report and determination will be available to the public for inspection. The need for environmental statements should be considered for the activities or programs involving the activities given below in addition to those already listed in 8411.41:

1. Other resource plans.

2. Rural area development feasibility studies and proposals.

3. Permits relating to mining activities, where required. This applies to minerals owned by the United States. May also apply to certain aspects of removal of reserved minerals (such as operating plans of mineral operators).

a. Surface mining.

b. Deep mining.

c. Development of major oil and gas fields with appurtenant facilities.

4. Major public service developments (for example, resorts and marinas).

5. The use of fertilizers and other chemicals.

6. Water resources development projects.

7. Channel alteration projects.

8. Continuing National Cooperative programs.

9. Cooperative state program plans.

10. Large-scale, on-the-ground research activities, such as drastic treatment of sizeable areas.

11. Vegetative-type conversion involving substantial acreage.

12. Transportation construction programs.

13. Major highways and bridges if not included under item 12.

14. Prescribed burning program.

15. Rights-of-way permits for major transmission lines.

16. Major sewage treatment and solid waste disposal facilities.

17. Major acquisition or exchange.

18. Follow-up actions associated with natural disasters.

19. Issuance of certain grazing permits.

20. Off-road vehicle use plans.

This list is suggestive and should not be construed as comprehensive.

8411.44 Program type statements. A programmatic approach has the advantage of better permitting the analysis of cumulative effects or possible synergistic effects of a series or group of actions. It often has the further advantage of economy in meeting NEPA requirements. The disadvantage may be lack of specificity.

There are different approaches to program statements. Judgment must be used in the selection of the approach. The statement should clearly describe which approach is being used, why it is being used, and what additional follow-up analyses are required, if any.

Generic statement. This could be prepared for an activity which is frequently repeated but the "environmental setting" remains either the same or has no significance. A generic statement can be used as supporting record for another statement. A statement on a new "pesticide" is an example of this type.

Umbrella statement — (open - ended statement). This is a statement for a broad continuing program operation over a period of time. It helps to focus on the scope and direction of a program. It need not detail impacts of all specific actions, but should indicate the nature and magnitude of these actions. Major actions involved in the statement should be discussed in more detail. Subsequent actions will be covered by environmental analysis or, in some cases supplemental environmental statements may be issued. (Example: Environmental program for the future.)

Program statement. This type program statement assesses the impacts of a group of specific projects. Each component must be explicitly described as to the environmental setting, scope and time, and impact. Time and a number of projects and activities will be fixed. Environmental analyses will have been completed for individual components and integrated into an analysis for the entire program. (Example: Gypsy moth environmental statement.)

8411.5 Application of requirements to existing projects and programs. To the maximum extent practicable, the environmental statement requirements should be applied to additional major actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the act on January 1, 1970. When it is not practicable to reassess the basic course of action, it is still important that additional incremental major actions be shaped so as to minimize adverse environmental consequences. It is also important that account be taken of environmental consequences not fully evaluated at the outset of the project or program. The rationale leading to the original decision should be documented.

8411.6 Environmental statement planning, budgeting, and accounting. The need for most environmental statements

is known at least by the time programs are planned and scheduled in the program budget process. Unit plans, forest timber management plans, major transportation plans, and chemical applications are all examples. A small minority of the statements are not perceived ahead. They are typified by major programs which result from plan changes, or ones which are needed because of unexpected controversy. Although the costs of environmental statement activities will remain as a cost of the programs they support, it is essential that their need be recognized early and progammed so that manning levels, time schedules, and costs of programs are representative of the full magnitude of getting them done.

Therefore, the environmental statements perceived as necessary for each FY program budget will be reported in the format provided for each FY Program Budget submission. These instructions will be provided with the FY Program Budget forms by the Washington Office.

8412 Environmental statement preparation. An environmental statement is prepared in two stages. A draft environmental statement is the first formal statement for filing with CEQ and for review and comment by other agencies and the public. It must fulfill requirements of section 102(2)(C). A final environmental statement reflects the results of the draft review process and it is also filed with CEQ.

The preparation of a draft environmental statement should follow an analysis of alternatives from a multiple-use objective viewpoint. Preliminary consultation with other Federal, State, and local agencies and public involvement should start early in the analysis process. Public involvement will be through a variety of means, such as individual contacts, meetings, workshops, and advisory committees. This should be a useful document for review and comment by other agencies and the public. The statement should clearly describe the analysis process so reviewers may comment specifically. The comments received must then be considered and evaluated for preparation of the final environmental statement.

8412.1 Basis for environmental statements. Planning and analysis procedures as well as pertinent external information, will provide basic information for environmental statements.

When the responsible official decides an environmental statement will be prepared, an appropriate notice of this fact will be made. A list of statements under preparation will be maintained at appropriate Regions, Stations, Areas, and composite lists at the Washington Office. The composite lists will be published quarterly in the FEDERAL REGISTER and furnished to CEQ in January, April, July, and October.

The responsible official may request applicants for permits to furnish analyses and information in connection with their application. This material may be used in the preparation of an environmental statement. This is also the case in Federally supported grants and cooperative programs with States and local governments.

Environmental statements will be documents complete enough to stand on their own, yet, they should be succinct and as understandable as possible. Highly technical and specialized analyses and data should, if needed, be appended to the body of the statement. Analysis reports may be incorporated as supporting material to the environmental statement. Draft statements should indicate the underlying studies, reports, and other information obtained and considered by the agency in preparing the statement. The statement should describe how such documents may be obtained or examined. In some situations, analysis reports may be written in the same format as the environmental statement and used as the draft statement.

The complete environmental statement package will contain the following:

1. Letter of transmittal to CEQ.
2. National Technical Information Service, (NTIS), Department of Commerce, Summary sheet, and one completed accession notice, form NTIS–79.
3. Environmental statement.
4. FEDERAL REGISTER notice.

8412.2 Test of adequacy of statement. It is not possible to determine precisely what constitutes an adequate environmental statement. However, in general terms, an adequate environmental statement must:

(1) Provide the basis for a well informed decision.

(2) Fully describe all relevant information to the public and to other agencies, so they may reach informed conclusions on the proposal—including alternatives considered.

More specifically, the statement should meet the following tests:

(1) The proposed action and all viable alternatives must be fully and clearly described as to scope, purpose, time frame, and relationships to other actions.

(2) Description of the environmental setting must be complete and understandable to lay people. The flow resources, (air, water, energy), physical, biological, and cultural. Characteristics must be described. General statements such as "wildlife habitat" or "commercial forest stands" are inadequate by themselves.

(3) Once the data is collected and the environmental characteristics are known and described, the analysis of the impacts of the proposal and alternatives can be made. The first step is to identify qualitative and quantitative changes resulting from the proposed action or alternative. These could be good or bad. Then the significance of the changes must be evaluated through a cause-effect analyses and select the alternative proposed for action.

8412.3 Letter of transmittal. Use the following sample for transmittal memo:

Reply to: 8400 Environmental Statements.
Subject: USDA (Draft/Final) Environmental Statement on (title of statement).
To: Chairman, Council on Environmental Quality.
Through: Office of the Coordinator of Environmental Quality Activities, USDA.[1]

Enclosed are ten copies of the (draft/final) environmental statement on (title) issued by U.S. Forest Service (title and name of responsible official), (specify) Region. One copy is for submittal to NTIS.

The responsible official is Regional Forester Jay Cravens, Eastern Region.

(Do not complete signature block).
Enclosures.

Leave the signature block blank. The transmittal memorandums should clearly identify the responsible Forest Service official. Ten copies of either draft or final statement and appended material shall be submitted to CEQ, ten copies will be sent to P&L, one copy to I&E, and one copy to USDA Office of the Coordinator of Environmental Quality Activities.

8412.4 National Technical Information Service (NTIS). As a public service, the NTIS will reproduce and offer for sale copies of all environmental statements. However, NTIS should be considered a secondary source for obtaining copies of environmental statements. The originating agency has the primary responsibility of providing sufficient copies free of charge or at cost. Costs will vary according to size of the environmental statement. The statements are also available in microfiche. Submit with each environmental statement a special NTIS cover sheet and accession notice, form NTIS–79, to facilitate their handling. The NTIS cover sheet page should follow the format as illustrated by the following sample. Units will establish a consecutive numbering system for those statements transmitted to CEQ by WO.

One copy of form NTIS–79 should be completed in accordance with sample and submitted along with environmental statement package. This will be returned to Responsible Official by NTIS after accession number is assigned.

[1] Environmental statements involving legislation, regulations, and departmental policies and programs will be sent through the Coordinator: In other cases statements will be sent direct to CEQ with a copy of the transmittal memo to the Office of the Coordinator.

SAMPLE—NTIS COVER SHEET

U.S. DEPARTMENT OF AGRICULTURE—FOREST SERVICE

I Report number	USDA–FS[1] RI[2] DES[3](Adm).
II Title	USDA Draft Environmental Statement on (Title).
III Responsible official	Regional Forester, Steve Yurich.
IV Date filed with CEQ	(Leave blank) (4).
V Prepared by	U.S. Department of Agriculture, Forest Service, Northern Region, Federal Building, Missoula, Mont. 59801.

[1] Unit identification.
[2] Use DES for draft—FES for final environmental statements.
[3] Use a consecutive numbering system for fiscal year.
[4] To be completed by CEQ.

8412.5 Contents of an environmental statement. Forest Service environmental statements shall generally follow the outline below and will include information pertinent to each of the subject headings listed. However, preparers of environmental statements will be concerned with the substance rather than the form of the presentation. The headings can be supplemented or rearranged if a clearer presentation results. However, the Act requires that each of the main points be covered.

To the extent possible, the statement will be prepared to meet the requirement of the Fish and Wildlife Coordination Act, National Historic Preservation Act (see FSM 2361.12), and section 4F of the Department of Transportation Act.

USDA FOREST SERVICE ENVIRONMENTAL STATEMENT

(Statement Title)

Prepared in accordance with section 102(2)(C) of Public Law 91-190

Summary Sheet

I Draft ( ) Final ( ).

II Name of USDA Agency.

III Administrative ( ) Legislative ( ).

IV Brief description of action—indicating what States and counties are particularly affected.

V Summary of environmental impact and adverse environmental effects.

VI List of alternatives considered.

VII (For Draft statements). List all Federal, State, and local agencies and other sources from which written comments have been requested.
(For Final statements). List all Federal, State, and local agencies and other sources from which written comments have been received.

VIII Date draft statement and final statement made available to CEQ and the public.[1]

[1] If it is a "Draft" environmental statement—leave blank; CEQ will insert date when it is filed. If it is a "Final" environmental statement and the draft has already been filed with CEQ, insert the date draft was filed from CEQ notice in FEDERAL REGISTER. Leave date for "Final" blank. It will be completed by CEQ.

SAMPLE ACCESSION CARD NTIS-79

U.S. DEPARTMENT OF COMMERCE
National Technical Information Service
Springfield, Va. 22151

OFFICIAL BUSINESS

Penalty for Private Use, $300

Mr. Barry R. Flamm
U.S. Department of Agriculture
Forest Service, Room 3028
12th St. and Independence Ave. SW
Washington, D.C. 20250

REVERSE SIDE

1. Accession No.	2. Date submitted	U.S. Department of Commerce, National Technical Information Service
3. Report identifying information (One title per card) USDA-FS-DES/FES (Adm/Leg) USDA Draft/Final Environmental Statement on (Title of environmental statement in all caps)		ACCESSION NOTICE NTIS: 1. boxes 1 and 7 2. return to contributor
4. Source code (if known)	5. Process code (if known)	Form NTIS-79
6. Paper copy price $	7. Mic. oficheprice	8. No. copies submitted, 1

USDA FOREST SERVICE ENVIRONMENTAL STATEMENT

(Statement Title)

Prepared in accordance with section 102(2)(C) of Public Law 91-190

Type of Statement: (Draft or final).
Type of Action: (Administrative or legislative).
Responsible Official: (Name, title, and address).

CONTENTS

I Description.
II Environmental impacts.
III Summary of probable adverse environmental effects which cannot be avoided.
IV Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.
V Irreversible and irretrievable commitment of resources.
VI Alternatives to the proposed action.
VII Consultation with appropriate Federal agencies and review by State and local agencies developing and enforcing environmental standards.

The following comments are intended to further clarify the intent of the headings in the above environmental statement outline.

I—Description. The proposed action or alternative should be clearly described by including enough information and technical data to give readers a clear understanding of the nature of the proposed action. Where relevant, maps, photographs, and other materials may be used, but publication costs and difficulty should be considered. Give the relevant background information on the project including its purpose, the origin of the proposal, the social, economic, or environmental objectives, and the demand or relative urgency of need. The description should include, as appropriate, population and growth characteristics of the affected area and any population and growth assumption used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives. The sources of data used should be identified (i.e., OBERS projection). The relationship of the proposal to land use plans, policies and controls for the affected area must be described. Where conflicts exist, the proposed resolution of these conflicts or the reasons why they can't be resolved must be thoroughly addressed. If appropriate, describe the present environment, location, size, landownership, and status, physiography, ecosystems, climate, and other special features. The interrelationships of this proposed action with other projects and possible cumulative effects shall be presented.

II—Environmental impacts. This requires an analysis of both the anticipated favorable and adverse impacts of the proposed action as it affects both the national and international environment. The environment in this case includes both the natural environment and the social and economic environment. Discuss both primary and secondary effects.

A. Identify, analyze, and discuss the full range of social, physical, and biological factors which change as a result of direct or indirect effects of the proposal. Examples of areas of environmental impact are: Air quality, weather modification, water quality, fish and wildlife, noise, radiation, hazardous substances, energy supply, land use, soil, plants, outdoor recreation, historic, architectural and archeological preservation, impacts on low-income populations, and employment.

Both primary and secondary consequences should be considered in the analysis. For example, the implications, if any, of the action on population distribution or concentration should be objectively estimated and an assessment made of the probable effects of such changes in population patterns upon the resource bases, including land use, and public services of the area in question. Include also, economic impacts on employment, unemployment, changes in local culture, social and other economic factors.

The distinction between primary and secondary impacts is important for insuring consideration of all alternatives. One way to describe the distinction is that project inputs generally cause pri-

mary impacts and projects outputs generally cause secondary impacts. Primary impacts are generally easier to analyze and measure, while secondary impacts may require analyses by a number of agencies because they generally are not within any single agency area of responsibility or expertise. Secondary impacts may, in fact, be more important or more damaging than primary impacts.

The material in this section should be as objective as possible.

B. Discuss any planned measures to minimize and mitigate adverse environmental impacts of the proposal.

III—Summary of probable adverse environmental effects which cannot be avoided. Identify and discuss the nature and extent of probable adverse effects and explain why they cannot be avoided. Such adverse effects may include water, air, sound, or visual pollution; undesirable land use patterns; damage to life systems; threats to health; or other urban congestion consequences adverse to the environmental goals set out in section 101(b) of the act.

IV—Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This is essence requires the agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations. Discuss the extent of tradeoffs between short- and long-term impacts.

V—Irreversible and irretrievable commitment of resources. This requires the agency to identify the extent to which the action curtails the range of potential beneficial uses of the environment.

VI—Alternatives to the proposed action. The intent of this section is to assure that the responsible officer has identified the objective(s) and formulated the alternatives to achieve the objectives based upon a rigorous exploration and objective evaluation. The range of alternatives means to reach the objectives of the proposed action including alternatives as to location, design, scale, sequence, timing, and combinations. All reasonable alternatives and their environmental impacts should be discussed, including those not within the authority of the agency. The alternatives should be described, and the analysis presented, including costs and impacts on the environment. The viable alternatives should not be foreclosed prematurely in the agency review and decision process. Creativity is required in recognizing and developing alternatives. Examples of categories of alternatives that must be considered in connection with specific actions are as follows:

A. The alternative of taking no action.

B. Alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts.

C. Alternatives related to different designs or details of the proposed action which would present different environmental impacts.

In each case, the analysis of alternatives should be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risks of the proposed action and each alternative. To the extent possible, the analysis of each alternative should indicate the deficiency of the environmental impact information especially as it relates to benefit-cost data.

VII—Consultation with appropriate Federal agencies and review by State and local agencies developing and enforcing environmental standards. In the draft environmental statement, list the agencies, groups, and individuals consulted in the preliminary consultation phases and summarize the comments received. Also, list the agencies and groups to whom the draft environmental statement will be sent.

In the final environmental statement, this section will include a discussion of reviews and comments on the draft environmental statement. Particular attention should be given to making meaningful reference to opposing views. Comments received from Federal, State, and local agencies, leading national organizations and substantive comments received from individuals which influence decisionmaking must be attached.

A list and summary of meetings and hearings held should be attached to the final statement.

8412.6 FEDERAL REGISTER *notice.* Announcement of public availability of draft and final environmental statements will be published in the FEDERAL REGISTER. Units preparing environmental statements are requested to prepare Federal Register Notices in final form announcing the availability to the public of the environmental statement. The FEDERAL REGISTER notice will be prepared and submitted along with the environmental statement to Programs and Legislation, Washington Office.

Instructions for preparing FEDERAL REGISTER documents are in the Federal Register Handbook on Document Drafting, January 1966, issued by the Office of the Federal Register, GSA (FSM 1023). These instructions have been condensed below:

1. Format. Use plain bond paper, allowing 1½-inch left margin, and 1-inch right, top, and bottom margin; double space. For the signature element, type Deputy Chief, Forest Service, underscored, 5 lines below the last line of the notice, as shown in the sample. Type a line for the date. On the bottom left of the yellow copies, type the originator identifications: "USDA, Forest Service, region, division, author, typist's initials, and date."

2. Number of copies. Original and two white tissue copies for submission to Federal Register Office, one yellow for Washington Office files, one yellow for the originating field unit.

3. Submission. Send original, two white tissues, and two yellow tissues (assembled in that order) to the Washington Office, Programs and Legislation. After signature by the Deputy Chief, and dated, yellow file copy will be returned to the field unit. The original and two white copies will be transmitted to the Federal Register Office for publication. Usually the notice is in print approximately 5 days after signature.

SAMPLE FEDERAL REGISTER NOTICE

DEPARTMENT OF AGRICULTURE
Forest Service

COOPERATIVE 1973 GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM

Notice of Availability of Draft (or final) Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a _____ environ-
(draft or final)
mental statement for _____
(name of proposed action and Forest Service report number. See section 8412.3, NTIS for report number instructions).

The environmental statement concerns a proposed (brief description of proposed action).

This _____ environmental
(draft or final)
statement was transmitted to CEQ on _____
(date)

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, So. Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

_____
(list other locations)

A limited number of single copies are available upon request to _____
(responsible official, name, and address)

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

(The following two paragraphs will be used for draft statements but will be omitted for final environmental statements.)

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to _____
(responsible official name, and address)

Comments must be received by _____
(indicate specific date)

_____ in order to be considered in the preparation of the final environmental statement.

_____
Deputy Chief,
Forest Service.

8413 Consultation and review process for forest service environmental statements. The consultation and review process normally will involve 7 steps as follows:

1. Individual agency and public inputs and preliminary consultation leading to

a development of a draft environmental statement. Early public involvement and consultation with other agencies prior to development of a draft statement is important and should normally be an essential part of the process.

2. Development of a draft statement including, where appropriate, review by cooperators.

3. Filing draft statement with CEQ.

4. Review of the draft statement by appropriate agencies and the public.

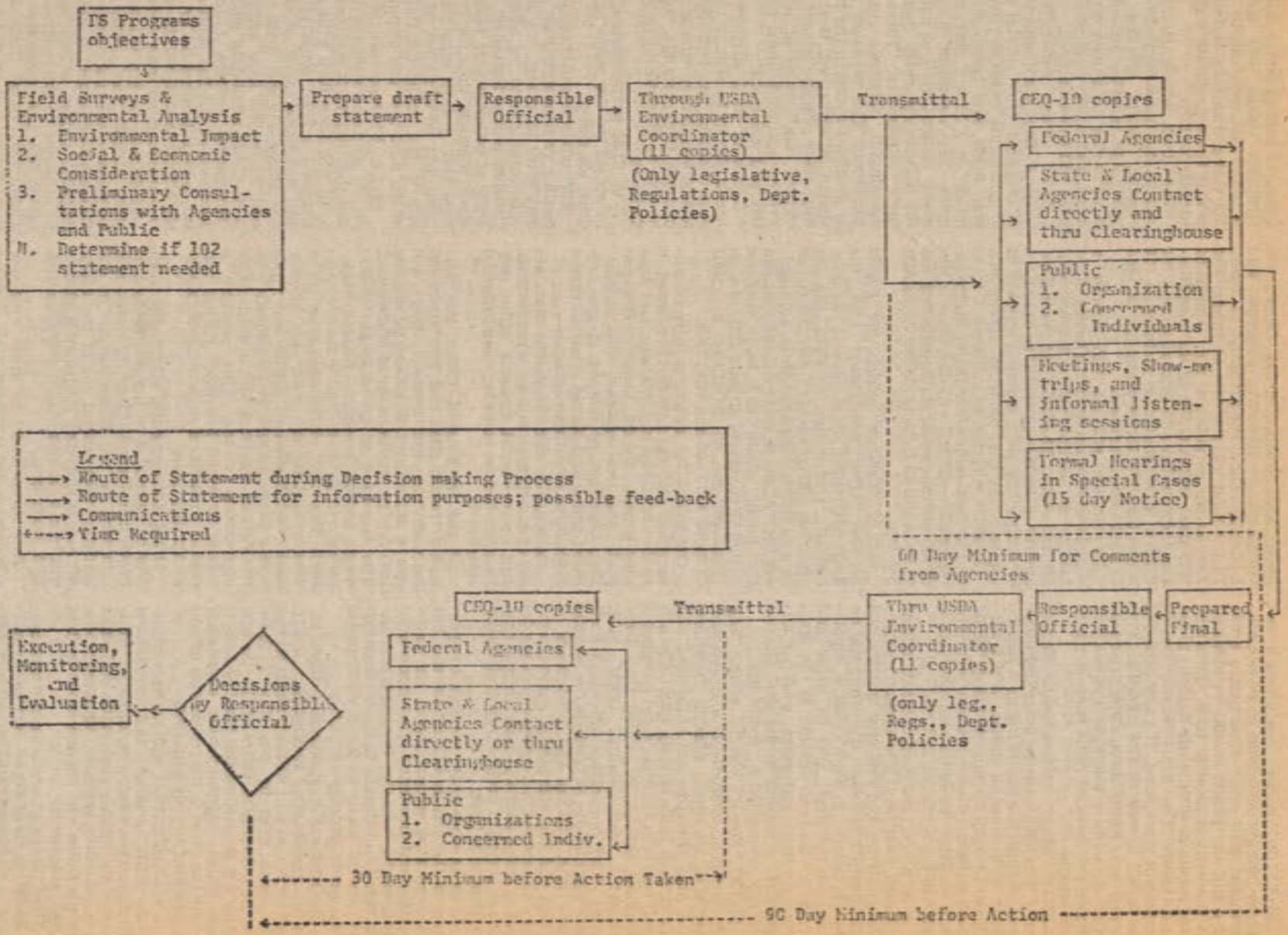
5. Preparation of final statement.

6. Filing final statement with CEQ.

7. Decision on proposed action.

The following flow chart shows the review points through which environmental statements must pass before a final decision is made. The chart also shows the minimum time required for review. However, responsible officials are encouraged to allow more time for review whenever possible. Yet it is not the intent that decisions be unreasonably delayed.

FLOW CHART - PROCESSING OF ENVIRONMENTAL STATEMENTS INITIATED AND PREPARED BY FOREST SERVICE



8413.1 Preliminary consultation and advice. For Forest Service proposals, consultation with other appropriate agencies and the public should be obtained at the earliest possible time. Generally, this should be during the analysis phase and before the draft environmental statement is prepared. The approach can be varied to best fit the situation. This preliminary consultation should be documented, but early proposals and analyses should not be titled draft environmental statements.

8413.2 Draft environmental statement. The official review period for other agencies and the public begins when the draft environmental statement is transmitted to CEQ. Documents titled, "Draft Environmental Statement" should not be sent to other agencies and the public prior to transmission to CEQ.

After a draft environmental statement is issued, additional information may occasionally become available which could significantly influence the comments on the statement. In such cases, a supplement to the draft may be issued and given the same circulation as the draft environmental statement, with an appropriate extension in the time allowed for the submission of comments.

8413.21 Forest Service review and processing of environmental statements. Regional Foresters, Station Directors, and Area Directors are authorized and encouraged to file directly with CEQ both draft and final environmental statements covering actions for which they have delegated responsibility. (FSM 8404, 1230). The responsible official in each case will be fully responsible for compliance with policies and procedures of NEPA and the adequacy of environmental statements. On a request basis Washington Office staff will assist in preparation or review of preliminary drafts prior to filing with CEQ.

In those cases where the Forest Supervisor is the responsible official and has demonstrated competency in the preparation and processing of environmental statements, Regional Foresters are encouraged to delegate to Forest Supervisors the authority to file environmental statements directly with CEQ.

Environmental statements that involve legislation, regulation, multiagency action and USDA policies will be filed with CEQ by the Chief's Office through the USDA Office of the Coordinator for Environmental Quality Activities. Other environmental statements where the Chief is the responsible official will be filed directly with CEQ.

The Chief's Office will insure compliance with policies and procedures through reviewing of selected environmental statements, post audits, and other accountability methods. As appropriate, Chief's Office will provide input to field draft statements.

Programs and Legislation will maintain a complete file of Forest Service environmental statements and periodically publish FEDERAL REGISTER notices pertaining to environmental statements, and assist in processing statements as needed.

Fifteen copies of all statements filed directly with CEQ should be sent to Programs and Legislation. For Chief's environmental statements, Programs and Legislation should be furnished 20 copies. Distribution will include: Programs and Legislation permanent file, concerned WO staff, USDA Office of the Coordinator, Information and Education and for Chief's environmental statements 10 copies for CEQ. Extra copies will be used to meet special requests.

Responsible officials will submit a completed FEDERAL REGISTER notice (FSM 8412.6) to Administrative Management for publication. The NTIS summary sheet and form (FSM 8412.4) will be submitted to CEQ along with required number of copies of the environmental statements.

In order to facilitate exchange of ideas and to keep each other better informed, responsible officials will distribute copies of all environmental statements believed to be useful to Regions, other Areas and Stations.

8413.22 Reviews outside the Forest Service. After notification that the draft environmental statement has been officially transmitted to CEQ, the responsible official should distribute copies to, and solicit comments from, appropriate Federal, State, and local agencies and the public. State and local agencies should be contacted directly and through clearinghouses as described in OMB Circular No. A-95 and FSM 1565.

Guidelines for determination of appropriate Federal agencies are found in section 8422. Regions, Stations, and Area supplements should identify Regional State, and local agencies with jurisdiction, expertise, or interest in the proposed action and should establish review procedures with these agencies.

Responsible officials should maintain list of individuals, groups, organizations, and governmental agencies which may be interested in reviewing environmental statements.

At the Washington, Office, the division of Information and Education will maintain this list. However, there will not be maintained an automatic mailing list for all environmental statements. The operation of an equitable system would be very expensive. Instead, statements will be mailed on a case by case basis. The "list" will be used as an aid in making distribution on a case by case basis. Notification of drafts and finals under preparation will be published in the FEDERAL REGISTER and through other appropriate means. This provides a means by which interested parties can request in advance environmental statements they want.

Draft environmental statements must also be submitted to the Environmental Protection Agency (EPA) for review and comment by the Administrator in accordance with section 309 of the Clean Air Act, as amended. Responsible officials will report comments in accordance with EPA procedures.

This review must be made whenever a Federal action is related to air or water quality, noise abatement, and control, pesticide regulation, solid waste disposal, radiation criteria, and standards, or other provisions of the authority of the EPA is involved, but all statements should be submitted for thier review and comment unless they specifically ask that the statement not be sent to them. For regional actions, statements may be sent to the appropriate Regional Administrator for EPA.

The draft environmental statement can be the basis for news releases, discussion, public meetings, or hearings. The public must be informed about actions having an impact on the environment, and public comments and suggestions will be encouraged.

8413.3 Final environmental statement. A final environmental statement is prepared after careful consideration of comments received from other Federal, State, and local agencies and the public on a Forest Service draft statement. The statement should set forth major contentions and opinions even if the responsible agency finds no merit in them whatsoever. There should be meaningful reference to substantive comments. The rejection of comments or problems raised in the review process should be explained. Oral consultation with other agencies should also be documented, and copies of all substantive written comments must be attached to the final statement.

Copies of final environmental statements should be sent to those agencies, organizations, and individuals who submitted substantive comments in a timely manner. If appropriate, copies may also be sent to other agencies, groups, or individuals.

The final environmental statement is processed in the same manner as the draft statement.

For environmental statements concerning recommendations or reports on legislative proposals, the final text and comments should be available to the Congress and to the public. When scheduling of congressional hearing does not allow adequate time for completing the final text, a draft environmental statement may be furnished to the Congress and to the public pending transmittal of the final text and comments.

8413.4 Time periods for review process. As soon as possible after being notified that the draft environmental statement has been filed with CEQ, the responsible official must make available and distribute copies of the statement for review and comment to other Federal, State, and local agencies with expertise and regulating authority in environmental matters. A time limit for comment of not less than 60 days from the date of transmittal by the responsible official to CEQ will be allowed to receive commentns from reviewers. Longer periods may be granted by the responsible official. The draft statement is available to the public and sufficient copies must be produced to meet anticipated demand. Copies of the statement will be available to the public at the Washington Office, the office of the responsible official and Forest, Region, Area, Station officers, and other locations as appropriate. If hearings are scheduled for a proposed administrative action, the statement should be made available to the public at least 15 days prior to the time of the relevant hearings.

No decision or administrative action should be taken sooner than 90 days after a draft environmental statement has been filed with the CEQ and circulated for comment. Neither should decisions be made or administrative action be taken sooner than 30 days after the final environmental statement is filed with CEQ, made available to the public, and notice published in FEDERAL REGISTER.

In rare cases, emergency circumstances, overriding considerations of expense to the Government or impaired program effectiveness, may make it necessary to take an action with significant environmental impact without observing the time provisions. Before taking such proposed action, the Forest Service will consult with CEQ. These consultations will be handled by the Washington Office on through other responsible officials. Written explanation and justification for the action is required by CEQ.

8413.41 CEQ requests and consultation. In order to assist the Council in fulfilling its responsibilities under NEPA and E.O. 11514, the Forest Service will give careful consideration to requests from the Council for reports, other information and actions dealing with issues arising in connection with the implementation of the Act.

8413.5 Execution, monitoring and evaluating. The decision reached following completion of the environmental statement process should be publicly announced through appropriate means. Programs and Legislation (P&L), WO, should be informed as to the decision reached on the proposed action.

Major Federal programs and projects which may significantly affect the environment must be carefully monitored during the life of the action to ensure that: (1) Environmental safeguards are executed according to plan; (2) necessary adjustments are made during the execution phase in order to protect the environment; (3) information is fed back so that we are constantly learning and improving our planning, decision making and execution.

In some cases, it may be desirable to describe the planned monitoring program in the environmental statement.

As a part of general and functional inspections (FSM 1440) at all organizational levels, inspectors will review the results of plans to protect and enhance the environment. Such a review would compare actual results with planned results and would provide feedback to planners and decisionmakers.

8420 FOREST SERVICE REVIEW AND COMMENT ON OTHER AGENCY STATEMENTS

The Forest Service will review and comment on proposals for legislation or other major actions initiated by other agencies as requested and/or determined appropriate to do so because of jurisdiction by law or special expertise with respect to the environmental impact involved.

The Forest Service has a variety of environmental expertise not all of which is universally located at field offices.[2] Thus, reviewers must be alert to the need to bring in special expertise for reviews on particularly important actions.

In those cases where another agency's proposal will involve National Forest System land, the Forest Service is obligated to participate in the review of the proposed Federal action because of jurisdiction by law, and by special expertise. Such proposals, unless fully recognized early in the planning stages could result in major Forest Service replanning of the total area involved. The proposed action will require analysis of environmental effects and the effects on social and economic values.

The Forest Service will respond to other agency statements where it has special expertise or legal jurisdiction even though no National Forest System lands are involved.

In all cases comments should be specific, substantive and factual. It may be appropriate for reviewers to indicate the adequacy of the environmental statements, the need for change, or more information and conclusions as to the advisability of the proposed action. Where unfavorable views or where a recommendation against a proposed action is indicated, these will first be discussed with the agencies proposing the actions and the Forest Service Environmental Coordinator.

In all cases the review and subsequent action will be performed in a constructive and cooperative manner.

In some instances, the review time allotted by the "lead agency" may be insufficient because of the absence of key personnel or other unforseen circumstances. In such cases, a letter should be written to the responsible official requesting additional time for review. When appropriate, WO Programs and Legislation should be advised of a request by copy of the letter.

When commenting on draft environmental statements from other agencies, the Forest Service will in their letter of transmittal to the requesting agency clearly identify the project by name and number if both are available.

8421 Review responsibility. 1. *Legislative or other major policy, regulations, and national actions.* Unless otherwise assigned by the Chief, review and comment on legislative or other major policy regulations or national program proposals will be made in the Washington office.

2. *Other major Federal actions.* The responsible official in whose decision-making subject area or jurisdiction the proposal is located will review and prepare comments. To simplify procedures and instructions to other agencies, Regional Foresters will receive all other agency statements. However, where appropriate, statements should also be directed to the Northeastern Area Director. The Regional Forester and Area Director in the case of the Eastern Region will arrange coordination and forward the statement to other Forest Service officials as appropriate. The Regional Forester and Area Director in the Southern Region will also arrange coordination and forward the statement to other Forest Service officials as appropriate.

3. *Cooperative interagency USDA programs.* Where the Forest Service has functional assignments from the Secretary of Agriculture in water and related land resource development programs, it provides input to the environmental statement.

a. *Small watersheds, flood prevention programs, and Type IV river basin studies.* The SCS with inputs from the Forest Service at the field level, prepares a working paper of an environmental statement to accompany the draft work plan. It is forwarded to the Washington Office of the Forest Service and SCS. These working papers are labeled "Preliminary Draft" by the SCS. Views and recommendations of other Federal or state agencies that have jurisdiction by law or special expertise may also be included.

These working papers are handled in the same way as comments on the draft work plan. Incorporating comments received from the Washington Offices, the SCS at field level with FS inputs, revises the work plan and prepares and processes a draft environmental statement. Copies of this draft statement will also be furnished by the Washington Office of the SCS to the Chief's Office (FS) for review and further comment as required. Copies will also be furnished to the Regional Foresters and Directors concerned.

For the cooperative watershed program, the responsible Federal official under the National Environmental Policy Act (NEPA) is the Administrator, SCS, for plans, revisions, or supplements requiring approval by congressional committee; or the State Conservationist for plans which can be approved administratively. For plans which were approved prior to January 1, 1970, the State Conservationist will prepare the environmental statement if one is deemed necessary.

b. *River basin planning.* Environmental statements will be prepared for framework studies or assessments and regional or river basin plans. Environmental statements will also be prepared for Type I and Type II studies which have not been transmitted by the Water Resources Council (WRC) to the President.

If the WRC coordinating committee makes the study, the WRC council chairman is designated as the Federal official responsible for preparation and review of the environmental statement. If the River Basin Commission makes the study, the commission chairman is designated as the Federal official responsible for preparation and review of the environmental statement. However, working papers for environmental statements will be prepared during the conduct of such studies by the interagency and co-

[2] Field offices of the Forest Service, FS-13, filed as part of the original document.

ordinating committees. These papers will accompany the proposed study reports under established review procedures.

The Chairman of the WRC or the River Basin Commission shall transmit the draft environmental statement to CEQ at the time a proposed study report is referred to interested Federal, State, and local agencies. A copy of this draft will accompany the study report furnished by the Washington Office of the SCS to the Chief's Office (FS) for review and comment.

Based on comments received from interested agencies, the Council or Commission Chairman revises the draft statement. The final environmental statement, accompanied by all comments received on the draft, is transmitted to CEQ at the time WRC transmits recommendations to the President.

c. *Resource conservation and development.* The Soil Conservation Service prepares environmental statements for the specific project measures that come under the requirements of the National Environmental Policy Act. An overall environmental statement for each project is not prepared. The Forest Service provides inputs at the field level and participates in the review of environmental statements for project measure impacting forest and forest-related resources.

8422 Review coordination. Agencies requesting review and comment on environmental statements are expected to coordinate review directly with the Forest Service. At the field level, contacts for consultation and environmental statement review are expected to be directly between the responsible official and the lead agency.

Exhibits 1 and 2 show the Federal agencies with jurisdiction by law or special expertise to comment on various types of environmental impacts. However, a more specific and detailed identification of expertise available in other agencies is needed and will be developed by the Washington Office. In particular, expertise in the Social Sciences available to the Forest Service must be identified and arrangements for its use developed.

Regions, stations, and areas should also systematically identify expertise available to them in development and review of environmental statements.

8423 Distribution of comments. Two copies of the comments are furnished the agency that made the request. In addition, copies are sent to the Deputy Chief (P&L) in the Washington Office. Five of these copies are furnished CEQ.

Refer public requests for copies of the comments to the office which prepared the environmental statement.

8430 Review of State Environmental Statements Prepared Pursuant to State "Environmental Policy Act"

Several States have passed "Environmental Policy Acts" some of which require an environmental statement similar to the Federal statement required by NEPA.

To the extent resources permit, Forest Service will review State environmental statements following the same general procedures used in meeting agency NEPA requirements. Comments should be specific, substantive, and factual.

8431 Review responsibility. Regional foresters in the West and area directors in the East will be responsible for review and comment on State environmental statements within their geographical area. Reviewers should be alert to the need to consult with other Forest Service offices and personnel. The Chief's Office should be kept informed as to especially major or controversial actions.

8432 Summary of States environmental policy legislation (by States)—(To be completed later).

Air

Air Quality and Air Pollution Control

Department of Agriculture—
Forest Service (effects on vegetation).
Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency.
Department of the Interior—
Bureau of Mines (fossil and gaseous fuel combustion).
Bureau of Sport Fisheries and Wildlife (wildlife).
Department of Transportation—
Assistant Secretary for Systems Development and Technology (auto emissions).
Coast Guard (vessel emissions).
Federal Aviation Administration (aircraft emissions).

Weather Modification

Department of Commerce—
National Oceanic and Atmospheric Administration.
Department of Defense—
Department of the Air Force.
Department of the Interior—
Bureau of Reclamation.

Energy

Environmental Aspects of Electric Energy Generation and Transmission

Atomic Energy Commission (nuclear power).
Environmental Protection Agency—
Department of Agriculture—
Rural Electrification Administration (rural areas).
Department of Defense—
Army Corps of Engineers (hydro-facilities).
Federal Power Commission (hydro-facilities and transmission lines).
Department of Housing and Urban Development (urban areas).
Department of the Interior—(facilities on Government lands).

Natural Gas Energy Development, Transmission and Generation

Federal Power Commission (natural gas production, transmission and supply).
Department of the Interior—
Geological Survey.
Bureau of Mines.

Hazardous Substances

Toxic Materials

Department of Commerce—
National Oceanic and Atmospheric Administration.
Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency.
Department of Agriculture—
Agricultural Research Service.
Consumer and Marketing Service.
Department of Defense.
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.

Exhibit 1

Pesticides

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production).
Consumer and Marketing Service.
Forest Service.
Department of Commerce—
National Marine Fisheries Service.
National Oceanic and Atmospheric Administration.
Environmental Protection Agency—
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife).
Bureau of Land Management.
Department of Health, Education, and Welfare (Health aspects).

Herbicides

Department of Agriculture—
Agricultural Research Service.
Forest Service.
Environmental Protection Agency—
Department of Health, Education, and Welfare (Health aspects).
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Management.
Bureau of Reclamation.

Transportation and Handling of Hazardous Materials

Department of Commerce—
Maritime Administration.
National Marine Fisheries Service.
National Oceanic and Atmospheric Administration (Impact on marine life).
Department of Defense—
Armed Services Explosive Safety Board.
Army Corps of Engineers (navigable waterways).
Department of Health, Education, and Welfare—
Office of the Surgeon General (Health aspects).
Department of Transportation—
Federal Highway Administration Bureau of Motor Carrier Safety.
Coast Guard.
Federal Railroad Administration.
Federal Aviation Administration.
Assistant Secretary for Systems Development and Technology.
Office of Hazardous Materials.
Office of Pipeline Safety.
Environmental Protection Agency.
Atomic Energy Commission (radioactive substances).

Land Use and Management

Coastal Areas: Wetlands, Estuaries, Waterfowl Refuges, and Beaches

Department of Agriculture—
Forest Service.
Department of Commerce—
National Marine Fisheries Service (impact on marine life).
National Oceanic and Atmospheric Administration (impact on marine life).
Department of Transportation—
Coast Guard (bridges, navigation).
Department of Defense—
Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits).
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.
National Park Service.
U.S. Geological Survey (coastal geology).
Bureau of Outdoor Recreation (beaches).
Department of Agriculture—
Soil Conservation Service (soil stability, hydrology).
Environmental Protection Agency.

Historic and Archeological Sites

Department of the Interior—
National Park Service.
Advisory Council on Historic Preservation.
Department of Housing and Urban Development (urban areas).

Flood Plains and Watersheds

Department of Agriculture—
Agricultural Stabilization and Research Service.
Soil Conservation Service.
Forest Service.
Department of the Interior—
Bureau of Outdoor Recreation.
Bureau of Reclamation.
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Measurement.
U.S. Geological Survey.
Department of Housing and Urban Development (urban areas).
Department of Defense—
Army Corps of Engineers.

Mineral Land Reclamation

Appalachian Regional Commission.
Department of Agriculture—
Forest Service.
Department of the Interior—
Bureau of Mines.
Bureau of Outdoor Recreation.
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Management.
U.S. Geological Survey.
Tennessee Valley Authority.

Parks, Forests, and Outdoor Recreation

Department of Agriculture—
Forest Service.
Soil Conservation Service.
Department of the Interior—
Bureau of Land Management.
National Park Service.
Bureau of Outdoor Recreation.
Bureau of Sport Fisheries and Wildlife.
Department of Defense—
Army Corps of Engineers.
Department of Housing and Urban Development (urban areas).

Soil and Plant Life, Sedimentation, Erosion and Hydrologic Conditions

Department of Agriculture—
Soil Conservation Service.
Agricultural Research Service.
Forest Service.
Department of Defense—
Army Corps of Engineers (dredging, aquatic plants).
Department of Commerce—
National Oceanic and Atmospheric Administration.
Department of the Interior—
Bureau of Land Management.
Bureau of Sport Fisheries and Wildlife.
Geological Survey.
Bureau of Reclamation.

NOISE

Noise Control and Abatement

Department of Health, Education, and Welfare (Health aspects).
Department of Commerce—
National Bureau of Standards.
Department of Transportation—
Assistant Secretary for Systems Development and Technology.
Federal Aviation Administration (Office of Noise Abatement).
Environmental Protection Agency.
Department of Housing and Urban Development (urban land use aspects, building materials standards).

PHYSIOLOGICAL HEALTH AND HUMAN WELL BEING

Chemical Contamination of Food Products

Department of Agriculture—
Consumer and Marketing Service.
Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency.

Food Additives and Food Sanitation

Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency.
Department of Agriculture—
Consumer Marketing Service (meat and poultry products).

Microbiological Contamination

Department of Health, Education, and Welfare (Health aspects).

Radiation and Radiological Health

Department of Commerce—
National Bureau of Standards.
Atomic Energy Commission.
Environmental Protection Agency.
Department of the Interior—
Bureau of Mines (uranium mines).

Sanitation and Waste Systems

Department of Health, Education, and Welfare (Health aspects).
Department of Defense—
Army Corps of Engineers.
Environmental Protection Agency—
Department of Transportation—
U.S. Coast Guard (ship sanitation).
Department of the Interior—
Bureau of Mines (mineral waste and recycling, mines acid wastes, urban solid wastes).
Bureau of Land Management (solid wastes on public lands).
Office of Saline Water (demineralization of liquid wastes).

Shellfish Sanitation

Department of Commerce—
National Marine Fisheries Service.
National Oceanic and Atmospheric Administration.
Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency—

TRANSPORTATION

Air Quality

Environmental Protection Agency—
Air Pollution Control Office.
Department of Transportation—
Federal Aviation Administration.
Department of the Interior—
Bureau of Outdoor Recreation
Bureau of Sport Fisheries and Wildlife.
Department of Commerce—
National Oceanic and Atmospheric Administration (meteorological conditions).

Water Quality

Environmental Protection Agency—
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.
Department of Commerce—
National Oceanic and Atmospheric Administration (impact on marine life and ocean monitoring).
Department of Defense—
Army Corps of Engineers.
Department of Transportation—
Coast Guard.

URBAN

Congestion in Urban Areas, Housing and Building Displacement

Department of Transportation—
Federal Highway Administration.
Office of Economic Opportunity.
Department of Housing and Urban Development.
Department of the Interior—
Bureau of Outdoor Recreation.

Environmental Effects With Special Impact in Low-Income Neighborhoods

Department of the Interior—
National Park Service.
Office of Economic Opportunity.
Department of Housing and Urban Development (urban areas).
Department of Commerce (economic development areas).
Economic Development Administration.
Department of Transportation—
Urban Mass Transportation Administration.

Rodent Control

Department of Health, Education, and Welfare (Health aspects).
Department of Housing and Urban Development (urban areas).

Urban Planning

Department of Transportation—
Federal Highway Administration
Department of Housing and Urban Development.
Environmental Protection Agency.
Department of the Interior—
Geological Survey.
Bureau of Outdoor Recreation.
Department of Commerce—
Economic Development Administration.

WATER

Water Quality and Water Pollution Control

Department of Agriculture—
Soil Conservation Service.
Forest Service.
Department of the Interior—
Bureau of Reclamation.
Bureau of Land Management.
Bureau of Sport Fisheries and Wildlife.
Bureau of Outdoor Recreation.
Geological Survey.
Office of Saline Water.
Environmental Protection Agency.
Department of Health, Education, and Welfare (Health aspects).
Department of Defense—
Army Corps of Engineers.
Department of the Navy (ship pollution control).
Department of Transportation—
Coast Guard (oil spills, ship sanitation).
Department of Commerce—
National Oceanic and Atmospheric Administration.

Marine Pollution

Department of Commerce—
National Oceanic and Atmospheric Administration.
Department of Transportation—
Coast Guard.
Department of Defense—
Army Corps of Engineers.
Office of Oceanographer of the Navy.

River and Canal Regulation and Stream Channelization

Department of Agriculture—
Soil Conservation Service.
Department of Defense—
Army Corps of Engineers.

Department of the Interior—
Bureau of Reclamation.
Geological Survey.
Bureau of Sport Fisheries and Wildlife.
Department of Transportation—
Coast Guard.

WILDLIFE

Environmental Protection Agency.
Department of Agriculture—
Forest Service.
Soil Conservation Service.
Department of the Interior—
Bureau of Sport Fisheries and Wildlife.
Bureau of Land Management.
Bureau of Outdoor Recreation.

FEDERAL AGENCY OFFICES FOR RECEIVING AND COORDINATING COMMENTS UPON ENVIRONMENTAL IMPACT STATEMENTS

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Robert Garvey, Executive Director, Suite 618, 801 19th Street NW., Washington, D.C. 20006, 343–8607.

DEPARTMENT OF AGRICULTURE

Office of the Coordinator of Environmental Quality Activities, Washington, D.C. 20250, 447–3965.

APPALACHIAN REGIONAL COMMISSION

Orville H. Lerch, Alternate Federal Co-Chairman, 1666 Connecticut Avenue NW., Washington, D.C. 20235, 967–4103.

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Col. J. B. Newman, Executive Director of Civil Works, Office of the Chief of Engineers, Washington, D.C. 20314, 693–7168.

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 20545, 973–5391.
For regulatory matters: Christopher L. Henderson, Assistant Director for Regulation, Washington, D.C. 20545, 973–7531.

DEPARTMENT OF COMMERCE

Dr. Sydney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 967–4335.

DEPARTMENT OF DEFENSE

Dr. Louis M. Rousselot, Assistant Secretary for Defense (Health and Environment), Room SE 172, The Pentagon, Washington, D.C. 20301, 697–2111.

DELAWARE RIVER BASIN COMMISSION

W. Brinton Whitall, Secretary, Post Office Box 360, Trenton, New Jersey 08603, 609–883–9500.

ENVIRONMENTAL PROTECTION AGENCY

Charles Fabrikant, Director of Impact Statements Office, 1626 K Street NW., Washington, D.C. 20460, 632–7719.

FEDERAL POWER COMMISSION

Frederick H. Warren, Commission's Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 386–6084.

GENERAL SERVICES ADMINISTRATION

Rod Kreger, Deputy Administrator, General Services Administration–AD, Washington, D.C. 20405, 343–6077.
Alternate contact: Aaron Woloshin, Director, Office of Environmental Affairs, General Services Administration–ADF, 343–4161.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Roger O. Egeberg, Assistant Secretary for Health and Science Affairs, HEW North Building, Washington, D.C. 20202, 963–4254.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [1]

Charles Orlebeke, Deputy Under Secretary, 451 Seventh Street SW., Washington, D.C. 20410, 755–6960.

Alternate contact: George Wright, Office of the Deputy Under Secretary, 755–8192.

James J. Barry, Regional Administrator I, Attention: Environmental Clearance Officer, Room 405, John F. Kennedy Federal Building, Boston, MA 02203, 617–223–4066.

S. William Green, Regional Administrator II, Attention: Environmental Clearance Officer, 26 Federal Plaza, New York, N.Y. 10009, 212–264–8068.

Warren P. Phelan, Regional Administrator III, Attention: Environmental Clearance Officer, Curtis Building, Sixth and Walnut Street, Philadelphia, Pa. 19106, 215–597–2560.

Edward H. Baxter, Regional Administrator IV, Attention: Environmental Clearance Officer, Peachtree-Seventh Building, Atlanta, Ga. 30323, 404–526–5585.

George Vavoulis, Regional Administrator V, Attention: Environmental Clearance Officer, 360 North Michigan Avenue, Chicago, Ill. 60601, 312–353–5680.

DEPARTMENT OF THE INTERIOR

Jack O. Horton, Deputy Assistant Secretary for Programs, Washington, D.C. 20240, 343–6181.

NATIONAL CAPITAL PLANNING COMMISSION

Charles H. Conrad, Executive Director, Washington, D.C. 20576, 382–1163.

OFFICE OF ECONOMIC OPPORTUNITY

Frank Carlucci, Director, 1200 19th Street N.W., Washington, D.C. 20506, 254–6000.

SUSQUEHANA RIVER BASIN COMMISSION

Alan J. Summerville, Water Resources Coordinator, Department of Environmental Resources, 105 South Office Building, Harrisburg, Pa. 17120, 717–787–2315.

TENNESSEE VALLEY AUTHORITY

Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615–755–2002.

DEPARTMENT OF TRANSPORTATION

Herbert F. DeSimone, Assistant Secretary for Environment and Urban Systems, Washington, D.C. 20590, 426–4563.

DEPARTMENT OF TREASURY

Richard E. Slitor, Assistant Director, Office of Tax Analysis, Washington, D.C. 20220, 964–2797.

DEPARTMENT OF STATE

Christian Herter, Jr., Special Assistant to the Secretary for Environmental Affairs, Washington, D.C. 20520, 632–7964.

Richard L. Morgan, Regional Administrator VI, Attention: Environmental Clearance Officer, Federal Office Building, 819 Taylor Street, Fort Worth, TX 76102, 817–334–2867.

Harry T. Morley, Jr., Regional Administrator VII, Attention: Environmental Clearance Officer, 911 Walnut Street, Kansas City, MO 64106, 816–374–2661.

Robert C. Rosenheim, Regional Administrator VIII, Attention: Environmental Clearance Officer, Samsonite Building, 1051 South Broadway, Denver, CO 80209, 303–837–4061.

Robert H. Baida, Regional Administrator IX, Attention: Environmental Clearance Officer, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, CA 94102, 415–556–4752.

Oscar P. Pederson, Regional Administrator X, Attention: Environmental Clearance Officer, Room 226, Arcade Plaza Building, Seattle, WA 98101, 206–583–5415.

EXHIBIT 2

FEDERAL AGENCY OFFICES FOR RECEIVING AND COORDINATING COMMENTS ON ENVIRONMENTAL IMPACT STATEMENTS

Advisory Council on Historic Preservation, Robert Garvey, Executive Director, Suite 430, 1522 K Street NW., Washington, D.C. 20005, 254–3974.

Department of Agriculture, Office of the Coordinator of Environmental Quality Activities, Washington, D.C. 20250, 447–3965 (See exhibit 3).

Appalachian Regional Commission, Orville H. Lerch, Alternate Federal Co-Chairman, 1666 Connecticut Avenue N.W., Washington, D.C. 20235, 967–4103.

Department of the Army (Corps of Engineers), Col. William L. Barnes, Executive Director of Civil Works, Office of the Chief of Engineers, Washington, D.C. 20314, 693–7168.

Atomic Energy Commission, for nonregulatory matters: Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 973–5391.

For regulatory matters: A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 973–7373.

Department of Commerce, Dr. Sydney R. Galler, Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 967–4335.

Department of Defense, Dr. Richard S. Wilbur, Assistant Secretary for Defense (Health & Environment), Room 3E172, The Pentagon, Washington, D.C. 20301, 697–2111.

Delaware River Basin Commission, Robert L. Mann, Head, Environmental Unit, Box 360, Trenton, N.J. 08603, 609–883–9500.

Environmental Protection Agency, Sheldon Meyers, Director, Office of Federal Activities, 401 M Street SW., Washington, D.C. 20460, 755–0920.

Federal Power Commission, Richard F. Hill, Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 386–6084.

General Services Administration, Rod Kreger, Deputy Administrator, GSA–AD, Washington, D.C. 20405, 343–6077. Alternate contact: Aaron Woloshin, Director, Office of Environmental Affairs, GSA–ADF, 343–4161.

Department of Health, Education, and Welfare, Dr. Merlin K. Duval, Assistant Secretary for Health & Scientific Affairs, HEW North Bldg., Washington, D.C. 20202, 963–4254.

Department of Housing and Urban Development, Environmental statements for proposed legislation, policy issuances and guidance documents, program regulations and procedures, and other policy issues should be sent to:

Samuel C. Jackson, Assistant Secretary for Community Planning and Management, Department of Housing and Urban Development, Attention: Richard H. Broun, Environmental Clearance Officer, Washington, D.C. 20410, 755–6193.

[1] Contact the Deputy Under Secretary with regard to environmental impacts of legislation, policy statements, program regulations, and procedures, and precedent-making project decisions. For all other HUD consultation, contact the HUD Regional Administrator in whose jurisdiction the project lies, as follows:

Environmental statements for project actions should be sent to the HUD Regional Administrator in whose region the project is to be located. A list of the regional administrators and the HUD Regional Offices follows:

Region I

James J. Barry, Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203, Tel. (617) 223-4066. Attention: Environmental Clearance Officer.

Region II

S. William Green, Regional Administrator, 26 Federal Plaza, New York, N.Y. 10007, Tel. (212) 264-8068. Attention: Environmental Clearance Officer.

Region III

Theodore R. Robb, Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106, Tel. (215) 597-2560. Attention: Environmental Clearance Officer.

Region IV

Edward H. Baxter, Regional Administrator, Peachtree-Seventh Building, 50 Seventh Street NE., Atlanta, Ga. 30323, Tel. (404) 526-5585. Attention: Environmental Clearance Officer.

Region V

George Vavoulis, Regional Administrator, 300 South Wacker Drive, Chicago, Ill. 60606, Tel. (312) 353-5680. Attention: Environmental Clearance Officer.

Region VI

Richard L. Morgan, Regional Administrator, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102, Tel. (817) 334-2867. Attention: Environmental Clearance Officer.

Region VII

Elmer E. Smith, Regional Administrator, Room 300, Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106, Tel. (816) 374-2661. Attention: Environmental Clearance Officer.

Region VIII

Robert C. Rosenheim, Regional Administrator, Federal Building, 1961 Stout Street, Denver, Colo. 80202, Tel. (303) 837-4881. Attention: Environmental Clearance Officer.

Region IX

Robert H. Baida, Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, Calif. 94102, Tel. (415) 556-4752. Attention: Environmental Clearance Officer.

Region X

Oscar P. Peterson, Regional Administrator, Arcade Plaza Building, 1312 Second Avenue, Seattle, Wash. 98101, Tel. (206) 442-5415. Attention: Environmental Clearance Officer.

DEPARTMENT OF THE INTERIOR

John W. Larson, Assistant Secretary, Program Policy, Attention: Office of Environmental Project Review, Eighteenth and C Streets NW., Washington, D.C. 20240, 343-6181.

NATIONAL CAPITAL PLANNING COMMISSION

Charles H. Conrad, Executive Director, 1325 G Street NW., Washington, D.C. 20576, 382-1163.

OFFICE OF ECONOMIC OPPORTUNITY

Arthur J. Reid, Director, Intergovernmental Relations Division, Office of Program Review, 1200 19th Street NW., Washington, D.C. 20506, 254-5880.

SUSQUEHANNA RIVER BASIN COMMISSION

Norman Kapko, Dept. of Environmental Resources, P.O. Box 1467, Harrisburg, Pa. 17120, 717-787-2315.

TENNESSEE VALLEY AUTHORITY

Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Bldg., Chattanooga, Tenn. 37401, 615-755-2002.

DEPARTMENT OF TRANSPORTATION

John E. Hirten, Assistant Secretary for Environment and Urban Systems, 7th and D Streets SW., Washington, D.C. 20590, 426-4563.

DEPARTMENT OF THE TREASURY

Richard E. Slitor, Assistant Director, Office of Tax Analysis, 15th and Pennsylvania Avenue, Washington, D.C. 20220, 964-2797.

DEPARTMENT OF STATE

Christian Herter, Jr., Special Assistant to the Secretary for Environmental Affairs, Washington, D.C. 20520, 632-7964.

EXHIBIT 3

Other Federal agencies should observe the following procedures in obtaining comments of USDA and its agencies on EIS's (the required number of copies is indicated in parentheses):

Subject area	*Send to*
1. Legislative (12)	Office of the Secretary, ATTN: Office of Coordinator of Environmental Quality Activities.
2. Regulations and national policies (12)	Do.
3. Broad national programs (12)	Do.
4. Major Federal actions of a National or interregional Scope (4 [1]).	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines (USDA agencies will be responsible for consulting with each other and the Office of the Coordinator, as appropriate, in developing responses).
5. Major Federal actions of a regional scope (4 [1]).	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines, with the exception of Forest Service. EIS's to be reviewed by Forest Service should be forwarded to the appropriate regional and area offices. The addresses are attached.
6. Major Federal actions of a State or local scope (4 [1]).	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines, with the exception of Forest Service and Soil Conservation Service. Statements to be sent to FS and SCS should be forwarded to the appropriate field or state office. The addresses are attached.

[1] 4 copies to each agency.

[FR Doc.73-24414 Filed 11-16-73;8:45 am]

Office of the Secretary

[Secretary's Memorandum No. 1695, Supp. 4, Rev.]

ENVIRONMENTAL IMPACT STATEMENTS

Policy and Directives

On August 1, 1973, the Council on Environmental Quality published its revised guidelines for the preparation of environmental impact statements. The CEQ Guidelines directed departments and subdepartmental components having such procedures to review and revise them as may be necessary in order to respond to requirements imposed by the revised CEQ guidelines.

The USDA and USDA agency guidelines published herein reflect the review and revision required by the CEQ guidelines. They were developed in consultation with CEQ. Comments on the revised USDA and USDA agency guidelines are to be submitted by January 1, 1974. Comments should be addressed as follows:

Comments on	*Send to*
USDA Policy and Directives For Implementing Section 102(2)(C) of P.L. 91-190.	U.S. Department of Agriculture, Office of the Secretary, Coordinator of Environmental Quality Activities, Washington, D.C. 20250.
Forest Service Guidelines	Chief, Forest Service, Washington, D.C. 20250.
Rural Electrification Administration Guidelines.	Administrator, Rural Electrification Administration, Washington, D.C. 20250.
Soil Conservation Service Guidelines.	Administrator, Soil Conservation Service, Washington, D.C. 20250.

1. *Purpose and authority.* This directive states policy and provides guidance to agencies of the Department in fulfilling the requirements of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4321, et seq.). This section requires Federal agencies to include in every recommendation or re-

port on proposals for legislation and other major Federal actions (administrative actions) significantly affecting the quality of the human environment a detailed environmental impact statement (EIS). Additional authority, directives and instructions are found in: (1) Executive Order 11514, (2) Council on Environmental Quality (CEQ) Guidelines for Preparation of Environmental Impact Statements, as published in the FEDERAL REGISTER, Vol. 38, No. 147, August 1, 1973, Part II, and (3) section 12 (a), Clean Air Act Amendments of 1970, which added a new section 309 to the Clean Air Act.

The objectives of this memorandum are to provide: (1) A uniform system for determining whether proposed or pending legislation and other major Federal (USDA) actions will significantly affect the quality of the human environment, (2) criteria for defining major USDA actions and (3) guidance for preparing EIS's.

.2 *Policy*—(a) *General.* These directives are to be followed by all agencies of the Department in fulfilling the requirements of section 102(2)(C) of the National Environmental Policy Act (NEPA).

As early as possible, and in all cases prior to an agency decision concerning a major action that significantly affects the quality of the human environment, USDA agencies will, in consultation with other appropriate Federal, State, and local agencies, assess in detail the potential environmental impact in order to avoid or minimize adverse effects whenever possible and to restore or enhance environmental quality to the fullest extent practicable. In particular, alternative actions that will avoid or minimize adverse impact should be explored and both the long- and short-range implications of a proposed action to man, his physical and social surroundings and to nature should be evaluated.

Assessments of the environmental impacts of a proposed action should be undertaken concurrently with initial technical and economic studies. Draft EIS's on administrative actions should be prepared in time to accompany the proposal through the existing agency review processes and prior to the first significant point of decision in the agency formal review process for such action. General policy is that, to the fullest extent possible, the NEPA section 102(2)(C) process will be completed before irreversible decision is made on major Federal actions significantly affecting the quality of the human environment.

USDA agencies will consider NEPA to supplement existing authorities, except where prohibited by law.

(b) *Agency procedures.* Each USDA agency head is responsible for preparing more specific procedures, applying these broad directives, together with the provisions of the NEPA and other implementing regulations, to the specific programs administered by that agency.

Such agency procedures should give special attention to identifying those agency actions requiring EIS's, the appropriate time prior to the decision for the consultations required by section 102(2)(C) and the agency review process for which EIS's are to be available. In those instances where EIS's are required, agency procedures are to provide for: (1) Obtaining information required in their preparation, (2) designating the officials who are to be responsible for EIS's, (3) consulting with and taking account of comments of appropriate Federal, State, and local agencies and the public, (4) limiting actions which an applicant is permitted to take prior to completion and review of the final EIS with respect to his application, and (5) timely public information on Federal plans and programs and environmental impact.

Agency procedures should provide for monitoring to assure (1) agency compliance with the procedural requirements of NEPA and (2) that environmental safeguards are executed according to plan.

Revisions of agency procedures are to be proposed and adopted after consultation, where appropriate, with the USDA Coordinator for Environmental Quality Activities (office of the coordinator) and CEQ. All appropriate Federal and State agencies and the public shall be given the opportunity to comment on all major revisions which shall be published in the FEDERAL REGISTER.

(c) *Responsible official.* Delegations of regular program responsibilities to agency heads include responsibility for the EIS process. Agency heads may further delegate responsibility for the process to other officials within their agency. The office of the coordinator will provide needed oversight and will, prior to transmittal to CEQ, review and sign off on EIS's that involve legislation, regulation and Departmental policies. For all other actions, the responsible agency official will send copies of his agency's EIS's directly to CEQ, with a copy to the office of the coordinator.

(d) *Lead agency.* Where USDA and one or more other Departments are involved in an action, the office of the coordinator and CEQ will assist in determining the feasibility of the preparation of a joint EIS by all parties concerned or the designation of a lead agency responsible for the preparation of the statement. In cases involving land management actions, the responsible land management agency is generally the preferred lead agency because of previously accrued responsibilities, large magnitude of involvement, relevant expertise and sequence of actions. USDA agencies, when designated as lead agency for an EIS, will be responsible for consulting with and obtaining information from other involved agencies with respect to their jurisdiction and expertise.

In certain instances, several USDA agencies have program responsibilities relative to a major Federal action having a significant effect on the human environment. In such cases, the lead agency will be determined in consultation with the office of the coordinator. The lead agency will coordinate the input of all concerned USDA agencies in the development of the EIS.

.3 *Types of actions covered*—(a) *General.* The National Environmental Policy Act, section 102(2)(C), directs all agencies of the Federal Government to "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on the environmental impact of the proposed action." The Council on Environmental Quality, Guidelines for Preparation of Environmental Impact Statements, interprets the types of actions covered to include: (1) Recommendations or favorable reports relating to legislation for which USDA will be the responsible department; (2) the making, modification or establishment of regulations, rules, procedures and policy; and (3) administrative actions on new and continuing projects and program activities.

"Major" actions and "significant" environmental effects are difficult to define precisely and uniformly because of the great variation in economic, social and ecological conditions. Each USDA agency must use good judgment in determining when EIS's are required and must issue its own guidelines specifying as closely as possible those actions for which an EIS will be required. Controversy is a factor to be considered in determining whether or not an action is a "major" one. Broad public reaction will generally be necessary for deeming that a controversy exists.

(b) *Environmental impact statements for recommendations or favorable reports on proposals for legislation*—(1) *Scope.* This subsection deals with recommendations or favorable reports on proposals for legislation involving: (i) substantive bills referred to the Department for comment and (ii) substantive legislative proposals from this Department.

(2) *Decision, preparation and record.* USDA agencies designated for preparing reports on legislation of the type covered herein will be responsible for determining which legislative proposals or reports require EIS's and for the preparation of EIS's acting on their own or in consonance with others in USDA, as appropriate. All agencies will respond promptly to requests from other USDA agencies for information or other assistance needed for developing statements.

Environmental impact statements, when required, should, to the maximum extent possible, accompany the legislative proposal or report. The proposal or the report should make reference to the EIS.

Copies of all EIS's relative to legislation covered by this subsection will be kept on file by the Secretary's Records and Communication Division as a part of the usual file on legislative reports. The office of the coordinator, with the assistance of appropriate staff offices, will determine if there are any needs for other records.

(3) *Consultation and review.* Where necessary, after consulting with the office of the coordinator, the agency preparing the EIS may consult with appropriate Federal, State, and local agencies during such preparation prior to the submission of legislative proposals or reports to the Office of Management and Budget (OMB). The comments and views of such agencies should be considered in the EIS. When time does not permit such prior consultation, it will be accomplished concurrently with the formal review of the legislative proposals or reports carried out by the OMB.

(4) *Forwarding environmental impact statements.* The Office of Budget and Finance (OBF) will be responsible for forwarding copies of EIS's on the subject covered in this subsection to CEQ through the office of the coordinator. Where there is an EIS on a legislative proposal or report submitted to OMB for clearance, an information copy of the EIS will accompany each copy of the proposal or report. Preparing agencies will furnish sufficient copies of the EIS's as enclosures to the proposal or report.

(5) *Availability of environmental impact statements to the public.* Following clearance by OMB of the related legislative proposal or report, the EIS's will be made available by the responsible official to the Congress and to the public.

(c) *Environmental impact statements for establishing or modifying regulations, rules, procedures and policy.* (1) When responsibility for implementing a program or action is delegated to a specific agency and regulations or policy statements are necessary, the need for an EIS will be determined by the assigned agency. Consultation with the office of the coordinator and the appropriate General Officer may be desirable. If the decision is made that an EIS is necessary, it will be developed as outlined in subsection .4 (Preparation and distribution of EIS's) and reviewed as outlined in subsection .5 (Consultation, review and public involvement) in time to accompany the proposed regulations or policy statement through the review process.

(d) *Environmental impact statements for USDA administrative actions*—(1) *Scope.* This subsection deals with major USDA administrative actions which may significantly affect the quality of the human environment.

(2) *Major administrative actions.* Major administrative actions may relate to the development of a national program or to the implementation of projects within that program. In some instances, it may be appropriate to aggregate a number of smaller similar actions proposed within a geographical area, and consider them in a single EIS. Major actions may include: (i) Projects and continuing activities operated by USDA agencies or supported in whole or in part through USDA assistance, including contracts, grants, cost sharing, subsidies, loans or other forms of funding support, and involving USDA leases, permits, licenses, certificates or other entitlements of use and (ii) initiation of major research programs or major changes in existing programs and pilot scale projects.

4 Preparation and distribution of environmental impact statements—(a) *General considerations.* An environmental impact statement is prepared in two stages. A draft EIS is the first formal statement for filing with CEQ and for review and comment by other agencies and the public. A final EIS reflects the results of the draft review process and it is also filed with CEQ. The draft EIS must fulfill and satisfy to the fullest extent possible, at the time the draft is prepared, the requirements established for final EIS's by section 102(2)(C). Comments received during preliminary consultations on the draft EIS and the final EIS will be carefully evaluated and considered in the decision making process.

Agencies may request applicants to furnish analyses and information in connection with their application. This material may be used in the preparation of an EIS. This is also the case in federally supported grant and cooperative programs with States and local governments.

A systematic, interdisciplinary approach integrating the natural, social science and environmental design arts will be used in the preparation of EIS's. Alternative actions that will reduce adverse impacts or enhance positive effects will be thoroughly explored. Long- and short-range implications to man, to his physical and social surroundings and to nature are to be examined.

Environmental impact statements will be documents complete enough to stand on their own. They should be as succinct and understandable as possible. Highly technical and specialized analyses and data should, if needed, be appended to the body of the statement. Particular attention should be given to the substance of the information conveyed rather than to the particular form, length or detail of the EIS.

To the extent possible, the NEPA process is to meet the consulting and coordinating requirements of the Fish and Wildlife Coordination Act or the wildlife requirement of the Watershed Protection and Flood Prevention Act, National Historic Preservation Act, and section 4–f of the Department of Transportation Act, 49 U.S.C. 1653(f).

(b) *Content of environmental impact statements.* The following points must be addressed in EIS's:

(1) *Description.* The proposed action must be clearly described by including enough information and technical data to give readers a clear understanding of the nature of the proposed action. Where appropriate, describe the present environment, location, size, land ownership and status, physiography, ecosystems, climate, and other special features. Where relevant, maps or other graphic material should be provided. The objectives and purposes of the proposal must be given, along with other relevant background information.

The interrelationships of the proposed action with other projects and possible cumulative effects should be presented. Agencies should also identify growth characteristics of the affected area and any population and growth assumptions used. Where available, OBERS Projections are to be used.

The relationship of the proposal to land use plans, policies and controls for the affected area must be described. Where conflicts exist, the proposed resolution of these conflicts or the reasons why they cannot be resolved must be thoroughly addressed.

(2) *Environmental impacts.* This requires analyses and descriptions of both the anticipated favorable and adverse impacts of the proposed action as it affects the environment. Where appropriate, the international environmental impacts are to be assessed. The environment in this case includes both the natural environment and the social and economic environment. Air quality, water quality, land use, and wildlife are examples of areas of environmental impact. Primary, secondary, and accumulative effects must be considered in the analyses. Planned measures to minimize the adverse environmental impacts of the proposal should be discussed. Summaries of the probable favorable and adverse effects which cannot be avoided will be included, such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion and threats to health. There should be included an indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects.

(3) *Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* This, in essence, requires the agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

(4) *Irreversible and irretrievable commitment of resources.* This requires the agency to identify the extent to which the action curtails the range of beneficial use of the environment.

(5) *Alternatives to the proposed action.* Alternatives to accomplish an objective should be identified and effects evaluated as part of the planning process. Evaluation must be sufficient to determine benefits, costs and risks. In the agency's view, the "best" alternative is selected as the proposed action or several alternatives are presented pending selection of the best alternative and presented to others for review and criticism. The impacts and consequences of each alternative should be presented so that others may form an independent view of the worth of the proposed action and possible alternative courses of action. In the course of review of the draft statement, additional viable alternatives may be identified. Alternatives may include those not within the existing authority of the agency. A "no action" alternative will generally have to be evaluated, along with other alternatives such as different

designs, locations or new approaches to accomplishing the objectives.

Available benefit/cost information for the proposed action and each alternative should be either appended to the EIS or made available to the public.

(6) *Consultation with appropriate Federal agencies and review by state and local agencies and public involvement.* The draft EIS should describe consultation an involvement and a summary of the results of this action, including a list of those consulted.

All substantive comments received on the draft EIS (or summaries thereof where response has been exceptionally voluminous) are to be attached to the final EIS, whether or not each such comment is thought to merit individual discussion by the agency in the text of the EIS.

(7) *Cover sheet and summary sheet for environmental impact statements.* All USDA EIS's will include a cover page and a summary sheet constructed as shown below. The cover page should not include the description title shown on the left margin, but only that information within the box, which is given as an example:

Cover Page	
Report Number [1]	USDA–REA–ES, unit or program code if desired, (ADM)–72–11–D.
Title	Beaver Creek to Wray, Colorado, Transmission Line.
Subtitle	Draft (or Final) Environmental Statement.
Responsible Official	David A. Hamil, Administrator, Rural Electrification Administration.
Performing Organization	Tri-State Generation and Transmission Association.
Name and address	P.O. Box 29198, Denver, Colorado 80229.
Date Prepared	August 14, 1971.
Sponsoring Agency	Prepared by.
Name and address	U.S. Department of Agriculture, Rural Electrification Administration, Washington, D.C. 20250.

[1] USDA, REA, Environmental Statement (Administrative), fiscal year 1972, sequential number 11, within that year, draft or "F" for final. Some USDA agencies may wish to use a unit code in addition to the agency abbreviation. Draft and final statements for the same action should be assigned identical report numbers, even though final statements may be prepared in the subsequent fiscal year.

USDA ENVIRONMENTAL STATEMENT

"TITLE"

PREPARED IN ACCORDANCE WITH SEC. 102(2)(C) OF P.L. 91–190

SUMMARY SHEET

(Check one): ( ) Draft ( ) Final Environmental Statement.

Name of responsible Federal agency (with name of operating division where appropriate). Name, address, and telephone number of individual at the agency who can be contacted for additional information about the proposed action or the statement.

1. Name of action (Check one):
   ( ) Administrative Action.
   ( ) Legislative Action.
2. Brief description of action and its purpose. Indicate what States (and counties) particularly affected and what other proposed Federal actions in the area, if any, are discussed in the statement.
3. Summary of environmental impacts and adverse environmental effects.
4. Summary of major alternatives considered.
5. (For draft statements) List all Federal, State and local agencies and other parties from which comments have been requested. (For final statements) List all Federal, State, and local agencies and other parties from which written comments have been received.
6. Date draft statement (and final environmental statement, if one has been issued) made available to the CEQ and the public.

(8) *The EIS is to summarize and document data sources*—(c) *Distribution of environmental impact statements.* Except as covered in subsection .3(b) (EIS's for recommendations or reports on proposals for legislation), agency officials responsible for preparing EIS's are responsible for furnishing copies of the EIS's to CEQ.

Ten (10) copies of draft EIS's prepared by USDA agencies and ten (10) copies of the final text of EIS's shall be supplied to CEQ (this will serve as making EIS's available to the President).

An Accession Notice Card, Form NTIS–79 (National Technical Information Service, U.S. Department of Commerce) should also be submitted to CEQ, along with the copies of the EIS's. The card should be addressed to the orginating agency within USDA, the date of submission should be filled in and the Report number and title from the cover page should be listed as the "Report Identifying Information." The Accession Notice Card will be returned to the originating agency by the NTIS with an assigned accession number and the cost for a copy of the EIS. This information should be used when inquiries for copies of EIS's are referred to NTIS. If more than one office needs to know the NTIS accession number, attach a separate card for each office.

.5 *Consultation, review and public involvement*—(a) *Consultation.* Prior to the development of draft EIS's, USDA agencies shall consult with interested parties, including appropriate Federal, State, and local agencies. Comments and views of such interested parties should be considered in developing the draft environmental statement. Inclusion of comments and views of any agency in a draft environmental statement shall not in any way limit such agency in its subsequent submission of comments on the draft environmental statement. Appendix II to 40 CFR Part 1500 (CEQ Guidelines) should be consulted for possible impacts and agencies which should be consulted.

(b) *Office of Management and Budget procedures.* For direct Federal projects and projects assisted under programs listed in Attachment D of the OMB Circular No. A–95, review by State and local governments will be through procedures set forth under Part I, Circular No. A–95.

(c) *Environmental Protection Agency review.* The Environmental Protection Agency (EPA) has special responsibilities under section 309, Clean Air Act. USDA agencies are to comply with the requirements of that Act.

(d) *Circulation for review and comment, Federal, State, and local agencies and time limit.* The draft environmental statement shall be circulated for review and comment by Federal, State, and local agencies having jurisdiction by law or special expertise with respect to environmental impacts (see Appendix II, CEQ Guidelines, August 1, 1973) and shall be made available for comment by the public. A time limit of not less than sixty (60) days from the date of transmittal by the responsible official to CEQ will be observed to receive comments by reviewers. To the maximum extent practicable, no administration action is to be taken for thirty (30) days after the final EIS has been furnished to CEQ and made available to the public.

(e) *Expedited procedures.* Where emergency circumstances make it necessary to take action with significant environmental impact without observing the provisions of subparagraphs (a), (b), (c), and (d) of this section, the agency proposing to take the action shall work through the office of the coordinator in consulting with the CEQ about alternative arrangements.

(f) *Public information and involvement.* USDA agencies will use appropriate procedures to insure the fullest practicable provision of timely public information, understanding and involvement in Federal (USDA) plans and programs with environmental impact in order to obtain views and information on alternative courses of action (Executive Order No. 11514 of March 5, 1970, and Secretary's Memorandum No. 1695, Supplement 5, of December 1, 1970).

It is an objective of USDA to involve the public early and continue throughout the process in developing its policies and in formulating and implementing its programs. Agencies will discharge their environmental responsibilities in ways that make their management processes visible and their people available. Agencies are to utilize timely and effective procedures such as direct verbal contact, meetings, printed materials, news media, public notices and hearings, as appropriate, to accomplish these objectives.

When hearings are held to review draft EIS's, such draft EIS's must be available at least fifteen (15) days in advance of the hearing. Copies of draft and final EIS's are to be made available to the public by the responsible Federal official without charge to the extent practicable.

Agencies are to maintain a list of environmental statements under preparation, make the list available to CEQ on a quarterly basis and keep it available for public inspection. If an agency decides that an environmental statement is not necessary for a proposed action: (i) Which the agency has identified as normally requiring preparation of a statement, (ii) which is similar to actions for which the agency has prepared a significant number of statements, (iii) which the agency has previously announced would be the subject of a statement or (iv) for which the agency has made a negative determination in response to a request from the Council, the agency shall prepare a publicly available record briefly setting forth the agency's decision and the reasons for that determination.

.6 Review of other agencies' environmental impact statements. The Department of Agriculture and its agencies will review and comment on proposals for legislation or other major actions by other agencies as requested and/or determined appropriate because of jurisdiction by law or special expertise with respect to the environmental impact. The purposes of NEPA are best and most efficiently served if EIS's are reviewed by those personnel with the expertise and close enough to the proposed action that they have first-hand knowledge.

Other Federal agencies should observe the following procedures in obtaining comments of USDA and its agencies on EIS's (The required number of copies is indicated in parentheses):

Subject Area	*Send To*
1. Legislative (12)	Office of the Secretary, Attn: Coordinator of Environmental Quality Activities.
2. Regulations and National Policies (12)	(Same as above.)
3. Broad National Programs (12)	(Same as above.)
4. Major Federal Actions of A National or Interregional Scope (4).[1]	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines (USDA agencies will be responsible for consulting with each other and the office of the coordinator, as appropriate, in developing responses).
5. Major Federal Actions of A Regional Scope (4).[1]	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines, with the exception of Forest Service. EIS's to be reviewed by Forest Service should be forwarded to the appropriate regional and area offices. The addresses are attached.
6. Major Federal Actions of A State or Local Scope (4).[1]	Washington office of relevant USDA agency, as indicated in Appendix II of CEQ Guidelines, with the exception of Forest Service and Soil Conservation Service. Statements to be sent to FS and SCS should be forwarded to the appropriate field or state office. The addresses are attached.

[1] Four copies to each agency.

In case of question, other Federal agencies should contact the office of the coordinator. In all cases, lead agencies or field offices are responsible for obtaining and coordinating inputs from other USDA or agency sources as the case may be. USDA has a variety of environmental expertise not all of which is universally located at all field offices. Thus, reviewers must be alert to the need to bring in special expertise for reviews on particularly important actions. To the extent possible, an interdisciplinary approach is to be used to review EIS's of other agencies in the same manner is used to develop EIS's of USDA. Comments should be specific, substantive and factual. It may be appropriate for reviewers to indicate the adequacy of the EIS's, the need for change or more information and conclusions as to the advisability of the proposed action.

Where a recommendation for an alternative action in contrast to the proposed action is indicated, such recommendation is to be first discussed with the agency proposing the action. In all cases, the review and subsequent action will be performed in a constructive and cooperative manner.

Five copies of all comments made on draft and final EIS's of other agencies shall be forwarded to CEQ at the time comments are forwarded to the responsible agency. A copy of all comments on other agencies' EIS's is to be on file in the Washington office of the reviewing agency.

.7 CEQ requests and consultation. In order to assist the CEQ in fulfilling its responsibilities under NEPA and under Executive Order 11514, the Department will give careful consideration to requests from the CEQ for reports, other information and actions dealing with issues arising in connection with the implementation of NEPA. Conversely, the Department will seek the advice of the CEQ in developing and operating its environmentally-related programs.

Dated: November 9, 1973.

J. PHIL CAMPBELL,
Acting Secretary.

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PART III

DEPARTMENT OF JUSTICE

■

PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Parole, Statement of General Policy

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Parole, Statement of General Policy

Pursuant to the authority of 18 U.S.C. sections 4201–4210, 5001–5037, and 28 CFR Part O, Subpart V, the United States Board of Parole has adopted the following statement of policy, effective November 19, 1973.

The Board of Parole expressly disclaims that its rules or policy statements are subject to the rulemaking provisions of the Administrative Procedure Act and does not acquiesce in the order of the United States District Court for the District of Columbia, dated July 25, 1973, in *Richard Pickus, et al. v. U.S. Board of Parole*, Civil Action No. 112–73, from which order the Board of Parole has filed an appeal to the United States Court of Appeals for the District of Columbia Circuit.

This statement of policy is published in order to inform the public of the Board's customary paroling policy. The guidelines incorporated in this policy statement are merely indications of how the Board generally intends to exercise its discretion in making future parole release decisions.

Title 28 of CFR is amended as follows by the addition of § 2.52 to read as set forth below.

Dated November 11, 1973.

MAURICE H. SIGLER,
Chairman, U.S. Board of Parole.

§ 2.52 Paroling policy guidelines: statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Board of Parole has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established for cases with good institutional adjustment and program progress.

(c) It is to be stressed that these ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered. For example, cases with exceptionally good institutional program achievement may be considered for earlier release.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where the circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) These guidelines do not apply to parole revocation or reparole considerations. The Board shall review the guidelines periodically and may revise or modify them at any time deemed appropriate.

TABLE I—ADULT GUIDELINES FOR DECISION-MAKING

CUSTOMARY TOTAL TIME (IN MONTHS) SERVED BEFORE RELEASE (INCLUDING JAIL TIME)

(REVISED OCTOBER 1973)

Offense Characteristics—Severity of Offense Behavior (Examples)	Offender Characteristics—Parole Prognosis (Salient Factor Score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Low	6–10	8–12	10–14	12–16
Immigration law violations Minor theft (includes larceny and simple possession of stolen property less than $1,000) Walkaway				
Low moderate	8–12	12–16	16–20	20–26
Alcohol law violations Counterfeit currency (passing/possession less than $1,000) Firearms act, possession/purchase/sale—single weapon—not altered or machine gun Forgery/Fraud (less than $1,000) Drugs: Marijuana, possession (less than $500) Selective Service Act violations Theft from mail				
Moderate	12–16	16–20	20–24	24–30
Bribery of public officials Counterfeit currency (passing/possession $1,000–$20,000) Drugs: "Heavy Narcotics", possession by addict (less than $500) Marijuana, possession ($500 or over) Marijuana, sale (less than $5,000) "Soft Drugs", possession (less than $5,000) "Soft Drugs", sale (less than $500) Embezzlement (less than $20,000) Explosives, possession/transportation Firearms Act, possession/purchase/sale—altered weapon(s), machine gun(s), or multiple weapons Income tax evasion Interstate transportation of stolen/forged securities (less than $20,000) Mailing threatening communications Mann Act (no force—commercial purposes) Misprision of felony Receiving stolen property with intent to resell (less than $20,000) Smuggler of aliens Theft, forgery/fraud ($1,000–$19,999) Theft of motor vehicle (not multiple theft or for resale)				
High	16–20	20–26	26–32	32–38
Burglary (bank or post office) Counterfeit currency (passing/possession more than $20,000) Counterfeiting (manufacturing) Drugs: "Heavy Narcotics", possession by addict ($500 or more) "Heavy Narcotics", sale to support own habit Marijuana, sale ($5,000 or more) "Soft Drugs", possession ($5,000 or more) "Soft Drugs", sale ($500–$5,000) Embezzlement ($20,000–$100,000) Interstate transportation of stolen/forged securities ($20,000 or over) Organized vehicle theft Receiving stolen property ($20,000 or over) Robbery (no weapon or injury) Theft, forgery/fraud ($20,000–$100,000)				
Very high	26–36	36–48	48–55	55–65
Armed robbery Drugs: "Heavy Narcotics", possession by non-addict "Heavy Narcotics", sale for profit (No prior conviction for sale of heavy narcotics) "Soft Drugs", sale (more than $5,000) Extortion Mann Act (force) Sexual Act (force)				
Greatest	(Specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			
Aggravated felony (e.g. armed robbery, sexual act, assault)—Weapon fired or serious injury Aircraft hijacking Drugs: "Heavy Narcotics", sale for profit (prior conviction(s) for sale of heavy narcotics) Espionage Kidnapping Willful homicide				

Notes: 1. If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed.
2. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
3. If an offense behavior involved multiple separate offenses, the severity level may be increased.
4. If a continuance is to be recommended, allow 30 days (1 month) for release program provision.
5. These guidelines are predicated upon good institutional conduct and program performance.

TABLE II—YOUTH GUIDELINES FOR DECISION-MAKING

CUSTOMARY TOTAL TIME (IN MONTHS) SERVED BEFORE RELEASE (INCLUDING JAIL TIME)

(REVISED OCTOBER 1973)

Offense Characteristics—Severity of Offense Behavior (Examples)	Offender Characteristics—Parole Prognosis (Salient Factor Score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Low Immigration law violations Minor theft (includes larceny and simple possession of stolen property less than $1,000) Walkaway	6–10	8–12	10–14	12–16
Low moderate Alcohol law violations Counterfeit currency (passing/possession less than $1,000) Firearms act, possession/purchase/sale—single weapon—not altered or machine gun Forgery/Fraud (less than $1,000) Drugs: Marijuana, possession (less than $500) Selective Service Act violations Theft from mail	8–12	12–16	16–20	20–25
Moderate Bribery of public officials Counterfeit currency (passing/possession $1,000–$20,000) Drugs: "Heavy Narcotics", possession by addict (less than $500) Marijuana, possession ($500 or over) Marijuana, sale (less than $5,000) "Soft Drugs", possession (less than $5,000) "Soft Drugs", sale (less than $500) Embezzlement (less than $20,000) Explosives, possession/transportation Firearms Act, possession/purchase/sale—altered weapon(s), machine gun(s), or multiple weapons Income tax evasion Interstate transportation of stolen/forged securities (less than $20,000) Mailing threatening communications Mann Act (no force—commercial purposes) Misprision of felony Receiving stolen property with intent to resell (less than $20,000) Smuggler of aliens Theft, forgery/fraud ($1,000–$19,999) Theft of motor vehicle (not multiple theft or for resale)	9–13	13–17	17–21	21–26
High Burglary (bank or post office) Counterfeit currency (passing/possession more than $20,000) Counterfeiting (manufacturing) Drugs: "Heavy Narcotics", possession by addict ($500 or more) "Heavy Narcotics", sale to support own habit Marijuana, sale ($5,000 or more) "Soft Drugs", possession ($5,000 or more) "Soft Drugs", sale ($500–$5,000) Embezzlement ($20,000–$100,000) Interstate transportation of stolen/forged securities ($20,000 or over) Organized vehicle theft Receiving stolen property ($20,000 or over) Robbery (no weapon or injury) Theft, forgery/fraud ($20,000–$100,000)	12–16	16–20	20–24	24–28
Very high Armed robbery Drugs: "Heavy Narcotics", possession by non-addict "Heavy Narcotics", sale for profit (no prior conviction for sale of heavy narcotics) "Soft Drugs", sale (more than $5,000) Extortion Mann Act (force) Sexual Act (force)	20–27	27–32	32–36	36–42
Greatest Aggravated felony (e.g. armed robbery, sexual act, assault)—Weapon fired or serious injury Aircraft hijacking Drugs: "Heavy Narcotics", sale for profit (prior conviction(s) for sale of heavy narcotics) Espionage Kidnapping Willful homicide	(Specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			

Notes: 1. If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed.
2. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
3. If an offense behavior involved multiple separate offenses, the severity level may be increased.
4. If a continuance is to be recommended, allow 30 days (1 month) for release program provision.
5. These guidelines are predicated upon good institutional conduct and program performance.

TABLE III—NARA GUIDELINES FOR DECISION-MAKING

CUSTOMARY TOTAL TIME (IN MONTHS) SERVED BEFORE RELEASE (INCLUDING JAIL TIME)

(REVISED OCTOBER 1973)

Offense Characteristics—Severity of Offense Behavior (Examples)	Offender Characteristics—Parole Prognosis (Salient Factor Score)			
	Very good (11–9)	Good (8–6)	Fair (5–4)	Poor (3–0)
Low				
Immigration law violations				
Minor theft (includes larceny and simple possession of stolen property less than $1,000)				
Walkaway				
Low moderate				
Alcohol law violations				
Counterfeit currency (passing/possession less than $1,000)		6–12		12–18
Firearms Act, possession/purchase/sale—single weapon—not altered or machine gun				
Forgery/fraud (less than $1,000)				
Drugs:				
Marijuana, possession (less than $500)				
Selective Service Act violations				
Theft from mail				
Moderate				
Bribery of public officials				
Counterfeit currency (passing/possession $1,000–$20,000)				
Drugs:				
"Heavy Narcotics", possession by addict (less than $500)				
Marijuana, possession ($500 or over)				
Marijuana, sale (less than $5,000)				
"Soft Drugs", possession (less than $5,000)				
"Soft Drugs", sale (less than $500)				
Embezzlement (less than $20,000)				
Explosives, possession/transportation				
Firearms Act, possession/purchase/sale—altered weapon(s), machine gun(s), or multiple weapons				
Income tax evasion				
Interstate transportation of stolen/forged securities (less than $20,000)				
Mailing threatening communications				
Mann Act (no force-commercial purposes)				
Misprision of felony				
Receiving stolen property with intent to resell (less than $20,000)		12–18		18–24
Smuggler of Aliens				
Theft, forgery/fraud ($1,000–$19,999)				
Theft of motor vehicle (not multiple theft or for resale)				
High				
Burglary (Bank or Post Office)				
Counterfeit currency (passing/possession more than $20,000)				
Counterfeiting (manufacturing)				
Drugs:				
"Heavy Narcotics", possession by addict ($500 or more)				
"Heavy Narcotics", sale to support own habit				
Marijuana, sale ($5,000 or more)				
"Soft Drugs", possession ($5,000 or more)				
"Soft Drugs", sale ($500–$5,000)				
Embezzlement ($20,000–$100,000)				
Interstate transportation of stolen/forged securities ($20,000 or over)				
Organized vehicle theft				
Receiving stolen property ($20,000 or over)				
Robbery (no weapon or injury)				
Theft, forgery/fraud ($20,000–$100,000)				
Very high		20–26		26–32
Armed robbery				
Drugs:				
"Heavy Narcotics", possession by non-addict				
"Heavy Narcotics", sale for profit [no prior conviction for sale of heavy narcotics]				
"Soft Drugs", sale (more than $5,000)				
Extortion				
Mann Act (force)				
Sexual Act (force)				
Greatest	(Specific ranges are not given due to the limited number of cases and the extreme variations in severity possible within the category.)			
Aggravated felony (e.g., armed robbery, sexual act, assault)—weapon fired or serious injury				
Aircraft hijacking				
Drugs:				
"Heavy Narcotics", sale for profit [prior conviction(s) for sale of heavy narcotics]				
Espionage				
Kidnapping				
Willful homicide				

Notes: 1. If an offense is not listed above, the proper category may be obtained by comparing the severity of the offense with those of similar offenses listed.
2. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.
3. If an offense behavior involved multiple separate offenses, the severity level may be increased.
4. If a continuance is to be recommended, allow 30 days (1 month) for release program provision.
5. These guidelines are predicated upon good institutional conduct and program performance.

GUIDELINE EVALUATION WORKSHEET (Revised October 1973)

Case Name ..... Register Number .....

SALIENT FACTORS

Item A ..... □
No prior convictions (adult or juvenile) = 2
One or two prior convictions = 1
Three or more prior convictions = 0

Item B ..... □
No prior incarcerations (adult or juvenile) = 2
One or two prior incarcerations = 1
Three or more prior incarcerations = 0

Item C ..... □
Age at first commitment (adult or juvenile) 18 years or older = 1
Otherwise = 0

Item D ..... □
Commitment offense did not involve auto theft = 1
Otherwise = 0

Item E ..... □
Never had parole revoked or been committed for a new offense while on parole = 1
Otherwise = 0

Item F ..... □
No history of heroin, cocaine, or barbiturate dependence = 1
Otherwise = 0

Item G ..... □
Has completed 12th grade or received GED = 1
Otherwise = 0

Item H ..... □
Verified employment (or full-time school attendance) for a total of at least 6 months during last 2 years in the community = 1
Otherwise = 0

Item I ..... □
Release plan to live with spouse and/or children = 1
Otherwise = 0

Total Score ..... □

Offense Severity: Rate the severity of the present offense by placing a check in the appropriate category. If there is a disagreement, each examiner will initial the category he chooses.

Low .....
Low Moderate .....
Moderate .....
High .....
Very High .....
Greatest .....
(e.g. willful homicide, kidnapping)

Jail Time (Months) .... + Prison Time (Months) .... = Total Time Served To Date ..... Months.
Guidelines Used: ..... Youth ..... Adult ..... NARA
Tentative Decision .....

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