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presidential documents

Title 3—The President

PROCLAMATION 4384

Citizenship Day and Constitution Week, 1975

By the President of the United States of America

A Proclamation

Two hundred years ago, the men and women of the American Revolution pledged their lives, their fortunes, and their sacred honor in the struggle for independence, which ended September 3, 1783, with the signing of the Treaty of Paris. In breaking with the past, they did not neglect to build a better system for their posterity.

Today, we look back 200 years, not merely to take pride in our history; we look back during this Bicentennial to learn some practical lessons for today and tomorrow. As we pay tribute, let us renew together our Founding Fathers' pledge to our country—our lives, our fortunes, and our sacred honor. Let us always remember that freedom does not come free.

Congress, by a joint resolution of February 29, 1952, designated the 17th day of September of each year as Citizenship Day in commemoration of the formation and signing of the Constitution of the United States on September 17, 1787, and authorized the President to issue annually a proclamation calling upon officials of the Government to display the United States flag on all Government buildings on such day. By a joint resolution of August 2, 1956, Congress authorized the President to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue a proclamation calling for the observance of such week.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1975—the 188th anniversary of the signing of the Constitution. I urge Federal, State, and local officials, as well as leaders of civic, educational and religious organizations, to conduct appropriate ceremonies and programs on that day.

I also designate as Constitution Week the period beginning September 17 and ending September 23, 1975, and urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches and in other suitable places in order to foster a better under-

standing of the Constitution, and of the rights and responsibilities of United States citizens.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of August, in the year of our Lord nineteen hundred and seventy-five, and of the Independence of the United States of America the two-hundredth.

Gerald R. Ford

[FR Doc.75-23195 Filed 8-27-75;4:51 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Associate Executive Director is reestablished under Schedule C.

Effective August 29, 1975, Section 213.3303(f)(2) is amended as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(f) *President's Commission on White House Fellows.* * * *

(2) *The Associate Executive Director.*

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-23039 Filed 8-28-75;8:45 am]

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to reflect the following title change from: One Special Assistant to the Chairman to One Staff Assistant to the Chairman.

Effective August 29, 1975, § 213.3344(a) is revised as set out below:

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Staff Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-23040 Filed 8-28-75;8:45 am]

Title 25—Indians

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

PART 252—BUSINESS PRACTICES ON THE NAVAJO, HOPI AND ZUNI RESERVATIONS

Retail Business and Credit Transactions

AUGUST 25, 1975.

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

On March 31, 1975, a document was published in the FEDERAL REGISTER (40 FR 14320) proposing to revise Part 252 and add a new Part 253 to Subchapter W, Chapter I of Title 25 of the Code of Federal Regulations.

The purpose of these revisions and additions is to prevent the occurrences of abuses similar to those described during hearings conducted on the Navajo Reservation in 1972 by the Bureau of Indian Affairs (BIA) and the Federal Trade Commission (FTC) concerning reservation business practices.

The proposed rules were based in part on proposed trading post regulations submitted to the BIA by Dinebeiina Nahiilna Be Agaditahe (DNA), attorneys in a class action suit on behalf of Navajo consumers against the BIA to require the BIA to provide greater protection to Navajo consumers. On September 26, 1974, the Advisory Committee of the Navajo Tribal Council unanimously recommended that the BIA promulgate the proposed trading post regulations submitted by DNA.

Detailed comments on the proposed rules were received before the end of the initial 30-day comment period from the United Indian Traders Association (UITA), which represents many of the businesses that are licensed under these regulations. Other detailed comments were received in a document submitted jointly by the Office of Program Development (OPD) of the Navajo Tribe and DNA. This document is subsequently referred to as "DNA/OPD".

At the request of Ms. Annie D. Wauneka, a member of the Navajo Tribal Council, the comment period was extended an additional 30 days. During that period comments were received from Brown, Vlassis & Bain, attorneys for the Navajo Tribe. In addition to recommending revision of certain sections of the proposed rules they recommended that the proposed rules be promulgated as soon as possible.

Also during the extended comment period a resolution was received from Areas 1, 2, and 3 of District 5 of the Navajo Reservation. That resolution recommended that the proposed rules not be promulgated until they have been presented to the full Navajo Tribal Council for approval by a vote. The full tribal council began its session on June 3, 1975, but no tribal council resolution concerning the proposed rules has been received.

A number of articles and at least one letter to the editor appeared in newspapers in Arizona and New Mexico concerning the proposed rules. Copies of the proposed regulations were circulated to all chapter houses.

After review of all comments received the proposed rules were revised in a working draft. Because the revisions were extensive, a meeting was held on July 8, 1975, in Washington, D.C. to review the draft. Invited participants included representatives of the three tribes, DNA and UITA. Final revisions were made based on comments made at the July 8 meeting.

The format has been completely revised. Parts 252 and 253 have been combined and the sections rearranged into six subparts to make a more cohesive set of rules. The new arrangement is designed to help users locate an applicable section quickly.

The following sections that appeared in the proposed rules have been deleted:

§ 252.1 This section merely repeated statutory language. Because the meaning of statutes is partly determined by the legislative history, promulgating the statutory language in the regulations in 1975 could have an unintended legal effect.

§§ 252.30(b), 252.31, and 252.34 have been deleted because they purport to confer jurisdiction on Federal courts and exceed the BIA's statutory authority. The decision to delete these sections was made after considering a brief submitted by DNA arguing that the sections are within the BIA's authority and a brief by UITA arguing that such provisions are not authorized by statute.

§ 252.32 has been deleted because it could be construed to preclude tribal enforcement of business regulations. The statutes themselves establish the Commissioner's responsibilities in this area.

The following sections in the final regulations reflect substantial changes from the proposed rules:

§ 252.2 Both the Hopi and Zuni tribal officials asked that tribal members be exempt from these regulations while doing business on their own reservation. Both tribes have detailed ordinances governing the business activities of their own members on the reservation.

§ 252.3 The term "annual percentage rate" and "finance charge" have the same meaning as they do in the Truth in Lending regulations with which lenders on the reservation are already familiar.

§ 252.4 Most references to the Superintendent or Area Director have been changed to Commissioner. The change permits the Commissioner to delegate authority in a flexible manner.

§ 252.5 Persons who lease businesses, as well as persons who own them are

required to obtain a license. This change was made so that a license is required on the Hopi or Zuni Reservation when a person who is not a tribal member leases a business from someone who does belong to the tribe.

§ 252.6 Tribal approval of all license applications is required. Approval by the tribe replaces the public notice provision in the proposed rules as the means for obtaining community participation in the licensing decision. Paragraph (c) was added to make it clear that these regulations are designed to protect consumers from the effects of a natural monopoly resulting from isolation, but that no legal monopoly or franchise system is intended.

§ 252.7 Paragraph (b) was redrafted as suggested by UITA and endorsed by DNA/OPD. The purpose of the revision is to eliminate overlap between the required insurance coverage and the bond coverage. All provisions purporting to state what actions can be tried in U.S. District Court have been omitted because the Commissioner cannot by regulation confer jurisdiction on the courts. Paragraph (c) was added at the request of Hopi and Zuni tribal representatives (see § 252.15).

§ 252.9 At the request of tribal representatives, tribal approval of applications for license renewal is also required.

§ 252.10 Fees for the larger businesses have been raised. The fee had not been changed since 1957. The increase is necessary to provide the funds to meet the Commission's responsibility to enforce the regulations. The fee for smaller businesses remains the same to avoid imposing a burden that might require the raising of prices. Lower fees for Navajo tribal members are authorized to conform to current practice. UITA representatives stated they had no objections to the increased fees. Use of the fees for enforcement of the regulations has been made mandatory.

§ 252.11 At the request of tribal representatives, this section has been expanded to state that tribal taxes and tribal enforcement of the regulations or consistent tribal ordinances are not precluded.

§ 252.12 This section has been revised to restrict permittees to selling only those products specified on the permit.

§ 252.13 The personal injury and property damage liability bond has been increased because of inflation.

§ 252.14 Paragraph (b) was added to state the requirements currently imposed on persons seeking a livestock permit.

§ 252.15 Representatives of both the Hopi and Zuni Tribes asked that licensees be asked to voluntarily submit to tribal court jurisdiction. Their constitutions permit jurisdiction over non-Indians only if the non-Indians consent to it. Representatives of the Navajo Tribe specifically stated that the Navajo Tribe does need such a provision applied to licensees on the Navajo Reservation since the Navajo Tribe does not have the same constitutional limitations that the Zuni and Hopi Tribes have. Because of the Administration policy of Indian Self-Determination, the proposal of the Hopi and Zuni Tribes has been adopted despite objections of UITA.

§ 252.16 All participants at the July 8 meeting agreed than any manner of price marking would be acceptable so long as it served the purpose of giving the purchaser advance notice of the price.

§ 252.17 All participants at the July 8 meeting agreed that this section should prohibit knowingly offering for sale contaminated food. Paragraph (c) was added at the suggestion of the Indian Health Service. Participants at the July 8 meeting agreed to the paragraph provided that the training was actually available from the Indian Health Service.

§ 252.18 All participants at the July 8 meeting agreed that this section should be broadened to require an authorized employee for all normal transactions.

§ 252.20 The UITA raised strong objections to this section. UITA believes that customers should continue to have the opportunity to engage in barter if they wish. UITA representatives commented that its members are frequently willing to pay higher prices for Indian goods if payment is made in merchandise rather than money. Representatives of DNA and the Navajo Tribe stated they were opposed to the continuation of barter because it would inhibit the development of a cash economy. They believe the elimination of barter would create more competition among businesses and result in lower prices to customers. The Commissioner supports the determination of the tribes to promote the development of a cash economy by eliminating barter transactions.

§ 252.24 All participants at the July 8 meeting agreed that this section should specify a meeting of a tribal governing body.

§ 252.26 A recent Federal Court of Appeals decision found the term "antiquity" to be unconstitutionally vague. The phrase "artifacts created before 1930" has been substituted to resolve the vagueness problem. All participants at the July 8 meeting agreed that the prohibition should apply regardless of the ownership of the land from which the artifacts were removed.

§ 252.27 To eliminate vagueness problems, this section adopts the definition of Indian artifacts found in 25 CFR 308.3(a).

§ 252.29 This scope of this section was limited to the Navajo Reservation at the request of the Hopi and Zuni Tribes.

§ 252.30 The definition of retaliatory action has been deleted. It could have been construed as giving a customer who had complained an absolute right to a loan, no matter how poor a credit risk the person is.

§ 252.31 This section has been redrafted to simplify the language. No change in meaning is intended. Suggestions at the July 8 meeting to liberalize the restrictions imposed will require further analysis to determine whether they are consistent with the statutory restrictions.

§ 252.32 The additional license and bond requirements has been restricted to only those creditors who take pawn. The FTC report clearly indicates that the primary purpose for a higher bond is to insure responsibility for the loss of a customer's property. Only pawnbrokers are likely to have any property belonging to customers. Paragraph (b) has been redrafted as recommended by the UITA and endorsed by DNA/OPD to eliminate any overlapping with the insurance coverage. Paragraph (e) was added at the request of representatives of the Hopi and Zuni Tribes. Both tribes are considering a total ban on prior transactions.

§ 252.33 The license fee has been set at the same level as required by the State of Arizona. UITA representatives stated at the July 8 meeting that they had no objections to this fee.

§ 252.34 The recommendation by the UITA to make the agreed replacement value conclusive on the parties was rejected. The inequality of bargaining power between pledgor and pledgee create the risk that the agreed value would be substantially understated.

§ 252.35 The UITA recommendation that loans carrying a finance charge of less than five dollars be exempted from disclosure requirements has been rejected. The exemption would exclude from coverage most of the pawn loans made on the reservations.

§ 252.36 and § 252.37 UITA and tribal representatives at the July 8 meeting agreed that the usury limit should be 24 percent per year on the unpaid balance. UITA, however, proposed that there be a minimum charge of $5.00 or 20 percent on loans up to $75. UITA proposed a minimum charge of $7.50 or 24 percent per annum on loans over $75. Tribal representatives proposed a provision authorizing the creditor to charge an administrative fee upon prepayment of 10 percent of the unearned finance charge or two dollars, whichever is greater, in lieu of the earned finance charge.

Navajo and DNA representatives stated that the tribal proposal would provide an adequate return so that no reservation pawnbroker would be forced to discontinue pawn transactions for economic reasons.

The vice-president of the UITA presented data on the costs of making loan on pawn based on his own experience at his trading post at Teec Nos Pos, Arizona. The average agreed market value of pawned items was $87.40. The average amount of loans made on the pawn is $27.08. The average time in pawn is four months. An average of 32 percent of the pawn is in over six months and can become the property of the trader under the old regulations. His insurance costs are 65 cents a year per $100 of agreed value with a deductible of $5,000. There are other traders who do not take the deductible. They are charged $1.25 per $100 of agreed value per year. The bank charges him $10 percent to borrow the money he loans to pawnors. The Navajo Tribe collects 1.5 percent fee on the interest received. Fixed initial costs include a pawn form costing 6 cents a pawn tag

costing 2.4 cents and ten minutes of labor at $2.10 an hour or 35 cents.

Based on these data it would cost $1.59 to make the average loan on the average amount of pawn for the average amount of time. Additional costs for pawn that goes to the present retention period of six months would raise the costs to $2.29. Costs for pawn that goes to the proposed one-year retention period would be $4.34. Included in the costs for pawn that stays in the entire period is 55 cents for the costs associated with notifying the pawnor that that creditor intends to sell the pawn.

Analysis of these data shows that a creditor would receive a net profit equal to 6.4 percent a year on the amount loaned as a result of making the average loan and imposing the 24 percent finance charge. Using the tribal proposal, the net profit on a loan for one month would be 173.5 percent on a $10 loan, 80.2 percent on a $20 and 49.6 percent on $30. The net profit on four month loans woud be 34.2 percent on $10, 11.1 percent on $20 and 7.4 percent on $30. Net profit for eight month loans would be 11.1 percent on $10, 8.5 percent on $20 and 9.5 percent on $30. If the loans go for the full year and notice of intent to sell must be sent the net profit would be 1.9 percent on $10, 6.7 percent on $20 and 8.4 percent on $30. These calculations are based on holding pawn worth three times the amount of the loan. If the creditor can make the loans without borrowing money, the net profit for each loan would be 10 percent higher than the percentages listed above.

Since there is no risk involved in making loans on pawn, these net profit margins would seem to provide adequate economic incentive for creditors to make loans in amounts as low as $10. The loans also benefit the merchants by putting money in the hands of their customers to buy their goods. For these reasons the tribal proposals have been adopted.

§ 252.38 This section was redrafted based on the DNA/OPD comments. It forbids "merchandise pawn" transactions unless no finance charge is imposed. UITA representatives are opposed to this provision. They believe customers should be able to "trade out" pawn loans in goods from the store rather than take cash or a negotiable check. They said many stores are willing to give customers a discount on store prices if they trade out a pawn loan in merchandise from the store rather than take a cash loan. Navajo tribal representatives said they believe this section is necessary to create a cash economy and promote greater competition. They believe the increased competition would result in lower prices for all consumers. The Commissioner supports the tribe's policy on this matter.

§ 252.39. The tribes, DNA and UITA all agreed to substitute a public sale for the auction requirement. The requirement that the creditor give the pawnor any surplus over the costs and the amount owed is retained despite objections from UITA. Such a requirement is important when the value of the security is regularly many times the amount of the loan.

§ 252.44 Paragraph (a) has been redrafted as recommended by UITA and endorsed by DNA/OPD. Many reservation pawnbrokers already have an insurance policy that meets these requirements.

§ 252.45 The tribes, DNA and UITA agreed to extend the time to respond to a consumer credit application from ten to thirty days.

§ 252.47 The tribes, DNA and the UITA all agreed to change this provision so it does not automatically apply to extensions of credit on which no finance charge is imposed.

§ 252.50 The term "member of the tribe" has been substituted for the term "Indian of the full blood." The change is consistent with the intent of Congress in passing 25 U.S.C. 164. Navajo tribal members are exempted only from the operation of those sections that contain a specific exemption, see U.S. v Parton 132 F. 2d 886 (1943).

§§ 252.52 and 252.53 The provisions for automatic revocation of the lease when the license is revoked has been added. The show cause proceeding has also been added.

§ 252.54 The review period has been increased from five years to ten years. The UITA requested the increase because the shorter period would have made it difficult for reservation businesses to obtain loans. DNA/OPD agreed to the change.

§ 252.55 Paragraph (a) follows the language suggested by DNA/OPD. The off-reservation stores to be surveyed will only be those that are similar to the licensed stores. This change was made in response to UITA's concern that discount stores might be compared to the licensed stores. Paragraphs (b) and (c) follow the language suggested by the UITA and agreed to by DNA/OPD. The provision for reducing prices to a level below a reasonable level has been eliminated with the concurrence of DNA/OPD.

§ 252.56 This is a new section. It is based on the show cause procedures found in 25 CFR § 131.14, which deals with lease cancellations.

§ 252.58 The bill of sale requirement is limited to the Navajo Reservation because of objections raised by the attorney for the Hopi and Zuni Tribes to this provision.

§ 252.59 This is a new section giving consumers standing to initiate and participate in enforcement proceedings. It was added after the decision was made that the consumer remedies published as proposed rules should be deleted because they exceeded the statutory authority.

The effective date, for sections that do not require the development of new forms in September 26, 1975. The effective date of other sections is January 1, 1976. The additional time is needed for the development and printing of the forms.

Effective date. The following sections of this Part become effective on September 26, 1975: §§ 252.1, 252.2, 252.3, 252.4, 252.11, 252.16, 252.18, 252.19, 252.20, 252.21, 252.22, 252.24, 252.25, 252.26, 252.27, 252.28, 252.29, 252.30, 252.31, 252.36, 252.37, 252.42, 252.43, 252.49, 252.50, 252.51, 252.52, 252.53, and 252.56. All other sections of this Part become effective on January 1, 1976.

Part 252 is added to read as follows:

Subpart A—Interpretation and Construction Guides

Sec.
252.1 Purpose.
252.2 Scope.
252.3 Definitions.
252.4 Interpretation and construction.

Subpart B—Licensing Requirements and Procedures

252.5 Reservation business license required.
252.6 Approval or denial of license application.
252.7 Bond requirement for a reservation business.
252.8 License period for reservation business.
252.9 Application for license renewal.
252.10 License fees for reservation businesses.
252.11 Tribal fees, taxes and enforcement.
252.12 Peddler's permits.
252.13 Amusement company licenses.
252.14 Trade in livestock restricted.
252.15 Consent to jurisdiction of Hopi and Zuni tribal courts.

Subpart C—General Business Practices

252.16 Price marking.
252.17 Health and sanitation requirements.
252.18 Availability of employee authorized to transact business.
252.19 Check cashing.
252.20 Payment for purchase of Indian goods or services.
252.21 Trade confined to premises.
252.22 Subleasing prohibited.
252.23 Posted statement of ownership.
252.24 Attenance at semi-annual meetings.
252.25 Withholding of mail prohibited.
252.26 Trade in antiquities prohibited.
252.27 Trade in imitation Indian crafts prohibited.
252.28 Gambling prohibited.
252.29 Political contributions restricted.
252.30 Retaliation prohibited.
252.31 Trade by Indian Affairs employees restricted.

Subpart D—Pawnbroker Practices

252.32 Reservation pawnbroker license required.
252.33 Fees for pawnbroker licenses.
252.34 Pawnbroker records.
252.35 Pawnbroker disclosure requirements.
252.36 Maximum finance charges on pawn transaction.
252.37 Prepayment.
252.38 Pawn loans; period, notice and sale.
252.39 Sale and redemption of pawn.
252.40 Proceeds of sale.
252.41 Refinancing transaction.
252.42 Lost pawn receipts or tickets.
252.43 Outstanding obligations owed to pledgee.
252.44 Insurance on pawn.

Subpart E—Consumer Credit Transactions Other Than Pawn

252.45 Consumer credit applications.
252.46 Credit disclosure statements.
252.47 Monthly billing statements.
252.48 Translation of disclosure statements.
252.49 Usury prohibited.

Subpart F—Enforcement Powers, Procedures and Remedies

252.50 Penalty and forfeiture of merchandise.
252.51 Authority to close unlicensed reservation businesses.
252.52 Bond forfeiture and revocation of license and lease.
252.53 Cease and desist orders.

Sec.
252.54 Periodic review of performance.
252.55 Price monitoring and control.
252.56 Show cause procedures.
252.57 Procedures to cancel liability on bond.
252.58 Records, reports and obligations of reservation business owners.
252.59 Customer compliance procedures.

AUTHORITY: 5 U.S.C. 301, secs. 463, 465 revised statutes (25 U.S.C. 2 and 9) 230 DM 2.

Subpart A—Interpretation and Construction Guides

§ 252.1 Purpose.

The purpose of the regulations of this Part is to prescribe rules for the regulation of reservation businesses for the protection of Indian consumers on the Navajo, Hopi and Zuni Reservations as required by 25 U.S.C. 261, 262, 263, and 264.

§ 252.2 Scope.

The regulations of this Part apply to all persons who do business on the Navajo Reservation, to all non-members of the Hopi Tribe who do business on the Hopi Reservation and to all non-members of the Zuni Tribe who do business on the Zuni Reservation, except as otherwise provided in specific sections of this Part. These regulations do not apply to a business that is wholly owned and operated by the Hopi or Zuni Tribes or by a member of those tribes on the owner's reservation.

§ 252.3 Definitions.

For the purposes of this Part—

(a) "Annual percentage rate" means the annual percentage rate of finance charge determined in accordance with 12 C.F.R. 226.5, which defines annual percentage rates.

(b) "Consumer credit transaction" means a grant of credit or a loan that is made by a person regularly engaged in the business of making loans or granting credit primarily for a personal, family, household, or agricultural purpose.

(c) "Draft" means a writing that is a direction to pay that:

(1) Identifies the person to pay with reasonable certainty;

(2) Is signed by the drawer;

(3) Contains an unconditional order to pay a sum certain in money and no other promise, order, obligation or power given by the drawer;

(4) Is payable on demand or at a definite time; and

(5) Is payable to order.

(d) "Finance charge" means the cost of credit determined in accordance with 12 CFR 226.4, which defines "finance charge".

(e) "Firm" means a corporation or a partnership.

(f) "Gross receipts" include the following:

(1) All cash received from the conduct and operation of the licensee's business at the premises described in the application for license.

(2) Receipts from both wholesale and retail transactions.

(3) Receipts resulting from transactions concluded off the reservation that originate from the conduct and operation of the licensee's business on the reservation.

(4) The market value of all property taken in trade on the date when received and either held by the licensee for purposes other than resale or credited on any account in payment for merchandise.

(5) Proceeds from the sale of any goods bought from Indians regardless of where the sale takes place.

(6) Finance charge received on loans, but not the return of principal.

(g) "Open end credit" means consumer credit transactions made on an account by a plan under which (1) the creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in installments; and (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance.

(h) "Pawnbroker" means a person whose business includes lending money secured by personal property deposited with the lender.

(i) "Peddler" means a person who offers goods for sale within the exterior boundaries of the Hopi, Navajo or Zuni Reservations, but does not do business from a fixed location or site on any of those reservations.

(j) "Person" includes a natural person, a corporation, trust, estate, partnership, cooperative or association.

(k) "Replacement value" means the present cost to the owner of replacing an item with one having the same quality and usefulness.

(l) "Reservation business" means a person that engages at a fixed location or site within the exterior boundaries of the Navajo, Hopi or Zuni Reservations in the sale or purchase of goods or services or in consumer credit transactions with Indians and is not a bank, saving bank, trust company, savings or building and loan association or credit union operating under the laws of the United States or the laws of New Mexico, Arizona or Utah, a business on the Hopi Reservation that is wholly owned and operated by members of the Hopi Tribe, or a business on the Zuni Reservation that is wholly owned and operated by members of the Zuni Tribe.

§ 252.4 Interpretation and construction.

(a) "Area Director" refers to the Area Director of the Bureau of Indian Affairs or the Administrator of the Joint Use Area of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(b) "Commissioner" refers to the Commissioner of Indian Affairs or a person to whom the Commissioner of Indian Affairs has delegated authority under this Part or under 25 U.S.C. 261, 262, 263, or 264.

(c) "Superintendent" refers to the Superintendent of the Bureau of Indian Affairs who has jurisdiction over the land on which a person does business or intends to do business with Indians.

(d) "Tribe" refers to the tribe that has jurisdiction over the land on which a person does business or intends to do business with Indians.

Subpart B—Licensing Requirements and Procedures

§ 252.5 Reservation business license required.

(a) No person may own or lease a reservation business without a license issued under the provisions of this subpart.

(b) The applicant shall apply in writing on a form provided by the Commissioner setting forth the following:

(1) The full name and residence of the applicant.

(2) Three (3) responsible references.

(3) The firm name and the name of each member of the board of directors if the applicant is a firm.

(4) Satisfactory evidence as to the character, experience and business ability of the applicant and the employees of the applicant.

(5) Satisfactory evidence of the general fitness of the applicant and employees of the applicant to reside on the Indian reservation.

(c) Upon the request of the Commissioner, the applicant shall furnish the following:

(1) The capital invested or to be invested and, of this, the amount of capital owned and the amount borrowed or to be borrowed.

(2) The name of the lender of any borrowed capital, the date due, the rate of interest of be paid, and the names of any endorsers and security.

(3) A copy of any contract or trade agreement whether oral or written with creditors or financing individuals or institutions, including any stipulations whereby financing fees are to be paid.

(d) Information that if released might adversely affect the competitive position of the applicant shall remain confidential.

§ 252.6 Approval or denial of license application.

(a) The Commissioner shall approve or deny each license application and notify the applicant no later than thirty (30) days after receipt of a completed application.

(b) No application is complete until any clearance or tribal council approval required by tribal or Federal regulations has been obtained.

(c) The Commissioner may not deny a license to an applicant for the purpose of limiting competition.

(d) If the application is approved the license shall be issued on a form provided by the Commissioner.

(e) If the Commissioner denies the license application the applicant may appeal under the provisions of Part 2 of this Title no later than thirty (30) days after the date on which notice of denial of the application was sent.

§ 252.7 Bond requirement for a reservation business.

(a) An applicant for a license or renewal of a license to operate a reservation business shall at the time the application is submitted furnish a bond on a form

provided by the Commissioner in the name of the applicant in the amount of ten thousand dollars ($10,000) or such larger sum as the Commissioner may designate, with two (2) on more sureties approved by the Commissioner or with a guaranty company qualified under the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6–13). The bond shall be for the same period covered by the license. No licensee may trade without a bond. Except as provided in paragraph (d) of this section, no surety may be released from liability until the license expires.

(b) The bond shall be in favor of the United States and the customers of the licensee and shall be conditioned on the faithful performance by the licensee of all duties and obligations under the license.

(c) Any surety for a reservation business on the Hopi or Zuni Reservation shall agree in writing to submit itself voluntarily to the jurisdiction of the tribal court for the purpose of adjudicating any claim arising under the bond.

(d) Any surety on the bond of a licensed reservation business may be relieved from liabilities by complying with the provisions of § 252.57 of this Title.

§ 252.8 License period for reservation businesses.

A license to operate a reservation business may not be issued unless the applicant has a right to use the land on which the business is to be conducted. The license period shall correspond to the period of the lease held by the licensee. The license period in no event may exceed twenty-five (25) years.

§ 252.9 Application for license renewal.

(a) An applicant for renewal of the license to trade shall file an application on a form provided by the Commissioner with the Area Director not less than three (3) months prior to the expiration of the existing license. The Area Director shall report in writing to the Commissioner on the record the applicant has made as a reservation business owner and the applicant's present fitness to reside on the Indian reservation.

(b) The Commissioner may issue a temporary permit for three (3) months pending consideration of application for license renewal.

(c) Prior to expiration of the existing license or, if issued, the temporary permit, the Commissioner shall approve or deny the application for license renewal and notify the applicant.

(d) No license may be renewed until any clearance or tribal council approval required by tribal or other federal regulations has been obtained.

(e) If the Commissioner denies the application for renewal, the applicant may appeal under the provisions of Part 2 of this Title.

§ 252.10 License fees for reservation businesses.

(a) Prior to the issuance of an initial license, each licensee who is not a member of the Navajo tribe shall pay the following amount:

(1) If the license is issued before July 1, the licensee shall pay fifty dollars ($50).

(2) If the license is issued on or after July 1, the licensee shall pay twenty-five dollars ($25).

(b) Each licensed business owner who is not a member of the Navajo tribe shall pay on or before January 10 of each year an annual license fee determined as follows based on the licensee's most recent annual report:

(1) If the licensee's gross receipts are less than one hundred thousand dollars ($100,000) for the year or the licensee has not yet been required to file its first annual report, the license fee is fifty dollars ($50).

(2) If the licensee's gross receipts for the year are at least one hundred thousand dollars ($100,000) but not more than four hundred and ninety-nine thousand nine hundred and ninety-nine dollars ($499,999) the fee is one hundred dollars ($100).

(3) If the licensee's gross receipts for the year are at least five hundred thousand dollars ($500,000) but not more than seven hundred and forty-nine thousand nine hundred and ninety-nine dollars ($749,999), the fee is two hundred dollars ($200).

(4) If the licensee's gross receipts for the year are seven hundred fifty thousand dollars ($750,000) or more, the fee is three hundred dollars ($300).

(c) The Navajo Area Director shall determine the annual license fee payable by licensees who are enrolled members of the Navajo Tribe. The license fee for an enrolled member of the Navajo Tribe may not be less than twenty percent (20%) nor greater than one hundred percent (100 percent) of the amount the licensee would be required to pay if the licensee were not a tribal member.

(d) All fees are payable to the Area Director and shall be deposited to the credit of a subaccount of the account "Indian Monies, Proceeds of Labor" and shall be expended in the enforcement of the regulations of the Part.

§ 252.11 Tribal fees, taxes and enforcement.

(a) The regulations in this Part do not preclude the Hopi, Navajo, or Zuni tribal councils from assessing and collecting such fees or taxes as they may deem appropriate from reservations businesses.

(b) Nothing in the regulations of this Part may be construed to preclude tribal enforcement of these regulations or consistent tribal ordinances.

§ 252.12 Peddler's permits.

(a) No peddler may offer goods for sale within the exterior boundaries of the Hopi, Navajo, or Zuni Reservations without a peddler's permit. The permit shall state on its face the class of goods that may be offered for sale. No peddler may offer for sale any class of goods other than those listed on the face of the permit.

(b) The applicant shall apply for a permit in writing on a form provided by the Commissioner.

(c) Peddlers shall pay such fee and post such surety bond on a form provided by the Commissioner as the Commissioner requires. The surety bond required may not be less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000).

(d) Any surety on the bond of a peddler may be relieved of liability by complying with the provisions of § 252.57.

§ 252.13 Amusement company licenses.

(a) No person may operate a portable dance pavilion, mechanical amusement device such as a ferris wheel or carousel, or commercial games of skill within the exterior boundaries of the Navajo, Hopi, or Zuni Reservations without a license from the Commissioner.

(b) The licensee shall pay such fee as the Commissioner requires. The fee shall be not less than five dollars ($5) nor more than twenty-five dollars ($25) per unit.

(c) The licensee shall post a surety bond on a form provided by the Commissioner in an amount not exceeding ten thousand dollars ($10,000) and a personal injury and property damage liability bond of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000) as may be required by the Commissioner.

(d) The provisions of this section do not apply to amusement companies where the contract between the tribe and the amusement company provides for the payment of a fee to the tribe and for the protection of the public against personal injury and property damage by bond in the amounts specified in paragraph (c) of this section.

(e) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 252.57.

§ 252.14 Trade in livestock restricted.

(a) No person other than an enrolled member of the tribe or any association, partnership, corporation or business entity wholly owned by enrolled members of the tribe may purchase livestock from tribal members without a special permit issued by the Commissioner.

(b) The Commissioner shall issue a permit to each applicant who establishes to the Commissioner's satisfaction that the applicant is a fit person to engage in the purchase of livestock and who posts a bond on a form provided by the Commissioner in the amount of ten thousand dollars ($10,000). This paragraph does not require a person who has posted a bond of ten thousand dollars ($10,000) or more under other provisions of this Part to post an additional bond to obtain a permit under this section.

(c) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 252.57.

§ 252.15 Consent to jurisdiction of Hopi and Zuni tribal courts.

As a condition to doing business on the Hopi or the Zuni Reservation each applicant for license under this Part shall, in accordance with the constitutions of those tribes, voluntarily submit the applicant and the applicant's employees or

agents to the jurisdiction of the tribal court for the purpose of the adjudication of any dispute, claim or obligation arising under tribal ordinance relating to commerce carried out by the licensee.

Subpart C—General Business Practices

§ 252.16 Price marking.

The price of each article offered for sale shall be marked on the article, its containers or in any other manner that is plain and visible to the customer and that affords the customer a reasonable opportunity to learn the price of the article prior to purchase.

§ 252.17 Health and sanitation requirements.

(a) Each licensee shall keep both the premises and the place of business in a clean and sanitary condition at all times and shall avoid exposure of foodstuffs to contamination. No licensee may offer for sale any goods that are banned for health or sanitation reasons from retail sale by any Federal agency or by the tribe or, where not in conflict with the tribal regulations, by the State or by any State agency. No licensee may knowingly offer for sale any food that is contaminated.

(b) All weights and measure shall conform to standards set by the National Bureau of Standards and to standards, if any, set by the tribe and, if not in conflict with tribal regulations, to the standards set by the State.

(c) If training in foodhandling is available from the Indian Health Service, each person working in a reservation business shall complete the foodhandler training offered by the Indian Health Service before handling any food sold by a reservation business.

(d) Any person whom the Service Unit Director of the Indian Health Service determines is infected with or is a carrier of any communicable disease in a stage likely to be communicable to persons exposed as a result of the infected employee's normal duties as a foodhandler may not be employed by a reservation business.

(e) Each business shall comply with all Federal health regulations and with all tribal health regulations that are consistent with Federal regulations. Each business shall comply with State health regulations that are consistent with tribal and Federal health regulations.

(f) Except as otherwise provided herein, nothing in this section may be construed as a grant of enforcement powers to any agency of a State or its subdivisions.

(g) It is the duty of the health officers of the Indian Health Service to make periodic inspections, recommend improvements, and report thereon to the Commissioner.

§ 252.18 Availability of employee authorized to transact business.

Each licensee shall provide during normal business hours an employee authorized in writing to engage in all business transactions that the licensee normally offers to customers.

§ 252.19 Check cashing.

(a) A reservation business may give a fully negotiable check in addition to United States currency when cashing a draft, check or money order. A reservation may not give scrip, credit or other substitute for United States currency when cashing a draft, check or money order.

(b) A reservation business owner or employee may advise a customer cashing checks, money orders or drafts of the amount due on the customer's credit accounts, pawn accounts or any other obligation the customer owes to the business, but in no event may the owner or employee withhold the proceeds of the check, money order or draft from the customer on the basis of existing credit obligations.

§ 252.20 Payment for purchase of Indian goods or services.

(a) A reservation business shall pay for the purchase of Indian goods or services with cash or a fully negotiable check. A reservation business may not pay for Indian goods or services with trade slips or future credit. In any transaction involving the purchase of Indian goods on the Navajo Reservation, the reservation business shall furnish a bill of sale indicating the name of the seller, a description of the goods, the amount paid for the goods, the date of sale, and the signature of both parties and shall retain a copy of the bill of sales in its business records.

(b) A reservation business owner or employee may advise a customer selling Indian goods or services of the amount due on the customer's credit accounts, pawn accounts or any other obligation the customer owes to the business, but in no event may the owner or employee withhold the proceeds of the sale from the customer on the basis of existing credit obligations.

§ 252.21 Trade confined to premises.

The licensee shall confine all trade on the reservation to the premises specified in the license, except, where permitted under § 252.14, the buying and selling of livestock and livestock products.

§ 252.22 Subleasing prohibited.

No licensee may lease, sublet, rent, or sell any building that the licensee occupies for any purpose to any person without the approval of the Commissioner and the consent of the tribe.

§ 252.23 Posted statement of ownership.

The licensee of a reservation business shall display in a prominent place a notice that is legible to customers stating the form of the business entity, the names and addresses of all other reservation businesses owned in whole or in part by the business entity, and if the licensee is not a corporation, the names and addresses of the owner or owners of the business. If the licensee is a corporation the notice shall list the names and addresses of the members of the Board of Directors.

§ 252.24 Attendance at semi-annual meetings.

Upon the request of a tribal official designated by the governing body, each licensee shall attend a semi-annual public meeting of a tribal governing body to respond to customer inquires.

§ 252.25 Withholding of mail prohibited.

No owner or employee of a reservation business may open, withhold, or otherwise delay the delivery of mail.

§ 252.26 Trade in antiquities prohibited.

No licensee may knowingly buy, sell, rent or lease any artifact created before 1930 that was removed from an historic ruin or monument.

§ 252.27 Trade in imitation Indian crafts prohibited.

No person may introduce or possess for disposition or sale within the exterior boundaries of the Hopi, Navajo or Zuni Reservations any object that is represented to be an Indian handicraft unless the object was produced by an Indian or Indians with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual's product.

§ 252.28 Gambling prohibited.

No licensee may permit any person to gamble by dice, cards, or in any way whatever, including the use of any mechanical device, on the premises of any licensed business.

§ 252.29 Political contributions restricted.

No reservation business owner who is ineligible to vote in a Navajo tribal election may grant or donate any money or goods to any candidate for election to Navajo tribal office.

§ 252.30 Retaliation prohibited.

No licensee may refuse service to any customer for the purpose of retaliating against that customer for enforcing or attempting to enforce the regulations of this Part.

§ 252.31 Trade by Indian Affairs employees restricted.

(a) Except as authorized in this section, no person employed by the U.S. Government in Indian Affairs may have any interest in any trade with an Indian or an Indian organization. Employees of the U.S. Government may trade with an Indian or Indian organization for any purpose other than to engage in a profit-making activity under the following conditions:

(1) Where the amount involved is $500 or less a U.S. Government employee may purchase goods or services from an Indian or Indian organization.

(2) Where the amount involved is greater than $500 a U.S. Government employee may, with the approval of the Secretary of the Interior, purchase goods or services from any Indian or Indian organization.

(b) Lease or sale of home sites or allotments on trust or restricted Indian land

to or from Indian employees of the U.S. Government shall be made on sealed bids, unless the Commissioner waives this requirement on the basis of a report showing (1) the need for the transaction, (2) the benefits accruing to both parties, and (3) that the consideration for the proposed transactioin is not less than the appraised value of the land or leasehold interest unless the Indian employee qualifies and is intending a transaction in accordance with § 121.5 (b) and (c) of this Chapter of § 131.5(b) (1), (2) and (3) of this Chapter. An affidavit, as follows, shall accompany each proposed land transaction:

I _____
(Name)

_____
(Title)

swear (or affirm) that I have not exercised any undue influence nor used any special knowledge received by reason of my office in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction.

(c) This section does not prohibit any reservation business from contracting with the Federal Government to provide postal services to Indian communities in which Government postal service is unavailable.

(d) Nothing in this section prohibits an Indian employee from receiving benefits by reason of membership in a tribe or corporation or cooperative association organized by and operated for Indians.

(e) U.S. Government employees who violate this section are liable to a penalty of five thousand dollars ($5,000) and shall be removed from office, see 25 U.S.C. 68.

Subpart D—Pawnbroker Practices

§ 252.32 Reservation pawnbroker license required.

(a) No person may accept pawns or pledges of personal property as security for monies or accounts due an Indian within the exterior boundaries of the Navajo, Hopi or Zuni Reservations unless such person is an agent of a bank, saving bank, trust company, savings or building and loan association, or credit union operating under the laws of the United States or the laws of New Mexico, Arizona, or Utah or unless such person—

(1) Holds a valid license to operate a reservation business,

(2) Holds a valid reservation pawnbroker license, and

(3) Posts a bond on a form provided by the Commissioner in the name of the licensee in the amount of twenty-five thousand dollars ($25,000) or such larger sum as may be designated by the Commissioner with two (2) or more sureties approved by the Commissioner or with a guaranty company qualified under the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. § 6–13).

(b) An applicant for a reservation pawnbroker license shall apply in writing on a form provided by the Commissioner.

(c) The bond required by paragraph (a) of this section shall be in favor of the United States and the customers of the licensee and shall specifically indemnify all customers for destroyed, lost, misplaced or misappropriated pawn or other property, and shall provide that any person suffering such loss may make a claim thereunder with the Commissioner. The bond shall be for the same period as the license.

(d) Any surety on a bond under this section may be relieved of liability by complying with the provisions of § 252.57.

(e) No person may accept pawns or pledges of personal property as security for monies or accounts due an Indian after the effective data of a tribal ordinance banning the acceptance of pawn on the reservation.

§ 252.33 Fees for pawnbroker license.

(a) Prior to the issuance of an initial pawnbroker license, each licensee who is not a member of the Navajo Tribe shall pay the following amount:

(1) If the license is issued before July 1, the licensee shall pay two hundred dollars ($200).

(2) If the license is issued before July 1, the licensee shall pay one hundred dollars ($100).

(b) Each licensed pawnbroker who is not a member of the Navajo Tribe shall pay on or before January 10 of each year an annual license fee of two hundred dollars ($200).

(c) The Area Director shall determine the annual license fee payable by licensees who are enrolled members of the Navajo Tribe. The license fee for a member of the Navajo Tribe may not be less than twenty percent (20 percent) nor greater than one hundred percent (100 percent) of the amount the licensee would be required to pay if the licensee were not tribal member.

(d) All fees are payable to the Area Director and shall be deposited to the credit of a subaccount of the account "Indian Monies, Proceeds of Labor" and shall be expended exclusively for the enforcement of the regulations of this Part.

§ 252.34 Pawnbroker records.

Each pawnbroker shall keep a written record of the following information:

(a) Transaction number.
(b) Name of pledgor.
(c) Address of pledgor.
(d) Census number or social security number of pledgor.
(e) Date of transaction.
(f) Replacement value of pawn.
(g) Description of pawned item.
(h) Amount loaned in cash.
(i) Amount loaned as credit.
(j) Finance charge.
(k) Amount financed.
(l) Date and amount of payments made by pledgor.
(m) Date notice of default sent to pledgor.
(n) Date pawned item sold.
(o) Name and address of purchaser.
(p) Amount received upon sale.
(q) Amount of any surplus returned to the pledgor.
(r) Such other information as the Commissioner may require.

§ 252.35 Pawnbroker disclosure requirements.

In all transactions in which pawn is taken the lender shall give the borrower a written ticket or receipt disclosing the following information to the extent applicable:

(a) Clear identification of the property pledged.
(b) The date of the transaction.
(c) Amount of the loan.
(d) Name and social security or census number of the pledgor.
(e) Replacement value of the pawn as agreed upon by the pledgor and pledgee.
(f) Date on which loan is due.
(g) The amount, expressed as a dollar amount, of any finance charges.
(h) The finance charges expressed as an annual percentage rate and computed in accordance with the provisions of 12 CFR 226.5(b).
(i) The amount, or method of computing the amount, of any charges to be assessed after the date the loan is due.
(j) A statement of the conditions of default and the pledgor's rights upon default, as defined by this Part.
(k) Identification of the method of computing any unearned portion of the finance charges in the event of prepayment of the obligation.

§ 252.36 Maximum finance charges on pawn transactions.

No pawnbroker may impose an annual finance charge greater than twenty-four percent (24 percent) of the unpaid balance for the period of the loan nor assess late charges or delinquency charges on any loan.

§ 252.37 Prepayment.

(a) Subject to the provisions of paragraph (b) of this section, the pledgor may prepay in full or in any part the unpaid balance of a loan at any time without penalty.

(b) When a loan is prepaid the lender may collect the earned portion of the finance charge or may charge an administrative fee not to exceed ten percent (10 percent) of the unearned finance charge or two dollars ($2) whichever is greater.

§ 252.38 Pawn loans, period, notice and sale.

(a) The proceeds of all loans secured by pawn and for which a finance charge is imposed shall be paid only in cash or with a fully negotiable check.

(b) The period of all such loans shall be no less than twelve (12) months, subject to the provisions of paragraph (c).

(c) Thirty (30) days prior to the end of the loan period the pledgee may make a declaration of intention to proceed with sale of the pawned item by sending notice of intent to the pledgor.

(d) The notice required in paragraph (c) of this section shall be sent to the pledgor and proof of delivery obtained and shall contain a description of the item pawned, a statement of the principal and finance charge owed, a statement of the intention to sell, the date of the sale, and the procedure for redemption.

(e) Nothing in this section requires the business owner to proceed with notice and sale if the business owner desires to hold the pawn for a period longer than the loan period stated in the original agreement.

(f) Unless notice is given under paragraph (c) of this section, or the loan is refinanced under the provisions of § 252.41, no finance charge may be imposed for the time the loan remains unpaid after the end of the loan period stated on the pawn ticket.

§ 252.39 Sale and redemption of pawn.

(a) If the retention period has expired and notice sent as required under § 252.38 of this Part has been sent and received, the pledgee may proceed with the sale of the pawn.

(b) The pawn shall be sold no sooner than thirty (30) days but no later than twelve (12) months after notice of intent to sell has been given. The sale shall be a public sale, with notice of the time, place, and manner to be given in a tribal newspaper of general circulation not less than fourteen (14) days prior to the sale, or in the absence of such a newspaper, in a commercially reasonable manner. The sale itself shall also be conducted in a commercially reasonable manner.

(c) A pledgor may redeem pawn which has been put up for sale at any time before the day it is to be sold by tendering to the plegee the face amount of the loan, plus the finance charge assessed on the original loan. The pledgee may also collect an additional charge covering the period between the date due and the date of redemption, provided that the rate of charge does not exceed the rate of interest on the original loan.

(d) The pledgee may buy at the pledgee's own sale if the collateral is of a type customarily sold in a recognized market or which is the subject of widely distributed standard price quotations.

(e) Pawn held for more than twelve (12) months after notice of intent to sell has been given may not be sold, but the pledgor may redeem the pawn at any time by tendering to the pledgee the face amount of the loan, plus the finance charge that accrued before the end of the sale period provided in paragraph (b) of this section.

§ 252.40 Proceeds of sale.

(a) The following items shall be deducted from the proceeds of the sale of pawned items in the following order of priority:

(1) The expense of advertising and conducting the sale, not to exceed ten percent (10%) of the amount loaned.

(2) The principal amount of the loan, plus any accrued finance charges.

(3) The finance charge calculated at the annual percentage rate of the original loan on the unpaid balance of the loan for the period from the date of default to the date of sale.

(b) Within ten (10) days after the sale of the pledge under this section, the pledgee shall send a notice to the pledgor informing the pledgor of the date of the sale, the proceeds of the sale, the allowable costs of the sale, any additional finance charges, and the amount of any surplus realized. The pledgee shall obtain proof that the notice was delivered.

(c) Any proceeds of the sale remaining after the deductions authorized in paragraph (a) of this section are deemed to be "surplus" and shall be paid over to the pledgor or the pledgor's estate in U.S. currency.

(d) The sale of pledged goods and the application of the proceeds in accordance with this section extinguishes all rights of action of the pledgee for any unpaid principal or finance charge on the original loan.

§ 252.41 Refinancing transaction.

(a) Any pawn agreement may be refinanced, either with or without an increase in the principal amount of the loan, prior to or following the date of expiration of the original period of the loan upon agreement between the parties.

(b) Such refinancing constitutes a new transaction for purposes of all disclosure and record keeping requirements of this Part and requires the issuance of a new ticket or receipt.

(c) The rate of the additional finance charge imposed as part of the refinancing agreement may not exceed the maximum rate imposed by § 252.36.

(d) The total finance charges in a refinancing agreement may not exceed the sum of the following amounts:

(1) The finance charge that the pledgor would have been required to pay upon prepayment on the date of refinancing under § 252.37 of this Part, except that, for the purpose of computing this amount, no minimum finance charge or administrative fee may be included, and

(2) Such additional finance charge as is permissible on the balance of the loan over the remaining period of the loan as extended.

(e) The default and sale procedures of this Part apply to a refinanced pawn transaction in the same manner as they apply to an original pawn transaction.

§ 252.42 Lost pawn receipts or tickets.

(a) Redemption may not be denied on the sole ground that the pledgor is unable to produce a receipt or pawn ticket, provided the pledgor gives a reasonable description of the pawned item or makes an actual identification of the item. The pledgee may require the pledgor to sign a receipt for the redeemed pawn. No person other than the pledgor may redeem pawn without a ticket.

(b) No additional charges may be imposed for the loss of a pawn receipt or ticket.

§ 252.43 Outstanding obligations owed to pledgee.

If the pledgor tenders payment to be applied toward redemption of a pawned item, it shall be so applied by the pledgee, irrespective of other outstanding obligations owed by the pledgor to the pledgee. The pledgee may not deny the pledgor the right to redeem the pawn.

§ 252.44 Insurance on pawn.

(a) Any licensee under this Part who lends money or extends credit with personal property as security and holds such property as a pledge shall maintain invault all risk insurance coverage running in favor of the pledgor for such property in amounts based upon a report issued monthly to the insurer. Such monthly report shall be an amount not less than the total agreed replacement value of all pawned items then held by the licensee.

(b) A copy of the insurance policy shall be available for inspection at the licensee's place of business and a copy shall be filed with the Commissioner.

Subpart E—Consumer Credit Transactions Other Than Pawn

§ 252.45 Consumer credit applications.

Any reservation business offering credit which is not secured by pawn shall provide an application for credit to any customer requesting credit. Within thirty (30) days of the date of application, the lender shall act upon the application and notify the customer in writing of the decision with the reason therefor. A business owner who reduces the amount of credit available to a customer or terminates a credit account shall provide written notice to the customer stating the reason for the reduction or termination of such credit.

§ 252.46 Credit disclosure statements.

Upon approval of a credit application the lender shall give the applicant the following information where applicable in a written disclosure statement:

(a) The maximum credit limit of the account.

(b) The conditions under which a finance charge may be imposed.

(c) The period in which payment may be made without incurring a finance charge.

(d) The method used in determining the balance on which the finance charge is calculated.

(e) The method used to calculate the finance charge.

(f) The periodic rates used and the range of balances to which each rate applies.

(g) The conditions under which additional charges may be made and the method for calculating those charges.

(h) A description of any lien that may be acquired on a customer's property.

(i) The minimum payment that must be made on each billing.

§ 252.47 Monthly billing statement.

On all credit accounts on which a finance charge may be imposed and for all other credit accounts when requested by the customer, a licensee shall issue a monthly billing statement to the customer stating the following information where applicable:

(a) The unpaid balance at the start of the billing period.

(b) The amount and date of each extension of credit and identification of each item costing more than ten dollars ($10).

(c) Payments made by a customer and other credits, including returns, rebates, and adjustments.

(d) The finance charge shown in dollars and cents.

(e) The rates used in calculating the finance charge plus the range of balances to which the finance charge was calculated.

(f) The closing date of the billing cycle.

(g) The unpaid balance at that time.

§ 252.48 Translation of disclosure statements.

Disclosure required by §§ 252.46 and 252.47 shall be made in writing regardless of the customer's ability to speak, read, or write the English language. Disclosure to non-English speaking persons shall be translated orally into the appropriate language.

§ 252.49 Usury prohibited.

No reservation business may take or receive money, goods, or other things of value for a loan or forbearance on a debt that exceeds in value the principal plus twenty-four percent (24 percent) per annum finance charge. Any reservation business contracting for, reserving, or receiving directly or indirectly, any greater amount shall forfeit the finance charge.

Subpart F—Enforcement Powers, Procedures and Remedies

§ 252.50 Penalty and forfeiture of merchandise.

Any person other than an enrolled member of the tribe who either resides as a reservation business owner within the exterior boundaries of the Navajo, Hopi, or Zuni Reservations or introduces or attempts to introduce goods or to trade therein without a license shall forfeit all merchandise offered for sale to the Indians or found in the person's possession and is liable to a penalty of five hundred dollars ($500). This section may be enforced by commencing an action in the appropriate United States District Court under the provisions of 28 U.S.C. 1345.

§ 252.51 Authority to close unlicensed reservation businesses.

The Commissioner shall close any reservation business subject to the provisions of this Part that does not hold a valid license or temporary permit.

§ 252.52 Bond forfeiture and revocation of license and lease.

The reservation business owner is subject to revocation of license and lease and forfeiture of bond in whole or in part in the event of any violation of the regulations of this Part after a show cause proceedings according to the provisions of § 252.56.

§ 252.53 Cease and desist orders.

(a) If the Commissioner believes that violation of the regulations in this Part is occurring, the Commissioner may order the person believed to be in violation to show cause according to the provisions of § 252.56 why a cease and desist order should not be issued.

(b) If the person accused of the violations fails to show cause at the hearing why such an order should not issue, the Commissioner shall issue the order.

(c) A person subject to a cease and desist order issued under this section who violates the order is liable to revocation of license after a show cause proceeding according to the provisions of § 252.56 of this Part.

§ 252.54 Periodic review of performance.

(a) The Commissioner shall review licenses at ten (10) year intervals to determine whether or not the business is operating in accordance with these regulations and all other applicable laws and regulations and whether the business is adequately serving the economic needs of the community.

(b) If, as a result of the review provided in paragraph (a) of this section, the Commissioner finds that the licensee has repeatedly violated these regulations, the Commissioner may order the licensee to show cause according to the provisions of § 252.56 why the licensee's license should not be revoked.

(c) If the licensee fails to show cause why the license should not be revoked, the Commissioner shall revoke the license.

§ 252.55 Price monitoring and control.

(a) A reservation business may not charge its customers unfair or unreasonable prices. To insure compliance with this section, the Commissioner shall perform audits as provided in § 252.58. In performing those audits the Commissioner may inspect all original books, records, and other evidences of the cost of doing business. In addition, at least once a year the Commissioner shall cause to be made a survey of the prices of flour, sugar, fresh eggs, lard, coffee, ground beef, bread, cheese, fresh milk, canned fruit, and such other goods as the Commissioner deems appropriate in all stores licensed under these regulations and in a representative number of similar stores located in communities immediately adjoining the reservations. The results of the survey shall be posted publicly, sent to each licensed business, and made available to the appropriate agency of the tribal government. Copies of the survey shall be available at the office of the Area Director.

(b) If the Commissioner finds that a reservation business is charging higher prices, especially for basic consumer commodities, than those charged on the average based on the studies conducted under the provisions of paragraph (a) of this section, the Commissioner may order the business owner to show cause under the provisions of § 252.56 why an order should not be issued to reduce prices. If the Commissioner determines that the prices charged by the business are not economically justified, based on all of the information, then the Commissioner may order the business to reduce its price on all items determined to be priced too high to a reasonable price as determined by the Commissioner, but in no event to a lower price than the cost of the item increased by a reasonable mark-up.

§ 252.56 Show cause procedures.

(a) When the Commissioner believes there has been a violation of this Part the Commissioner shall serve the licensee with written notice setting forth in detail the nature of the alleged violation and stating what remedial action the Commissioner proposes to take.

(b) The licensee shall have ten (10) days from the date of receipt of notice in which to show cause why the contemplated remedial action should not be ordered.

(c) If within the ten (10) day period the Commissioner determines that the violation may be corrected and the licensee agrees to take the necessary corrective measure, the licensee shall be given the opportunity to take the necessary corrective measures.

(d) If the licensee fails within a reasonable time to correct the violation or to show cause why the contemplated remedial action should not be ordered, the Commissioner shall order the appropriate remedial action.

(e) If the Commissioner orders remedial action the licensee may appeal under the provisions of Part 2 of this Title not later than thirty (30) days after the date on which the remedial action is ordered.

§ 252.57 Procedures to cancel liability on bond.

(a) Any surety who wishes to be relieved from liability arising on a bond issued under this Part shall file with the Commissioner a statement in writing setting forth the desire of the surety to be relieved of liability and the reasons therefor.

(b) The surety shall mail a copy of the statement by certified mail, return receipt requested, to the last known address of the licensee named in the bond.

(c) Twenty (20) days after the statement is mailed, if the Commissioner is satisfied that no further liability will arise that is not covered by other bond, the Commissioner shall issue an order releasing the surety from all liability thereafter arising on the bond.

(d) If the licensee does not have other bond sufficient to meet the requirements of this Part or has not executed and filed a new or substitute bond within twenty (20) days after the service of the statement, the Commissioner shall declare the licensee and lease void.

(e) No surety is released from liability under the bond for claims which arose prior to the issuance of the Commissioner's order releasing the surety.

§ 252.58 Records, reports and obligations or reservation business owners.

(a) The Commissioner may, in consultation with interested persons and agencies, promulgate a model bookkeeping

system for use in reservation businesses. Until such model bookkeeping system is promulgated, each business owner shall keep records in accordance with generally accepted accounting principles.

(b) Each reservation business owner shall file with the Area Director an annual report on or before the date by which the business is required to file its federal income tax return. Reports shall be subject to a yearly audit. The reports shall contain the names and respective interests of all persons participating in the business.

(c) The business owner or an employee shall record all sales and purchase, whether for cash or credit. If the business is on the Navajo Reservation the owner or an employee shall supply the customer with a copy of the sale transaction containing a description of the article purchased or sold, the date of the transaction, and the price. A cash register receipt complies with this paragraph for grocery or dry goods purchases for cash.

(d) The licensee shall keep a duplicate copy of any writing required by paragraph (c) of this section for a period of not less than three (3) years and shall provide the customer or the customer's representative one copy of those writings upon request.

§ 252.59 Customer complaint procedures.

(a) Any customer of a licensee may file a complaint with the Commissioner alleging that the licensee has committed a violation of this Part.

(b) Upon receipt of a customer complaint the Commissioner shall initiate show cause proceedings under the provisions of § 252.56 of this Part.

(c) If the Commissioner fails to order remedial action within forty (40) days from the date the complaint is filed, the complainant may appeal under the provisions of Part 2 of this Title not later than seventy (70) days after the date the complaint is filed.

(d) If the Commissioner orders remedial action, the complainant may appeal under the provisions of Part 2 of this Title not later than thirty (30) days after the date on which the remedial action is ordered.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-22997 Filed 8-28-75;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Miscellaneous Amendments

Part 2, Subtitle A, Title 7, Code of Federal Regulations, is amended to add delegations of authority to the Assistant Secretary for Marketing and Consumer Services and the Administrator, Agricultural Marketing Service, of certain functions under the Egg Research and Consumer Information Act of 1974, and to exclude the foreign market promotion programs under the Cotton Research and Promotion Act of 1966, Section 610 of the Agricultural Act of 1970, the Wheat Research and Promotion Act of 1970, the Potato Research and Promotion Act of 1971, the Egg Research and Consumer Information Act of 1974, and the National Wool Act of 1954, which have been delegated to the Assistant Secretary for International Affairs and Commodity Programs and to the Administrator, Foreign Agricultural Service. The amendments are as follows:

Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries, and Director of Agricultural Economics

1. Section 2.17(a)(3) is amended to read as follows:

§ 2.17 Delegations of Authority to the Assistant Secretary for Marketing and Consumer Services.

(a) * * *

(3) * * *

(ix) Cotton Research and Promotion Act (7 U.S.C. 2101–2118) and Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119), except as delegated to the Assistant Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

(xxiv) Wheat Research and Promotion Act (7 U.S.C. 1292 note), except as delegated to the Assistant Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

(xxvii) Potato Research and Promotion Act (7 U.S.C. 2611–2627), except as delegated to the Assistant Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

(xxix) Section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787), except as delegated to the Assistant Secretary for International Affairs and Commodity Programs in § 2.21(a)(30) and § 2.21(d)(10).

(xxx) Egg Research and Consumer Information Act (7 U.S.C. 2701–2718), except as delegated to the Assistant Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Consumer Services

2. Section 2.50(a)(3) is amended to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

(3) * * *

(ix) Cotton Research and Promotion Act (7 U.S.C. 2101–2118) and Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119), except as specified in § 2.68(a)(10).

* * * * *

(xxiv) Wheat Research and Promotion Act (7 U.S.C. 1292 note), except as specified in § 2.68(a)(10).

* * * * *

(xxvii) Potato Research and Promotion Act (7 U.S.C. 2611–2627), except as specified in § 2.68(a)(10).

* * * * *

(xxix) Section 708 of the National Wool Act of 1954, as amended (7 U.S.C. 1787), except as specified in § 2.65(a)(30) and § 2.68(a)(10).

* * * * *

(xxx) Egg Research and Consumer Information Act (7 U.S.C. 2701–2718), except as specified in § 2.68(a)(10).

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953 (5 U.S.C. Appendix))

Effective date: August 29, 1975.

For Subpart C,

EARL L. BUTZ,
Secretary of Agriculture.

AUGUST 26, 1975.

For Subpart F,

JOHN DAMGARD,
Acting Assistant Secretary for Marketing and Consumer Services.

AUGUST 21, 1975.

[FR Doc.75-23054 Filed 8-28-75;8:45 am]

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

[Lemon Reg. 8]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Aug. 31-Sept. 6, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.308 Lemon Regulation 8.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon

other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons has eased so far this week. Average f.o.b. price was $7.48 per carton the week ended August 23, 1975, compared to $7.08 per carton the previous week. Track and rolling supplies at 112 cars were down 16 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views of this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 26, 1975.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 31, 1975, through September 6, 1975, is hereby fixed at 235,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: August 28, 1975.

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

[FR Doc.23237 Filed 8-28-75;11:16 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order Nos. 32, 63; Docket Nos. AO-313-A28, AO-10-A50]

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

PART 1062—MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Order Amending Orders; Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending each of the aforesaid orders effective not later than September 1, 1975. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Administrator was issued on July 2, 1975, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued August 25, 1975. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending each of the aforesaid orders effective September 1, 1975, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER.

(Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order amending each of the specified orders is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southern Illinois and St. Louis-Ozarks marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

1. In § 1032.52, paragraph (b) is revised as follows:

§ 1032.52 Plant location adjustments for handlers.

* * * * *

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant only to the extent that 110 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1032.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to receipts of fluid milk products from pool plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

* * * * *

In § 1062.52, paragraph (f) is revised as follows:

§ 1062.52 Plant location adjustments handlers.

* * * * *

(f) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant only to the extent that 110 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1062.9 (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to receipts of fluid milk products from pool plants with plus location adjustment, then to receipts from plants with no location adjustment, and then in sequence to receipts from plants at which the smallest minus adjustments apply.

* * * * *

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

Effective date: September 1, 1975.

Signed at Washington, D.C., on August 26, 1975.

RICHARD L. FELTNER,
Acting Secretary.

[FR Doc.75-23050 Filed 8-28-75;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Tennessee

● The purpose of this document is to notify the public that the Secretary of Agriculture hereby designates the State of Tennessee under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. ●

Statement of considerations: A representative of the Governor of the State of Tennessee has advised this Department that the State of Tennessee is no longer in a position to continue administering the State meat inspection program after September 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the said representative of the Governor of the State of Tennessee has advised this Department that the State of Tennessee is no longer in a position to continue administering the State poultry inspection program after September 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Tennessee had developed and activated requirements at least equal to the requirements under title I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Tennessee programs, it is hereby determined that Tennessee is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designate said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On October 1, 1975, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Tennessee which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on October 1, 1975, the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of Tennessee which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after September 30, 1975, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. G. Harner, Director, Southeastern Region, Meat and Poultry Inspection Program, 1718 Peachtree Street, NW., Room 216, Atlanta, Ga. 30309 (Telephone: 404/526-3926).

Accordingly, the table in § 331.2 of the federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Tennessee" is added immediately below "Puerto Rico."

2. In the "Effective date of application of Federal provisions" column, "October 1, 1975" is added on the line with "Tennessee."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 FR 28464, 28477)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "Tennessee" is added immediately below "South Dakota."

2. In the "Effective date of application of Federal provisions" column, "October 1, 1975" is added on the line with "Tennessee."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 FR 28464, 28477)

These amendments of the federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection

Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

These amendments and the notice given hereby shall become effective August 29, 1975.

Done at Washington, D.C., on August 26, 1975.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.75-23052 Filed 8-28-75;8:45 am]

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Designation of the State of Connecticut

● The purpose of this document is to notify the public that the Secretary of Agriculture hereby designates the State of Connecticut under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. ●

Statement of considerations: A representative of the Governor of the State of Connecticut has advised this Department that the State of Connecticut is no longer in a position to continue administering the State meat inspection program after September 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the Federal Meat Inspection Act, and persons, firms, and corporations engaged therein.

Also, the said representative of the Governor of the State of Connecticut has advised this Department that the State of Connecticut is no longer in a position to continue administering the State poultry inspection program after September 30, 1975, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Connecticut had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. However, such titles and sections contemplate continuous, ongoing programs, and in view of the termination date now applicable to the Connecticut programs, it is hereby determined that Connecticut is not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act.

On October 1, 1975, the provisions of titles I and IV of the Federal Meat Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Federal Meat Inspection Act, and any establishment in the State of Connecticut which conducts any slaughtering or preparation of carcasses or parts or products thereof of cattle, sheep, swine, goats, horses, mules, or other equines, must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the Federal Meat Inspection Act.

Also, on October 1, 1975, the provisions of sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Poultry Products Inspection Act, and any establishment in the State of Connecticut which conducts any slaughtering or processing of poultry or poultry products must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 5(c)(2) of the Poultry Products Inspection Act.

Therefore, the operator of each such establishment who desires to continue any such operations after September 30, 1975, should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the Acts and application for inspection and survey of the establishment:

Dr. M. J. Hatter, Director, Northeastern Region, Meat and Poultry Inspection Program, Seventh Floor, 1421 Cherry Street, Philadelphia, PA 19102 (Telephone: 215/597-4219).

Accordingly, the table in § 331.2 of the federal meat inspection regulations (9 CFR 331.2) is amended as follows:

1. In the "State" column, "Connecticut" is added immediately below "Colorado."

2. In the "Effective date of application of Federal provisions" column, "October 1, 1975" is added on the line with "Connecticut."

(Secs. 21 and 301(c), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c); 37 FR 28464, 28477)

Further, the table in § 381.221 of the poultry products inspection regulations (9 CFR 381.221) is amended as follows:

1. In the "State" column, "Connecticut" is added immediately below "Colorado."

2. In the "Effective date of application of Federal provisions" column, "October 1, 1975" is added on the line with "Connecticut."

(Secs. 5(c) and 14, 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 FR 28464, 28477)

These amendments of the federal meat inspection regulations and the poultry products inspection regulations are necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary.

These amendments and the notice given hereby shall become effective August 29, 1975.

Done at Washington, D.C., on August 26, 1975.

HARRY C. MUSSMAN,
Acting Administrator Animal and Plant Health Inspection Service.

[FR Doc.75-23053 Filed 8-28-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Crude Oil Buy/Sell and Old Oil Allocation Programs

On July 28, 1975, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (40 FR 32136; July 31, 1975) to amend the allocation and price rules for the crude oil buy/sell program set forth in 10 CFR 211.65 and 10 CFR 212.94, respectively, and to amend the definition of crude oil set forth in 10 CFR 211.51. Written comments on the proposal were invited

through August 11, 1975 and a public hearing was scheduled for August 15, 1975.

Only three requests to make oral presentations at the public hearing were received by FEA before 4:30 p.m., e.d.t., August 8, 1975, and each of these requests was subsequently withdrawn. Therefore, by notice issued August 11, 1975 (40 FR 34162; August 14, 1975) the hearing was cancelled and the period for submission of written comments was extended to August 15, 1975.

Seven timely comments and six late comments were received and considered by FEA in this rulemaking. The comments generally supported issuance of the amendments set forth in the proposal. FEA has therefore determined to adopt the amendments with respect to the allocation rules for the buy/sell program, with the minor modifications set forth below. However, FEA is delaying final consideration of the amendments to the buy/sell program pricing rules providing for adjustments relating to supplemental import fees in the light of the current uncertainty with respect to Presidential authority to impose these fees. In addition, FEA has determined to restrict the scope of the proposed amendment with respect to the inclusion of synthetic crude oil in the definition of crude oil.

As a technical change to the proposed amendments to the buy/sell program, the provision governing reporting of buy/sell transactions has been modified to require that the transaction be reported within fifteen days of the "completion of arrangements therefor." The purpose of this change is to make it clear that transaction reports are to be filed within fifteen days of the time when the terms of a transaction under the program are finalized as between the parties and not within 15 days of the consummation of the actual transaction, which might occur at a significantly later date after all deliveries were completed. Also, no seller is required to offer for sale any portion of its secondary sales obligation until all sellers have sold at least 80% (instead of substantially all, as in the proposal) of their respective primary obligations.

A further modification relates to the proposal to amend the definition of crude oil in § 211.51 to include synthetic crude oil produced from tar sands, gilsonite and oil shale. As pointed out in the notice of proposed rulemaking, the primary purpose of this amendment was to permit volumes of synthetic crude oil produced from tar sands to be included within the coverage of FEA's crude oil programs, and in particular, the old oil allocation program. Since the only commercially meaningful amounts of synthetic crude oil currently processed by domestic refiners are imported from Canada, FEA has determined not to adopt the amendment in the form proposed, but to permit domestic refiners to include in their crude oil runs to stills for purposes of the old oil allocation program volumes of synthetic crude oil produced from tar sands and imported into the United States from Canada. Under this amendment to § 211.67(d)(3), which is being made effective August 1, 1975, the volume of a refiner's crude oil runs to stills would be increased by any volume of Canadian synthetic crude oil produced from tar sands and processed by that refiner. Due to the coverage by the old oil allocation program of synthetic crude oil imports that will have already passed through U.S. Customs, the amendment makes it clear that inclusion of the synthetic crude produced from tar sands in crude run volumes is only permissible where payment has been made of any applicable import license fees with respect to crude oil imported for refining under the program.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below. The effective date of the amendments to § 211.65 shall be September 1, 1975, and the effective date of the amendment to § 211.67(d) is August 1, 1975.

Issued in Washington, D.C., August 26, 1975.

DAVID G. WILSON,
Acting General Counsel.

1. In § 211.65 paragraphs (d), (e) and (f) are revised to read as follows:

§ 211.65 Method of Allocation.

* * * * *

(d) *Refiner-sellers' sales obligations*—(1) *Sales obligation for each refiner-seller.* (i) Effective for the allocation quarter commencing September 1, 1975 and subsequent allocation quarters, the FEA shall compute a primary and secondary sales obligation for each refiner-seller as provided in paragraph (d) (2) and (3) of this section. The total of all primary and secondary sales obligations of all refiner-sellers shall be equal to the total allocation obligation for the particular allocation quarter as computed in paragraph (c) of this section.

(ii) Each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation quarter a quantity of crude oil equal to that refiner-seller's primary sales obligation plus any portion of that refiner-seller's secondary sales obligation as to which the FEA directs a sale pursuant to paragraph (h) of this section. No refiner-seller shall be required to offer for sale to refiner-buyers, whether by directed sale or otherwise, any portion of its secondary sales obligation until each other refiner-seller (except refiner-sellers with minimal primary sales obligations) has sold at last 80% of its primary sales obligation.

(2) *Calculation of primary sales obligations.* (i) The primary sales obligation for each refiner-seller shall consist of (A) that refiner-seller's unsold sales obligation from the immediately preceding allocation quarter as calculated under paragraph (d) (2) (ii) of this section, plus (B) that refiner-seller's fixed percentage share as calculated under paragraph (d) (2) (iii) of this section of any additional volume of crude oil which, when added to the total of the unsold sales obligations of all refiner-sellers from the immediately preceding allocation quarter renders the aggregate primary sales obligation for the current allocation quarter equal to the portion of the total allocation obligation for that allocation quarter that the FEA estimates will be purchased by refiner-buyers. The FEA shall make such estimate based on the portion of the total allocation obligation actually purchased by refiner-buyers in the immediately preceding allocation quarter and such other factors as it deems appropriate.

(ii) For the allocation quarter commencing June 1, 1975, the unsold sales obligation for each refiner-seller is equal to the total quantity of crude oil required to be offered for sale in that allocation quarter by that refiner-seller less the total quantity of crude oil actually sold to refiner-buyers by that refiner-seller in that allocation quarter. For the allocation quarter commencing September 1, 1975 and for each subsequent allocation quarter, the unsold sales obligation for each refiner-seller shall be equal to its primary sales obligation as defined in subparagraph (2) (i) above plus any portion of that refiner-seller's secondary sales obligation as to which the FEA has directed a sale pursuant to paragraph (h) of this section less the total quantity of crude oil actually sold to refiner-buyers by that refiner-seller in that allocation quarter.

(iii) A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. New refining capacity or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share.

(3) *Calculation of secondary sales obligation.* The total of all secondary sales obligations of all refiner-sellers for a particular allocation quarter shall be equal to the total allocation obligation for that allocation quarter as computed in paragraph (c) of this section less the total of all primary sales obligations of all refiner-sellers for that allocation quarter as computed in subparagraph (2) above. The secondary sales obligation of each refiner-seller for that allocation quarter shall be equal to its fixed percentage share as defined in paragraph (d) (2) (iii) of the total of all secondary sales obligations of all refiner-sellers.

(e) *Buy-sell list.* Fifteen days prior to each allocation quarter, the FEA shall publish a notice for that allocation quarter listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller will be obligated to offer for sale to refiner-

buyers, specifying the portions thereof that constitute the primary and secondary sales obligations for each refiner-seller. The commencement date for starting deliveries under sales agreements in an allocation quarter shall be 15 days after publication of the related notice. Any agreements for the sale or purchase of crude oil after such commencement date shall be retroactive to the starting delivery date. All deliveries must be completed or arranged for before the end of the allocation quarter.

(f) *Sale/purchase transaction report.* Within fifteen days of the completion of arrangements therefor, each transaction made to comply with this program shall be reported by the buyer and seller to the FEA. This report shall identify the selling and purchasing refiners and indicate the volumes of crude oil sold or purchased.

* * * * *

2. In § 211.67 paragraph (d) (3) is revised to read as follows:

§ 211.67 Allocation of old oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(3) The volume of a refiner's crude oil runs to stills in a particular month for purposes of calculating its old oil supply ratio and the adjusted national old oil supply ratio shall include the total number of barrels of plant condensate and the total number of barrels of synthetic crude oil made from tar sands which are imported from Canada and are utilized in that month as inputs to distillation units by a refiner, measured in accordance with the Bureau of Mines Form 6–1300–M. Neither plant condensate nor synthetic crude oil made from tar sands which are imported from Canada shall be eligible for inclusion in the volume of a refiner's crude oil runs to stills under this subparagraph (3) unless payment has been made in accordance with Presidential Proclamation No. 3279 of any import license fees applicable to crude oil as defined for purposes of this section, which is imported for refining.

[FR Doc.75-23013 Filed 8-26-75;1:21 pm]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Corrective Amendments

The Federal Energy Administration hereby amends, effective December 1, 1974, Title 10, Code of Federal Regulations, Part 212, Subpart E, § 212.87, *Increased non-product costs*, to correct certain inadvertent omissions and errors.

The first correction is in the general definition of increased non-product costs. On December 1, 1974, (39 FR 42368, December 5, 1974) the FEA regulations were amended to eliminate the former prenotification procedures required of refiners before increased non-product costs could be passed through in prices charged for covered products, and to add a new § 212.87, which lists and defines the increased non-product costs which refiners may pass through as price increases above base price. Prior to the amendment, pursuant to § 212.82, refiners could, after prenotification, increase a price above base price to reflect increased "allowable cost." "Allowable cost" was generally defined as "non-product cost attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned * * *" Accordingly, when § 212.87 was added to the FEA regulations listing the specific non-product costs which a refiner could recoup, it was intended simply to define more specifically those increased non-product costs which refiners could now pass through without prenotification (*i.e.*, without prior review and approval by the FEA). These more specific definitions were intended to be entirely within the former, more general, definition of "allowable cost," and therefore to include only those non-product costs "attributable to refining operations." Thus, to prevent any confusion § 212.87(b) is amended to state expressly that the defined categories of increased non-product costs eligible for pass through (other than marketing cost increases which are, by definition, cost increases attributable to marketing activities), must be costs "attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned."

The second correction is to § 212.87(b). Pursuant to § 212.87(c) (4) a firm may increase a price above base price to reflect marketing cost increases. Section 212.87(b) (1) requires a firm to multiply all increased non product costs by a volume factor, $\frac{V_t^u}{V^u}$ the terms of which are defined to insure that only non-product costs increases attributable to covered products will be reflected in covered product price increases. However, § 212.87(c) (4) states:

> Marketing cost increase is the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May 1973 * * *

Thus, because § 212.87(c) (4) defines marketing cost increases as the difference in the marketing costs of only *covered products* in the month of measurement and May 1973, only the increased marketing cost of covered products is calculated. Consequently, there is no need to subsequently multiply this amount by the volume factor of § 212.87(b) (1), since this results in the increased marketing costs attributable to non-covered products being deducted twice. Accordingly, by rewording § 212.87(b) so that "marketing cost increases" are not multiplied by the volume factor, $\frac{V_t^u}{V^u}$, the marketing cost increases attributable to non-covered products are deducted only once.

The third correction is to the defined category of labor cost increases. Pursuant to § 212.87(c) (2) a firm may increase a price above base price to reflect labor cost increases. The definition set forth in § 212.87(c) (2), however, inadvertently allows a refiner to include its "base labor cost" as part of its labor cost increases. For example, if a firm had a base labor cost of $100,000 for May, 1973, with an average labor rate during that month of $5.25 per hour and an average labor rate during the month of measurement of $6.75 per hour; the intent of this provision was then to permit the refiner to multiply the base labor cost by the ratio of the average labor rate during the month of measurement minus the average labor rate during May, 1973 to the average labor rate during May, 1973; subject to the productivity offset. Thus, in this example, a firm could increase its prices above base price by $26,685.00 to reflect increased labor costs.

$$\$100{,}000\left(\frac{6.75-5.25}{5.25}\right)0.934=\$26{,}685$$

Section 212.87(c) (2) is therefore being amended to incorporate the inadvertent omission of the requirement that the average labor rate in the month of May, 1973 be deducted from the average labor rate in the month of measurement in the numerator of the ratio that is applied to the base labor rate.

The fourth correction relates to the defined category of increased additive costs. Pursuant to § 212.87(c) (3) a firm may increase a price above base price to reflect additive cost increases. The definition set forth in § 212.87(c) (3), however, inadvertently omitted a provision to provide for the multiplication of the dollar per barrel increase in additive costs by a refiner's throughput for the month of measurement. For example, if a firm's weighted average cost for additives was $5 per pound during May, 1973; and $6 per pound during the month of measurement; the intent of this provision was then to permit the firm to multiply the difference in the cost of additives not only by the amount of additives used per barrel in the month of measurement (for example, 15 pounds of additive per barrel), but also by the firm's throughput for the month of measurement (for example, 50,000 barrels). Thus, in this example, the firm could increase its prices above base price by $750,000 to reflect increased additive costs. (15 lbs/bbl × 50,000 barrels × ($6−$5) = $750,000). Accordingly, § 212.87(c) (3) is amended to insert "multiplied by the throughput for the month of measurement" in the definition of "additive cost increase."

Fifth, § 212.87(c) (4) is revised to change incorrect references in subparagraphs (ii), (iii), and (iv), from paragraph (b) (4) (i) to paragraph (c) (4) (i).

FEA has determined that inasmuch as extensive rulemaking proceedings have already been undertaken with respect to the December 1, 1974 amendments, and since the changes being made today are simply to correct inadvertent omissions or errors, further rulemaking proceedings are unnecessary to effect the corrective changes adopted today.

All the amendments contained herein have been reviewed in accordance with Executive Order 11821, issued November 27, 1974 and have been determined not to be of a nature that requires an evaluation of their inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II, Title 10, Code of Federal Regulations, is amended as set forth below, effective December 1, 1974.

Issued in Washington, D.C., August 27, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.87 is amended by revising paragraphs (b)(1), (c)(2), (c)(3), (c)(4)(ii), (c)(4)(iii), and (c)(4)(iv) to read as follows:

§ 212.87 Increased non-product costs.

* * * * *

(b) *General definition.*

(1) Increased non-product costs are, for each month of measurement:

(i) The marketing cost increase plus

(ii) The following increased non-product costs, to the extent that they are attributable to refining operations under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned: the refinery fuel cost increase, the labor cost increase, the additive cost increase and the other allowed non-product cost increases (as defined in this section), with the sum of the increased non-product costs set forth in this paragraph (b)(1)(ii) multiplied by

$$\frac{V_i^u}{V^u},$$

where:

V^u = The total volume of all covered products (other than propane, which may be included only to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil other than covered products estimated to be sold in the period "u."

V_i^u = The total volume of a specific covered product or products of the type "i" (other than propane, which may be included only to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u".

* * * * *

(c) *Defined categories of non-product costs.*

* * * * *

(2) *Labor cost increase.* Labor cost increase is the base labor cost multiplied by an amount which represents the ratio of the average labor rate during the month of measurement minus the average labor rate during the month of May, 1973 to the average labor rate during the month of May, 1973; multiplied by the productivity offset factor of 0.934 where:

"Average labor rate" means the weighted average direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation (in dollars per man-hours) for those personnel employed at the refinery or those personnel directly involved with refinery operations, including that of the cost of any contract which is attributable to non-employees that perform such services pursuant to a contract between a refiner and an outside entity. To substantiate the average labor rate, a supporting document must be prepared which summarizes the personnel considered in the calculation and the date of any rate increases. Calculation of the average labor rate must be based on the historical accounting practices employed by the refiner; and

"Base labor cost" means the total cost of refinery labor incurred during May 1973 calculated in accordance with the procedures and personnel used in determining the average labor rate.

(3) *Additive cost increase.* Additive cost increase is the month of measurement additive usage (in supply units) multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average additive cost rate in the month of measurement and the average additive cost rate in May 1973, where:

"Additive" means those materials and compounds including catalysts and process chemicals, which are not covered products, and which are added to or blended with crude petroleum or covered products during the refining process;

"Month of measurement additive usage" means the amount of additive used in the refining process per barrel of throughput during the month of measurement, measured in units per barrel of throughput (*e.g.*, lbs/bbl); and

"Average additive cost rate" means the weighted average unit cost of the additives used in the refining process (*e.g.*, dollars/lb). Such unit cost calculation must employ the same units as employed in the calculation of the "month of measurement additive usage"; and

"Throughput" means the volume of crude petroleum unfinished oils, and natural gas liquids refined during the time period specified.

* * * * *

(4) *Marketing cost increase.*

* * * * *

(ii) allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this part (including the foregoing paragraph (c)(4)(i) of this section) by an amount not in excess of two cents per gallon with respect to retail sales; and

(iii) allow an increase in the prices of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this part (including the foregoing paragraph (c)(4)(i) of this section) by an amount not in excess of one-quarter cent per gallon with respect to all sales other than retail sales; and

(iv) allow an increase in the prices of middle distillates above the prices otherwise permitted to be charged for middle distillates pursuant to the provisions of this part (including the foregoing paragraph (c)(4)(i) of this section) by an amount not in excess of one cent per gallon with respect to retail sales and not in excess of one-quarter cent per gallon with respect to all other sales; and

* * * * *

[FR Doc.75-23172 Filed 8-27-75;3:53 pm]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Natural Gas Liquids and Natural Gas Liquid Products

Introduction. On September 6, 1974, the Federal Energy Administration issued a notice proposing, among other significant changes in the Mandatory Petroleum Price Regulations, the adoption of new rules to govern the pricing of natural gas liquids and natural gas liquid products (39 FR 32718, September 10, 1974). Comments were invited from interested persons by September 27, 1974, and more than 80 comments were received. A public hearing on the proposal was held September 30 and October 1, 1974, at which approximately 20 interested persons presented statements. On December 19, 1974, a new Subpart K of the Mandatory Petroleum Price Regulations was issued pursuant to this rulemaking (39 FR 44407, December 24, 1974). Subpart K was designed specifically to cover the prices of natural gas liquids and products produced from natural gas liquids, including propane.

Since the promulgation of Subpart K, FEA has received numerous inquiries as to the appropriate interpretation or method of application of the various price rules contained in the subpart. These inquiries have made apparent the need to clarify these regulations to correct certain ambiguity within the language of the rules and to minimize confusion in their application. To these ends, the FEA has concluded that the issuance of corrective amendments to the regulations is necessary and appropriate. Accordingly, the FEA is today issuing several corrective amendments to the Subpart K price regulations, to be effective January 1, 1975, the date on which Subpart K became effective.

In conjunction with the adoption of Subpart K, the FEA amended the Special Propane Rule of § 212.83 of Subpart E to integrate the provisions of that rule with those of Subpart K so that refiners subject to the provisions of both subparts could combine the increased product costs attributable to both their crude refining and gas processing operations in calculating lawful prices for their sales of propane derived from those operations. In so doing, the FEA adopted language which inadvertently omitted certain requirements of the Special Propane Rule insofar as the treatment of the increased costs of purchased product are concerned. Therefore, the FEA is also issuing two corrective amendments

to the Special Propane Rule of § 212.83 of Subpart E, to be effective January 1, 1975, the date on which that rule was amended.

Also, in promulgating Subpart K, the FEA included a price rule applicable to gas plants constructed after January 1, 1975, providing for the use in determining current lawful prices of imputed May 15, 1973 prices which are higher than the adjusted May 15, 1973 prices permitted for gas plants constructed prior to that date. The use of these higher imputed May 15, 1973 prices in computing lawful prices for natural gas liquid products produced in new gas plants was intended to provide an incentive for the construction of new plants in order to maximize the supply of such products. Further comments were solicited as to the adequacy of this incentive and as to the advisability and method of providing a similar incentive to maximize natural gas liquid extraction from existing gas plants, through modernization and expansion of those plants. Twenty-three comments on these issues were received. The FEA has now completed its analysis of the further comments submitted in this proceeding and is today adopting new regulations, effective immediately, to provide a price incentive for the modernization and expansion of existing gas plants.

I. *Corrective amendments.* A. *Calculation of increased product costs.*

1. *Exclusion of adjustments to May 15, 1973 prices from the calculation of product cost increases.* Although § 212.163 of the Subpart K price rules makes clear the fact that changes in the method of determining the amount of any net-back which have been implemented since May 15, 1973, shall not constitute an increased product or non-product cost, the language of this section of the price rule does not make clear the treatment to be afforded any adjusted May 15, 1973 prices permitted by § 212.164 to be included in current lawful prices charged for natural gas liquids, under net-back agreements and otherwise. The current language does not specifically state whether purchasers of these mixed streams may include the adjusted prices they have been charged as increased product costs to be passed through in their first sale prices for natural gas liquid products derived from those natural gas liquids. Since the adjusted prices permitted by § 212.164 were derived by FEA in the first instance by reference to first sale prices for natural gas liquid products, and since an adjusted price for natural gas liquids can occur only if an adjusted price can be used in the first sale price of the related natural gas liquid products, the use of such an adjusted price in sales of natural gas liquids cannot also constitute an increased cost to be added to the first sale price of the natural gas liquid products.

Thus, where the first sale price upon which the net-back amount is determined is permitted to increase above its actual May 15, 1973 level pursuant to § 212.164, net-back revenues paid to the producer, generally based on a percentage of sales revenues, increase as well. Several processors have indicated that such increases in net-back payments should be included in the total of increased product costs incurred by the processor, which may then be allocated to NGL product prices under §§ 212.166 and 212.167, justifying further increases in the lawful first sale prices for those products. The result of this interpretation of § 212.166 would be self-perpetuating price increases, since a portion of the "product cost" increases so calculated would be included in future amounts paid under net-back agreements, resulting in additional "product cost" increases. In other words, the effect of interpreting the provisions of Subpart K to permit this multiplier effect would be continued escalation of prices based on nothing more than price increases previously implemented. Such multiple recovery of the § 212.164 adjustments to May 15, 1973 prices is not permitted, particularly in view of the fact that the net return to the processor on sales of NGL products under these circumstances has not decreased. On the contrary, net-back revenues to both the producer and the processor increase proportionately under such circumstances.

Similarly, some processors have indicated that the entire amount of any price increases incurred since May 15, 1973, with respect to natural gas liquids purchased in fixed price transactions should qualify as increased product costs pursuant to § 212.166, even where a part of that increase is simply an amount that reflects the natural gas liquids portion of the adjusted May 15, 1973 price for the related natural gas liquid products. In other words, under § 212.164 the first sale price for mixed streams may include an adjustment to the May 15, 1973 prices charged for such streams in recognition of the adjustments permitted to be applied in calculating lawful product prices charged by the processor purchasing such a stream. The effect of this provision is simply to permit firms selling mixed NGL streams and firms selling NGL products processed from such streams to share in the adjustments to May 15, 1973 first sale prices provided under Subpart K. If FEA permitted the adjustments to the May 15, 1973 prices for mixed streams to be treated as increased product costs, the result will be the same multiplier effect on prices for both mixed streams and fractionated product as that described in the discussion above, with respect to increased amounts of net-back revenues derived from an adjusted May 15, 1973 price for natural gas liquid products.

Accordingly, § 212.166 is being amended to make clear that the adjustments to May 15, 1973 prices which are included in prices currently charged for natural gas liquids, in first sale transactions and otherwise, are not to be included in the increased product costs which may, in turn, be passed through in prices charged for natural gas liquid products. The effect of this amendment is to clarify the fact that Subpart K provides a one-time only adjustment to the actual May 15, 1973 prices of both the producer and the processor and that continuing price increases based on these adjustments are not permitted.

2. *Increased costs of purchased natural gas liquid products.* Section 212.166 currently provides that increases in the cost of natural gas liquids since May 15, 1973 are included in the "increased product costs" permitted to be passed through in prices charged for natural gas liquid products. In drafting this provision, the FEA inadvertently omitted inclusion of increases in the cost of purchased natural gas liquid products since May 15, 1973 as "increased product costs." Section 212.166 is amended to correct this omission.

Also, in drafting the language in § 212.166 providing for the determination of the increased costs of purchased natural gas liquids, reference was made to purchases "in a first sale," only. In light of the fact that purchases other than "first sale" purchases of natural gas liquids and natural gas liquid products result in increased product costs, the limiting reference in § 212.166 does not further any purpose intended by the FEA in drafting the rule. Accordingly, the inadvertent reference to "first sale" in § 212.166 is being deleted.

3. *Allocation of increased product costs.* Section 212.167 of Subpart K which provides for the allocation of increased product costs among natural gas liquid products, permits the aggregation of increased product costs incurred with respect to several particular volumes of processed natural gas for allocation among the total amount of product derived from those volumes. The language of the specific provision permitting such aggregation indicates that it is permitted only with respect to separate volumes of natural gas processed in a single gas plant. However, the FEA's intention was that aggregation of increased product costs should be permitted with respect to products produced at any number of gas plants under common ownership, at the option of the owner. This intention was correctly reflected in § 212.170 which permits records of increased product costs to be kept in the aggregate where one or more gas plants are under common ownership. Accordingly, § 212.167 is being amended in paragraph (b) to comport with the FEA's original intention to permit the aggregation of increased product costs attributable to the processing of natural gas and natural gas liquids in one or more gas plants under common ownership.

Paragraph (b) of § 212.167 is also being amended to explicitly state FEA's original intention that, once an entity has elected under this provision either to aggregate or segregate increased product costs among particular volumes of processed natural gas or natural gas liquids, such election shall be binding upon the electing entity during subsequent months as well.

Section 212.167 also provides for the allocation of increased product costs among propane and the other natural

gas liquid products. Specifically, paragraph (b) of that section provides for the allocation of increased product costs attributable to a particular volume of processed natural gas to the propane derived from that volume of gas in the same proportion as the volume of propane derived from that gas bears to the volume of all natural gas liquid products derived therefrom. Having thereby provided for that allocation of increased product costs attributable to shrinkage, however, the section is silent as to the allocation of the increased costs of purchased natural gas liquid products among the sales volumes of propane. It was FEA's intention in promulgating § 212.167 to provide for the combination of the shrinkage costs allocable to propane with the increased costs of purchased propane so that the total of these costs could be applied to prices charged to purchasers of propane in accordance with paragraph (d) of § 212.167.

The result of this oversight is that the section contains no provision for the calculation of a single increased product cost figure for use in computing lawful prices for propane. FEA is therefore amending § 212.167 to provide for combination of the increased shrinkage costs attributable to propane with the various cost increases incurred in purchasing additional volumes of this product. The composite cost figures calculated in accordance with the amendments issued today will then be used in accordance with the other provisions of § 212.167 to arrive at lawful prices for total volume of each natural gas liquid product available for sale in the current month.

B. *Calculation of increased product costs attributable to "new" natural gas liquids and natural gas liquid products.* Section 212.168 provides the method by which a processor which operates a gas plant that began operation after May 15, 1973, shall impute a May 15, 1973 selling price for natural gas for use in computing increased shrinkage costs attributable to NGL products processed in the new plant. The FEA's intention by this provision was to provide an imputed May 15, 1973 shrinkage cost for natural gas streams which were not processed on that date, to be used in computing increased product costs attributable to such streams. The current section fails to clearly implement this intention for three reasons: first, the section appears to be applicable only in the determination of increased product costs attributable to natural gas liquid products; second, by focusing on new gas plants rather than newly processed gas streams, the provision is susceptible to application with respect to a gas stream, currently processed in a new plant, which was in fact processed in and sold from another plant on May 15, 1973 and which therefore does not require an imputed May 15, 1973 sales price; and third, by focusing on new gas plants rather than newly processed gas streams, the provision apparently fails to apply to new natural gas streams which have no May 15, 1973 sales price, but which are now processed in a gas plant which began operations prior to that date. Also, the current provisions fail to clearly indicate FEA's intention that the imputed sales price shall be either 23 cents per thousand cubic feet or 23 cents per million BTU, according to the terms of the contract under which the processed natural gas is currently sold.

Therefore, § 212.168 is being amended to provide that the imputed price of either 23 cents per thousand cubic feet (MCF) or 23 cents per million BTU of natural gas (depending on current contract terms) is to be used only where the gas stream was not, in fact, sold on May 15, 1973, and that, under such circumstances, the imputed price is to be used regardless of whether or not the gas plant began operations after May 15, 1973. In addition, the section is being amended to make clear that the imputed price is to be used in calculating increased product costs under such circumstances for both natural gas liquids and natural gas liquid products.

It should be noted that § 212.168 does not provide either for imputed volumes of natural gas processed or for imputed volumes or BTU values to be attributable to the extraction of natural gas liquids for use in computing the cost of natural gas shrinkage. Provision for specific imputed volumes and values in this context obviously would not be appropriate in light of the fact that it is not possible to obtain representative statistics respecting such volumes and values for May, 1973. Accordingly, FEA has determined not to provide imputed figures for this purpose, but rather to permit firms to use the current month's processing and extraction statistics in computing the cost of natural gas shrinkage both for the current month, and for the month of May 1973.

C. *Application of the Special Propane Rule of Subpart E.* In paragraph (b) of § 212.83, the cost of crude petroleum is defined to include the cost of natural gas liquids which are used in refining and are further refined. However, the Special Propane Rule of § 212.83 currently provides that the "cost of crude oil shall not include the cost of natural gas liquids." 10 CFR 212.83(c)(1)(iii)(A)(I).

This limitation on the cost of crude oil first appeared in the Special Propane Rule when the FEA amended that rule on August 5, 1974. That amendment created two separate clauses pursuant to which the increased costs of crude oil and purchased natural gas liquids, respectively, were to be apportioned to sales of propane. Since the increased costs of natural gas liquids were dealt with separately, the language excluding such costs from the cost of crude petroleum was added to prevent double-counting of such costs in the Special Propane Rule.

When the Special Propane Rule was further amended effective January 1, 1975, the provision calling for the separate apportionment of the increased costs of natural gas liquids was deleted. The language excluding such costs from the cost of crude oil, however, was inadvertently retained. The result is that the current language of the rule may be construed to prohibit the apportionment of any of the increased costs of natural gas liquids from which propane is refined or processed to prices charged for that product. Section 212.83(c)(1)(iii)(A)(I) is therefore being amended to delete the exclusion of the cost of natural gas liquids from the computation of the cost of crude oil for use in the Special Propane Rule.

In addition, the current language of the Special Propane Rule provides that a refiner subject to Subpart E may apportion to propane any increased product costs determined pursuant to § 212.166 of Subpart K to be attributable to propane. § 212.83(c)(1)(iii)(A)(III). Since § 212.166 provides for the increased costs of purchased natural gas liquids and natural gas liquid products as well as the increased costs of natural gas shrinkage to be allocated to propane, and in light of the fact that other provisions contained in the Special Propane Rule of § 212.83 also provide for the apportionment of the increased costs of natural gas liquids and propane, the current language appears to permit double-counting of these increased product costs. The FEA is therefore amending the Special Propane Rule in subclause III to permit the apportionment to propane of only the increased natural gas shrinkage costs attributable to propane pursuant to § 212.166 of Subpart K. The increased costs attributable to purchases of natural gas liquids and propane will continue to be apportioned pursuant to the other provisions of the Special Propane Rule.

II. *Expansion and modernization of existing gas plants.* With respect to gas plants on which construction is begun after January 1, 1975, the Subpart K price rules provide for the use of imputed May 15, 1973 prices of $.12 per gallon for propane, $.125 cents per gallon for butane, and $.135 per gallon for natural gasoline, in calculating lawful selling prices for those products. These imputed prices represent $.035 per gallon over the adjusted May 15, 1973 price levels provided for products sold from plants on which construction was begun prior to January 1, 1975. This additional increment was intended to provide an incentive for the construction of new plants in order to maximize the supply of natural gas liquids and liquid products. In providing this incentive, however, FEA recognized that the supply of these products could also be enhanced by the modernization and expansion of existing plants and requested comments on the most appropriate means of providing a price incentive to promote the recovery of additional natural gas liquids and liquid products from exsiting facilities.

The overwhelming majority of the further comments received by the FEA support price incentives for plant modernization and expansion. The comments indicate, moreover, that the price incentive implemented should be the same as that provided for new plants since there is no apparent reason to favor the construction of new plants over the expansion or modernization of old ones.

The FEA has therefore determined to amend § 212.164 to permit, effective immediately, the application of imputed May 15, 1973 first sale prices, up to $.035 greater than the adjusted May 15, 1973 first sale prices otherwise permitted, for natural gas liquids and natural gas liquid products processed in plants which have been expanded or modernized since January 1, 1975. These imputed May 15, 1973 price levels may be applied in computing current lawful prices for natural gas liquid and natural gas liquid products from expanded and modernized plants in the following manner.

Where capital expenditures respecting a gas plant have been made subsequent to January 1, 1975, resulting in either an increase in the volumetric capacity of the plant, or an increase in the plant's extraction capability, imputed May 15, 1973 first sale prices may be applied to all natural gas liquids or natural gas liquid products produced in that plant which exceed the adjusted May 15, 1973 first sale prices otherwise permitted to be applied by an amount which is in the same proportion to $.035 as the increase in the book value of the plant attributable to the capital expenditures is to the total book value of the plant after the expenditures were made, provided that the total of capital expenditures made is at least equal to 50% of the original cost of the plant. Thus, for example, where a plant that originally cost $150,000 and has a current book value of $100,000 is improved by a capital expenditure of $80,000, an upward adjustment of $.016 could be applied to the adjusted May 15, 1973 first sale price otherwise permitted to be applied for natural gas liquids and natural gas liquid products produced in plants that are not new plants and which have not been expanded or modernized. This number is derived as follows:

$$\left[\frac{x \text{ (upward adjustment for plant modernization or expansion)}}{\$0.035 \text{ (upward adjustment for new plants)}} = \frac{\$80{,}000 \text{ (increased book value attributable to modernization or expansion)}}{\$180{,}000 \text{ (total book value after modernization or expansion)}}\right];$$

$\$180{,}000\,x = \$2800;$
$x = \$0.016$

Where capital expenditures respecting a gas plant have been made subsequent to January 1, 1975, resulting in the accommodation of a natural gas stream which could not have been otherwise processed in the plant, the plant owner may apply imputed May 15, 1973 first sale prices calculated by one of the following methods: the imputed May 15, 1973 first sale prices applied respecting all liquids and liquid products produced in the plant may exceed the adjusted May 15, 1973 first sale prices otherwise permitted to be applied by an amount which is in the same proportion to $.035 as the increase in the book value of the plant attributable to the capital expenditures is to the total book value of the plant after the expenditures were made, provided that the total of capital expenditures made is at least equal to 50 percent of the original cost of the plant, as described above; or, alternatively, imputed May 15, 1973 first sale prices of $.12 per gallon for propane, $.125 per gallon for butane, and $.135 per gallon for natural gasoline may be applied to only that portion of the natural gas liquid product production attributable to the newly accommodated gas stream, and imputed May 15, 1973 natural gas liquid first sale prices of $.115 per gallon for the propane content, $.12 per gallon for the butane content, and $.13 per gallon for the natural gasoline content, may be applied to only that portion of the natural gas liquid production attributable to the newly accommodated gas stream.

Because the corrective amendments contained herein are only interpretive in nature and are intended only to correct inadvertent errors in the regulations, the Federal Energy Administration finds that good cause exists to issue these amendments immediately, effective January 1, 1975. As these amendments will not affect the quality of the environment, it is also not necessary to submit these amendments to the Administrator of the Environmental Protection Agency for comments.

The amendment providing price incentives for the expansion and modernization of existing gas plants is being issued pursuant to the rulemaking proceeding initiated by a notice issued on September 6, 1974 (39 FR 32717).

All the amendments contained herein have been reviewed in accordance with Executive Order 11821, issued November 27, 1974 and have been determined not to be of a nature that requires an evaluation of their inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective January 1, 1975, except that the amendment adding the new paragraph (d) to § 212.164 shall be effective immediately.

Issued in Washington, D.C., August 27, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.164 is amended by the addition of a new paragraph (d) to read as follows:

§ 212.164 Adjusted May 15, 1973 first sale price.

* * * * *

(d) *Imputed May 15, 1973 first sale prices for natural gas liquids and nautral gas liquid products produced in gas plants where additional capital expenditures have been made on January 1, 1975 and thereafter.* (1) For purposes of determining lawful prices of natural gas liquids and natural gas liquid products produced in a gas plant where additional capital expenditures have been made on or after January 1, 1975, resulting in an increase in either the volumetric capacity of the plant or the extraction capability of the plant, a firm may use, in determining the weighted average price at which natural gas liquids and natural gas liquid products were lawfully priced on May 15, 1973, first sale prices which exceed the adjusted May 15, 1973 first sale prices otherwise permitted to be used under this section by not more than $.035 per gallon, provided that:

(i) the imputed May 15, 1973 first sale prices permitted under this section may exceed the adjusted May 15, 1973 per gallon prices otherwise permitted by an amount which is in the same proportion to $.035 as the increase in the book value of the plant attributable to the capital expenditures is to the total book value of the plant after the expenditures were made; and

(ii) the total amount of capital expenditures made must be equal to or greater than 50 percent of the original cost of the plant.

(2) For purposes of determining lawful prices of natural gas liquids and natural gas liquid products produced in a gas plant where additional capital expenditures have been made on or after January 1, 1975, resulting in the accommodation of a natural gas stream which could not otherwise have been processed in the plant, a firm may use, in determining the weighted average price at which natural gas liquids and natural gas liquid products were lawfully priced on May 15, 1973:

(i) Prices which are computed in accordance with the provisions of paragraph (d) (1) (i) and (ii) of this section; or

(ii) Natural gas liquid product prices of not more than $.12 per gallon for propane, not more than $.125 per gallon for butane, and not more than $.135 per gallon for natural gasoline, and natural gas liquid prices of not more than $.115 per gallon for the propane content, not more than $.12 per gallon for the butane content, and not more than $.13 per gallon for the natural gasoline content, provided that these imputed May 15, 1973 first sale prices may be used only with respect to production attributable to the newly accommodated natural gas stream.

2. Section 212.66 is amended by revising paragraph (b) and by adding new paragraphs (c) and (d) to read as follows:

§ 212.166 Increased product costs.

* * * * *

(b) Increased product costs are (1) the difference between the weighted average cost per gallon of natural gas liquids purchased in the month of May 1973, and the weighted average cost per gallon of natural gas liquids purchased in the current month multiplied by the number of gallons of natural gas liquids purchased in the current month, (2) the difference between the weighted average cost per gallon of each natural gas liquid product purchased in the month of May 1973, and the weighted average cost per gallon of that natural gas liquid product purchased in the current month multiplied by the number of gallons of the natural gas liquid product purchased in the current month, plus (3) the difference between the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the month of May 1973, and the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the current month, multiplied by the number of thousand cubic feet (MCF's) of natural gas processed in the current month.

(c) *Limitation on calculation of increased product costs attributable to purchases of natural gas liquids.*

In calculating the weighted average cost per gallon of natural gas liquids purchased in a first sale in the current month for the purpose of determining increased product costs under paragraph (b) of this section, a firm shall exclude those amounts attributable to the use by the seller of an adjusted May 15, 1973 selling price under § 212.164 in determining its lawful price to the purchaser.

(d) *Exclusion of net-back payments from the calculation of increased product costs.*

In calculating the weighted average cost per gallon of purchased natural gas liquids for the purpose of determining increased product costs under paragraph (b) of this section, a firm shall exclude all amounts attributable to net-back sales.

3. Section 212.167 is amended by redesignating paragraphs (d) and (e) as (e) and (f), respectively; this section is also amended by revising paragraph (b) and by the addition of a new paragraph (d) to read as follows:

§ 212.167 Allocation of increased product costs.

* * * * *

(b) *Aggregation of increased product costs.* Where increased product costs measured with respect to particular volumes of natural gas or natural gas liquids processed in one or more gas plants in a month are different, (1) the increased product costs measured with respect to a particular volume of natural gas my be allocated to the particular sales volumes of natural gas liquid products produced therefrom; or, in the alternative, (2) the total amount of increased product costs measured with respect to the total amount of natural gas and natural gas liquids processed in one or more gas plants under common ownership in a month may be allocated to the total sales volume of natural gas liquid products produced therefrom, provided that once an election in accordance with this paragraph has been made, the elected method of allocating product costs shall continue to be used in the months subsequent to the election.

* * * * *

(d) *Increased costs of purchased natural gas liquids and natural gas liquid products.*

The total amount of increased product costs allocable to all sales of propane shall not exceed the sum of the amount of increased product costs determined pursuant to § 212.166(b)(2) to be attributable to purchases of propane, plus the amount of increased product costs determined pursuant to paragraphs (a), (b), and (c) of this section to be allocable to the price of propane derived from a particular volume of natural gas.

* * * * *

4. Section 212.168 is amended to read as follows:

§ 212.168 Increased product costs for natural gas liquids and natural gas liquid products derived from a new gas stream.

For purposes of determining increased product costs attributable to natural gas liquids and natural gas liquid products produced from a new gas stream where no sale of the processed natural gas was made on May 15, 1973, a firm shall use a May 15, 1973 price for the residue gas of either 23 cents per thousand cubic feet (MCF) or 23 cents per million BTU (MMBTU) of natural gas, whichever is consistent with the sales term of the contract under which the processed natural gas is currently sold.

5. Section 212.83 is amended in paragraph (c)(1)(iii)(A) to read as follows:

§ 212.83 Allocation of refiner's increased costs.

* * * * *

(c) * * *

(1) * * *

(iii) *Propane.* (A) *Special propane rule.* Notwithstanding the provisions of § 212.83(c)(1)(ii) and § 212.83(e), a refiner in computing base prices of propane for the twelve-month period of August 1, 1974 through July 31, 1975:

(*1*) May not apportion to propane a greater percentage of increased cost of crude oil purchased or landed in the twelve-month period July 1, 1974 through June 30, 1975 than the percentage that the volume of propane sold during the twelve-month period August 1, 1974 through July 31, 1975 that was produced by that refiner from crude oil is to the total volume of all products (including other than covered products) sold by it during the same twelve-month period that were produced by that refiner from crude oil; and

(*2*) May apportion to propane the increased cost of propane purchased or landed in the twelve-month period of July 1, 1974 through June 30, 1975; and

(*3*) May apportion to propane the increased product costs attributable to propane produced from natural gas as determined pursuant to the provisions of paragraphs (a), (b), and (c) of § 212.166 of Subpart K of this part; and

(*4*) May not apportion to propane any increased product costs incurred prior to July 1, 1974 and not recovered through July 31, 1974.

* * * * *

[FR Doc.75-23176 Filed 8-27-75;4:23 pm]

PART 213—OIL IMPORT REGULATIONS

Amendments To Conform Oil Import Regulations to Proclamation No. 4377

On June 30, 1975, the Federal Energy Administration (FEA) issued proposed regulations implementing Proclamation No. 4377, amending Proclamation No. 3279, as amended, which established the Mandatory Oil Import Program (40 FR 28487, July 7, 1975). FEA has now considered the public comments on the proposed regulations, and hereby amends Part 213 (Oil Import Regulations) by adopting, with certain clarifying language, a portion of its proposal.

In accordance with Proclamation No. 4377, FEA proposed that § 213.35(e)(2)(i) be amended to provide that in calculating the amount of tariffs for which an equivalent sum can be refunded from fees paid, duty drawback shall be subtracted from tariffs only with respect to drawback on imports entered into United States customs territory on or after February 1, 1975, the date on which the supplemental fee took effect. This amendment is being adopted as proposed, with minor clarification of the language. It should be noted that refunds are made with respect to each of the categories utilized for the imposition of fees, i.e. crude oil, unfinished oils, and finished products. FEA is presently evaluating the public comments with respect to its proposal to permit the net out of tariff payments simultaneously with payment of the fee, thus eliminating the necessity of applying for refunds (40 FR 33474, August 8, 1974).

Proclamation No. 4377 also authorized FEA, in its discretion, to provide for bonding procedures for outstanding licenses "for which a bond was not required or * * * was required in amounts less than the full amount of fees" now in effect. New bonding procedures were deemed necessary because licenses issued prior to June 1, 1975, were covered by no bond, or by bonds in less than the amount of the supplemental fees that became effective on that date. Accordingly, FEA proposed that § 213.35(d)(3)(i) be amended to provide that holders of licenses for which bonds were not required, or required in amounts less than the full amount of the fee applicable June 1, be required to obtain a bond or increase outstanding bonds to cover the full amount of such fee.

However, FEA has determined that in light of developments since the issuance of Proclamation No. 4377, it would be inadvisable to increase bonding requirements at this time. On August 15, the President announced that if his veto of the bill extending the Emergency Petroleum Allocation Act is sustained, he would suspend the $2.00 supplemental fee indefinitely retroactive to July 1. Accordingly, FEA announced that supplemental fee payments due August 31 for imports made in July could be deferred until September 15, pending resolution of the situation (40 FR 36302, August 20, 1975). Thus, in light of the possibility that no further supplemental fee payments may be due, the financial risk to the government posed by outstanding licenses not covered by a bond in the full amount of the fee is speculative. Accordingly, FEA is not adopting its proposed amendment of § 213.35(d)(3)(i), and importers with licenses issued prior to June 1 may continue to import under existing bonding provisions. This action does not, however, affect the bonding requirements applicable to licenses issued after June 1, with respect to which bonds must be posted in the full amount of the fee. Furthermore, it should be noted that if the President's veto is not sustained, and the supplemental fee remains in effect, FEA will reconsider the need for any action under Proclamation No. 4377 with respect to outstanding licenses.

(Federal Energy Administration Act of 1974, Pub. L. 93275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, Pub. L. 87794, as amended; Proclamation No. 3279, 24 FR 1781, as amended by Proclamation No. 4210, 38 FR 9645, Proclamation No. 4227, 38 FR 16195, Proclamation No. 4317, 38 FR 35103, Proclamation No. 4341, 40 FR 3956, Proclamation No. 4355, 40 FR 10437, Proclamation No. 4370, 40 FR 19421, and Proclamation No. 4377, 40 FR 23429)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 1, 1975.

Issued in Washington, D.C., August 25, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

Section 213.35 is revised in paragraph (e)(2)(i) to read as follows:

§ 213.35 Allocations and Fee-Paid Licenses for Imports of Crude Oil, Unfinished Oils, and Finished Products.

* * * * *

(e) * * *

(2) * * *

(i) For payment to the importer of record, on a monthly basis, of sums equal to the sums collected by way of duties found payable upon liquidation, by the United States Customs Service, less any drawbacks of tariffs paid on imports made on or after February 1, 1975, *provided* That, said importer certifies the amount of applicable drawback. Where the applicable duty drawback exceeds the duty paid during that period, the net difference shall be applied to subsequent periods, *provided* That when the duty less drawback exceeds the fee imposed, any excess duty may be used to reduce fees payable during the subsequent six months.

[FR Doc.75-22931 Filed 8-26-75;8:54 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-CE-19-AD; Amdt. 39-2296]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 95, 95-55, 55, 56 and 58 Series Airplanes; Correction

In FR Doc. 75-19986, appearing on page 32314 in the issue of Friday, August 1, 1975, in the paragraph immediately preceding the sentence stating the effective date of the Airworthiness Directive, the phrase "(AD 68-10-09)" should be corrected to read "(AD 68-10-07)".

Issued in Kansas City, Missouri, on August 19, 1975.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.75-22970 Filed 8-28-75;8:45 am]

[Airspace Docket No. 75-RM-24]

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

Alteration of Transition Area

On July 11, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 29302) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area of Riverton, Wyoming.

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

Effective date. This amendment shall be effective 0901 G.m.t., December 4, 1975.

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

Issued in Aurora, Colorado, on August 27, 1975.

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

In Federal Aviation Regulation § 71.181 (40 FR 441) the description of the Riverton, Wyoming 1200 foot transition area is amended to read:

* * * that airspace extending upward from 1200 feet above the surface within a 25-mile radius of the Riverton VOR, within 10 miles east and 7 miles west of the Riverton VOR 016° radial, extending from the 25-mile radius area to 38 miles north of the VOR; within 7 miles northeast and 14.5 miles southwest of the Riverton VOR 301° radial, extending from the 25-mile radius area to 37 miles northwest of the VOR.

[FR Doc.75-22971 Filed 8-28-75;8:45 am]

Title 21—Food and Drugs

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

[Docket No. 75P-0210]

PART 29—FRUIT BUTTERS, FRUIT JELLIES, FRUIT PRESERVES, AND RELATED PRODUCTS

Fruit Butter Revised Standard

The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of February 27, 1975 (40 FR 8358), based on a petition submitted by the National Preservers Association (NPA), 64 Perimeter Center East, Atlanta, GA 30346, to revise the standard of identity for fruit butter (21 CFR 29.1) so as to conform to the pattern of the recently revised standards of identity for fruit jellies and jams. This notice promulgates a final regulation on this matter. The effective date for all products shipped in interstate commerce is December 31, 1975 and compliance with this final regulation may begin on September 29, 1975.

Interested persons were given 60 days to file comments on the proposal. Seven letters were received in response to the proposal: one from the petitioner and six from individual companies. All seven supported the proposal as published.

The principal features of the revised standard are as follows:

(1) Removal of the proportionality limitations on the use of sweeteners other than sugar;

(2) Provision for the use of "safe and suitable" ingredients set forth as classes instead of the present, more restricted "recipe" listing;

(3) Option to add antifoaming agents and pectin; and

(4) A requirement for label declaration of optional ingredients.

The proposal was intended to provide several benefits to consumers. In view of recent technological innovations, a large number of corn sweeteners providing a wider range of sweetness has become available since the standard was established. It is now possible to meet consumer tastes for less sweet fruit butters and also to adopt a more economical approach to all levels of sweetness in fruit butters. The provision for the use of "safe and suitable" optional ingredients allows for adoption of new safe and suitable ingredients and new technological developments as they occur without the need for amending the standard. Further, the label declaration of all optional ingredients used will better inform the consumer of the ingredients used.

In consideration of the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to revise the identity standard for fruit butter as proposed.

Since the proposal was published, the 11th edition of "Official Methods of Analysis of the Association of Official Analytical Chemists," referred to in § 29.1(d) (3) and (5) has been superseded by the 12th edition; the final regulation has been amended accordingly.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 2.120); *It is ordered*, That Part 29 be amended by revising § 29.1 to read as follows:

§ 29.1 Fruit butter; identity; label statement of optional ingredients.

(a) The fruit butters for which definitions and standards of identity are prescribed by this section are the smooth, semisolid foods each of which is made from a mixture of one or a permitted combination of the optional fruit ingredients specified in paragraph (b) of this section and one or any combination of the optional ingredients specified in paragraph (c) of this section, which meets the specifications in paragraph (d) of this section, and which is labeled in accordance with paragraph (e) of this section. Such mixture is concentrated with or without heat. The volatile flavoring materials or essence from such mixture may be captured during concentration, separately concentrated, and added back to any such mixture, together with any concentrated essence accompanying any optional fruit ingredient.

(b)(1) Each of the optional fruit ingredients referred to in paragraph (a) of this section is prepared by cooking one of the following fresh, frozen, canned, and/or dried (evaporated) mature fruits, with or without added water, and screening out skins, seeds, pits, and cores:

Name of fruit:	*Factor referred to in paragraph (d)(2) of this section*
Apple	7.5
Apricot	7.0
Grape	7.0
Peach	8.5
Pear	6.5
Plum (other than prune)	7.0
Prune	7.0
Quince	7.5

(2) The permitted combinations are of two, three, four, and five of the fruit ingredients specified in paragraph (b)(1) of this section; the weight of each is not less than one-fifth of the weight of the combination. Each such fruit ingredient in any such combination is an optional ingredient.

(c) The following safe and suitable optional ingredients may be used:

(1) Nutritive carbohydrate sweeteners.

(2) Spice.

(3) Flavoring (other than artificial flavoring).

(4) Salt.

(5) Acidifying agents.

(6) Fruit juice or diluted fruit juice or concentrated fruit juice, in a quantity not less than one-half the weight of the optional fruit ingredient.

(7) Preservatives.

(8) Antifoaming agents except those derived from animal fats.

(9) Pectin, in a quantity which reasonably compensates for deficiency, if any, of the natural pectin content of the fruit ingredient.

(d) For the purposes of this section:

(1) The mixture referred to in paragraph (a) of this section shall contain not less than five parts by weight of the fruit ingredient as measured in accordance with paragraph (d)(2) of this section to each two parts by weight of nutritive carbohydrate sweetener as measured in accordance with paragraph (d)(4) of this section.

(2) Any requirement with respect to the weight of any optional fruit ingredient, whether concentrated, unconcentrated, or diluted, means the weight determined by the following method: (i) Determine the percent of soluble solids in the optional fruit ingredient by the method for soluble solids referred to in paragraph (d)(3) of this section; (ii) multiply the percent so found by the weight of such fruit ingredient; (iii) divide the result by 100; (iv) subtract from the quotient the weight of any nutritive sweetener solids or other added solids; and (v) multiply the remainder by the factor for such ingredient prescribed in paragraph (b)(1) of this section. The result is the weight of the optional fruit ingredient.

(3) The soluble solids content of the finished fruit butter is not less than 43 percent, as determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, p. 397, sec. 22.024, under "Soluble Solids (by Refractometer) in Fresh and Canned Fruits, Fruit Jellies, Marmalades, and Preserves—Official First Action," except that no correction is made for water-insoluble solids.

(4) The weight of any nutritive carbohydrate sweetener means the weight of the solids of such ingredient.

(5) The weight of fruit juice or diluted fruit juice or concentrated fruit juice (optional ingredient, paragraph (c)(6) from a fruit specified in paragraph (b)(1) of this section is the weight of such juice, as determined by the method prescribed in paragraph (d)(2) of this section, except that the percent of soluble solids is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, p. 566, sec. 31.011, under "Solids by Means of Refractometer—Official Final Action"; the weight of diluted concentrated juice from any other fruit is the original weight of the juice before it was diluted or concentrated.

(e)(1) The name of each fruit butter for which a definition and standard of identity is prescribed by this section is as follows:

(i) In case the fruit butter is made from a single fruit ingredient, the name is "Butter," preceded by the name whereby such fruit is designated in paragraph (b)(1) of this section.

(ii) In case the fruit butter is made from a combination of two, three, four, or five fruit ingredients, the name is "Butter," preceded by the words "Mixed fruit" or by the names whereby such fruits are designated in paragraph (b)(1) of this section, in the order of predominance, if any, of the weight of such fruit ingredients in the combination.

(2) Each of the optional ingredients specified in paragraphs (b) and (c) of this section shall be declared on the label as required by the applicable sections of Part 1 of this chapter, except that:

(i) Other than in the case of dried (evaporated) fruit the name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used. When the optional fruit ingredient is prepared in whole or in part from dried fruit, the label shall bear the words "prepared from" or "prepared in part from," as the case may be, followed by the word "evaporated" or "dried," followed by the name whereby such fruit is designated in paragraph (c) of this section. When two or more such optional fruit ingredients are used, such names, each preceded by the word "evaporated" or "dried," shall appear in the order of predominance, if any, of the weight of such ingredients in the combination.

(ii) If sugar or invert sugar is the sweetener used, the term "sugar" may be used, and if the sweetener used is derived from corn the term "corn sweetener" may be used.

Any person who will be adversely affected by the foregoing final regulation may at any time on or before September 29, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show where in the person filing will be adversely affected by the final regulation, specify with particularity the provisions of the final regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analsyis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. Compliance with this final regulation, which shall include any labeling changes required, may begin on September 29, 1975, and all products shipped in interstate commerce after December 31, 1975, shall comply with this regulation except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of

objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 (21 U.S.C. 341, 371(e)).)

Dated: August 22, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

NOTE: Incorporation by reference provisions approved by the Director of the Office of the Federal Register March 26, 1973.

[FR Doc.75-22988 Filed 8-28-75;8:45 am]

FOOD AND FOOD PRODUCTS AND ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

Poloxalene

The Commissioner of Food and Drugs has evaluated the supplemental new animal drug applications (32-704V, 38-281V) filed by Smith Kline Animal Health Products, Division of SmithKline Corp., Philadelphia, PA 19101, proposing the safe and effective uses of poloxalene top dressing premix and liquid premix for cattle feed for the prevention of wheat pasture bloat. The supplemental applications are approved, and the regulations under Parts 520 and 558 (formerly Parts 135c and 135e prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) are amended to reflect the approval, effective August 29, 1975.

This order also provides for transfer of the existing regulation, as amended, for poloxalene in feeds from Part 121 into Part 558 in accordance with 21 CFR 510.6 (formerly 21 CFR 3.517).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), in accordance with § 510.6, and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121, 520, and 558 are amended as follows:

PART 121—FOOD ADDITIVES

1. In § 121.295(b) by deleting paragraph (b)(1) and designating paragraph (b)(2) as (b). As revised, § 121.295(b) reads as follows:

§ 121.295 **Poloxalene.**

* * * * *

(b) In feed as a surfactant for the flaking of feed grains when added to liquid grain conditioner in an amount not to exceed 1.0 percent of the conditioner. The conditioner is added to the feed as a rate of 1 quart per ton of feed.

* * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In § 520.1840(c)(2) (formerly § 135c.23(c)(2)), by adding the phrase "and (d)(3)" following the phrase "(d)(2)" and by adding an additional paragraph (d)(3). As revised, paragraphs (c)(2) and (d)(3) read as follows:

§ 520.1840 **Poloxalene.**

* * * * *

(c) * * *

(2) See No. 000007 in § 510.600(c) of this chapter for the sponsor of the usage provided by paragraphs(d)(2) and (d)(3) of this section.

(d) * * *

(3) For prevention of legume (alfalfa, clover) and wheat pasture bloat in cattle. A 53-percent poloxalene top dressing on individual rations of ground feed. Dosage is 1 gram of poloxalene per 100 pounds of body weight daily. If bloating conditions are severe, the dose is doubled. Treatment should be started 2 to 3 days before exposure to bloat-producing conditions. Repeat use of the drug if animals are exposed to bloat-producing conditions for more than 12 hours after the last treatment. Do not exceed the double dose in any 24-hour period.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. In Part 558 by adding a new section as follows:

§ 558.464 **Poloxalene.**

(a) *Specifications.* Poloxalene dry premix and poloxalene liquid premix contain poloxalene meeting the specifications given in § 520.1840 of this chapter.

(b) *Approvals.* Dry premix level of 53 percent and liquid premix level of 99.5 percent have been granted to No. 000007 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) For prevention of legume (alfalfa, clover) and wheat pasture bloat in cattle.

(2) Poloxalene dry premix and liquid premix must be thoroughly blended and evenly distributed in feed prior to use. This may be accomplished by preparing an intermediate premix prior to preparing the finished feed. Dosage is 1 gram of poloxalene per 100 pounds of body weight daily and continued during exposure to bloat producing conditions. If bloating conditions are severe, the dose is doubled. Treatment should be started 2 to 3 days before exposure to bloat-producing conditions. Repeat dosage if animals are exposed to bloat-producing conditions more than 12 hours after the last treatment. Do not exceed the higher dosage levels in any 24-hour period.

Effective date. This order shall be effective on August 29, 1975.

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

Dated: August 22, 1975.

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

[FR Doc.75-22992 Filed 8-28-75;8:45 am]

[Docket No. 75N-0034]

PART 121—FOOD ADDITIVES

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins-Monensin and Bambermycins-Monensin-Roxarsone

The Commissioner of Food and Drugs has evaluated new animal drug applications (98-340V: bambermycins and monensin; 98-341V: bambermycins, monensin, and roxarsone) filed by Hoechst-Roussel Pharmaceuticals, Inc., Somerville, NJ 08876, proposing safe and effective use of bambermycins with monensin or monensin and roxarsone in complete feeds for broiler chickens. The applications are approved, effective August 29, 1975.

The Commissioner is amending Parts 121 and 558 (Part 558 was formerly Part 135e prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) to reflect the approvals set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), in accordance with 21 CFR 510.6 (formerly § 3.517 (21 CFR 3.517) prior to recodification (see above)), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 558 of Chapter I of Title 21 of the Code of Federal Regulations are amended as follows:

1. In Part 121, § 121.262(c) is amended in table 1 by adding item 1.28 to read as follows:

§ 121.262 **3-Nitro-4-hydroxyphenylarsonic acid.**

* * * * *

(c) * * *

TABLE 1.—*3-nitro-4-hydroxyphenylarsonic acid in complete chicken and turkey feeds*

Principal ingredient	Grams per ton	Combined with	Grams per ton	Limitations	Indications for use
*	*	*	*	*	*
1.28 3-Nitro-4-hydroxy-phenyl-arsonic acid (roxarsone).	22.7-45.4 (.0025 percent-.005 percent).	Plus Monensin. Plus Bambermycins.	110 1	For broiler chickens; do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before slaughter; as monensin sodium provided by sponsor No. 000986 in § 510.600(c) of this chapter, as bambermycins provided by No. 000039, as roxarsone provided by No. 017210.	As an aid in prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* for increased rate of weight gain and improved feed efficiency.
*	*	*	*	*	*

* * * * *

2. In Part 558:

a. Section 558.95 (formerly § 135e.65) is amended by adding paragraphs (e)(1)(vi) and (vii) to read as follows:

§ 558.95 **Bambermycins.**

* * * * *

(e) * * *

(1) * * *

(vi) *Amount per ton.* Bambermycins, 1 gram plus monensin, 110 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambermycins provided by No. 000039 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Bambermycins, 1 gram plus monensin, 110 grams plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent).

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambermycins provided by No. 000039 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

b. Section 558.355 (formerly § 135e.50) is amended by adding paragraphs (f)(1)(vi) and (vii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(vi) *Amount per ton.* Monensin, 110 grams plus bambermycins, 1 gram. See § 558.95(e)(1)(vi).

(vii) *Amount per ton.* Monensin, 110 grams plus bambermycins, 1 gram plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent). See § 558.95(e)(1)(vii).

Effective date. This order shall be effective on August 29, 1975.

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

Dated: August 22, 1975.

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

[FR Doc.75-22989 Filed 8-28-75;8:45 am]

PART 510—NEW ANIMAL DRUGS

PART 520—ORAL DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

N-Butyl Chloride Capsules

The Commissioner of Food and Drugs has evaluated a new animal drug application (94-223V) filed by Allied Pharmacal, Division of K. C. Pharmacal, Inc., North Kansas City, MO 64116, proposing the safe and effective use of *n*-butyl chloride capsules for the treatment of dogs. The application is approved, effective August 29, 1975.

Information present in the prior approval as well as in the present application has been added to the amended regulation.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 510 and 520 (formerly Parts 135 and 135c, prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) are amended as follows:

1. In Part 510 by amending § 510.600 (formerly § 135.501) by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * *	* * *
Allied Pharmacal, Division of K. C. Pharmacal, Inc., 1234 Clay St., North Kansas City, MO 64116	012983

* * * * *

(2) * * *

Drug listing No.	*Firm name and address*
* * *	* * *
012983	Allied Pharmacal, Division of K. C. Pharmacal, Inc., 1234 Clay St., North Kansas City, MO 64116

* * * * *

2. In Part 520 by amending § 520.260 (formerly § 135c.77) by revising paragraph (b)(2) and paragraph (b)(3)(ii)(a) as follows:

§ 520.260 n-Butyl chloride capsules.

* * * * *

(b) * * *

(2) *Sponsors.* See No. 015563 in § 510.600(c) of this chapter for 221, 442, 884, or 1,768 milligram, or 4.42 gram capsules; No. 012983 in § 510.600(c) of this chapter for 884, or 1,768 milligram or 4.42 gram capsules.

(3) * * *

(ii) (a) Dogs should not be fed for 18 to 24 hours before being given the drug. Administration of the drug should be followed in ½ to 1 hour with a mild cathartic. Normal feeding may be resumed 4 to 8 hours after treatment. Animals subject to reinfection may be retreated in 2 weeks.

* * * * *

Effective date. This order shall be effective August 29, 1975.

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

Dated: August 22, 1975.

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

[FR Doc.75-22994 Filed 8-28-75;8:45 am]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Tablets

The Commissioner of Food and Drugs is revising § 546.180b(c) (formerly § 135c.124 prior to recodification in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) to reflect the approval as set forth below. This amendment shall become effective August 29, 1975.

The Commissioner has evaluated a new animal drug application (55-073V) filed by the Upjohn Co., Kalamazoo, MI 49001, proposing safe and effective use of tetracycline tablets for treatment of bacterial gastroenteritis and urinary tract infections in dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 546 is amended in § 546.180b by revising paragraph (c) as follows:

§ 546.180b Tetracycline tablets.

* * * * *

(c) *Conditions of marketing*—(1) *Specifications.* Tablets contain tetracycline as tetracycline hydrochloride.

(2) [Reserved]

(3) *Conditions of use.* It is used in dogs as follows:

(i) *Sponsor.* (a) For 100, 250, or 500 milligrams per tablet, see No. 000196 in § 510.600(c) of this chapter.

(b) For 250 milligrams per tablet, see No. 000009 in § 510.600(c) of this chapter.

(ii) *Indications for use.* For treatment of infections caused by organisms sensitive to tetracycline hydrochloride, such as bacterial gastroenteritis due to *E. coli* and urinary tract infections due to *Staphylococcus spp.* and *E. coli.*

(iii) *Limitations.* Administer orally 25 milligrams per pound of body weight per day given in divided doses every 6 hours; treatment should be continued until symptoms of the disease have subsided and the temperature is normal for 48 hours; not for use in animals which are raised for food production; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective August 29, 1975.

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

Dated: August 22, 1975.

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

[FR Doc.75-22993 Filed 8-28-75;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins; Correction

The Commissioner of Food and Drugs is correcting the amendment to § 558.95(e) to reinstate certain information inadvertently omitted from the regulation published in the FEDERAL REGISTER of August 5, 1975 (40 FR 32831). As corrected, paragraph (e) of § 558.95 reads as follows:

§ 558.95 Bambermycins.

* * * * *

(e) *Conditions of use*—(1) *Broiler chicken feed.* It is used as follows:

(i) *Amount per ton.* 1 to 2 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and *E. brunetti* is likely to occur. For increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter.

(iii) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina, E. maxima,* and *E. brunetti* is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(iv) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 3.63 grams (.0004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(v) *Amount per ton.* Bambermycins, 2 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus roxarsone, 22.8 to 34.1 grams (.0025–.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(2) *Growing-finishing swine feed.* It is used as follows:

(i) *Amount per ton.* 2 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* Feed continuously as sole ration.

(iv) *Special considerations.* Finished growing-finishing swine feeds processed from feed supplements that contain up to 40 grams of bambermycins per ton and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

Dated: August 21, 1975.

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

[FR Doc.75-22991 Filed 8-28-75;8:45 am]

[Docket No. 75N-0154]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Robenidine Hydrochloride, Zinc Bacitracin

The Commissioner of Food and Drugs has evaluated a new animal drug application (96-933V) filed by American Cyanamid Co., Princeton, NJ 08540, proposing safe and effective use of robenidine hydrochloride and zinc bacitracin in the complete feed for broiler and fryer chickens. The application is approved, effective August 29, 1975.

The Commissioner is amending § 558.515 (formerly § 135e.66 prior to recodification published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802)) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness of data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner (21 CFR 5.1), § 558.515 is amended by adding paragraph (f)(1)(vi) as follows:

§ 558.515 Robenidine hydrochloride.

(f) * * *

(1) * * *

(vi) *Amount per ton.* Robenidine hydrochloride, 30 grams (.0033 percent) plus bacitracin, 4 to 50 grams (as zinc bacitracin).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix,* and: in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(b) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

* * * * *

Effective date. This regulation becomes effective August 29, 1975.

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

Dated: August 22, 1975.

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

[FR Doc.75-22990 Filed 8-28-75;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

PART 21—FEES FOR SERVICES IN THE UNITED STATES

CFR Correction

On page 89 of Title 22, Code of Federal Regulations (revised as of April 1, 1975) in § 21.1, item no. 1 (a), the fee for "Each search for a record and for making a copy wise (single page)" now reading "$3.00", should read "$2.00".

Title 24—Housing and Urban Development

[Docket No. R 75-348]

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 200—INTRODUCTION

Delegations to Particular Positions

The Department is amending various Redelegations of Authority to headquarters and field officials with respect to assisted housing under the United States Housing Act of 1937. The amendment adds to those responsibilities currently exercised under the United States Housing Act of 1937, authority conferred by Title II of the Housing and Community Development Act of 1974, 42 U.S.C. 1437.

Inasmuch as these changes concern the Departments internal organization and management, comment and public procedure are unnecessary, and good cause exists for making them effective January 1, 1975. An Environmental Finding of Inapplicability and an Inflation Impact Determination are not required with respect to this Amendment.

Accordingly, Title 24, Chapter II, Subpart D is amended as follows:

1. Section 200.58 is revised to read:

§ 200.58 Director, Publicly Financed Housing Division.

To the position of Director, Publicly Financed Housing Division there are delegated the following basic functions:

(a) To act for the Assistant Secretary—Federal Housing Commissioner in

developing national policies, procedures and administrative requirements and standards for the production of housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, and the College Housing Program under Title IV of the Housing Act of 1950; to acquire title or execute leasehold interests under those programs; and to be a member of the Executive Board.

(b) To control the utilization of loan funds and contract authority available for the production of housing under the programs mentioned in paragraph (a) of this section.

(c) To monitor and evaluate field application of established policies and procedures as they apply to housing under the programs mentioned in paragraph (a) of this section.

(d) All the power and authority of the Secretary of Housing and Urban Development with respect to housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.), including amendments made by the Housing and Community Development Act of 1974 (42 U.S.C. 1437, et seq.) and all other power and authority of the Public Housing Administration transferred under section 5(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3534(a)), and section 6 of Public Law 90-480 (42 U.S.C. 4156) with respect to waiver or modification of standards for the design, construction and alteration of buildings for accessibility to the physically handicapped under such program.

2. Amend § 200.112 by deleting paragraph (d) and revising paragraphs (b) and (c) to read:

§ 200.112 Chief, Mortgage Credit Branch or Head, Multifamily Mortgage Credit Section.

* * * * *

(b) To approve requests for approval of advances under contracts for planning and land acquisition.

(c) With respect to housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, to approve requests for approval of advances of funds under preliminary loan contracts, to approve advances of funds and requisitions of funds for nonpermanently financed housing, and to approve determinations of minimum development cost.

3. In § 200.115, revise paragraph (a) (2) to read:

§ 200.115 Director/Chief Underwriter or Chief, Multifamily Branch and Multifamily Housing Representative.

(a) * * *

(2) Housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, and (3) * * *

4. Revise § 200.116(b) to read:

§ 200.116 Director/Chief Underwriter and Deputy Director/Deputy Chief Underwriter.

* * * * *

(b) To approve preliminary loan contracts, site reports, development programs, Annual Contributions Contracts, and amendments thereto and related third-party contracts, turnkey housing proposals, preliminary contracts of sale, contracts of sale, agreements to lease, Housing Assistance Payments (HAP) Contracts, and Agreements to Enter into HAP Contracts, all as related to the production of housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974.

* * * * *

5. Revise § 200.118(c) to read:

§ 200.118 Area Director and Deputy Area Director.

* * * * *

(c) To administer the housing production activities of the Area Office with respect to housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, including, but not limited to, the authority to approve proposals, applications for program reservations and preliminary loans, and ACC (Annual Contributions Contract) and/or HAP Contract (Housing Assistance Payments Contract) Lists and amendments thereto, to terminate or require the termination of ACCs and/or HAP Contracts, and to determine that there is no practical alternative to high-rise elevator projects for families with children, all as related to housing production.

* * * * *

§§ 200.123, 200.124, 200.125 and 200.126 [Deleted]

6. Delete §§ 200.123 through 200.126.

7. Revise § 200.128 to read as follows:

§ 200.128 Director and Deputy Director of the Insuring Offices.

To the position of Director, and under his general supervision to the position of Deputy Director, of each Insuring Office listed below, with respect to the production of housing units within the jurisdiction of the Insuring Office, there is redelegated the authority to perform the functions and exercise the authorities set forth in § 200.118(c).

Anchorage, Alaska	Helena, Montana
Honolulu, Hawaii	Albany, New York
Boise, Idaho	Providence, Rhode Island
Des Moines, Iowa	Salt Lake City, Utah
Topeka, Kansas	

8. Revise § 200.129 to read:

§ 200.129 Chief Underwriter and Deputy Chief Underwriter, Insuring Offices.

To the position of Chief Underwriter, and under his general supervision to the position of Deputy Chief Underwriter, of each Insuring Office listed below, with respect to the production of housing units within the jurisdiction of the Insuring Office, there is redelegated the authority to perform the functions and exercise the authorities set forth in §§ 200.113, and 200.115 and 200.116.

Anchorage, Alaska	Albany, New York
Honolulu, Hawaii	Providence, Rhode Island
Boise, Idaho	Salt Lake City, Utah
Des Moines, Iowa	
Topeka, Kansas	
Helena, Montana	

(Sec. 7(d), Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Effective date: This amendment is effective January 1, 1975.

DAVID S. COOK,
Assistant Secretary, Housing Production & Mortgage Credit—FHA Commissioner.

[FR Doc. 75-23060 Filed 8-28-75;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FI-681]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

● Purpose: The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128). ●

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186-93). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW., Washington D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alaska	Southeast Fairbanks division.	Delta Junction, city of	Aug. 28, 1975, emergency			
Alabama	Jefferson	Irondale, city of	do	Oct. 18, 1974		
Connecticut	Fairfield	Newtown, town of	do	Aug. 16, 1974		
New York	Delaware	Andes, town of	do	Aug. 9, 1974		
Do	Chautauqua	Panama, village of	do	June 28, 1974		
Oklahoma	Nowata	Nowata, city of	do	Nov. 22, 1974		
Pennsylvania	Wyoming	Canaan, township of	do	Jan. 17, 1975		
Do	Mercer	Lackawannack, township of	do			
Do	Schuylkill	Mount Carbon, borough of	do			
Do	Berks	Richmond, township of	do	Sept. 13, 1974		
South Dakota	Bon Homme	Scotland, city of	do			
Vermont	Bennington	Bennington, town of	do			
Wisconsin	Grant	Livingston, village of	do	May 17, 1974		
New Jersey	Sussex	Hamburg, borough of	Aug. 29, 1975, emergency	June 14, 1974		
New York	Columbia	Germantown, town of	do	Nov. 15, 1974		
Do	do	Greenport, town of	do			
Pennsylvania	Chester	Avondale, borough of	do	Nov. 15, 1974		
Do	Somerset	Central City, borough of	do	June 7, 1974		
Do	Adams	Germany, township of	do	Dec. 27, 1974		
Do	Carbon	Kidder, township of	do	Dec. 13, 1974		
Do	York	Lower Windsor, township of	do	Aug. 30, 1974		
Do	Butler	Muddy Creek, township of	do	Jan. 10, 1975		
Do	Mifflin	Oliver, township of	do	Feb. 14, 1975		
Do	Montgomery	Salford, township of	do	Dec. 6, 1974		
Do	Westmoreland	Southwest Greensburg, borough of.	do	Feb. 1, 1974		
Michigan	Ingram	Lansing, township of	Aug. 25, 1975, emergency			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: August 21, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-22868 Filed 8-28-75;8:45 am]

[Docket No. FI-682]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

● **Purpose: The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).** ●

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186–93). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	
Alabama	Escambia	Flomaton, town of	Aug. 26, 1975, emergency	Nov. 23, 1973		
Do	Houston	Webb, town of	do	Aug. 23, 1974		
Arkansas	Arkansas	St. Charles, town of	do	Apr. 18, 1975		
California	Fresno	San Joaquin, city of	do	May 10, 1974		
Florida	Desoto	Unincorporated areas	do			
Georgia	Harris	Waverly Hall, city of	do	June 14, 1974		
Idaho	Benewah	Tensed, city of	do	Sept. 6, 1974		
Illinois	Grundy	Verona, village of	do	June 27, 1975		
Indiana	Steuben	Unincorporated areas	do	Dec. 27, 1974		
Do	Putnam	Roachdale, town of	do	July 19, 1974		
Iowa	Allamakee	Waukon, city of	do	Mar. 22, 1974		
Kansas	Sedgwick	Mt. Hope, city of	do	Oct. 18, 1974		
Kentucky	Lincoln	Hustonville, city of	do	Aug. 2, 1974		
Massachusetts	Worcester	Boylston, town of	do	Aug. 23, 1974		
Michigan	Alcona	Greenbush, township of	do	Sept. 6, 1974		
*	*	*	*	*	*	
Do	Washtenaw	Manchester, village of	do	Feb. 22, 1974 Apr. 11, 1975		
Do	Barry	Thornapple, township of	do			
Do	Clare	Clare, city of	do			
Mississippi	Coahoma	Friars Point, town of	do	June 28, 1974		
Missouri	Newton	Granby, city of	do	Apr. 12, 1974		
Do	Johnson	Warrensburg, city of	do	Dec. 17, 1973		
Montana	Stillwater	Unincorporated areas	do	Aug. 16, 1974		
Do	Lewis and Clark	do	do	Dec. 27, 1974		
Nebraska	Fillmore	Geneva, city of	do	June 7, 1974		
Do	Gage	Odell, village of	do	Sept. 6, 1974		
Do	Merrick	Clarks, village of	do	Dec. 6, 1974		
New Hampshire	Rockingham	Newmarket, town of	do	June 28, 1974		
New York	Madison	Brookfield, town of	do	Aug. 2, 1974		
Do	Clinton	Champlain, village of	do	May 31, 1974		
Do	Chemung	Millport, village of	do	Aug. 9, 1974		
Ohio	Lake	Madison, village of	do	May 10, 1974		
Oklahoma	Sequoyah	Vian, town of	do	May 3, 1974		
Pennsylvania	Bradford	Albs, borough of	do	Dec. 13, 1974		
Do	do	Albany, township of.	do	Sept. 20, 1974		
Do	Cambria	Allegheny, township of.	do	Jan. 24, 1975		
Do	do	Carrolltown, borough of.	do	Nov. 22, 1974		
Do	Warren	Elk, township of	do	Jan. 10, 1975		
Do	Cambria	Jackson, township of	do	Nov. 22, 1974		
Do	Tioga	Liberty, borough of	do	Sept. 13, 1974		
Do	Bedford	Mann, township of	do	Jan. 17, 1975		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
California	San Mateo	Unincorporated areas	Aug. 27, 1975, emergency			
Illinois	Hardin	Cave-in-Rock, village of	do	Jan. 23, 1974		
Indiana	White	Chalmers, town of	do	Nov. 8, 1974		
Missouri	St. Louis	Hillsdale, village of	do	Aug. 5, 1974		
New Hampshire	Sullivan	Cornish, town of	do	Nov. 29, 1974		
Do	Grafton	Plymouth, town of	do	May 3, 1974		
New Jersey	Sussex	Andover, borough of	do			
New York	St. Lawrence	Oswegatchie, town of	do	Sept. 13, 1974		
Do	Oneida	Vienna, town of	do	do		
North Carolina	Caldwell	Rhodhiss, town of	do	June 21, 1974		
North Dakota	Bowman	Scranton, city of	do	Nov. 22, 1974		
Ohio	Montgomery	Brookville, village of	do	Feb. 15, 1974		
Do	Trumbull	Girard, city of	do	Jan. 23, 1974		
Do	Holmes	Killbuck, village of	do	May 3, 1974		
Do	Hamilton	Newtown, village of	do	Feb. 1, 1974		
Do	Wood	Perrysburg, city of	do	Mar. 22, 1974		
Do	Hamilton	Reading, city of	do	Feb. 8, 1974		
Do	Wood	Rossford, city of	do	Mar. 1, 1974		
Do	Montgomery	Vandalia, city of	do	June 7, 1974 Apr. 4, 1975		
Do	Lucas	Whitehouse, village of	do	Mar. 29, 1974		
Pennsylvania	Lancaster	East Drumore, township of	do	Sept. 20, 1974		
Do	Somerset	Paint, borough of	do	July 26, 1974		
Tennessee	Fayette	Somerville, town of	do	May 17, 1974		
Do	Wilson	Unincorporated areas	do	Sept. 13, 1974		
Utah	Sanpete	Gunnison, city of	do	Aug. 16, 1974		
Washington	Snoh mish	Index, town of	do	Dec. 27, 1974		
Do	Mason	Shelton, city of	do	June 14, 1974		
West Virginia	Ritchie	Cairo, town of	do	Aug. 9, 1974		
Wisconsin	Sauk	Spring Green, village of	do	Dec. 7, 1973		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: August 19, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-22869 Filed 8-28-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 421-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Promulgation of Final Amendments to Transportation Control Plan, Boston, Massachusetts

The Environmental Protection Agency is today revising 40 CFR 52.1135(m) in order to allow an additional two months time for the Governor of the Commonwealth of Massachusetts, the Massachusetts Port Authority and the owners and operators of private parking facilities at Logan International Airport, East Boston, Massachusetts, to comply with the ceiling imposed on commercial parking spaces at the Airport. Section 52.1135(m) is part of a set of regulations containing the transportation control plan for the Metropolitan Boston Intrastate Air Quality Control Region. The plan was originally promulgated on November 8, 1973 in the FEDERAL REGISTER (38 FR 30960). Nine separate petitions for review of the Administrator's action in promulgating the regulations were filed with the Court of Appeals for the First Circuit. Several petitioners challenged the validity of the ceiling provision. The Court's ruling of September 27, 1975, in *South Terminal Corporation v. EPA* (6 ERC 2025, 504 F. 2d 646), suspended various regulations, including § 52.1135, and remanded the matter to EPA for re-examination of the technical basis for the the controls. After completing its re-examination of the technical basis for the plan and public hearing on proposed regulations on March 20 and 21, 1975, EPA promulgated final amendments to the regulations in the FEDERAL REGISTER on June 12, 1975 (40 FR 25152).

The petitioners were originally required by the Court to file their response to the final promulgation within ten days of its publication. However, the Court has granted several enlargements of time for certain petitioners to file, the latest enlargements being until September 5, 1975. Inasmuch as § 52.1135 has been stayed by the Court, the June 12 amendments will not become effective until the Court removes its stay. Such enlargements of time will result in a delay of the Court's final order on the regulations. Inasmuch as the June 12 regulations require the first step towards compliance with the ceiling to be taken by November 30, 1975, EPA believes that a two-month extension of the compliance schedule is necessary. In the meantime, EPA intends to work with the Commonwealth, the Massachusetts Port Authority and the owners of affected parking facilities towards a resolution of outstanding issues without resort to further litigation.

The Administrator does not consider today's schedule revision to be a significant change in the June 12, 1975, promulgation. Therefore, this change in the regulation will become effective without a further public hearing at such time as the Court removes its stay of § 52.1135. This amendment is being promulgated pursuant to sections 110(c) and 301 of the Clean Air Act (42 U.S.C. 1857c(5)(c) and 1857g).

Dated: August 21, 1975.

RUSSELL E. TRAIN,
Administrator.

Subpart W—Massachusetts

In § 52.1135(m), (1) the date "November 30, 1975" is revised to read "January 30, 1976", (2) the date "March 1, 1976" is revised to read "May 1, 1976", (3) the date "February 1, 1976" wherever it appears is revised to read "April 1, 1976" and (4) the date "May 1, 1976" is revised to read "July 1, 1976".

[FR Doc.75-22933 Filed 8-28-75;8:45 am]

[FRL 421-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Schedules; Corrections Puerto Rico: Approval of Compliance

FEDERAL REGISTER documents 75-11037 and 75-11183, published on Tuesday, April 29, 1975, at pages (40 FR 18551) and (40 FR 18737), respectively, contained inconsistencies in the dates referenced in the "Identification of plan" sections. These sections are corrected to read as follows:

Subpart BBB—Puerto Rico

Paragraph (c) of § 52.2720 is revised to read as follows:

§ 52.2720 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 5, 9, and 17, May 30, June 18, and September 10, 1973, and on February 1 and 12, 1974, by the Commonwealth of Puerto Rico Environmental Quality Board.

(2) December 6, 1973, and on February 7, March 13, 15, and 20, May 5, June 11, and September 6, 1974.

Dated: August 25, 1975.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.75-22932 Filed 8-28-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-3—PROCUREMENT BY NEGOTIATION

Noncompetitive Procurement and Negotiation Memorandums

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein prescribe internal requirements concerning justifications for noncompetitive procurement and negotiation memorandums and are entirely administrative in nature. Therefore, the rulemaking process is waived in this particular instance and the amendments will become effective immediately.

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

AUGUST 14, 1975.

1. The Table of Contents of Subpart 14-3.1 of Part 14-3 of 41 CFR is amended by adding the following:

Sec.	
14-3.150	Justification for noncompetitive procurement.
14-3.151	Memorandum of negotiation.
14-3.151-1	Contents of negotiation memorandum.

AUTHORITY: The provisions of this Part 14-3 issued under Section 205(c), 63 Stat. 389; 40 U.S.C. 486(c).

2. Subpart 14-3.1 of 41 CFR is amended by adding new §§ 14-3.150, 14-3.151, and 14-3.151-1 to read as follows:

Subpart 14-3.1—Use of Negotiation

§ 14-3.150 Justification for noncompetitive procurement.

(a) General. While competition must be obtained to the maximum extent practicable, there may be circumstances where one organization or individual has unique capability by reason of specialized facilities, technical competence or other considerations to provide the product or services within the time required and at a reasonable price. In such circumstance, the initiating program office may recommend that the requirement be obtained from a single source on a noncompetitive basis. The recommendation shall be in writing, identified as a "Justification for Noncompetitive Procurement," shall set forth full and complete justification for the selection, and shall be subject to verification and approval by the appropriate authority stated in paragraph (f) of this § 14-3.150 prior to any procurement action. The justification shall not relieve the contracting officer of any other requirement for a determination and findings (see Subparts 1-3.2 and 1-3.3 of this title and Subparts 14-3.2 and 14-3.3 of this chapter).

(b) Applicability. A justification for noncompetitive procurement is required for (1) contracts resulting from unsolicited proposals, (2) contracts involving property or services to be acquired from only one source, and (3) all modifications to existing contracts which continue such contracts or increase the contract price and scope of work. The provisions of this § 14-3.150 do not apply to procurement from other Government agencies including contracts with the Small Business Administration in accordance with § 1-1.713 of this title.

(c) Documentation. All justifications shall be documented by information based on substantiated facts; shall pro-

vide a clear and complete discussion of the reasons that make competitive negotiation impractical or not feasible; and must be sufficient to permit an individual without technical competence in the area to follow the rationale. If a unique capability is claimed, details must be furnished describing the way in which the source is uniquely qualified. If it is claimed that the property or service can be obtained from only one source the justification shall also describe why only that particular property or service will satisfy the requirement. If it is claimed that the urgency of the requirement dictates a noncompetitive procurement, the justification must factually describe the reason for the urgency, explain how the noncompetitive procurement will meet the schedule, and contain a precise statement as to the loss that will be sustained if the delivery schedule is changed to allow time for competitive negotiation. A mere recitation of an administratively established deadline, commissioning date, or implementation schedule is not sufficient.

(d) The following factors should be considered, as may be appropriate and pertinent to the particular procurement, in preparing the justification:

(1) *Continuation of previous effort.* State whether or not the requirement is a continuation of work previously performed by the proposed contractor (including pertinent background data and identity of the previous work by contract number) and details as to why the award of such continuation of work to another contractor would require additional time, money or duplication of effort to bring a new contractor up to the level of expertise of the incumbent. State what positive actions are being taken to enable competitive procurement of subsequent related requirements. If the previous procurement was noncompetitive, state what actions were taken to promote competition for the proposed procurement and the reasons why those actions have not resulted in the availability of competition.

(2) *Technical data and information.* State whether or not drawings and specifications suitable for competition are available. If they are not available, state whether or not it is possible to develop them; explain the leadtime and cost involved to obtain them; and state why the proposed contractor is best able to perform under these conditions.

(3) *Other sources considered.* State whether or not other sources were considered for the requirement; list the other sources considered and state the degree of consideration given each and the particular capabilities each one lacks to fulfill the requirement.

(4) *Other factors.* State why the proposed contractor is best able to fill the requirement and meet the required delivery schedule including such factors as:

(i) *Particular capabilities.* State the capabilities that the proposed contractor possesses of a highly specialized nature that are vital to the proposed effort and that are so unique to the specific effort that they would exclude offering all other contractors in the same general field the opportunity to present their capabilities for evaluation competitively. State what personnel of the proposed contractor are considered experts in the particular field of effort and the basis therefor.

(ii) *Facilities and/or specialized equipment.* State the facilities and specialzed equipment vital to the requirement that the proposed contractor possesses which are not available from other sources. State whether or not Government-owned equipment or facilities are involved and to what extent.

(iii) *Substantial investment.* State whether the proposed contractor has made a substantial investment and the nature and estimated cost thereof which would have to be duplicated at Government expense by another source entering the field.

(iv) *Patents, data, copyrights.* Identify the patents, copyrights or proprietary rights which the contractor holds which preclude award of the work to any other source. State what technical data the proposal contains that is not available from another source and which makes it not feasible or practicable to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the proposal.

(v) *Phasing of procurement.* State whether the basic rationale of the prior stage of the procurement, if any, is applicable to the follow-on stage. If not, state whether competitive procurement is now possible. State what other factors exist which justify non-competitive procurement of the follow-on work.

(e) Unsolicited proposals. (1) The receipt of an unsolicited proposal from a source does not, in itself, constitute a justification for noncompetitive procurement from that source. It may be possible that there are other potential sources with an equally suitable approach which could accomplish the same end results.

(2) A favorable technical evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiation on a noncompetitive basis with the source that submitted the proposal. When an unsolicited proposal has received a technical recommendation for acceptance and it is determined that the substance of the proposal is not available without restriction from another source, or competition is otherwise precluded, procurement may be made on a noncompetitive basis. The program office sponsoring the procurement shall support its recommendation with a justification.

(3) The justification for noncompetitive procurement shall include the applicable requirements of paragraph (d) of this § 14–3.150, shall include, but not necessarily be limited to, one or more of the following findings, and shall fully explain the circumstances thereof (see § 14–4.5101–3(f) of this chapter).

(i) The proposal was selected on the basis of its overall merit, cost and potential contribution to the program objectives of the bureau or office after thorough evaluation and comparison with other proposals submitted in response to a public announcement of interest in receiving unsolicited proposals in that field.

(ii) The proposal contains technical data and offers unique capabilities that are not available from another source and it is not feasible or practicable to define the Government's requirements in such a way as to avoid the necessity of using technical data contained in the proposal.

(iii) The proposal is submitted in response to a program for which there is specific statutory authorization to procure on a noncompetitive basis.

(f) Review and approval. The justification for noncompetitive procurement shall be reviewed and approved as follows:

(1) For new procurements or contract modifications which are estimated not to exceed $200,000, the justification shall require approval by the contracting officer.

(2) For new procurements or contract modifications estimated to exceed $200,000, the justification shall require the approval of the contracting officer and the concurrence by the head of the procuring activity.

§ 14–3.151 Memorandum of negotiations.

(a) This section establishes the requirement for a negotiation memorandum and prescribes its contents. The requirements of this § 14–3.151 are in addition to other requirements of Federal Procurement Regulations and Interior Procurement Regulations.

(b) A negotiation memorandum shall be prepared for each negotiated procurement and contract modification (including a modification to a formally advertised contract) except small purchases under the procedures prescribed in Subpart 1–3.6 of this title and contract modifications for administrative purposes including, but not limited to, changes in accounting and appropriation data and changes in paying office. The negotiation memorandum will be prepared prior to award of a contract or execution of a contract modification, whenever feasible; if not feasible, then it shall be prepared as soon as practicable thereafter.

§ 14–3.151–1 Contents of negotiation memorandum.

The negotiation memorandum is a complete record of all actions leading to award of a contract or a modification of a contract. It shall be in sufficient detail to explain and support the rationale, judgments, authorities, and decisions upon which all actions are predicated. The memorandum will document the negotiation process and reflect the negotiator's actions, skills, and judgments in concluding a satisfactory agreement for the Government. Negotiation memorandums shall contain discussion of the items contained in this § 14–3.151–1 or a

statement of nonapplicability. Information already contained in the contract file need not be restated in detail. A reference to the document which contains the required information is satisfactory.

(a) *Background.* When applicable, a statement of any significant background occurrences related to the procurement shall be included at the beginning of the memorandum.

(b) *Description of articles and services and period of performance.* A description of articles and services, quantity, unit price, total contract amount, and period of contract performance shall be set forth. If a contract modification is involved, state the previous contract amount, the revised amount, the amount of increase, and any changes in the period of performance.

(c) *Negotiation and contract authority.* The circumstances (see Subpart 1-3.2 of this title) permitting negotiation shall be cited and the date of the required determinations and findings authorizing the negotiation shall be stated, if applicable. If a class determination and findings is cited, the expiration date will be stated. The program authority for entering into the contract shall be cited. In the case of a contract modification, the proper authority shall be cited including reference to the proper clause, such as Changes, Limitation of Funds, or Government-furnished Property.

(d) *Contract type.* Sufficient detail will be provided to support the type of contractual document recommended for the procurement and a citation made to any required determination and findings. If the contract is a cost-sharing type, the essential cost-sharing features will be explained.

(e) *Synopsis of proposed procurement.* A statement shall be included as to whether the procurement has or has not been publicized in accordance with Subpart 1-1.10 of this title. When it is not publicized, an explanation shall state the specific basis for exemption under the regulations.

(f) *Solicitation.* The extent to which competition was solicited and obtained will be discussed. The discussion shall include the date of solicitation, the number of sources solicited, the closing date for receipt of initial proposals, and the names of offerors who submitted proposals. If a late proposal was received, state whether or not the late proposal was evaluated and the rationale for the decision. If the procurement is to be awarded on a noncompetitive basis, discuss the rationale for the decision, and discuss the "Justification for Noncompetitive Procurement" prepared and approved in accordance with § 14-3.150 of this chapter.

(g) *Evaluation.* The results of the technical and business evaluations of proposals received will be discussed. The discussion shall include, in the case of competitive procurements, a description of the evaluation criteria and weights used in evaluating the proposals; a summary of evaluation scores for each proposal received, including a statement explaining why the proposal is acceptable or unacceptable; an explanation as to those proposals determined to be within the competitive range and those proposals outside the range as well as the basis for that determination; a summary of the nature and extent of written or oral discussion conducted with those offerors who submitted proposals within the competitive range and the results of the final evaluation of proposals. Technical or business evaluation reports shall be referenced when summarizing the results of the proposal evaluations.

(h) *Source selection.* In the case of competitive procurement, a statement shall be included as to the basis for selection of a source or sources for final negotiation.

(i) *Price or cost analysis.* A detailed price or cost analysis shall be performed in accordance with § 1-3.807-2 of this title. The analysis shall be prepared prior to negotiation and shall be summarized or incorporated in the negotiation memorandum. In addition to the requirements of § 1-3.807-2, a cost analysis should include the following:

(1) A complete cost breakdown of the cost proposal and evaluation of the reasonableness of each cost element.

(2) Any pertinent Government-conducted audit of the proposed contractor's records (see § 1-3.809 of this title).

(3) Any pertinent technical evaluation inputs as to necessity, allocability and reasonableness of proposed labor, materials, subcontracts, travel and any other direct expenses.

(4) Any other pertinent information to fully support the cost analysis.

(5) If the contract is an incentive type, discuss the following, as applicable:

(i) Cost plus award fee (base fee, maximum fee, award fee).

(ii) Cost plus incentive fee (minimum fee, maximum fee, target fee, sharing ratios, and incentive relative to performance and delivery).

(iii) Fixed price incentives (target profit, target price, ceiling price, sharing ratios, and incentive relative to performance and delivery).

(6) A justification is required of the reasonableness of the proposed contractor's profit or fixed fee, considering the factors set forth under §§ 1-3.806 and 1-3.808 of this title. (See § 1-3.405-5(c)(2) of this title regarding statutory limitations on fee or profit.)

(j) *Government-furnished property and facilities.* Concerning Government-furnished material, facilities, equipment, tooling, or other property, include the following:

(1) When no such property is to be provided, a statement to that effect.

(2) When such property is to be provided, a full description thereof, the estimated cost thereof, the schedule for delivery to the contractor, and the basis of rental charge, if rental is involved.

(3) A detailed explanation when the furnishing of any property or the extent thereof has not been determined and is open for future resolution.

(k) *Negotiations.* A statement is required as to the date and place negotiations were conducted and identifying members of both the Government and contractor negotiating teams by area of responsibility. Details shall also be included about the statement of work, terms and conditions and special provisions that were negotiated. The detailed results of price negotiations shall include items such as the information required by § 1-3.811, record of price negotiation, by § 1-15.107, advance understanding on particular cost items, and by § 1-18.309, record of negotiations, of this title.

(l) *Other considerations.* Other areas that must be considered include:

(1) Financial data with respect to a contractor's capacity and stability; preaward survey information; review of suspension and debarment; and determination of contractor responsibility (see § 1-1.12 of this title).

(2) Details as to why the method of payment (progress payment, advance payment, etc.) is necessary citing any required determination and findings. Include a statement concerning incremental funding, if applicable, the period for which funds are allotted, and future funding of the procurement.

(3) Evidence that all required certifications have been obtained and are contained in the file.

(4) Any required special approvals, when applicable, including, but not limited to the following: Advance payments, data processing systems, contracts for services, contracts for management studies and services, foreign research contracts, questionnaires and collection of data, forms, printing, audiovisual productions, classified projects, safety and health, federal assistance program projects, omission of the examination of records clause, legal review, Departmental contract review, and applicable procuring activity approvals including availability of funds.

(5) If the contract represents an extension of previous work, the status of funds and performance under any prior contract should be explained. A determination should be made prior to any negotiations that the Government has obtained enough actual or potential value from the work previously performed to warrant continuation with the same contractor.

(6) If the contract was awarded on a competitive basis, state where the unsuccessful offerors' proposals are filed.

(7) A statement is required which affirms that the equal opportunity provisions of the proposed contract have been explained to the contractor and he is aware of his responsibilities. It is necessary to state whether or not an equal opportunity clearance is required or has been obtained.

(m) *Terms and conditions.* The general provisions and any special clauses and conditions that are contained in the contract such as option arrangements,

incremental funding, anticipatory costs, deviations from the standard clauses and approvals thereof, etc., must be identified. The basis and rationale for inclusion of any special terms and conditions will be stated and, where applicable, will identify the document which granted approval for its use.

(n) *Recommendations.* A brief statement shall set forth the recommendations for award.

(o) *Approval.* The memorandum must be signed and dated by the contract negotiator who prepared the memorandum and the contracting officer must approve it.

[FR Doc.75-22987 Filed 8-28-75;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amdt. F-23]

PART 101-35—TELECOMMUNICATIONS

Circuit Restoration Priorities

This amendment requires that Federal agencies submit circuit restoration priority assignment information when requesting circuits from GSA.

Subpart 101-35.2—Major Changes and New Installations

1. The introductory portion of § 101-35.203 is revised as follows:

§ 101-35.203 Justification of major changes and new installations.

The specific information required for each major change in or installation of FTS and non-FTS telecommunications facilities is shown below. When the request involves the ordering of a communication circuit by GSA the National Communications System (NCS) circuit restoration priority assignment with justification shall be included with the request. If no priority is desired the request should so state. Changes to the priority assignment will be reported to GSA as they occur.

* * * * *

2. The introductory portion of § 101-35.204-2 is revised as follows:

§ 101-35.204-2 Information required from agencies.

Requests for FTS intercity voice network service shall include the NCS circuit restoration priority assignment with a justification, or a statement that no priority is needed, in addition to the following requested information:

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective August 29, 1975.

Dated: August 22, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-22983 Filed 8-28-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311; Special Permissions 76-350, 76-360]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

Fuel Related Rate Increases; Expedited Procedure

At issue in this proceeding was whether or not in view of the anticipated increase in fuel prices the Commission should adopt an expedited procedure to permit regulated carriers to recoup the increased cost of operation. On the basis of the record assembled the Commission concluded that the nation may shortly be faced with rapidly increasing fuel prices.

The notice of proposed rulemaking in this proceeding was published in the FEDERAL REGISTER on February 5, 1975 (40 FR 5374). Comments were received from 59 interested persons representing carriers (26), shippers (30) and governmental interests. In general, the comments were directed to the procedures for recovery of fuel costs outlined in the notice. The Commission in its decision expressed concern that the needs of commerce must be met by a common carrier industry financially able to meet shipper requirements and "While shippers are understandably concerned about increases in rates, we believe that a failure of the common carrier industry to promptly recoup fuel price increases flowing from Proclamation No. 3279 and other energy measures would, in the long run, have a more severe impact on the nation's commerce."

Although the Commission found a need for the expedited procedure, in view of uncertainties such as pricing policies of oil producing nations and litigation surrounding Proclamation No. 3279, the expedited procedure is not self implementing. Rather a further order of the Commission will be necessary to implement the procedure announced in the report.

[Ex Parte No. 311]

EFFECT OF MODIFYING PROCLAMATION NO. 3279 AND OTHER ANTICIPATED ENERGY CONSERVATION MEASURES ON THE OPERATIONS OF CARRIERS SUBJECT TO THE INTERSTATE COMMERCE ACT

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of August 1975.

It appearing, That by notice of proposed rulemaking dated January 31, 1975, and published in the FEDERAL REGISTER on February 5, 1975 (40 FR 5374), the Commission instituted an investigation on its own motion, to determine whether normal general rate increase procedures are adequate to enable the regulated carrier industry to recover rapidly increased costs as a result of the President's action increasing the fee on imported crude oil by Proclamation No. 3279 as amended; proposed alternative methods by which carriers could recover increased fuel costs through expedited procedures; and solicited comments from interested persons on these proposals and on actions which could be taken to deter fuel consumption such as possible limitation of any fuel-related increase;

It further appearing, That upon consideration of the matters involved herein, including numerous comments filed in response to our notice, we have concluded that for the reasons cited in our report in this proceeding normal general rate increase procedures are no longer adequate to enable regulated carriers to recover increased fuel costs and that an expedited procedure is necessary to supplement existing procedures;

It further appearing, That the instability in fuel prices is not limited to the effects of Proclamation No. 3279 as amended, but is susceptible to such factors as the pricing policies of the oil producing Nations and the price of domestic oil;

It further appearing, That for the reasons noted in the above-cited report, a filing consistent with the Appendix A format suggested in the notice of proposed rulemaking in this proceeding, as hereinafter modified (Appendix II), is a more practical and valid method to enable carriers to recover increased fuel costs than the alternate method proposed in the aforementioned notice;

And it further appearing, That the investigation of the matters involved in this proceeding has been made; and that the Commission has made and filed its report herein containing its findings, which report is hereby referred to and made a part hereof;

It is ordered, That the modified Appendix A format, attached hereto, is hereby adopted as the expedited procedure to be followed by regulated carriers seeking to recover increased fuel costs from whatever causes.

It is further ordered, That this order shall not become effective until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy of this order and Appendix II of the report in this proceeding with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[Special Permission No. 76-350]

EXPEDITED PROCEDURE—FUEL RELATED RATE INCREASES

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of August 1975.

It appearing, That under the authority of sections 6, 217, and 306 of the Interstate Commerce Act, we may issue special permission to depart from tariff publishing regulations and from the statutory requirement of 30 days' notice to the Commission and the public before changing rates and charges, and that in view of the findings and conclusions set forth in the report and order entered today in Ex Parte No. 311, Effect of Modifying Proclamation No. 3279 and Other Anticipated Energy Conservation Measures on the Operation of Carriers Subject to the Interstate Commerce Act, ample justification exists for authorizing common carriers by rail, motor, and water subject to our jurisdiction to publish schedules of increased rates and charges, to become effective upon not less than 10 days' notice, to recoup lawful increases in fuel costs, therefore,

It is ordered, That

1. Common carriers by rail, water, and motor common carriers of passengers and property, subject to the Interstate Commerce Act and their tariff publishing agents are hereby authorized to depart from the terms of the governing tariff publishing regulations to file and post in the manner and form described in subparagraphs (a) to (c) except as may be otherwise authorized by the Commission, on notice of effectiveness which will allow an elapse of not less than ten (10) working days of this Commission (that is, excluding Saturdays, Sundays, or legal holidays observed by this Commission) starting from the date filed with the Commission (which, if a working day, may be included as one of the ten days) to the date the publication(s) is indicated to become effective (which may not be counted as one of the aforesaid ten), increases in rates, fares, and charges for line-haul transportation and charges for other services which consume fuel, such as switching and pickup and delivery, to produce additional revenue in an amount not to exceed increases in fuel costs, based on the difference in the average price of fuel during the month of June 1975, on the one hand, and the price of fuel on a specified date which is not later than the date of filing of the tariff hereunder, on the other hand, except that fuel price increases relied upon in support of increases published and filed since June 30, 1975, must be excluded from any increases filed under the authority herein. Tariff publication(s) filed hereunder must specifically identify the charges for other services when applying any increase thereon.

(a) Rail common carriers and their tariff-publishing agents be, and they are hereby, authorized to:

(i) Publish and file master tariffs of increased rates and charges providing increased rates and charges by means of conversion tables of rates and charges, which may not be amended except for the purpose of effecting reductions.

(ii) Publish and file connecting link supplements to each tariff to be made subject to the particular master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs);

(iii) The master tariff may not be published and filed for the purpose of increasing passenger fares (see vi);

(iv) The master tariff and connecting link supplements issued and filed hereunder shall not provide for nonapplication of interstate traffic competitive with intrastate traffic not taking an increase between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements;

(v) Connecting link supplements authorized herein shall be exempt from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

(vi) Rail passenger fares and other charges shall be increased by the means of a conversion-type supplement(s).

(b) Motor common carriers of passengers and property and their tariff-publishing agents shall publish and file conversion-type supplements under the authority of Special Permission Order No. 72-100-M which supplements may not be amended unless otherwise authorized by this Commission, except for the purpose of effecting reductions. The provisions of paragraph 15 of said permission are hereby waived. When publishing and filing fuel related adjustments under said permission and the authority granted herein such publications shall provide reference to both permissions.

(c) Water common carriers and their tariff-publishing agents be, and they are hereby, authorized to publish and file conversion-type supplements, similar to those usually published and filed to effect a general increase in rates and charges which may not be amended, unless otherwise authorized by this Commission, except for the purpose of effecting reductions.

2. The carriers, individually, or by tariff publishing bureaus, as appropriate, shall submit with the schedules of proposed increases based on fuel costs, an original and 2 copies of an executed "Verified Statement of Fuel Expenses and Data in Support of Requested Fuel Rate Increase" in the form and manner provided for in Appendix II to the report served this date in Ex Parte No. 311.[1]

3. All tariff schedules filed hereunder shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the effective date, which may not be extended or canceled except upon specific authorization of this Commission.

4. The tariff schedules filed hereunder shall include a rule for the disposition of fractions of one cent or other stated amounts, for amounts not covered by the tables. Grain rate increase tables shall progress in one-half cent increments.

5. Publications issued and filed hereunder shall bear the following notation: "Issued on 10 days' notice; I.C.C. "Issued on 10 days' notice; I.C.C. Permission No. 76-350."

6. A copy of the publication issued and filed hereunder shall be transmitted to each tariff subscriber on the same date that the copies for official filing are transmitted to this Commission, in accordance with Title 49 CFR parts 1300.30, 1306.17, 1307.48, 1308.12, and 1309.5. In addition, railroads and those motor carrier rate bureaus subject to the Ex Parte No. MC-82 requirements shall transmit to each protestant to their last general increase a copy of the tariff schedule together with the Appendix II data on the same date, by first class mail, as those documents are transmitted to this Commission.

The letter of transmittal accompanying the proposed schedules must contain a certification to the effect that the foregoing notice has been complied with.

7. Any increase established hereunder may be reduced or canceled upon not less than 10 days' notice to this Commission and the public.

8. Protests and request for suspension shall reach this Commission at least 5 days before the effective date of tariff publication(s) filed hereunder.

9. The initial tariff publications issued and filed hereunder shall provide that the increase shall be applied after the last effective general increase. In the event additional revenue is needed to off-set further increases in fuel costs, then new publications, shall be filed in the form and manner authorized herein, (which shall not direct the cancellation of the preceding publication filed hereunder, unless otherwise authorized by the Commission) and shall provide that the increase must be applied after the last effective preceding publication filed hereunder or the last preceding effective general increase, whichever is the later.

All carriers are hereby notified that they are expected to update their tariff by incorporating the increase published under authority of this permission into the rate structure as soon as practicable, unless under suspension or investigation by this Commission.

It is further ordered, That all outstanding orders of the Commission be, and they are hereby, modified to the extent necessary to permit the filing of the tariff schedules authorized herein. Increases filed hereunder shall not be deemed general increases or general adjustments as defined in section 1102.1 and 1104.1(a) of Chapter X of Title 49 of the Code of Federal Regulations.

And it is further ordered, That notices of these amendments shall be given to

[1] Railroads when filing jointly and motor carrier rate bureaus subject to Ex Parte No. MC-82 when filing on behalf of substantially all their members, should submit 20 copies of the Appendix II data.

the general public by mailing a copy of this order to the Governor of each State and to the Public Utilities Commisison or Board of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commisison, Washington, D.C., for public inspection, and by delivering a copy to the Director, Division of the Federal Register, for publication therein.

By the Commission.

ORDER

[Special Permission No. 76-360]

EXPEDITED PROCEDURE—FUEL RELATED RATE INCREASES—FREIGHT FORWARDERS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of August 1975.

It appearing, That under the authority of section 405 of the Interstate Commerce Act, we may issue special permission to depart from tariff publishing regulations and from the statutory requirement of 30 days' public notice before changing rates and charges, and that in view of the findings and conclusions set forth in the report and order entered today in Ex Parte No. 311, Effect of Modifying Proclamation No. 3279 and Other Anticipated Energy Conservation Measures on the Operation of Carriers Subject to the Interstate Commerce Act, ample justification exists for authorizing freight forwarders subject to our jurisdiction to publish schedules of increased rates and charges, to become effective upon not less than 10 days' notice, the same as required by Special Permission No. 76-350 to reflect the increases in the underlying cost of transportation by carriers subject to Parts I, II, and III of the Interstate Commerce Act, directly attributable to fuel price increases.

It further appearing, That by Special Permission No. 76-350 an expedited procedure has been established to permit carriers subject to Parts I, II, and III of the Interstate Commerce Act to increase their rates and charges on 10 days' notice when such increases are justified on the basis of fuel costs.

And it further appearing, That a similar expedited procedure is necessary to insure the financial viability of the regulated freight forwarder industry.

It is ordered, That upon the filing of a verified statement that the carriers performing surface transportation has increased their rates and charges under authority of Special Permission No. 76-350, freight forwarders be, and they are hereby, permitted to increase their rates and charges by a corresponding amount on 10 days' notice as specified in Special Permission No. 76-360.

It is further ordered, That freight forwarders shall publish and file conversion-type supplements under the authority of Special Permission Order No. 72-200, which supplements may not be amended unless otherwise authorized by this Commission, except for the purpose of effecting reductions. The provisions of paragraph 15 of said permission are hereby waived. When publishing and filing fuel related adjustments under said permission and the authority granted herein (such publication shall provide reference to both permissions); and provisions shall be made for the application of such increases after the last preceding effective general increase. In the event additional revenue is needed to off-set further increases in fuel costs, a new supplement shall be filed (which shall not direct the cancellation of the preceding supplement filed hereunder unless otherwise authorized by the Commission) which shall provide that the increase applies after the last preceding supplement filed hereunder or the last preceding effective general increase.

It is further ordered, That tariff publishing agents for freight forwarders be, and they are hereby, authorized to depart from the Commission's tariff publishing regulations to the extent necessary to publish and file conversion-type supplements, subject to the same terms and conditions set forth in the next preceding ordering paragraph.

It is further ordered, That tariff schedules filed hereunder shall be indicated to expire on interstate and foreign commerce with a date not beyond 1 year after the effective date, which may not be extended or canceled except upon specific authorization of this Commission.

It is further ordered, That the provisions of Special Permission No. 76-350 relating to disposition of fractions, copies, notice, certification, protest, incorporation in subsequently filed tariffs, and cancellation, be, and they are hereby, made applicable to the special permission authority authorized hereunder.

And it is further ordered, That publication issued and filed hereunder shall bear the following notation: "Issued on 10 days' notice, I.C.C. Permission No. 76-360."

And it is further ordered, That notices of these amendments shall be given to the general public by mailing a copy of this order to the Governor of each State and to the Public Utilities Commission or Board of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Division of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX II.—*Revised Appendix A: Verified statement of fuel expenses and related data in support of requested fuel rate increase*

Filed by: _____

Address: _____

_____

Line No.	Item	Ratemaking carrier	Owner-operator (if applicable)
	(a)	(b)	(c)
1.	(a) Requested fuel rate increase, current period over base period (Not to exceed ____ percent on line 15 col. (b)) (Percent). Effective date: _____ (Mo.) (Day) (Yr.)	%	XXX
	(b) Last fuel rate increase granted under this proceeding. (Percent)..... Effective date: _____ (Mo.) (Day) (Yr.)	%	XXX
	I. BASE PERIOD DATA: June, 1975		
2.	Fuel expenses, including taxes.....	$	$
3.	Number of gallons purchased.....		
4.	Average purchase price per gallon of fuel, including taxes (L. 2 ÷ L. 3)(Cents to 2 dec.).	¢	¢
	II. CURRENT PERIOD DATA		
5.	Indicate month/year for which current period data (Lines 6 through 12) are applicable: _____ (Mo.) (Yr.)		
6.	Fuel expenses, including taxes.....	$	$
7.	Number of gallons purchased.....		
8.	Average purchase price per gallon of fuel, including taxes (L. 6 ÷ L. 7) (Cents to 2 dec.).	¢	¢
9.	Total operating revenues.....	$	XXX
10.	Payments to owner-operators.....	XXX	$
11.	Revenues retained by ratemaking carrier when transportation is performed by owner-operator.	$	XXX
12.	Balance of operating revenues (L. 9, col. (b)) Minus (L. 10, col. (c) ÷ L. 11, col. (b)).	$	XXX
	III. PERCENT THAT INCREASED FUEL COSTS IS OF TOTAL OPERATING REVENUES		
13.	Increase in purchase price per gallon of fuel, including taxes (L. 8-L. 4) (Cents 2 dec.).	¢	¢
14.	Increase in fuel expenses, including taxes, current period over base period: (L. 7 × L. 13).	$	$
15.	Percent that increased fuel costs, including taxes, is to total operating revenues (L. 14 cols. (b) and (c)) ÷ (L. 9). (2 decimals).	%	XXX

IV. *OTHER MATTERS.*

VERIFICATION

_____
(State) ss:_____
_____
(County)

_____, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

_____
(Signature)

Subscribed to and sworn before me, a Notary Public, this _____ day of _____, _____.
(Month) (Year)

_____
(Notary Public)

My Commission expires _____.

[FR Doc.75-22739 Filed 8-28-75;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on September 2, 1975.

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

ALABAMA

EUFAULA NATIONAL WILDLIFE REFUGE

Public hunting of mourning doves on the Eufaula National Wildlife Refuge, Alabama, is permitted only on those areas designated by signs as open to hunting. These open areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of mourning doves, subject to the following conditions:

(1) Hunting shall be permitted from 12 noon until sunset (central time) on the following dates:

(a) Houston Tract Unit—September 20 and 27 and October 4 and 11, 1975.

(b) Molner Tract Unit—October 18 and 25 and November 1, 1975.

(2) Each hunter must have on his person a validated refuge hunting permit.

(3) No hunters will be permitted within hunting areas before 11:45 a.m. each day.

(4) All firearms must be encased and/or unloaded when outside the designated hunting area.

(5) Each hunter who successfully takes a limit of mourning doves must leave the hunting area immediately.

(6) Retrievers used by hunters shall be under the control of the owner at all times.

(7) All hunters must check in and out of the refuge at the designated checking station.

(8) Wounded or dead doves falling outside the hunting area may be recovered, but firearms must be left inside hunting area.

(9) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(10) Vehicle parking will be limited to areas designated by refuge personnel.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 1, 1975.

ARKANSAS

HOLLA BEND NATIONAL WILDLIFE REFUGE

Public hunting of mourning doves on the Holla Bend National Wildlife Refuge, Arkansas, is permitted only on the area delineated by public hunting signs. This open area, comprising approximately 500 acres, is delineated on a map available at refuge headquarters, Russellville, Arkansas 72801, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves, subject to the following special conditions:

(1) Hunting dates: September 6 and 13, 1975.

(2) A special refuge permit is required.

(3) No alcoholic beverages will be allowed in the hunting area.

(4) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(5) All firearms must be cased and/or unloaded when outside designated hunting areas.

(6) Dogs used as retrievers must comply with State dog licensing requirements.

(7) Hunting shall be from 12 noon until sunset each day of the hunt.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 13, 1975.

WAPANOCCA NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1975–76 season.

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1975–76 season.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rails on the Cape Romain National Wildlife Refuge, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 12,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of rails, and shall be subject to the following special conditions:

(1) Open season: September 2 through November 10, 1975.

(2) Guns must be encased or otherwise rendered incapable of firing except when in the designated hunting area.

(3) The use of dogs is permitted.

(4) A special permit is required.

(5) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile, but in no case should one adult have more than two juveniles under his/her supervision.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 10, 1975.

CAROLINA SANDHILLS NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1975–76 season as part of the on-going Carolina Sandhills Mourning Dove Research Project.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Dove hunting is suspended for the 1975–76 season.

KENNETH E. BLACK,
Regional Director,
U.S. Fish and Wildlife Service.

AUGUST 19, 1975.

[FR Doc.75-22985 Filed 8-28-75;8:45 am]

PART 32—HUNTING

J. Clark Salyer National Wildlife Refuge; No. Dak.

The following special regulation is issued and is effective August 29, 1975.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrow on the J. Clark Salyer National Wildlife Refuge, North Dakota, is permitted from August 29 through November 9 and November 24 through December 31, 1975, only on the area designated by signs as open to hunting. This open area, comprising 31,542 acres, is delineated on a map available at the refuge headquarters, Upham, North Dakota 58789 and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State regulations cov-

ering the hunting of deer with bow and arrow, subject to the following conditions:

Hunting is by foot only. Vehicles are to remain on established refuge roads only.

All hunters must exhibit their hunting licenses, game and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1975.

DAROLD T. WALLS,
Acting Refuge Manager, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak. 58789.

AUGUST 20, 1975.

[FR Doc.75-22986 Filed 8-28-75;8:45 am]

proposed rules

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

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 232]

FLATHEAD IRRIGATION AND POWER PROJECT, MONTANA

Revision and Rates

AUGUST 8, 1975.

Notice is hereby given that it is proposed to amend 25 CFR Part 232.

This notice is published in exercise of the rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 1, Release No. 1666.

The authority to issue regulations is vested in the Secretary of the Interior by section 7, 62 Stat. 273; 5 U.S.C. 301.

The primary purpose of this amendment is to provide additional power revenue to meet the increased cost of power purchased, operation expenses, and maintenance expenses of the power system of the Flathead Project, Montana. The secondary purpose is to revise certain other sections of the regulations to make them compatible with prevailing utility practices.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments to the Commissioner of Indian Affairs, Washington, D.C. 20245, on or before September 29, 1975.

It is therefore proposed to amend 25 CFR Part 232 as follows:

Sec.

232.1 Effective date; changes.
232.2 Authority of project engineer.
232.3 Disputes.
232.4 Applications; contracts.
232.5 Deposits.
232.6 Extensions and construction.
232.7 Rights of way.
232.8 Type of service.
232.9 Service connections.
232.10 Metering.
232.11 Changes of equipment or additional load.
232.12 Apparatus detrimental to service.
232.13 Interruptions to service.
232.14 Discontinuance by consumer and reconnection fee schedule.
232.15 Discontinuance and refusal of service by the Project.
232.16 Billing procedure.
232.17 Business located in residences.
232.18 Rooming and boarding houses.
232.19 Compensation of employees.
232.20 Hardship cases.
232.21 Contingent upon appropriations.

STANDARD RATE SCHEDULES

232.51 Rate schedule No. 1: Residential, urban and rural.
232.52 Rate schedule No. 2: General.
232.54 Rate schedule No. 4: General.
232.55 Rate schedule No. 5: Irrigation pumping and sprinkling.
232.56 Rate schedule No. 6: Street and area lighting.

AUTHORITY: Sec. 7, 62 Stat. 273; 5 U.S.C. 301.

§ 232.1 Effective date; changes.

(a) The regulations in this part are for the conduct of the electric power system of the Flathead Project, Montana, hereinafter referred to as the Project.

(b) These service policies are a part of all oral or written contracts for furnishing or receiving electric service. A copy of the written contract forms can be inspected at the Project's offices.

(c) These regulations shall become effective with the first billing made after the second calendar month following the date of final publication in the FEDERAL REGISTER.

(d) The regulations in this part may be revised, amended, supplemented, or otherwise changed by duly delegated authority from the Secretary of the Interior. These rules and regulations cancel the previous rules and regulations of Part 232, Title 25, Code of Federal Regulations.

§ 232.2 Authority of project engineer.

The project engineer is responsible for the operation of the Electric Power System and the enforcement of the regulations in this part. He is authorized to carry out and enforce the regulations either directly or through the power superintendent or other project employees designated by him.

§ 232.3 Disputes.

Any aggrieved party may file with the project engineer a written complaint regarding the application of the regulations. Within fifteen days after its receipt, the project engineer shall render a written decision thereon and serve a copy thereof on the aggrieved party. Within fifteen days from receipt of such decision, the aggrieved party may take an appeal to the Commissioner of Indian Affairs who shall render his decision within sixty days and his decision shall be final. Pending the determination of an appeal, electric service shall be continued, except in cases in which the question of the existence of dangerous conditions on the premises of the consumer is involved, provided the consumer pays the amount of each bill for electric service prior to the time when it becomes delinquent. If the question of the amount of a bill is involved in an appeal the consumer shall be deemed to have paid the bill under protest and the payment shall be held in a special deposit account until the final decision has been made.

§ 232.4 Applications; contracts.

(a) Each applicant for electric service will be required to sign the Project's application and contract form or a special contract. Where special terms and conditions are involved, a contract may be executed and shall contain such provisions and stipulations as may be desirable to protect the interests of both the Project and the customer.

(b) Acceptance of service, with or without a signed application or contract, shall be subject to compliance with the terms of the applicable rate schedule and of these regulations.

(c) All service involving new construction shall be for a minimum of five years for permanent, domestic or commercial service. For area lighting service the minimum shall be for three years. For irrigation pumping the minimum shall be for five seasons. If the consumer vacates the premises, he shall be liable for the unpaid minimum contract revenue only to the extent that it is not liquidated by the succeeding occupants.

(d) The project engineer is authorized to reject applications which he deems to be adverse to the best interests of the Project.

§ 232.5 Deposits.

A cash deposit in the amount of approximately twice the monthly bill or a deposit of not less than $30.00 may be required from customers to guarantee the payment of electric service bills. In general, an applicant who is the owner of record of the permanent installation to be served will not be required to make a deposit until a delinquency in the payment of a bill has occurred. All services constructed under § 232.6c will be required to make a deposit to guarantee payment of bills. Deposits will be refunded upon termination of service and full payment of accounts, and also may be refunded at any time at the discretion of the project engineer.

§ 232.6 Extensions and construction.

(a) *Permanent installations.* In general, the Project will extend its overhead distribution facilities to serve permanent installations within its service area, provided the extension is physically and economically feasible. Normally, lines will be built in the most direct route from the nearest source of supply. The route shall be selected by the Project but will generally follow established roadways and utility easement areas when available. The prospective customer or customers will provide all necessary right-of-ways and perform such clearing of the right-

of-way as directed by the project engineer without cost to the Project.

(b) *Funding.* If funds are available, the Project may absorb the cost of such extensions to the extent that the cost does not exceed six (6) times the annual guaranteed revenue to be derived from the extension. For purposes of this rule, extension cost shall include all normal costs except the cost of transformers, meters and other such fixed equipment. Estimated revenues shall be based upon the following limits:

(1) *Residential Service.* $60 to $180 per year exclusive of electric heat plus 20¢ per square foot per year of space to be heated electrically.

(2) *Seasonal use Residences.* $60 per year.

(3) *Commercial and Industrial.* Power charges for estimated typical demands and anticipated load for factor energy uses.

(4) *Irrigation.* Guaranteed annual horsepower charge. (i) For extensions which cost more than can be funded by the Project, the customer shall make a cash payment of the balance of the total cost of the extension. Contracts may provide for a refund of part or all of the customer's contribution for construction of a facility if additional customers are later served from the facility or the contracting customer meets other specified contract conditions. The Project may, by contract, require the customer to advance the entire cost of installing facilities used in rendering service and shall credit the customer's, his successor's or assignee's account with an amount of up to 20% of his monthly kilowatt hour bill at the location during the life of the contract or until the specified amount of the advance has been refunded, but no claim for credit shall extend beyond five years. All extensions and equipment purchased under this provision shall be and remain the property of the Project. Any of these special contracts may require the payment of higher than rate schedule stipulated monthly minimums.

(ii) The project engineer may decline to construct any extension which in his opinion, will be excessive in cost or detrimental to the best interest of the Project. All extensions when initially energized, shall be and remain the property of the Project.

(c) *Construction service, short term service, temporary service and service to individual mobile homes and trailers.* The Project will require the customer to pay in advance the estimated cost of connecting, disconnecting, furnishing, installing and removing the facilities required to render such service. After termination of service, there shall be refunded any amount remaining on deposit in excess of the actual cost of installing and removing facilities, plus the unpaid amount of bills for electric power and energy. A deposit may also be required of the estimated bill for electric service, as well as any other deposits specified under § 232.5.

(d) *Trailer and mobile home courts.* Trailer and mobile home courts which are constructed to meet recognized standards may be provided electric service under the permanent customer extension policy. However, the Project will not construct or participate in the cost of the internal secondary wiring required to serve individual trailers or mobile homes. The Project will be the sole judge as to the number of primary delivery points required by the court to provide satisfactory service to individual users. Metering of the court may be one of two ways:

(1) A master meter can be provided at each delivery point to meter the delivery to the court. The energy from this type of metering shall be billed at the applicable general rate.

(2) Trailers or mobile homes may be supplied and billed through individual meters under the residential rate providing that the court owner provides each site with an adequate secondary service supply, individual metering service entrance panels that meet Project, State and National Electrical Code requirements, and the court owner guarantees payment of minimum bills on vacant stalls.

(e) *Underground extensions.* Underground line extensions in lieu of overhead extensions will be made only where mutually agreed upon by the Project and the customer. Such agreements shall provide that the customer will reimburse the Project the estimated cost of the underground facilities over the estimated cost of an equivalent overhead extension. The customer shall also advance any contribution to construction required under the general extension policies for permanent customers (Paragraph a of this section).

(f) *Other deposits.* Deposits to guarantee the payment of electric service bills will be in addition to any required above, and in accordance with § 232.5.

§ 232.7 Rights-of-way.

The Project will give every assistance in obtaining rights-of-way. The cost of such rights-of-way may be assessed the customer if extension or relocation is for his benefit, however, the end responsibility of obtaining needed rights-of-way will rest with the applicant.

§ 232.8 Type of service.

Service for lights and the usual domestic and other appliances, including motors of less than five horsepower shall be single-phase, nominally 120 or 240 volts, and two- or three-wire, except when special written approval for another type of service has been obtained from the project engineer. Three-phase service at suitable voltage may be furnished for motor installations of five horsepower and over, provided a three-phase circuit of the required voltage and capacity is available where the service is desired. All service will be 60 cycle.

§ 232.9 Service connections.

(a) The consumer shall provide and maintain a service entrance with a meter socket and mainline breaker or distribution center complete with all necessary wires. This shall be located convenient to the lines of the Project and unless otherwise specified, on the outside of the building or on a service pole so that the meter socket is not more than 5'9", plus minus 6", from the ground or floor. When prior approval by the project engineer has been obtained, meters may be mounted on approved service pedestals. The meter will be furnished by the Project and must be accessible to the meter reader at all times. The entire service installation must be satisfactory to the project engineer and must conform to the provisions then in force of the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus. When an inspection is required by law or ordinance, the project engineer shall require a certificate of inspection and approval by the inspector before connecting a new service.

(b) The customer shall install, own and maintain all wiring and equipment beyond the point of delivery except meters and special facilities installed or furnished by the Project. If instrument transformers are required the customer shall furnish and install mounting brackets; install the instrument transformers, provide a suitable enclosure and all necessary conduit and wiring for metering as specified by the Project. It shall be the customer's responsibility to provide suitable protective equipment to adequately protect his installation.

§ 232.10 Metering.

(a) Project shall furnish the meter, and customer shall provide and maintain free of expense to the Project an unobstructed location satisfactory to Project in accordance with § 232.9 above. In the case of new installations in multiple-occupancy buildings such as apartment houses in connection with which more than one meter in a building is required, the meters shall be assembled at one central location, or in such other areas and with such other arrangements as may be approved by the project engineer. Each meter shall be clearly marked so as to make it possible to identify the consumer.

(b) Customer's responsibility. Customer shall exercise reasonable care in protecting Project's meter and other Project owned equipment located on his premises. Only Project employees or agents, or persons authorized by law are permitted to inspect or handle same.

(c) Final connection. Final connection of the meter shall in all cases be made by the Project.

(d) Meters sealed. All meters shall be sealed by the Project. The breaking of seal by unauthorized persons or tampering with meter or meter wiring is prohibited by law and is subject to summarily discontinuance of service.

(e) Schedule of meter tests. Project shall test its meters in accordance with the following procedure:

(1) Self contained single phase watthour meters.

(i) New meters: All meters received from a manufacturer will be tested for accuracy and inspection for mechanical defects.

(ii) Meters in service: A sample of up to 10% of meters in service will be selected each year for testing.

(2) Polyphase watt-hour meters, meters used with instrument transformers and demand meters.

(i) New meters: All meters received from a manufacturer will be tested for accuracy and inspected for mechanical defects.

(ii) Meters in service: A sample of up to 20% of all such meters will be tested each year.

(f) Special meter tests. On request of customer, Project shall, within 10 days after receipt of such request, make special meter tests. Customer shall bear the cost of such tests, including meter removal and replacement when the meter is found to be within the limits of acceptable accuracy as defined in section h. In all other cases Project will bear the cost of the test.

(g) Replacement of meter. Whenever a customer requests the replacement of the service meter because of accuracy, such request shall be treated as a request for a test of such meter and, as such, shall fall under the provisions of special meter tests.

(h) Standard of meter accuracy. The Project shall not place in service or knowingly allow to remain in service without adjustment any meter that has known error in registration of more than plus or minus two percent at light or at full load, and unity power factor, or more than plus or minus three percent at full load and fifty percent power factor.

(i) Adjustment for inaccurate meter registration. Whenever a tested meter in service is found to be fast or slow beyond the limit of accepted accuracy as defined, Project shall make an adjustment, based on the corrected registration for the period in which the meter was registering incorrectly, if such period is known, and if not known for a period of not exceeding six months, but in no event for a period longer than present customer's occupancy. Whenever any bill or bills have been adjusted or corrected as provided above and whenever such adjustment amounts to $1.00 or more, Project shall credit to customer any amount found to have been collected in excess of the proper amount, or Project may require customer to pay any additional amount due, as the case may be.

(j) Incorrect meter installation. Whenever any customer shall have been over-charged or under-charged as a result of incorrect installation of a meter or the use of an incorrect meter multiplier in billing the account, the amount of the over-charge shall be adjusted and credited to the customer if in excess of $1.00, or the amount of the under-charge may be adjusted and billed to the customer if in excess of $5.00, provided that in no event shall such period of adjustment exceed the length of time the service has been supplied to the customer through the incorrect metering installation at the present location.

(k) Non-registering meter. When a meter fails to register for any period, for reasons beyond the reasonable control of the Project, the Project may estimate the charge for service during such period, such estimate to be based on the best available data.

§ 232.11 Change of equipment or additional load.

If a customer desires to change his load materially, he shall notify the Project sufficiently in advance so that the facilities necessary to serve can be arranged and suitable contracts worked out. If the customer fails to notify the Project and as a result the Project's equipment is damaged, the customer may be held liable for the cost of such damage.

§ 232.12 Apparatus detrimental to service.

(a) *Fluctuating and intermittent loads.* For highly fluctuating loads and intermittent loads which seriously affect voltage regulation the Project may require the installation of suitable corrective devices, or assess a penalty charge or may refuse service.

(b) *Reactive power measurements and power factor penalties.* Reactive power measurements to determine the power factor of an installation may be made either by permanently installed instruments or by test and, when determined by test, the resulting power factor will remain in effect until a new determination is made. For low power factor devices the Project may require the correction to not less than 95% lead or lag, or may require a penalty charge or may refuse service. Reactive power charges (power factor penalties) will be assessed in accordance with the provision of the rate schedule.

§ 232.13 Interruptions to service.

(a) The Project will furnish energy continuously so far as reasonable diligence will permit. Continuous electric service is not guaranteed and the Project, its officers, agents or employees shall not be liable for injury, loss or damage resulting from any failure or curtailment of electric service, nor shall such failure or curtailment constitute a breach of contract. The Project shall have the right to temporarily suspend service for the purpose of making repairs or improvements to facilities, but in such cases, when practicable, advance public notice shall be given and every effort made to make such interruptions as short as possible and at such times as will cause the least inconvenience to the customers.

(b) If the customer's service fails, he shall endeavor to determine if he has blown fuses, tripped breaker, or his equipment at fault before calling the Project. The customer may be charged the cost of the service call if the trouble is found to be caused by his equipment or actions.

§ 232.14 Discontinuance by consumer and reconnection fee schedule.

(a) Disconnection for customer convenience or to avoid payment of minimum monthly bills will not be allowed. After a customer request for disconnect, the reconnection fee to the same account is as follows:

(b) No charge for reconnection prior to one month from date of disconnect. If the disconnect extends for longer than one month, the non-refundable fee will be $10.00 plus the monthly minimum of the account times the number of whole months elapsing since the date of disconnect.

(c) If the account is not connected for twelve months or over, the installation will be considered as abandoned and the Project may remove its facilities. Reestablishment of the removed service will be governed by § 232.6.

(d) Discontinuance of service will be allowed on stock water heaters, irrigation pumps, temporary services, construction services and those under a short term contract.

(e) Area lights will be disconnected with the mother account.

(f) A consumer shall give at least seven working days notice of his desire to discontinue or to reconnect the service. Special trips to the disconnect or reconnect for customer convenience will be billed to the customer.

§ 232.15 Discontinuance and refusal of service by the Project.

(a) *Discontinuance of service.* The Project may discontinue service to any customer including any or all accounts as follows:

(1) Without notice:

(i) In the event of any condition determined by the Project to be hazardous.

(ii) In the event of customer use of equipment in such a manner as to adversely affect the Project's equipment or service to others.

(iii) In the event of any unauthorized use or diversion of service or when any evidence of tampering with meters, transformers, poles or conductors, or interference with the proper functioning thereof is found.

(iiii) Upon receipt of orders from proper government authority to discontinue service.

(2) Upon not less than 24 hours' notice:

(i) For violations of and/or noncompliance with any applicable Federal, State, Municipal or other local laws, regulations, and codes.

(ii) For failure of the customer to fulfill his contractual obligations for service.

(iii) For failure of the customer to permit Project reasonable access to equipment or installation.

(3) Upon 72 hours' written notice (excluding holidays, Saturdays and Sundays):

(i) For non-payment of utility service bill following reasonable attempts by Project to effect collection or settlement. Whenever service is discontinued under this rule, Project shall not be required to restore service until a settlement has been made. Project shall also require customer to pay a $10.00 reconnect fee.

(b) *Refusal of service.* The Project may refuse service to any delinquent customer

owing for service at a present or previous account, until such past balance has been paid or satisfactory arrangements have been made by delinquent customer for paying. These same provisions shall apply to any other member of the same household or firm when application by this member, in the opinion of the Project, may be a means for evading payment of the delinquent bill. The Project may refuse service if applicant refuses to make deposits as required.

§ 232.16 Billing procedure.

(a) *Bills for service.* Meters will normally be read and bills for electric presented at regular intervals. Payment by consumer may be made in person or remitted by check or money order through the mails. The Project may refuse to accept personal checks for payment of bills.

(b) *Special bills.* Special bills, removal bills, bills for temporary service, bills rendered when premises are vacated or bills rendered to persons discontinuing service are due on presentation.

(c) *Bills due prior to service.* Bills for connection or reconnection of service, and required cash deposits shall be paid before service is connected, or reconnected.

(d) *Delinquent bills.* If payment of a bill is not made on or before the fifteenth day following the date of its issue, the project engineer shall discontinue service after notice, and shall not restore the same until the consumer has paid all bills then due as well as a $10.00 reconnection charge, and satisfied any deposit requirement which may exist under § 232.5. The discontinuance of service shall not relieve the consumer of liability for minimum monthly payments guaranteed by him under this contract. A customer shall be notified in writing of the intent to disconnect. Such notice shall be mailed via the United States Post Office to the last known address of the customer. Should there be a dispute as to the amount of the bill paragraph § 232.3 shall apply.

(e) *Bills for new services.* The billing period of new service or new construction shall be started within thirty days after the construction is completed.

§ 232.17 Business located in residences.

Where a small business is conducted as part of a residence the Project shall determine the applicable rate schedule by considering the following factors:

(a) Advertising by display of signs or telephone listing.

(b) Additional construction to accommodate the business portion.

(c) The amount of space devoted to the business in comparison with the residential use.

(d) The facilities for handling customer access and encouragement for customers to enter the premises.

(e) By comparing the business to similar ones in separate buildings or those under the general Rate Schedule.

(f) If the business is licensed.

§ 232.18 Rooming and boarding houses.

Rooming and boarding houses shall be served under one of the general Rate Schedules if more than 50% of the total numbers or areas of sleeping rooms in a house are available to roomers on a rental basis or if the house is licensed as a place of business, it shall be recognized as a rooming house. If not more than 3 single rooms are available for rent, it shall not be recognized as a rooming house and the residential rate will prevail. A boarding house is defined as one which serves more than three guests and one which advertises as a boarding house, or is a licensed place of business.

§ 232.19 Compensation of employees.

All employees are strictly forbidden to demand or accept any personal compensation for services rendered to a consumer, or any gratuity by reason of the rendition of services.

§ 232.20 Hardship cases.

The project engineer may relax temporarily strict enforcement of regulation when in his judgment such enforcement would work undue hardship upon a consumer.

§ 232.21 Contingent upon appropriations.

All contracts are subject to appropriations made by Congress from year to year of monies sufficient to perform the work or render the service provided therein. No liability shall accrue against the United States by reason of the lack of appropriations.

STANDARD RATE SCHEDULES

§ 232.51 Rate Schedule No. 1: Residential, urban and rural.

(a) *Application of schedule.* This schedule is available for single-phase electric service delivered through one meter to a single family residence either urban or rural, for domestic and farm use, including operation of motors as part of the appliances within the residence, no one of which exceeds 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises and must not be resold.

(b) *Monthly rate.* (1) 5.0 cents per kilowatt-hour for first 50 kilowatt-hours; (2) 2.5 cents per kilowatt-hour for next 50 kilowatt-hours; (3) 1.3 cents per kilowatt-hour for next 900 kilowatt-hours; and (4) 1.9 cents per kilowatt-hour for all over 1,000 kilowatt-hours.

(c) *Minimum bill.* $5.00 per month rural, $3.00 per month within incorporated municipalities.

§ 232.52 Rate Schedule No. 2: General.

(a) *Application of schedule.* This schedule is available for single-phase or three-phase electric service not exceeding a maximum demand of 20 kilowatts delivered through one meter for use in lighting, heating, operating appliances, and as power for motors which do not exceed 5 horsepower in capacity. The electric service is to be used only on the consumer's own premises and must not be resold. The use of this schedule is required for a second delivery to a customer's installation that is already being served by Rate Schedule No. 1.

(b) *Monthly rate.* (1) 6.0 cents per kilowatt-hour for first 50 kilowatt-hours; (2) 3.0 cents per kilowatt-hour for the next 50 kilowatt-hours; and (3) 2.5 cents per kilowatt-hour for all over 100 kilowatt-hours.

(c) *Minimum bill.* $5.00 per month rural, $3.00 per month within incorporated municipalities.

§ 232.54 Rate Schedule No. 4: General.

(a) *Application of schedule.* This schedule is available for single-phase and three-phase electric services for all purposes. Unless specifically permitted by the contract, use must be limited to the consumer's premises and the power supplies must not be resold. If more than one meter is required by the consumer's installations, or for the consumer's convenience, a separate computation shall be made for each meter.

(b) *Monthly rate.* (1) 5.0 cents per kilowatt-hour for the first 50 kilowatt-hours per kilowatt of billing demand.

(2) 2.5 cents per kilowatt-hour for the next 50 kilowatt-hours per kilowatt of billing demand.

(3) 1.3 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Discounts.* The following discounts will be applied in accordance with the contract demand as defined below. Discounts do not apply to the minimum charge.

	Percent
Less than 11 kw. of contract demand	0
11 kw. and more but less than 15 kw. of contract demand	4
15 kw. and more but less than 20 kw. of contract demand	6
20 kw. and more but less than 25 kw. of contract demand	8
25 kw. and more but less than 32 kw. of contract demand	10
32 kw. and more but less than 40 kw. of contract demand	12
40 kw. and more but less than 48 kw. of contract demand	14
48 kw. and more but less than 58 kw. of contract demand	16
58 kw. and more but less than 70 kw. of contract demand	18
70 kw. and more but less than 85 kw. of contract demand	20
85 kw. and more but less than 100 kw. of contract demand	22
100 kw. and more but less than 125 kw. of contract demand	24
125 kw. and more but less than 150 kw. of contract demand	26
150 kw. and more but less than 175 kw. of contract demand	28
175 kw. and more but less than 210 kw. of contract demand	30
210 kw. and more but less than 245 kw. of contract demand	32
245 kw. and more but less than 295 kw. of contract demand	34
295 kw. and more but less than 360 kw. of contract demand	36
360 kw. and more but less than 600 kw. of contract demand	38
600 kw. and more but less than 1,000 kw. of contract demand	40

	Percent
1,000 kw. and more but less than 1,600 kw. of contract demand	41
1,600 kw. and more but less than 2,400 kw. of contract demand	42
2,400 kw. and more but less than 3,500 kw. of contract demand	43
3,500 kw. and more but less than 5,000 kw. of contract demand	44
5,000 kw. and over of contract demand	45

(d) *Additional discount.* If a customer takes delivery at the primary voltage of the distribution or transmission system of the Project and at a location where the Project has adequate and suitable facilities available for such delivery, and if the customer furnishes, installs, operates and maintains the substation or substations with step-down transformers, protective equipment and all other facilities (except metering equipment) needed by the customer in distributing and utilizing the delivery power and energy, all subject to conditions and specifications satisfactory to the project engineer, then in that case an additional discount will be allowed, to be applied after the monthly bill has been computed in accordance with the preceding schedule as follows:

1. For three phase delivery at the Project distribution voltage, a discount of 5 percent.

(2) For three-phase delivery from the Project transmission system where not more than one transformation intervenes between the highest voltage of the Project power system and the delivery to the customer—a discount of 8 percent.

(e) *Minimum bill.* (1) $1.25 per month per kilowatt of billing demand, but not less than $12.50 per month.

(f) *Contract demand.* Each contract shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand. The contract demand shall not be less than 10 kilowatts.

(g) *Actual demand.* The actual demand for any month shall be the average amount of power used during that period of 15 consecutive minutes when such average is the greatest for the month as determined by suitable meters, or if meters are unavailable, the actual demand shall be the connected load or such portion of the connected load as the project engineer may determine to be appropriate, based on available information as to the customer's use of connected lights and appliances or from check metering.

(h) *Billing demand.* The billing demand for a month shall be the contract demand or the actual demand for that month, whichever is the greater.

(i) *Power factor adjustment.* An adjustment for power factor will be made by increasing the billing demand for each month by one (1) percent for each one (1) percent or major fraction thereof by which the lagging power factor is less than 95%.

§ 232.55 Rate Schedule No. 5: Irrigation pumping and sprinkling.

(a) *Application of schedule.* This schedule is available for single-phase and three-phase service used exclusively for irrigation pumping and sprinkling during the irrigation season, normally April 15 through October 15, where service may be discontinued during the balance of the year and the transformers removed at the discretion of the Project. Unless specifically permitted by the contract, use must be limited to the consumer's premises and must not be resold. If more than one meter is required by the customer's installations, or for the consumer's convenience, a separate computation will be made for each meter.

(b) *Rate per season or fraction thereof.* $7 per horsepower connected; 0.9 cent per kilowatt-hour for all kilowatt-hours used.

(c) *Special terms and conditions.* (1) The minimum annual (seasonal) horsepower charge of $7 per connected horsepower shall be paid each year during the life of the contract. Payment shall be required each year before the service is connected. If the service has not been connected by the close of the irrigation season, but in no case later than October 15, the minimum annual (seasonal) charge will be assessed.

(2) At the close of the irrigation season, but in no case later than October 15 of each year, the meter will be read and the total seasonal energy use (kilowatt-hours) will be computed and billed. The bills shall be due and payable within 30 calendar days after date of issue.

(3) If an account becomes delinquent, the project engineer shall have the option to cancel the contract, remove the Project's facilities, and demand payment of all delinquent bills, plus any penalties provided in the contract for premature termination of the contract.

(4) For a delinquent account to be reconnected payment will be required for all delinquent bills, plus the estimated energy charge for the coming season, plus the annual seasonal charge of $7 per horsepower.

§ 232.56 Rate Schedule No. 6: Street and area lighting.

(a) *Application of schedule.* This schedule is available in the Project's service area where adequate capacity, phase and voltage are available for individual users of area lighting and for communities who desire a lighting system. Service is from dusk to dawn and the Project will own, operate and maintain the lights, including lamp and globe replacement and furnishing the necessary power and energy. Individual users of area lighting will be required to have another account under the residential or general rate schedules.

(b) *Rate per unit.* (1) Area light installed on existing pole or structure:

7,000 lumen unit—$4.00 per month.
20,000 lumen unit—$5.50 per month.

(2) Area light installed with new wood pole:

7,000 lumen unit—$5.00 per month.
20,000 lumen unit—$6.50 per month.

(c) *Special conditions.* (1) Where more than 150 feet of extension and/or one pole per unit are required the customer will make a nonrefundable contribution for the overage at actual cost to the Project. Ownership of all facilities remains with the Project.

(2) The original term of contract shall be not less than 3 years. Should termination be requested by the customer within the contract minimum period, he shall be liable for the in and out costs, or the balance of the contract charges, whichever is the lesser.

(3) In case of municipalities or other entities desiring a lighting system involving 10 or more lighting units with fixtures, supports, or poles or an entity desiring units differing from those supplied as standard, the project engineer shall negotiate a contract for supplying this service.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

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National Park Service

[36 CFR Part 60]

NATIONAL REGISTER OF HISTORIC PLACES

Proposed Expansion

Pursuant to the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) the National Park Service, Department of the Interior, has undertaken steps to implement the purposes of that Act through: (1) expansion of the National Register, (2) initiating a program of grants-in-aid for historic preservation, and (3) adoption of procedures and criteria for furthering the Nation's historic preservation program.

It is the purpose of this notice of proposed rulemaking, through publication of information and materials included herein, to apprise the public, as well as governmental agencies, associations, and all other organizations and individuals interested in historic preservation, of these implementing actions in order that there will be a greater awareness of the means by which properties of significance in American history, architecture, archeology, and culture may be nominated for placement in the National Register and of the criteria used in evaluating the properties.

With several exceptions, the materials contained herein and published for comment represent the basic administrative approach adopted by the National Park Service after passage of the National Historic Preservation Act of 1966. This publication is primarily designed to draw together the procedures that have been developed to implement this legislation, to provide a general opportunity to comment, and to consolidate them for public availability.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed procedures to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C., on or before September 29, 1975.

The administration of the program has evolved in the following manner. Initially, in January 1967, in order to obtain the expeditious participation of the States in the National Register program, the Secretary of the Interior sent letters to the Governors of all jurisdictions eligible to participate asking for their cooperation in the National Register program. The letter reiterated the spirit of the 1966 Act that it is the role of the Federal Government to encourage and assist the several States in expanding and accelerating their efforts to preserve examples of our historic and cultural foundations. The letter also requested each Governor to designate a representative responsible for preparing surveys, receiving grants, and working with the Department of the Interior in developing the new program.

The criteria used to evaluate properties for possible inclusion in the National Register were developed with the suggestions and recommendations of Federal and State officials and leading preservationists. They are worded in a flexible manner to provide for the diversity of resources within the Nation and are concerned with the quality of significance in American history, architecture, archeology, and culture in districts, sites, buildings, structures, and objects.

By July 1967 the first guidelines to the National Register criteria for evaluation and grants-in-aid applications, based on task force guidelines submitted in February, were formally issued by the Office of Archeology and Historic Preservation and sent to Governor-appointed State Liaison Officers (later changed to State Historic Preservation Officers) and representatives of Federal agencies. The guidelines detailed the role of the State in the National Register program clearly stating that before any application for assistance could be considered, a State must designate in writing the State Liaison Officer who would act for the State in matters affecting this program. The guidelines further stated that no application for an acquisition or development project would be considered until the applicant had submitted and the Director had approved a statewide historic preservation plan. Statewide surveys and plans took top priority in the proposed allocation of grant funds for it was felt that surveys were essential to the expansion of the National Register and to sound statewide planning.

The concept developed during 1967 in consultation with the States contemplated the principal expansion of the National Register taking place as a direct result of statewide historical surveys conducted by the States with Federal financial aid. The main concern in these surveys was with places of State and local significance. The findings of Federal programs dealing with properties of less than national significance were made available to the States in the form of an advisory list published by the National Park Service in 1969.

In preparing the guidelines, the National Park Service coordinated closely with other Federal agencies having historic preservation responsibilities, most notably the Departments of Transportation and Housing and Urban Development, as well as with the National Trust for Historic Preservation and knowledgeable public and private authorities throughout the Nation.

The role of the State and the duties of the State Liaison Officer were first published in the FEDERAL REGISTER on February 25, 1969, 34 FR 2595 (1969), as official notice of the opportunities and restrictions and of the administrative procedures as appearing in the publication "Grants for Historic Preservation: a Guide for State Participation," which had been formally issued in July 1967. These guidelines were further amplified and refined in later written communications to the States and in such publications as "How to Complete National Register Forms" (September 1972) and "Historic Preservation Grants-in-Aid: Policies and Procedures" (June 1973). In these guidelines and procedures, the role of State and local governments in carrying out surveys and acquiring and restoring worthy properties was explained in further detail; nomination procedures, notification policy, professional staff and review board qualifications were also discussed at length. FEDERAL REGISTER notice, and incorporation by reference, of these materials has been provided each year since 1969. See, 35 FR 2495 (February 3, 1970); 36 FR 3337 (February 20, 1971); 37 FR 5467 (March 15, 1972); 38 FR 5439 (February 28, 1973); 39 FR 6476 (February 19, 1974); and, 40 FR 5333 (February 4, 1975). As indicated above, the proposed rulemaking contained herein is based upon, and in most cases does not change, the policies and procedures that have been developed over the years as reflected in the above manuals, booklets, and publications.

Since the 1966 Act, and in accord with these previous guidelines, the National Register has grown from a listing of several hundred properties that possessed national significance to a listing of about 10,000 properties of State, local, and national significance. To ensure high professional standards among the 56 jurisdictions involved in submitting statewide surveys and nominations to the National Register, the National Park Service has required that each of the States develop expertise in the three basic disciplines of architecture, history, and archeology at the survey staff and review board level. The State plan, as called for in Title I of the act, and all nominations submitted to the National Register by a State for consideration, must first be prepared under the supervision of a full-time professional survey staff, responsible to the State Historic Preservation Officer (formerly known as the State Liaison Officer) and approved by a professional review board, the members of which must first be approved by the National Park Service. This system was purposely initiated in order to assure the National Register of two levels of expert professional opinion, at the State level, prior to a professional review of a nomination in the National Register office. The State survey staff has the responsibility of making the first determination of what satisfies the criteria for evaluation, which have been published in the FEDERAL REGISTER and which are applied equally across the country. The nomination is then submitted to the State review board for approval; if approved it must be signed by the State Historic Preservation Officer before it may be forwarded to the National Register for further professional review at the Federal level. The signature of the State Historic Preservation Officer on the nomination form certifies that the review board has approved the nomination and that all other applicable procedures, including notification to the property owner at least once during the nomination process, have been followed. This same approach has been continued in the proposed rulemaking contained herein.

In the National Register office in Washington, the nomination has traditionally gone through three stages. It is first stamped by date received and given technical review to be certain that all of the proper information—State Historic Preservation Officer signature, acreage, and other geographical data—is correct. From there it is transmitted to the professional review unit which consists of historians, architectural historians, and archeologists. Each nomination is reviewed individually by at least three professionals. When they concur that the property nominated is eligible for inclusion in the National Register, the nomination is forwarded to the Keeper of the National Register for review. If the Keeper concurs with the staff's recommendation, the nomination is signed and dated and sent to the Director of the Office of Archeology and Historic Preservation for additional review. If the Director concurs, the nomination is again signed and thereby is officially entered in the National Register. The National Register then notifies the State Historic Preservation Officer and the property is listed in the FEDERAL REGISTER. In the proposed rules, it is contemplated that the same procedures will be followed, but that a formal opportunity for comment concerning the significance of the property under the National Register criteria for evaluation will be provided, first by the States as a part of their responsibility to provide notice to property owners at least once of the State's intent to nominate the property and then through publication in the "Federal Register" of a listing of nominations under consideration. Comments received by a State concerning the significance of a property under the National Register criteria for evaluation will be forwarded with the nomination for further consideration by the National Register of Historic Places.

This rulemaking is developed under the authority of section 2(k) of the Historic Sites Act of 1935, 16 U.S.C. 462(k) (1970 ed.), and section 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a) (1970 ed.).

In consideration of the foregoing, it is proposed that Chapter I of Title 36 of the

Code of Federal Regulations will be amended by adding a new Part 60, reading as follows:

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Sec.
60.1 The National Historic Preservation Act of 1966.
60.2 Authorization and expansion of the National Register.
60.3 Grants for historic preservation.
60.4 Executive Order 11593, "Protection and Enhancement of the Cultural Environment," May 13, 1971 (36 FR 8921, see 16 U.S.C. 470).
60.5 Appointment and responsibilities of the State Historic Preservation Officer.
60.6 Criteria for evaluation.
60.7 The State historic preservation plan.
60.8 State professional staff.
60.9 State review board.
60.10 Nomination forms.
60.11 Concurrent State and Federal nominations.
60.12 Notification.
60.13 Publication in the FEDERAL REGISTER.
60.14 Other State and local programs.
60.15 Processing for nominations.
60.16 Changes and revisions to properties listed in the National Register.

AUTHORITY: Section 2(k), 49 Stat. 666 [16 U.S.C. 462(k)]; Section 101(a)(1), 80 Stat. 915 [16 U.S.C. 470a-1(a) (1970 ed.)]

§ 60.1 The National Historic Preservation Act of 1966.

In the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470, the Congress found and declared:

(a) That the spirit and direction of the Nation are founded upon and reflected in its historic past.

(b) That the historic and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.

(c) That, in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; and

(d) That, although the major burdens of historic preservation have been borne and major effects initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

§ 60.2 Authorization and expansion of the National Register.

(a) The National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470, authorizes the Secretary of the Interior to expand and maintain a National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture. Previously, the National Register included only nationally significant properties that were historical or archeological units of the National Park System, or that had been declared eligible for designation as national historic landmarks. Because they must meet exacting criteria of national significance, such properties are few in number. The National Historic Preservation Act of 1966 provides a means for States to nominate properties of State and local significance, regardless of location within the State and whether publically or privately owned, for placement in the National Register.

(b) Listing in the National Register is an authoritative guide to be used by Federal, State, and local governments, private groups, and citizens to identify the Nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment. It is also the legal instrument to insure that registered properties affected by undertakings that are executed, licensed, or financially assisted by the Federal Government will be the subject of review and comment in accordance with section 106 of the act and Executive Order 11593, May 13, 1971. Such review and comment is the function of the Advisory Council on Historic Preservation. The Advisory Council has adopted procedures concerning, inter alia, their commenting responsibility in 36 CFR Part 800.

(c) The National Register was designed to be and is administered as a planning tool without restraint upon private property interests. The only constraint upon Federal initiative with regard to listed properties is that the Federal agency undertaking a project having an effect on such a property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment. Having complied with this procedural requirement the Federal agency may adopt any course of action it may feel appropriate. No requirements of any kind are imposed upon private initiative.

(d) The National Register is enlarged by:

(1) Acts of Congress and Executive orders which create areas of historic significance administered by the National Park Service;

(2) Properties declared by the Secretary of the Interior as eligible for designation as national historic landmarks;

(3) Nominations prepared by the States and approved by the National Park Service; and,

(4) Nominations of Federal properties prepared by Federal agencies as directed by Executive Order 11593 and approved by the National Park Service.

§ 60.3 Grants for historic preservation.

The National Historic Preservation Act also authorizes a program of grants-in-aid to States for comprehensive statewide historic site surveys and preservation plans. Grants are also authorized to States, local governments, private organizations, and individuals for preservation projects in accordance with an approved statewide plan. All grants are made through the States. The State Historic Preservation Officer may then distribute the funds to other approved public and private recipients. Funds may be used for acquisition, protection, rehabilitation, restoration, and reconstruction of properties included in the National Register. For further information relating to the historic preservation grants-in-aid program, consult Chief, Division of Grants, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

§ 60.4 Executive Order 11593, "Protection and Enhancement of the Cultural Environment," May 13, 1971 (36 FR 8921, see 16 U.S.C. 470).

(a) The Executive order states that the Federal Government shall provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the Nation. Federal agencies are directed to administer cultural properties under their control in a spirit of stewardship and trusteeship for future generations and to initiate measures to direct their activities in such a way that federally owned properties of historical, architectural, or archeological significance are preserved, restored, and maintained for the inspiration and benefit of the people.

(b) Section 2(a) of Executive Order 11593 provides that Federal agencies shall locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

(c) Inventories of cultural resources should be retained and updated for future planning activities and made available to other public and private agencies that may have use for the information. It is particularly important that this information be conveyed to the appropriate State Historic Preservation Officer for inclusion in the State historic preservation plan.

(d) Additional responsibilities of Federal agencies are detailed in Executive Order 11593, the National Historic Preservation Act of 1966, the National Environmental Policy Act of 1969, the Archeology and Historic Preservation Act of 1974, procedures developed pursuant to these authorities, and other related legislation. Detailed administrative procedures for the further implementation of Executive Order 11593 are being developed to set forth, inter-alia, criteria and procedures to be applied by Federal agencies in the review and nomination required by section 2(a).

§ 60.5 Appointment and responsibilities of the State Historic Preservation Officer.

(a) Implementation of the National Historic Preservation Act of 1966 is ac-

complished primarily by the State Historic Preservation Officers (formerly known as State Liaison Officers), who are responsible for administering the National Register program within their jurisdictions. These officers are appointed by the Governors of the 50 States, Guam, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Mayor of the District of Columbia.

(b) The State Historic Preservation Officer is responsible for the development and implementation of a comprehensive State historic preservation plan, based clearly on the State's history and established in conformance with local, State, and Federal legislation and mechanisms, and approved by the Secretary of the Interior. The State Historic Preservation Officer supervises a professional staff in conducting a statewide survey of historic resources addressed to every aspect of the State's history. From this continuing inventory of historic resources, an integral part of the State historic preservation plan, the State Historic Preservation Officer may nominate properties for inclusion in the National Register. The nominated properties which are approved by the National Park Service are entered in the National Register by the Director Office of Archeology and Historic Preservation, National Park Service.

(c) The State Historic Preservation Officer has also assumed certain responsibilities for compliance under section 106 of the National Historic Preservation Act as outlined by the Advisory Council on Historic Preservation in "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 800).

(d) The following officials have been designated by their Governors to act as State Historic Preservation Officers responsible for State activities under the National Historic Preservation Act:

STATE HISTORIC PRESERVATION OFFICERS

ALABAMA

Chairman, Alabama Historical Commission, Alabama Department of Archives and History, Archives and History Building, Montgomery, Alabama 36104.

ALASKA

Director, Department of Natural Resources, Division of Parks, 323 East Fourth Avenue, Anchorage, Alaska 99501.

ARIZONA

Director, State Parks Board, 1688 West Adams, Phoenix, Arizona 85007.

ARKANSAS

Director, Department of Natural and Cultural Heritage, The Old State House, 300 West Markham, Little Rock, Arkansas 72201.

CALIFORNIA

Director, Department of Parks and Recreation, State Resources Agency, P.O. Box 2390, Sacramento, California 95811.

COLORADO

Chairman, State Historical Society, Colorado State Museum, 200 14th Avenue, Denver, Colorado 80203.

CONNECTICUT

Director, Connecticut Historical Commission, 59 South Prospect Street, Hartford, Connecticut 06106.

DELAWARE

Director, Division of Historical and Cultural Affairs, Hall of Records, Dover, Delaware 19901.

FLORIDA

Director, Division of Archives, History and Records Management, Department of State, 401 East Gaines Street, Tallahassee, Florida 32304.

GEORGIA

Chief, Historic Preservation Section, Department of Natural Resources, 270 Washington Street SW., Room 403-C, Atlanta, Georgia 30334.

HAWAII

Chairman, Department of Land and Natural Resources, P.O. Box 621, Honolulu, Hawaii 96809.

IDAHO

Director, Idaho Historical Society, 610 North Julia Davis Drive, Boise, Idaho 83706.

ILLINOIS

Director, Department of Conservation, 602 State Office Building, 400 South Spring Street, Springfield, Illinois 62706.

INDIANA

Director, Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.

IOWA

Director, State Historical Department, Division of Historic Preservation, B-13 MacLean Hall, Iowa City, Iowa 52242.

KANSAS

Executive Director, Kansas State Historical Society, 120 West 10th Street, Topeka, Kansas 66612.

KENTUCKY

Director, Kentucky Heritage Commission, 401 Wapping Street, Frankfort, Kentucky 40601.

LOUISIANA

Director, Department of Art, Historical and Cultural Preservation, Old State Capitol, Baton Rouge, Louisiana 70801.

MAINE

Director, Maine Historical Preservation Commission, 31 Western Avenue, Augusta, Maine 04330.

MARYLAND

Director, Maryland Historical Trust, The John Shaw House, 21 State Circle, Annapolis, Maryland 24101.

MASSACHUSETTS

Executive Director, Massachusetts Historical Commission, 40 Beacon Street, Boston, Massachusetts 02108.

MICHIGAN

Director, Michigan History Division, Department of State, Lansing, Michigan 48918.

MINNESOTA

Director, Minnesota Historical Society, 690 Cedar Street, St. Paul, Minnesota 55101.

MISSISSIPPI

Director, State of Mississippi Department of Archives and History, P.D. Box 571, Jackson, Mississippi 39205.

MISSOURI

Director, Missouri Department of Natural Resources, P.O. Box 176, 1204 Jefferson Building, Jefferson City, Missouri 65101.

MONTANA

Administrator, Recreation and Parks Division, Department of Fish and Game, Helena, Montana 59601.

NEBRASKA

Director, The Nebraska State Historical Society, 1500 R Street, Lincoln, Nebraska 68508.

NEVADA

Administrator, Division of State Parks, 201 South Fall Street, Carson City, Nevada 89701.

NEW HAMPSHIRE

Commissioner, Department of Resources and Economic Development, P.O. Box 856, Concord, New Hampshire 03301.

NEW JERSEY

Commissioner, Department of Environmental Protection, P.O. Box 1420, Trenton, New Jersey 08625.

NEW MEXICO

State Planning Officer, State Capitol, 403 Capitol Building, Santa Fe, New Mexico 87501.

NEW YORK

Commissioner, Parks and Recreation, Room 303, South Swan Street Building, Albany, New York 12223.

NORTH CAROLINA

Director, Division of Archives and History, Department of Cultural Resources, 109 East Jones Street, Raleigh, North Carolina 27611.

NORTH DAKOTA

Superintendent, State Historical Society of North Dakota, Liberty Memorial Building, Bismarck, North Dakota 58501.

OHIO

Director, The Ohio Historical Society, Interstate #71 at 17th Avenue, Columbus, Ohio 43211.

OKLAHOMA

State Historic Preservation Officer, 1108 Colcord Building, Oklahoma City, Oklahoma 73102.

OREGON

State Parks Superintendent, 300 State Highway Building, Salem, Oregon 97310.

PENNSYLVANIA

Executive Director, Pennsylvania Historical and Museum Commission, Box 1026, Harrisburg, Pennsylvania 17120.

RHODE ISLAND

Director, Rhode Island Department of Community Affairs, 150 Washington Street, Providence, Rhode Island 02903.

SOUTH CAROLINA

Director, State Archives Department, 1430 Senate Street, Columbia, South Carolina 29211.

SOUTH DAKOTA

Director, Office of Cultural Preservation, Department of Education and Cultural Affairs, State Capitol, Pierre, South Dakota 57501.

TENNESSEE

Executive Director, Tennessee Historical Commission, 170 2nd Avenue North, Suite 100, Nashville, Tennessee 37219.

TEXAS

Executive Director, Texas State Historical Survey Committee, P.O. Box 12276, Capitol Station, Austin, Texas 78711.

UTAH

Director, Division of State History, 603 East South Temple, Salt Lake City, Utah 84102.

VERMONT

Director, Vermont Division of Historic Sites, Pavilion Building, Montpelier, Vermont 05602.

VIRGINIA

Executive Director, Virginia Historic Landmarks Commission, 221 Governor Street, Richmond, Virginia 23219.

WASHINGTON

Director, Washington State Parks and Recreation Commission, P.O. Box 1128, Olympia, Washington 98504.

WEST VIRGINIA

State Historic Preservation Officer, P.O. Box 937, Morgantown, West Virginia 26505.

WISCONSIN

Director, State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706.

WYOMING

Director, Wyoming Recreation Commission, 604 East 25th Street, Box 309, Cheyenne, Wyoming 82001.

DISTRICT OF COLUMBIA

Acting Director, Office of Housing and Community Development, 14th and E Streets NW., Washington, D.C. 20004.

AMERICAN SAMOA

Territorial Historic Preservation Officer, Department of Public Works, Government of American Samoa, Pago Pago, American Samoa 96799.

COMMONWEALTH OF PUERTO RICO

State Historic Preservation Officer, Institute of Puerto Rico Culture, Apartado 4184, San Juan, Puerto Rico 00905.

GUAM

Chief, Parks and Recreation Resources Division, Department of Commerce, P.O. Box 682, Agana, Guam 96910.

TRUST TERRITORY

Chief, Land Resources Branch, Department of Resources and Development, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950.

VIRGIN ISLANDS

Planning Director, Virgin Islands Planning Board, Charlotte Amalie, St. Thomas, Virgin Islands 00801.

(e) When a new State Historic Preservation Officer is appointed by a Governor, a letter must be sent to the Director of the National Park Service providing notice of the appointment. Similar written notification must also be sent in cases involving a successor to the State Historic Preservation Officer when the original appointment was made to the *office* rather than specifically to the *individual (by name)* holding the office. The National Park Service also requires notification when the State Historic Preservation Officer delegates authorities to other parties. Changes of address, telephone number, or personnel should also be brought promptly to the attention of the National Park Service.

(f) Questions concerning authorized signatures should be addressed to the Director, Office of Archeology and Historic Preservation, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

§ 60.6 Criteria for evaluation.

(a) The criteria applied to evaluate properties for possible inclusion in the National Register are listed below. These criteria are worded in a manner to provide for the diversity of resources. The following criteria shall be used in evaluating properties for nomination to the National Register, by the National Park Service in reviewing nominations, and for evaluating National Register eligibility of properties affected by Federal agency undertakings.

(b) *National Register criteria for evaluation.* The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and

(1) That are associated with events that have made a significant contribution to the broad patterns of our history; or

(2) That are associated with the lives of persons significant in our past; or

(3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) That have yielded, or may be likely to yield, information important in prehistory or history.

(c) *Criteria considerations.* Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction or historical importance.

(2) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

(3) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life.

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.

(5) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived.

(6) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance.

(7) A property achieving significance within the past 50 years if it is of exceptional importance.

§ 60.7 The State historic preservation plan.

(a) Before properties are nominated for inclusion in the National Register, a continuing statewide survey of historic, architectural, archeological, and cultural resources is undertaken. This survey may be conducted with matching funds from the grants-in-aid program of the National Park Service.

(b) The survey is the basis of a State historic preservation plan which is organized into three volumes. Volume I of this document provides a summary of the State's history and background of its preservation activities, a statement of its long-range goals, and its methods of operation. Volume II, an inventory of the State's cultural resources, identifies all significant districts, sites, buildings, structures, and objects regardless of title, boundaries, or ownership so that properties which meet the criteria for evaluation can be nominated to the National Register. Volume III is the annual work program, which must be submitted annually with an apportionment warrant stating and explaining the State's request for historic preservation grants-in-aid. This volume includes a review of the past year's work, updates of volumes I and II, and plans for the next fiscal year.

(c) A State's eligibility to participate in the National Register program and the grants-in-aid program depends upon its submission of an acceptable State historic preservation plan to the National Park Service.

(d) More detailed information on the State historic preservation plan may be obtained by writing the Branch of Plans, National Register Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

§ 60.8 State professional staff.

The State plan and all nominations submitted to the National Register by a State for consideration must first be prepared under the supervision of a full-time professional staff, responsible to the State Historic Preservation Officer. The staff must possess professionally recognized qualifications by education and experience in the fields of history, archeology, architecture (architectural history), and other appropriate disciplines, such as planning, as may be necessary. The credentials for each proposed staff member must be presented to the National Park Service for approval as part of the State historic preservation

plan, volume III, or whenever there is a change in the composition of the staff.

§ 60.9 State Review Board.

(a) Volumes I and II of the State plan and all nominations submitted to the National Register by a State Historic Preservation Officer must first have been approved by a professional review board. The State Historic Preservation Officer must identify the proposed members of the review board and present their credentials to the National Park Service for approval in volume III of the State historic preservation plan or whenever there is a change in the composition of the board. The members of the review board may be proposed to the National Park Service either by the Governor or by the State Historic Preservation Officer.

(b) A minimum membership of five is required, including an authority in each of the following fields: History, archeology, architectural history, or architecture, and such other professional disciplines as may be appropriate (i.e. urban or regional planning). Employees of the State agency having the responsibility for survey and planning under the provisions of the act may be members of this body but may not vote on documents which they have supervised or have prepared themselves. Employees of the State agency may not fill one of the five professional positions except with special written permission of the National Park Service.

§ 60.10 Nomination forms.

All nominations to the National Register are to be made on standard National Register forms (revised October 1974) as follows:

No.	Form title	User	Color
10-300	Inventory-nomination.	State	White.
10-306	do	Federal	Blue.
10-300a	Continuation sheet.	State and Federal	White.
10-301	Property map	do	Do.
10-301a	Property photograph.	do	Do.

These forms are provided upon request to the State Historic Preservation Officers and to the participating Federal agencies by the National Park Service. For archival reasons, no other forms, photocopied or otherwise, will be accepted.

§ 60.11 Concurrent State and Federal nominations.

(a) State Historic Preservation Officers and Federal Representatives are encouraged to cooperate in locating, inventorying, evaluating, and nominating all properties possessing historical, architectural, archeological, or cultural value.

(b) When a portion of the area included in a Federal nomination is not located on land under the jurisdiction or control of the Federal agency, but is an integral part of the cultural resource, the completed nomination form should be sent to the State Historic Preservation Officer for submission to the State review board, notification to property owners, and the solicitation of written comments.

(c) If the review board approves the nomination, the form should be signed by the State Historic Preservation Officer and returned to the Federal agency initiating the nomination along with a letter confirming that the nomination has been reviewed and approved by the State Historic Preservation Officer and the review board, that the appropriate owner or owners have been notified, and that all other State procedures have been fulfilled. Comments received by a State concerning the significance of the property should be included.

(d) Federally owned properties may be nominated by the State as well. In such cases the State Historic Preservation Officer shall notify the appropriate Federal Representative in writing and, if possible, an agency official within the State before the nomination is forwarded to the National Park Service.

§ 60.12 Notification.

(a) The National Register was designed and has been implemented as a planning tool. The only constraint upon Federal initiative with regard to listed properties is that the Federal agency undertaking a project having an effect on such a property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment. Having complied with this procedural requirement, the agency may adopt any course of action it may feel appropriate. No requirements of any kind are imposed upon private initiative.

(b) The State Historic Preservation Officer concept has been developed within the various States at the urging of the Secretary of the Interior both to expand the National Register and to implement the historic preservation grants-in-aid program created by the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq. (1970 ed.). As such, this position has come to serve as a vital link between a State's participation in these programs and the National Park Service, and as a blending of State and Federal programs. This is particularly true of the identification and nomination of properties to the National Register by a State, which is required as a portion of the comprehensive statewide historic and cultural survey and a condition precedent to participation in the grants-in-aid program.

(c) The identification and nomination of historic and cultural resources, as a function that has been assumed by the various States, is essentially a State action. Nominations received from the various States are, in the vast majority of situations, accepted by the National Park Service, and the subject properties are listed in the National Register. As a part of this process, each State is required to notify property owners at least once of the State's intent to nominate a property and to allow a reasonable opportunity for the presentation of written comments concerning the property's significance prior to review board consideration. The various States are also strongly encouraged to notify appropriate county or municipal authorities and to allow them a reasonable opportunity to present written comment concerning that property's significance prior to review board consideration.

(d) In the event of a nomination of a historic district of multiple ownerships where notice to individual property owners is not practicable, each State is required to notify appropriate county or municipal authorities; to provide other means of general notice concerning the State's intent to nominate the district; and, to allow a reasonable opportunity for the presentation of written comments concerning the district's significance prior to review board consideration. In consultation with the State's Attorney, each State should adopt general notification procedures consistent with these considerations and provide the National Register with a copy of these procedures, including evidence of the concurrence of the State's Attorney, in volume III of the State historic preservation plan.

(e) State Historic Preservation Officers are required to inform property owners or appropriate local authorities, as appropriate, when properties are added to the National Register.

§ 60.13 Publication in the Federal Register.

(a) When a nomination is received, the National Park Service shall publish notice in the FEDERAL REGISTER that the property is being considered for listing and shall receive additional written comments concerning the significance of the property under National Register criteria for evaluation whenever possible.

(b) The National Register will notify the State Historic Preservation Officer of the listing of the property. The National Register will also place notice of listing in the FEDERAL REGISTER on a regular basis and in a cumulative edition which will appear once a year, usually in February.

§ 60.14 Other State and local programs.

State and local authorities that utilize the National Register nomination as the base for more restrictive provisions, such as halt-in-demolition provisions, must be aware that such uses of the information provided to the National Register are purely matters of State and local initiative and subject to the scope of a State's policy powers. Such State and local provisions must be clearly separated from the role of the National Register as a planning tool and as the basis for participation in the historic preservation grants-in-aid program.

§ 60.15 Processing of nominations.

Nominations of properties to the National Register follow the process set forth below.

(a) Nominations by the State Historic Preservation Officer.

(1) Nomination forms (10-300) are prepared under the supervision of the State Historic Preservation Officer.

(2) Notice is provided of the intent to nominate the property and written comments are solicited.

(3) Completed nomination forms are submitted to the State review board for approval prior to submission to the National Register.

(4) Nomination forms approved by the State review board are signed by the State Historic Preservation Officer.

(5) The State Historic Preservation Officer submits the completed nomination and comments received by a State concerning the significance of the property to the Director, Office of Archeology and Historic Preservation, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

(6) Notice will be provided in the FEDERAL REGISTER that the nominated property is being considered for listing in the National Register of Historic Places and comments will be received whenever possible concerning the significance of the property.

(7) Nominations are reviewed by the Office of Archeology and Historic Preservation to determine technical and professional sufficiency and conformance to the National Register criteria for evaluation and comments are considered.

(8) Nominations found to be technically and professionally sufficient and in conformance with the National Register criteria for evaluation will be approved by the Director, Office of Archeology and Historic Preservation, and entered in the National Register. Nominations found technically or professionally inadequate will be returned for correction and resubmission. When a property does not appear to meet the National Register criteria for evaluation, the nomination will be returned with an explanatory letter.

(b) *Nominations by a Federal agency.* (1) Nomination forms (10–306) are prepared under the supervision of the Federal Representative designated by the head of a Federal agency to fulfill agency responsibilities under Executive Order 11593.

(2) Completed nominations are submitted to the appropriate State Historic Preservation Officer for review and comment regarding the significance of the property and its eligibility for the National Register.

(3) After receiving the comments of the State Historic Preservation Officer, or if there has been no response within 90 days, the Federal Representative may approve the nomination and forward it to the Director, Office of Archeology and Historic Preservation, National Park Service, Washington, D.C. 20240. The comments of the State Historic Preservation Officer are appended to the nomination, or, if there are no comments, an explanation is attached. Concurrent nominations cannot be submitted, however, until the nomination has been approved by the State in accord with § 60.11, supra. Comments received by the State concerning concurrent nominations must be submitted with the nomination.

(4) Notice will be provided in the FEDERAL REGISTER that the nominated property is being considered for listing in the National Register of Historic Places and comments will be received whenever possible concerning the significance of the property.

(5) Nominations are reviewed by the Office of Acheology and Historic Preservation to determine technical and professional sufficiency and conformance to the National Register criteria for evaluation and comments are considered.

(6) Nominations found to be technically and professionally sufficient and in conformance with the National Register criteria for evaluation will be approved by the Director, Office of Archeology and Historic Preservation, and entered in the National Register. Nominations found technically or professionally inadequate will be returned for correction and resubmission. When a property does not appear to meet the National Register criteria for evaluation, the nomination will be returned with an explanatory letter.

§ 60.16 Changes and revisions to properties listed in the National Register.

(a) *Boundary changes.* (1) A boundary alteration should be handled as a new property nomination supplanting the old nomination form. All forms, criteria, and procedures used in nominating a property to the National Register must be used at both the State and Federal levels. A professionally justified recommendation by the State Historic Preservation Officer or Federal Representative must be presented to the National Park Service. During this process, the property is not taken off the National Register. If the National Park Service finds the recommendation in accordance with the National Register criteria for evaluation, the change will be accepted. If the boundary change is not accepted, the old boundaries will remain.

(2) Two justifications exist for altering a boundary: Professional error in the initial nomination or loss of historic integrity. In some cases, accretion of additional significance may also be reason for altering property boundaries. No enlargement of a boundary should be recommended unless the additional area possesses previously unrecognized significance in American history, architecture, archeology, or culture. No diminution of a boundary should be recommended unless the properties being removed have lost the characteristics that endowed them with such significance and qualified them for the initial nomination. Any proposal to alter a boundary has to be documented in detail in order to avoid the necessity of an onsite inspection by National Park Service personnel. Specifically, the structures or other historic resources falling between the existing boundary and the other proposed boundary should be photographed.

(3) Attention should be given to the "Criteria for Effect," promulgated by the Advisory Council on Historic Preservation in "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), for use in the application of section 106 of the National Historic Preservation Act. According to these criteria a project need not fall within the boundaries of a National Register property for an effect to exist.

(b) *Relocating properties listed in the National Register.* (1) Properties listed in the National Register should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting, and general environment.

(2) If it is proposed that a structure listed in the National Register be moved and the State or Federal agency wishes the proprty to remain in the National Register during and after the move, the State or Federal agency must submit documentation prior to the move which should discuss:

(i) The reasons for the move;

(ii) The effect on the property's historical integrity; and

(iii) The new setting and general environment of the proposed site, including evidence that the proposed site does not possess historical significance that would be adversely affected by the intrusion of the structure.

In addition, photographs showing the proposed location must be sent along with the documentation. Any such proposal submitted by a State must be approved by the State review board and will continue to follow normal review procedures.

(3) If the National Park Service approves the proposal, the property will remain on the National Register during and after the move unless the integrity of the property is, in some unforeseen manner, destroyed. If the National Park Service does not approve the proposal, the property will be automatically deleted from the National Register when moved. If the State or Federal agency has proof that previously unrecognized significance exists, or has accrued, the State or Federal agency may resubmit a nomination for the property as outlined below.

(4) In the event that a structure is moved, deletion from the National Register will be automatic unless the above procedures are followed prior to the move. If the property has already been moved, it is the State or Federal agency's responsibility to notify the National Register. Assuming that the State or Federal agency wishes to have the structure reentered in the National Register, it must be nominated again on new forms which should discuss:

(i) The reasons for the move;

(ii) The effect on the property's historical integrity, and

(iii) The new setting and general environment, including evidence that the new site does not possess historical significance that would be adversely affected by the intrusion of the site.

In addition, new photographs showing the structure at its new location must be sent along with the revised nomination.

Any such nomination submitted by a State must be approved by the State review board.

Dated: August 21, 1975.

GARY EVERHARDT,
Director, National Park Service.

[FR Doc.75-22877 Filed 8-28-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 910]

HANDLING OF LEMONS GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Size Regulation for Lemons

This notice invites written comment relative to a proposal submitted by the Lemon Administrative Committee that the size regulation currently in effect through September 27, 1975, be continued in effect during the period September 28, 1975, through September 25, 1976. The proposal would continue unchanged the current minimum size requirements for lemons at 1.82 inches in diameter (size 235's in cartons). The size requirements are those which have been found to provide consumers with lemons of acceptable maturity and juice content.

Notice is hereby given that the Department is considering a proposed size regulation for lemons grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in Arizona and designated part of California. The regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The current size regulation, Lemon Regulation 656 (39 FR 30151), is effective through September 27, 1975, and the proposed regulation would continue, through September 25, 1976, the same size requirements on the handling of lemons as are currently in effect. The proposed regulation would limit the handling of lemons grown in District 1, District 2, or District 3 to lemons measuring 1.82 inches or larger. The proposal was submitted by the Lemon Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The regulation unanimously recommended by the committee reflects its appraisal of the lemon crop and the current and prospective marketing conditions. The size limitations proposed are designed to prevent the handling of lemons, on and after the proposed effective date, of sizes smaller than those herein specified so as to provide consumers with a plentiful supply of lemons of acceptable maturity and juice content consistent with (1) the overall size composition of the crop, and (2) improving returns to growers pursuant to the declared policy of the act. The committee advises there are more than adequate quantities of lemons available in a broad range of sizes to fill all market needs, and lemons smaller than 235's have negligible sales opportunity in fresh form, because they are costly to prepare for market, and have lower juice yield than larger lemons.

Order. (a) From September 28, 1975, through September 25, 1976, no handler shall handle any lemons grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section "handle", and "handler", "District 1", "District 2", and "District 3" each shall have the same meaning as when used in the said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than September 10, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE: It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: August 26, 1975.

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

[FR Doc.75-23047 Filed 8-28-75;8:45 am]

[7 CFR Parts 911, 915]

[Docket Nos. AO-267-A8 and AO-254-A7]

MARKETING AGREEMENTS AND ORDERS

Decision on Proposed Further Amendments

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911) and of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915) (hereinafter referred to collectively as "the orders" unless referred to individually), regulating the handling of limes grown in Florida and the handling of avocados grown in south Florida, respectively. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Homestead, Florida, on April 10, 1975, pursuant to notice thereof issued on March 10, 1975.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Associate Administrator, on July 2, 1975, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

Material issues. The material issues of record are as follows:

(1) Revise the procedure for nominating persons to fill grower and handler positions on the committees, to permit nominations by mail in District 2 and change the period used to determine the volume for weighting the vote of each handler;

(2) Revise the assessment provisions which limit the rate to 10 cents per 55 pounds of fruit for administrative purposes and 10 cents per 55 pounds for research and development;

(3) Authorize production research;

(4) Authorize four shipping holidays not exceeding 6 days each at July 4, Labor Day, Thanksgiving, and Christmas;

(5) Require the Avocado Administrative Committee to submit to the Secretary a marketing policy report for the ensuing season, prior to recommending seasonal regulations;

(6) Revise the tolerances in the lime order applicable to the quantity of limes each handler would be permitted to ship in excess of his allotment; and

(7) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

1. The provisions of each of the orders in §§ 911.22 and 915.22 should be amended, as hereinafter set forth, to authorize the committees to conduct nominations by mail in District 2 in accordance with procedures recommended by the committees and approved by the Secretary.

Each of the orders is administered locally by a 9-member administrative committee, of which 5 are grower members and 4 handler members. Geographically, 4 grower and 3 handler members represent District 1 and 1 grower and 1 handler District 2. Such members are selected by the Secretary from nominees elected as specified in the order by the growers or handlers, as the case may be, or from among other eligible persons. Currently nominees are elected at meetings of growers and handlers in the respective districts. Only growers and handlers who are present at such meetings may vote in the election of nominees, except that growers who reside outside the production area may be represented at such meetings by authorized agents.

The production area for avocados includes the counties of Brevard, Orange, Lake, Polk, Hillsborough, and Pinellas and all the area in Florida south of such counties. For limes the production area includes all of Florida except the area

west of the Suwannee River. Under the avocado order, Dade County comprises District 1, and the balance of the production area comprises District 2. Under the lime order, Dade and Monroe Counties comprise District 1 and the balance of the production area District 2. The bulk of production of both commodities occurs in District 1 and this is reflected in the composition of the committees.

During the time the orders have been in effect, many of the lime and avocado plantings in District 2 have been replaced by grapefruit and oranges. The number of growers and handlers has declined in that district. Because of the relatively large area covered by District 2 and the longer distances involved, travel and program participation is more difficult for the growers and handlers in District 2 than for those in District 1. In order to participate in nomination meetings at a central location in this district, participants have had to travel up to 230 miles. This and the time involved has tended to inhibit active participation of growers and handlers in nominations. It is desirable to encourage participation in nominations and this could be accomplised by providing each District 2 grower and handler an opportunity to participate in the election of nominees for committee members and alternates by mail. Procedure for obtaining the names of candidates to be included on the ballots and the manner of voting could be prescribed in the rules and regulations under the program. For example, each grower and handler, as applicable, could be contacted by mail and requested to submit by a specified date the name of a candidate for each position to be filled. After the date has expired, all the names received would be listed on a ballot which would be mailed to growers or handlers, as applicable, with instructions for executing the ballot and returning it to the committee office for counting.

Current provisions of the order specify that in the nomination and election of handler nominees each handler's vote shall be weighted by the volume of limes or avocados, as the case may be, he shipped during the then current fiscal year. The fiscal year covers a 12-month period ending March 31 each year. Since the nominations are required to be submitted not later than February 15 each year, the volume used for weighting each handler's vote includes only the volume he handled during the fiscal year previous to the date on which the elections are held. This has resulted in the use of the volume of less than a fiscal year. It was advanced that a more appropriate volume to be used for such weighting would be the volume he handled during the calendar year ended just previous to the time the nominations are made. This would permit a full year's shipments to be used in the weighting, and as such year would end December 31, this would allow more ample time for the committee to compile each handler's record of shipments prior to the time the nomination meetings are held.

It is, therefore, concluded that the orders should be amended, as hereinafter set forth to provide for the election of nominees to fill committee positions by mail in accordance with procedures established by the respective committees with the approval of the Secretary, and to provide that each handler's vote shall be weighted by the volume of limes or avocados, as the case may be, shipped by such handler during the immediately preceding 12-month period January through December.

2. The orders should be amended, as hereinafter set forth, to revise §§ 911.41 and 915.41 *Assessments* to remove the maximum assessment limitations of 10 cents per 55 pounds of fruit for administrative purposes and 10 cents per 55 pounds of fruit for marketing research and development purposes and to retain the present total rate of assessment at not in excess of 20 cents per 55 pounds of fruit. Flexibility is needed so as to be able to meet the needs of the programs. For example, in the event of a hurricane or severe freeze, the crops of limes and avocados could be severely reduced, and the full 20 cents per bushel of fruit assessment rate could be required to cover administrative costs alone. Conversely, very large crops would likely require increased expenditures for market development and paid advertising, in order to expand markets for increased supplies of fruit. In addition, authority for production research if added as proposed would require increased funding for this activity. Removing the limitations on assessments for administration and for research and development, would add needed flexibility to the committees' ability to fund various programs, and the orders should be amended to effect the removal of such limitations. Since the record indicates that the provision of a 20 cents per bushel maximum assessment is desirable, it is concluded that such maximum should be retained.

3. The provisions of the orders contained in §§ 911.45 and 915.45 *Marketing research and development* should be amended, as hereinafter set forth, to include authority for the committees to engage in production research projects, in addition to presently authorized marketing research and development activities. The orders presently contain authority for committee expenditures on marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of limes and avocados after they leave the farm gate. The record indicates that there are a number of problems related to the production of these fruits which are in need of solution to assure efficient production.

The committees have conducted several marketing research projects in recent years aimed at maintaining or improving the market quality of limes and avocados. During that time, it has become obvious that some of the most serious fruit quality problems arise in the groves prior to and during harvest. Addition of authority permitting the conduct of production research would enable the committees to seek solutions to such problems in an organized manner. Such authority should be broad enough to include the study of any problem connected with growing and harvesting of limes and avocados. Some such problems relate to keeping quality. For example, stylar end breakdown was cited as an important production problem for limes. Though stylar end breakdown shows up mostly in distribution channels and in retail stores, it appears that the contributing causes are located mainly at the grove level. In avocados, maturity is difficult to measure. This record shows there is a need for developing more precise criteria for determining maturity.

Other lime problems include weed control which has been costly and chiefly limited to mechanical means. Preliminary tests indicate chemicals have shown promise for weed control, but additional research is needed to find chemical weed control agents which are effective in eliminating the types of weeds indigenous to lime groves in the production area. Also disease is a serious problem in lime groves and has resulted in reduced production. Treatment costs have increased greatly. Hence there is a need for increased knowledge in disease control. On avocados areas other than maturity which were mentioned as needing research attention include variety selection, weed control, especially of vines and certain hardy woody weeds, and identification of more suitable root stocks.

While the authority should not be so limited, the committees should rely mainly on existing agencies engaged in research such as experiment stations, universities, and other qualified organizations to conduct production research studies. In many instances such agencies have the necessary equipment, laboratories, and personnel but lack funds for added work. The record indicates that partial funding of projects may expedite research by public agencies of studies most important to the lime and avocado industries.

As currently is required for marketing research, prior to engaging in any production research project the committee should submit to the Secretary for his approval plans for each project. The committees, when considering any project, should give consideration to the need for and benefits of the research and its costs. The committees should require progress reports on each project at reasonable intervals and specify that final results shall be made available in written report form. The cost of any such projects should be included in the budget submitted for approval.

4. The provisions of the orders contained in §§ 911.48 and 915.51 *Issuance of regulations* should be amended, as hereinafter set forth, to include authority for the committees to recommend and the Secretary to issue regulations limiting the shipment of the total quantity of limes and avocados by prohibiting shipments during any of four periods not exceeding six days each immediately prior to, including, or following July 4, Labor Day, Thanksgiving Day, and Christmas Day.

Such period of prohibited shipments is commonly referred to as a "shipping holiday". The addition of such authority is needed to provide a means to prevent the buildup of excessive quantities of fruit in the markets and to balance supplies with demand in the markets during the slow demand period immediately following the specified holiday periods.

There is a tendency for shippers and others involved in the distribution of limes and avocados to overestimate the holiday demand for these fruits. Heavy shipments are sent to markets prior to the holiday periods and this results in a buildup of excessive supplies in distribution channels and the markets. When markets are oversupplied in the post holiday period and shipments are continued markets become demoralized and prices to growers drop to ruinous levels.

When markets are supplied to excess and the fruit does not move in accord with its normal shelf-life the fruit deteriorates and the fruit available to consumers is of a lesser quality than when the supply is in reasonable balance with the prevailing demand conditions. There is a delicate balance between the demand and the available quantity of fruit in the market place. Limiting shipments to markets during and immediately following the specified holidays, when demand is poor and sales are slow could avoid the excessive buildup of supplies at markets, provide consumers better quality fruit, and maintain grower prices and returns consistent with the act.

It is recognized that it may not be necessary to prescribe a shipping holiday for each of the specified holidays each season. Likewise, establishment for a full six-day period for any holiday period may not be appropriate. In developing any recommendation for such a holiday regulation the committee should consider the factors affecting the supply and demand as specified in the order and recommend accordingly.

In addition, the provisions of the order with respect to modification, suspension, or termination of the regulation would apply to such regulation. Hence, if the committee finds that, by reasons of changed conditions any such regulation should be modified, suspended, or terminated, it should so recommend. Likewise if the Secretary concurs or otherwise finds that such action should be taken to effectuate the declared policy of the act he should take such action.

5. Order No. 915 should be amended, as hereinafter set forth, to add a new § 915.49 *Marketing policy*. The section should provide that each season prior to making any recommendations pursuant to § 915.50, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report should contain such information as is hereinafter set forth.

The avocado order does not include a requirement that the committee formulate and submit to the Secretary a marketing policy report. It does, however, require that whenever the committee considers recommendations for regulation, that it review pertinent crop and market information, prior to the recommendation of grade, size and maturity regulations.

It would be appropriate for the committee to prepare a formal analysis and report of anticipated production and prevailing harvesting, marketing and economic conditions each season, prior to the consideration of regulations. Such a report would be of considerable assistance to the committee and the Secretary, and would be in the best interests of the avocado industry, producers and consumers.

The analysis should include but not be limited to estimated total production of avocados by variety in the production area and in competing areas; anticipated bloom time and growing conditions during the development period; expected size and quality of the avocado crop; the anticipated demand for avocados; proper maturity at time of shipping; the anticipated supplies of competing products; existing and expected economic conditions; anticipated promotion by national organizations, and any other factors having a bearing on the marketing of avocados. Consideration should also be given to alternate product uses and expected exports and imports.

6. The provisions of § 911.57 *Overshipments* in Order No. 911 should be amended, as hereinafter set forth, to revise the tolerances applicable to the quantity of limes each handler would be permitted to ship in excess of his allotment during any week for which the Secretary has fixed the total quantity of limes which may be handled. Present provisions provide that any person who has received an allotment may handle, in addition to the total allotment available to him, 50 bushels or ten percent of such total allotment, whichever is greater.

The record indicates that during weeks of volume regulation handlers have tended to consider the overshipment tolerance as a part of their allotment and to ship the maximum allowable quantity. Such tolerance was intended primarily to provide flexibility to handlers in filling orders, when a small quantity is needed to complete an order. It is recognized also that it is desirable to provide a margin for clerical errors in handler's calculations and for inadvertent errors by employees in assembling and loading shipments.

The practice by handlers of considering the overshipment tolerance as regular allotment has often complicated the deliberations of the committee in the development of recommendations for volume regulation. In order to allow for such practice the committee sometimes recommended an allotment about 10 percent lower than its best estimate of the anticipated market demand quantity. If this amount was set by the Secretary and some handlers did not overship, some opportunity to market fresh limes was lost to other handlers. At times, when the allotment set was closer to expected demand and all or most handlers overshipped the full 10 percent, markets were oversupplied. Hence it appears that the 10 percent overshipment tolerance results in a loss of precision in recommendations, and that such tolerance should be reduced. The record indicates that a two percent overshipment tolerance would be more appropriate if handlers were permitted to overship by 10 percent, with appropriate safeguards, during two weeks of each regulatory period to meet special circumstances. Establishment of the tolerance at the lower amount with such flexibility would enable the committee to develop recommendations with more precision and also retain flexibility permitting handlers to fill needs generated by merchandising and advertising programs.

The evidence indicates that the handler should notify the committee no later than the close of business on Thursday of a week of volume regulation of his intention to overship his allotment by 10 percent. If such handler overships by more than two percent but less than 10 percent, whether it be three percent, four, five percent, or any percentage less than 10, that week should be counted as one of the two weeks of 10 percent overshipments permitted under the recommended amendment. The record also indicates that should a handler overship by more than two percent during any week of volume regulation without the required prior notification to the committee, such shipments would be in violation of the order.

7. A proposal in the notice of hearing was that consideration should be given to making such other changes in the orders as may be necessary to make each of the orders conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition. However, no conforming changes are necessary.

Marketing Agreements and Orders. Annexed hereto and made a part hereof are four documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Limes Grown in Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Limes Grown in Florida," "Marketing Agreement, as Amended, Regulating the handling of Avocadoes Grown in South Florida," and "Order Amending the Order, as Amended, Regulating the Handling of Avocados Grown in South Florida" which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision and referendum order, except the two annexed marketing agreements, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreements are identical with those contained in the orders as hereby proposed to be amended by the annexed orders which are published with this decision.

Referendum Order. It is hereby directed that referenda be conducted in

accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed orders, as amended and as hereby proposed to be amended, regulating the handling of limes grown in Florida and the handling of avocados grown in south Florida, respectively, are approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referenda is hereby determined to be April 1, 1974, through March 31, 1975.

The agents of the Secretary to conduct such referenda, jointly or severally, are hereby designated to be William C. Knope and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 9, Lakeland, Florida 33802.

Signed at Washington, D.C., on August 26, 1975.

RICHARD L. FELTNER,
Acting Secretary.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF LIMES GROWN IN FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon proposed amendment of the marketing agreement and the order regulating the handling of limes grown in Florida. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of limes grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of limes grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of limes grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of limes grown in the production area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Associate Administrator on July 2, 1975, and published in the FEDERAL REGISTER on July 8, 1975 (FR Doc. 75-17673; 40 FR 28614), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 911—LIMES GROWN IN FLORIDA

1. Revise paragraphs (b) (1), (2), and (3) of § 911.22 to read as follows:

§ 911.22 Nomination.

* * * * *

(b) *Successor members.* (1) The committee shall hold or cause to be held a meeting or meetings of growers and handlers in each district to designate nominees for successor members and alternate members of the committee, or the committee may conduct nominations by mail in District 2 in a manner recommended by the committee and approved by the Secretary. Such nominations shall be submitted to the Secretary by the committee not later than February 15 of each year. The committee shall prescribe procedural rules, not inconsistent with the provisions of this section, for the conduct of nominations.

(2) Only growers may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produces limes. No grower shall participate in the election of nominees in more than one district in any one fiscal year.

(3) Only handlers may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles limes, which vote shall be weighted by the volume of limes shipped by such handler during the immediately preceding twelve month period January through December. No handler shall participate in the election of nominees in more than one district in any one fiscal year.

2. Revise § 911.41(b) to read as follows:

§ 911.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment not in excess of 20 cents per 55 pounds of fruit to be paid by each such person. At any time during or after a fiscal year, the Secretary may, subject to the limitations in this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Revise § 911.45 to read as follows:

§ 911.45 Production research, marketing research and development.

The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of limes. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of § 911.41.

4. Amend § 911.48 as follows:

Renumber paragraphs (a)(3), (a)(4), and (a)(5), as paragraphs (a)(4), (a)(5), and (a)(6), and insert a new paragraph (a)(3).

The new § 911.48(a)(3) is revised to read as follows:

§ 911.48 Issuance of regulation.

* * * * *

(a) * * *

(3) Limit the shipment of the total quantity of limes by prohibiting the shipment thereof: *Provided*, That no such prohibition shall be effective during any fiscal period other than for four periods not exceeding six days each immediately prior to, including, or following July 4, Labor Day, Thanksgiving Day, and Christmas Day.

* * * * *

5. Revise § 911.57 to read as follows:

§ 911.57 Overshipments.

During any week for which the Secretary has fixed the total quantity of limes

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

which may be handled, any person who has received an allotment including any handler who received zero allotment computed pursuant to §§ 911.55 and 911.56 may handle, in addition to the total allotment available to him, an amount of limes equal to 50 bushels or two percent of such total allotment, whichever is the greater, except that during two weeks of each regulatory period any handler may overship his total allotment by more than such amount: *Provided*, That such overshipment shall not exceed an amount equal to 10 percent of such total allotment: *And provided, further*, That each handler who intends to so overship notifies the committee of his intended overshipment no later than the close of business on Thursday during the week of such intended overshipment.

ORDER[1] AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon proposed amendment of the marketing agreement and the order regulating the handling of avocados grown in south Florida. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the record it is found that:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of avocados grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of avocados grown in the production area; and

(5) All handling of avocados grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or effects such commerce.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of avocados grown in the production area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Associate Administrator on July 2, 1975, and published in the FEDERAL REGISTER on July 8, 1975 (FR Doc. 75-17673), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

[July 8, 1975, 40 FR 28618]

1. Revise paragraphs (b) (1), (2) and (3) of § 915.22 to read as follows:

§ 915.22 Nomination.

* * * * *

(b) *Successor members.* (1) The committee shall hold or cause to be held a meeting or meetings of growers and handlers in each district to designate nominees for successor members and alternate members of the committee; or the committee may conduct nominations by mail in District 2 in a manner recommended by the committee and approved by the Secretary. Such nominations shall be submitted to the Secretary by the committee not later than February 15 of each year. The committee shall prescribe procedural rules, not inconsistent with the provisions of this section, for the conduct of nomination.

(2) Only growers may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district in which he produced avocados. No grower shall participate in the election of nominees in more than one district in any one fiscal year.

(3) Only handlers may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote for each nominee to be elected in the district in which he handles avocados, which vote shall be weighted by the volume of avocados shipped by such handler during the immediately preceding twelve month period January through December. No handler shall participate in the election of nominees in more than one district in any one fiscal year.

2. Revise § 915.41(b) to read as follows:

§ 915.41 Assessments.

* * * * *

(b) The Secretary shall fix the rate of assessment not in excess of 20 cents per 55 pounds of fruit to be paid by each such person. At any time during or after a fiscal year, the Secretary may, subject to the limitation in this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

3. Revise § 915.45 to read as follows:

§ 915.45 Production research, marketing research and development.

The committee may, with the approval of the Secretary, establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of avocados. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to the applicable provisions of § 915.41.

4. The following new section is added immediately following § 911.45:

§ 915.49 Marketing policy.

Each season prior to making any recommendations pursuant to § 915.50, the committee shall submit to the Secretary a report setting forth its marketing policy for the ensuing season. Such marketing policy report shall contain information relative to (a) the estimated total production of avocados within the production area; (b) the expected general quality and maturity of avocados in the production area and in competing areas; (c) the expected demand conditions for avocados in different market outlets; (d) the expected shipments of avocados produced in the production area and competing areas; (e) supplies of competing commodities; (f) trend and level of consumer income; (g) other factors having a bearing on the marketing of avocados; and (h) the type of regulations expected to be recommended during the season. In the event it becomes advisable, because of changes in the sup-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

ply and demand situation for avocados, to modify substantially such marketing policy, the committee shall submit to the Secretary a revised marketing policy report setting forth the information prescribed in this section. The committee shall publicly announce the contents of each marketing policy report and copies thereof shall be maintained in the offices of the committee where they shall be available for examination by growers and handlers.

5. Revise § 915.51 as follows:

Renumber paragraphs (a)(3), (a)(4), and (a)(5) as paragraphs (a)(4), (a)(5), and (a)(6), and insert a new paragraph (a)(3).

The new § 915.51(a)(3) is revised to read as follows:

§ 915.51 Issuance of regulations.

* * * * *

(a) * * *

(3) Limit the shipment of the total quantity of avocados by prohibiting the shipment thereof: *Provided*, That no such prohibition shall be effective during any fiscal period, other than for four periods not exceeding six days each immediately prior to, including, or following July 4, Labor Day, Thanksgiving Day, and Christmas Day.

* * * * *

[FR Doc.75-23049 Filed 8-28-75;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 741]

AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

Proposed Rulemaking

On June 11, 1974, the Department of Labor published regulations implementing section 503 of the Rehabilitation Act of 1973, Pub. L. 93-112, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals. Although the regulations were effective on the date of publication, interested persons were encouraged to submit comments. Those comments have been reviewed and analyzed.

On December 7, 1974, the President signed Pub. L. 93-516, which amends Pub. L. 93-112. The purpose of these proposed amendments is to incorporate the 1974 amendments into the regulations and make the regulations consistent with the amendments, and to incorporate some of the suggestions submitted during the comment period by representatives of the concerned public. These amendments to the existing regulations are also necessary to improve administration and enforcement of the Act, and to give contractors more specific and detailed information regarding the extent of their obligation. The more significant amendments are as follows:

1. The definition of handicapped individual has been amended consistent with the amended definition in the Act, and omitting any reference to the source of rehabilitation. Under that definition, a handicap is any impairment which substantially limits one or more of a person's major life activities.

2. A definition of major life activity is added to limit the application of the affirmative action obligation to persons whose disabilities are a substantial barrier to employment.

3. A definition of qualified handicapped individual is added to assure that persons who are protected under the Act are those qualified to work, rather than those who qualify solely to meet the definition of handicapped.

4. The affirmative action clause is revised to eliminate the three-part structure based upon contract amount and/or length of performance, so that the same clause will be utilized in all covered contracts. Contractors have commented that the existing clause is confusing and imprecise, and creates confusion as to which portions are applicable to which subcontracts. The obligation to prepare an affirmative action program is removed from the contract clause and transferred to a separate section.

5. A new section is added obligating all nonexempt contractors holding contracts of $50,000 or more with 50 or more employees to prepare and maintain at their places of business the affirmative action program. The dollar amount is reduced from $500,000 to $50,000 to make the amount consistent with the OFCC's Revised Order No. 4 (41 CFR Part 60-2) since most contractors indicated that the programs, while separate, were prepared together, using much common data.

6. The affirmative action policy section has been expanded to include more detailed explanations of what contractors are expected to do as part of their affirmative action obligation. While no goals and timetables or utilization analyses are required, recruitment, outreach, internal administration and other duties similar to those required in OFCC's Order No. 4 are added. The existing section which explains that good faith guidelines will be issued by October 1, 1975, has been revoked. The accommodation paragraph of this section is also expanded to clarify the forms accommodation may take and the place of accommodation in the affirmative action program, and that reasonable accommodations, as described in this paragraph, must be made. Accordingly, the word "attempt" in the present § 741.4(c) would be deleted.

7. Because the new definition of handicapped individuals no longer relies on a connection with rehabilitation facilities under Title I and III of the Act, the certification section has been revised so that complainants before the Department of Labor need submit only a signed statement of their disability. However, if there is any reason to question that statement, the Department may require the complainant to obtain a certification from a source approved by the Employment Standards Administration. This section also permits contractors to require applicants or employees to document their claims of disability, and authorizes physical examinations at the contractor's expense.

8. The provision requiring contractor certification, which was to have been inserted in all contracts after January 1, 1976, has been revoked.

9. The evaluation section proposes to authorize investigations by the Assistant Secretary to determine compliance as well as evaluations of agency performance.

10. In view of the foregoing amendment regarding investigations, the Department proposes to require compliance agencies to conduct investigations from time to time at the request of the Assistant Secretary for Employment Standards to insure that contractors in the agencies' assigned industries are fully cognizant of their obligations under the Act and this part, and to report to the Assistant Secretary any information which comes to their attention that contractors are not in compliance therewith. Other modifications in the hearing procedures are proposed consistent with this proposed amendment.

11. There is a new provision that contracts with sheltered workshops may not be deemed affirmative action unless the contractor uses the sheltered workshops as a source of trainees for his own workforce. The remaining amendments are primarily explanatory or to correct inconsistencies in terminology or structure.

Interested persons are again invited to comment upon this proposed rulemaking by submitting written data, views or arguments to Mr. Bernard E. DeLury, Assistant Secretary for Employment Standards, U.S. Department of Labor, Washington, D.C. on or before October 14, 1975. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

Accordingly, Part 741 is proposed to be added as follows:

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

Sec.
741.1 Purpose and application.
741.2 Definitions.
741.3 Affirmative action clause
741.4 Affirmative action program.
741.5 Affirmative action policy, practices and procedures.
741.6 Determination of handicap.
741.7 Listing of employment openings.
741.8 Labor unions and recruiting and training agencies

Subpart B—General Enforcement and Complaint Procedure

741.20 Subcontracts.
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741.22 Incorporation by reference.
741.23 Incorporation by operation of the Act and agency regulations.
741.24 Coverage and exemptions.
741.25 Duties of agencies.
741.26 Evaluations by the Assistant Secretary.
741.27 Complaints.
741.28 Processing of complaints by agencies.
741.29 Assumption of jurisdiction by the Assistant Secretary.

Sec.
741.30 Noncompliance with the affirmative action clause.
741.31 Actions for nonperformance.
741.32 Formal hearings.
741.33 Notification of agencies.
741.34 Contractor ineligibility list.
741.35 Disputed matters related to the affirmative action program.

Subpart C—Ancillary Matters

741.50 Reinstatement of ineligible contractors and subcontractors.
741.51 Intimidation and interference.
741.52 Recordkeeping.
741.53 Access to records of employment.
741.54 Rulings and interpretations.

AUTHORITY: Sec. 503, Pub. L. 93-112, 87 Stat. 393 (20 U.S.C. 793), as amended by Sec. 111, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706) and Executive Order 11758.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 741.1 Purpose and application.

The purpose of the regulations in this part is to assure compliance with section 503 of the Rehabilitation Act of 1973, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals. The regulations in this part apply to all government contracts for personal property or nonpersonal services (including construction) in excess of $2,500. Compliance of a contractor with the provisions of this part will not necessarily determine its compliance with the requirements of section 504 of the Rehabilitation Act of 1973 and compliance with section 504 will not necessarily determine compliance with section 503 and the regulations in this part.

§ 741.2 Definitions.

"Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516.

"Affirmative action clause" means the contract provisions set forth in § 741.3.

"Agency" means any contracting and/or compliance agency of the government.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his designee.

"Compliance agency" means the agency selected by the Assistant Secretary to conduct investigations at the request of the Assistant Secretary and to undertake such other responsibilities in connection with the administration of the Act as the Assistant Secretary may request, as appropriate, including the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this part and to provide the Assistant Secretary with any information which comes to its attention that the contractor is not in compliance with the Act or this Part.

"Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any government contract for the procurement of personal property or non-personal services, including construction.

"Contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Employment Standards Administration" means the Employment Standards Administration of the United States Department of Labor, its regional and area offices and any division, branch or bureau thereof engaged in activities under this regulation.

"Government" means the government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of personal property or non-personal services, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally-assisted contracts.

"Handicapped individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment or (3) is regarded as having such an impairment. For purposes of this definition, "major life activity" means any mental or physical function or activity which, if impaired, creates a substantial barrier to employment.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Person" means any natural person, corporation, partnership or joint venture, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract, and for the purposes of Subpart B of this part, any person who has held a contract subject to the Act.

"Procurement activity" means the organizational element of a federal agency which has responsibility to contract for the procurement of personal property or non-personal services, including construction.

"Qualified handicapped individual" means a handicapped individual as defined in § 741.2 who is capable of performing a particular job, with reasonable accommodation to his handicap, at the minimum acceptable level of productivity applicable to a nonhandicapped incumbent employee.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (d) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the Act.

"Secretary" means the Secretary of Labor, U.S. Department of Labor, or his designee.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purpose of Subpart B of this part, any person who has held a subcontract subject to the Act.

"United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

§ 741.3 Affirmative action clause.

Each agency shall include the following affirmative action clause in each of its nonexempt Government contracts (and modifications, renewals, or extensions thereof if not included in the original contract).

AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any positon for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that, if he has established an internal review procedure and a handicapped individual files a complaint with the contractor under that procedure that he is not complying with the requirements of the Act, he will (1) investigate the complaint and take appropriate action consistent with the requirements of 20 CFR

741.27 and (2) maintain on file for three years the record regarding the complaint and the actions taken.

(c) The contractor agrees that, if a handicapped individual files a complaint with the Department of Labor that he has not complied with the requirements of the Act, (1) he will cooperate with the Department in its investigation of the complaint, and (2) he will provide all pertinent information regarding his employment practices with respect to handicapped individuals.

(d) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor in 20 CFR Ch. VI, Part 741.

(e) In the event of the contractor's noncompliance with the requirements of this clause, the contractor may be declared in default and sanctions may be imposed in accordance with 20 CFR Ch. VI, Part 741.

(f) This clause shall be included in all subcontracts over $2500.

(g) The contractor agrees to permit the examination by appropriate agency officials and the Assistant Secretary for Employment Standards or his designee, of pertinent books, documents, papers nad records concerning his employment and advancement of handicapped individuals.

(h) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Assistant Secretary for Employment Standards, provided by the contracting officer, stating the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights and remedies available.

(i) The contractor will notify each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabiliation Act, and is committed to take affirmative action to employ and advance in employment physically and mentaly handicapped in individuals.

§ 741.4 Affirmative action program.

(a) Within 120 days of the commencement of a contract every government contractor or subcontractor holding a contract of $50,000 or more and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment, which shall be kept separate and distinct from any affirmative action program required under any other law, and which shall set forth the policies, practices and procedures by which the contractor intends to implement the obligations created by this Part. The contractor shall inform incumbent and newly hired employees of the existence of the program, and shall disseminate to them a summary of the program, which shall contain but shall not be limited to: (1) The name of the local official designated responsibility for compliance, (2) the rights and duties created under section 503 of the Rehabilitation Act, (3) a reaffirmation of the contractor's basic policy with regard to handicapped employees and applicants, (4) and a description of the steps the contractor expects to take to comply with the Act, including recruitment and promotion. The summary should also provide some examples of accommodations which may be necessary, and in which the employees' cooperation is sought. The affirmative action plan shall be reviewed and updated annually.

(b) If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The full affirmative action plan shall be available for inspection to any employee or applicant for employment upon request. The location and hours during which the program may be obtained shall be posted at each facility.

§ 741.5 Affirmative action policy, practices and procedures.

(a) *General requirements.* Under the affirmative action obligation imposed by section 503 of the Rehabilitation Act of 1973, contractors are required to take affirmative action to employ and advance in employment qualified handicapped individuals. Such action shall apply to employment practices, including, but not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified handicapped individuals. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all of the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the extent to which existing employment practice are adequate and the contractor's size and resources.

(1) Internal communication of the contractor's obligation to engage in affirmative action efforts to employ qualified handicapped individuals in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) Development of reasonable internal procedures to insure that the contractor's obligation to engage in affirmative action to employ and promote qualified handicapped individuals is being fully implemented.

(3) Periodically informing all employees of the contractor's commitment to engage in affirmative action to increase employment opportunities for qualified handicapped individuals.

(4) Enlisting the assistance and support of all recruiting sources (including the State Employment Services, State vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, state education agencies, labor organizations and social service organizations serving handicapped individuals) for the contractor's commitment to provide meaningful employment opportunities to qualified handicapped individuals. (A list of numerous national organizations serving the handicapped, many of which have State or local affiliates, is found in the "Directory of Organizations Interested in the Handicapped" published by the People to People Committee on the Handicapped, 1028 Connecticut Ave., NW. Suite 610, Washington, D.C. 20036.)

(5) Engaging in recruitment activities at educational institutions which participate in training of the handicapped, such as schools for the blind, deaf, or retarded.

(6) Establishment of meaningful contacts with appropriate social service organizations, Vocational Rehabilitation agencies or facilities, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources listed in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(7) Reviewing employment records to determine the availability of promotable and transferrable qualified handicapped individuals presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(c)(1) Accommodation to physical and mental limitations of employees. A contractor must, in carrying out his affirmative action program, make a reasonable accommodation to the physical and mental limitations of an employee or applicant unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. Accommodations may take the form, for example, of providing access to the job, job restructuring, acquisition or modification of equipment or devices, or a combination of any of these. Job restructuring may consist, among other things, of realignment of duties, revision of job descriptions or modified and part-time work schedules.

(2) The affirmative action program shall express a commitment to consider the general kinds of actions which will constitute accommodations where the circumstances so require. The affirmative action program shall describe the appropriate accommodations the contractor will undertake, where necessary, to provide full access to the employment office or an alternative application process for handicapped individuals. The Contractor's duty to implement specific accommodations will ordinarily attach to the individual needs of particular applicants or employees as the circumstances arise.

(3) In determining the extent of a contractor's accommodation obligations the following factors, among others, may be considered by the Department of Labor or the Agency: (i) business neces-

sity, (ii) financial cost and expenses, and (iii) resulting personnel problems.

(d) Proper consideration of qualifications. Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known handicapped applicants and employees for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this Part. These procedures must include the following: (1) The application or personnel form of each known handicapped applicant must be annotated to identify each vacancy for which the applicant was considered, and the form must be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities. (2) The personnel or application records of each known handicapped employee shall include (i) the identification of each promotion for which the handicapped employee was considered, and (ii) the identification of each training program for which the handicapped employee was considered. (3) In each case where a handicapped employee or applicant is rejected for employment, promotion or training a statement of the reasons must be appended to the personnel file or application form. This statement must include a comparison of the qualifications of the handicapped applicant or employee and the person(s) selected, as well as a description of the accommodations considered. (4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation on their behalf, or has previously instituted some accommodation which makes it possible for him to place a handicapped individual on the job, the application form or personnel record shall contain a description of that accommodation.

(e) *Physical standards.* Whenever the contractor establishes job qualifications which necessitate an inquiry into the applicant's or employee's physical condition prior to employment or promotion, there shall be written physical standards for the safe performance of the job. Such inquiries or qualifications must be related to the specific job or jobs for which the individual is being considered, and must be supported by business necessity.

(f) *Compensation.* In offering employment or promotions to handicapped individuals, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source. If a handicapped employee is compensated at a rate less than that paid non-handicapped employees in equivalent positions, the contractor shall explain the reasons therefor in the employee's personnel file.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees who may have had limited exposure to handicapped persons in the past. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor shall to the extent possible adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities. In connection therewith, arrange sensitivity sessions with handicapped persons and other employees to help nondisabled workers become familiar with handicapped workers and open communication among them.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of handicapped workers in company publications.

(9) Post the policy on company bulletin boards.

(10) When employees are featured in product consumer advertising, employee handbooks or similar publications, include handicapped employees.

(h) *External dissemination of policy.* The contractor shall, to the extent possible, disseminate his policy externally as follows in order to encourage public response to his affirmative action program:

(1) Inform all recruiting sources, including secondary schools and colleges, verbally and in writing of company policy, stipulating that these sources actively recruit and refer qualified handicapped persons for positions listed.

(2) Communicate to prospective employees the existence of the contractor's affirmative action program.

(3) When employees are pictured in consumer or help wanted advertising, both disabled and non-disabled workers should be shown.

(4) Send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(5) Consider all qualified handicapped persons not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

(i) *Executive responsibility for implementation.* An executive of the contractor shall be appointed as director or manager of company affirmative action activities under these regulations. He or she should be given the necessary top management support and staffing to execute the assignment. His or her identity should appear on all internal and external communications on the company's affirmative action programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(5) Serving as liaison between the contractor and enforcement agencies.

(6) Serving as liaison between the contractor and organizations serving handicapped persons.

(7) Keeping management informed of latest developments in the entire affirmative action area.

(8) Determining the need for and developing the means of accommodation for qualified handicapped employees or applicants.

(j) *Line responsibility for implementation.* Line responsibilities shall include, but not be limited to, the following:

(1) Assistance in the identification of problem areas and establishment of local and unit objectives.

(2) Active involvement with local advocacy organizations, action groups and community service programs serving the handicapped.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of objectives.

(4) Regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of handicapped employees to insure that handicapped individuals are utilized to the full extent of their abilities and are given full opportunities for transfers and promotions where such movement will enable them to function at their maximum skill level.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in areas such as:

(i) Proper display of posters.

(ii) Proper adoption, implementation or suggestion of accommodations.

(iii) Provision of full opportunity to handicapped employees with encouragement to participate to the full extent of their abilities in all company sponsored educational, training, recreational and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent harassment of employees placed through affirmative action efforts.

(k) *Development and execution of affirmative action programs.* (1) The contractor shall conduct a detailed analysis of position descriptions to insure that they accurately reflect position functions, as perfomed and as they must be performed, and are consistent for the same position from one location to another.

(2) The contractor shall review worker specifications by division, department, location or other organizational unit and by job title using job performance criteria. Special attention should be given to physical or mental ability requirements to assure that they do not discriminate against qualified handicapped individuals and are consistent with business necessity. Where such standards exist, they should be documented in terms of legitimate job requirements.

(3) Approved position descriptions and worker specifications, when used by the contractor, shall be made available to all members of management involved in the recruitment, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(4) The contractor shall evaluate the total selection process to insure freedom from stereotyping disabled persons in a manner which limits their access to all jobs for which they are qualified.

(5) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes shall be carefully selected and trained to insure elimination of bias in all personnel actions.

(6) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, presentations by handicapped employees, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(7) A special effort should be made to include qualified handicapped persons on the Personnel Relations staff.

(8) Handicapped employees should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(9) Active participation in "job fairs" is desirable. Company representatives so participating should be given authority to make on-the-spot commitments.

(10) Recruiting efforts at all schools should incorporate special efforts to reach handicapped students.

(11) An effort should be made to participate in work-study programs with rehabilitation facilities and schools which specialize in training or educating handicapped individuals.

(12) The contractor should use all available resources to continue or establish on the job training programs.

(l) *Sheltered workshops.* Contracts with sheltered workshops do not constitute affirmative action in lieu of employment and advancement of qualified handicapped individuals in the contractor's own workforce. Contracts with sheltered workshops may be included within an affirmative action program if the sheltered workshop trains employees for the contractor and the contractor is obligated to hire trainees at full pay when such trainees become qualified as "qualified handicapped individual" is defined in section 741.2.

§ 741.6 Determination of handicap.

(a) Any handicapped individual filing an administrative complaint with the Employment Standards Administration under this part shall submit with his complaint assigned statement specifying his handicapping condition or disability. If the Employment Standards Administration determines that further documentation is necessary, it may require the complainant to provide additional information.

(b) Any contractor requiring a determination of an applicant's or employee's handicap may require the applicant or employee to provide medical documentation of his disability or, in the alternative, may require the applicant or employee to undergo a physical examination at the contractor's expense.

(c) Any determination of handicap required pursuant to paragraph (b) of this section must be for the purpose of affirmative action and proper job placement. Information obtained therefrom shall not be used to exclude an otherwise qualified handicapped individual from employment.

(d) All medical documentation required under this Section must be based upon the medical standards of a recognized State Rehabilitation Agency of the State in which the examination is performed.

(e) Contractors shall not require applicants or employees to provide data regarding their physical or mental handicap or history of such handicap unless such information is job related. An example of the kind of question which employers may use on job application forms is as follows:

This employer is a government contractor subject to section 503 of the Rehabilitation Act of 1973, which requires government contractors to take affirmative action to employ and advance in employment qualified handicapped individuals. If you have such a handicap and would like to be considered under the affirmative action program, please tell us. This information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. However, in order to assure proper placement of all employees, we do request that you answer the following question.

Please state whether you have or have had a mental or physical disability which would create a hazard to you or to others or which might require accommodation in the job for which you are applying. If there are any positions or types of positions for which you should not be considered or job duties you cannot perform because of a physical or mental handicap, please describe.

Information obtained concerning individuals shall be kept confidential, except that supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals, and regarding necessary accommodations.

§ 741.7 Listing of employment openings.

Any job openings listed pursuant to 41 CFR Part 50-250, which requires contractors to list their job openings with State employment services offices, shall be utilized by State employment security agencies to refer qualified handicapped individuals.

§ 741.8 Labor unions and recruiting and training agencies.

(a) Whenever performance in accordance with the affirmative action clause or any matter contained in the regulations in this part may necessitate a revision of a collective bargaining agreement, the labor union or unions which are parties to such agreements shall be given an adequate opportunity to present their views to the agency, or to the Assistant Secretary.

(b) The Assistant Secretary shall use his best efforts, directly and through contractors, subcontractors, local officials, vocational rehabilitation facilities, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to assist in the implementation of the purposes of the Act.

Subpart B—General Enforcement and Complaint Procedure

§ 741.20 Subcontracts.

Each nonexempt prime contractor and subcontractor under a Government contract shall include the affirmative action clause prescribed in § 741.3 in each of their nonexempt subcontracts.

§ 741.21 Adaptation of language.

Such necessary changes in language may be made to the affirmative action clause (see § 741.3) as shall be appropriate to identify properly the parties and their undertakings.

§ 741.22 Incorporation by reference.

The affirmative action clause and the regulations contained in this Part may be incorporated by reference in all contracts and subcontracts.

§ 741.23 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the affirmative action clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not there is a written contract between the agency and the contractor.

§ 741.24 Coverage and exemptions.

(a) *General*—(1) *Transactions not exceeding $2,500.* Contracts and subcontracts not exceeding $2,500 are not covered by the Act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the affirmative action clause.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the procuring activity has reason to believe that the amount to be ordered in any year under such contract will not exceed $2,500. The applicability of the affirmative action clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order exceeds $2,500. Once the affirmative active clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the affirmative action clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the affirmative action clause in any contract or subcontract with a State or local government (for any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) *Facilities not connected with contracts.* The Assistant Secretary may exempt from the requirements of the affirmative action clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the Act.

(b) *Waivers*—(1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Assistant Secretary, may waive the application to any contract or subcontract of any part of or all the affirmative action clause when he deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Assistant Secretary, may also grant such waivers to groups or categories of contracts or subcontracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of section 503 of the Act.

(2) *National security.* Any requirement set forth in these regulations in this part shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Assistant Secretary in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any contract or subcontract under this section other than contracts granted waivers under paragraph (b) (2) of this section, the Assistant Secretary may withdraw the waiver for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the Act. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 741.25 Duties of agencies.

(a) *General responsibility.* Each agency shall cooperate with the Assistant Secretary in the performance of his responsibilities under the Act. Such cooperation shall include the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this Part, to provide the Assistant Secretary with any information which comes to its attention that the contractor is not in compliance with the Act or this Part, and to take such actions for nonperformance as set forth in § 741.31 on contractors as may be ordered by the Assistant Secretary.

(b) *Designation of agency official.* The head of each agency, or his designee, shall identify and submit to the Assistant Secretary the name, address and telephone number of the official within the agency who is primarily responsible for implementation of this program within the Agency.

(c) *Investigations.* Agencies shall conduct investigations of complaints in accordance with the requests of the Assistant Secretary. Where an investigation indicates that the contractor has not complied with the requirements of the Act or this Part, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this Part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the agency, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. Each contractor shall be advised that the resolution is subject to review by the Assistant Secretary and may be disapproved if he determines that such resolution is not sufficient to achieve compliance. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

§ 741.26 Evaluations by the Assistant Secretary.

The Assistant Secretary shall be primarily responsible for undertaking such investigations of complaints and other matters as well as evaluations of agency performance as may be necessary to assure that the purposes of section 503, of the Rehabilitation Act of 1973 are being effectively carried out.

§ 741.27 Complaints.

(a) (1) Any handicapped employee of any contractor or subcontractor may, by himself or by an authorized representative, file in writing a complaint of alleged violation of the affirmative action clause with the contractor or subcontractor. Where established, contractors and subcontractors shall utilize their internal review procedure, which may be governed by the terms of an applicable collective bargaining agreement generally meeting the requirements of this paragraph, to receive complaints from handicapped employees alleging the employer's failure to promote or advance them in employment or otherwise failing to comply with the Act. Procedures utilized under this paragraph shall provide for fair, expeditious and effective processing of complaints. Actions under these procedures shall be processed to completion within 60 days after the complaint is filed. At the completion of the review and appropriate action thereunder, the employer shall inform the complainant of his right to file a complaint with the Department of Labor if the decision is adverse to the employee. A statement describing the procedures under this subsection shall be disseminated to all employees in an effective manner.

(2) No employee may file an administrative complaint with the Employment

Standards Administration of the Department of Labor until the internal review procedure, where available, has been accorded 60 days to resolve the matter.

(3) If a contractor does not have an internal review procedure employees may file administrative complaints directly with the Department of Labor.

(b) Any handicapped employee of any contractor or subcontractor or handicapped applicant for employment with such contractor or subcontractor may, by himself or by an authorized representative, file in writing a complaint of alleged violation of the affirmative action clause. Such complaint is to be filed not later than 180 days from the date of the alleged violation unless the time for filing is extended by the Assistant Secretary upon good cause shown.

(c) Complaints shall be filed with the nearest office of the Employment Standards Administration of the Department of Labor. The Department of Labor may refer complaints to the compliance agency or they may be processed in accordance with § 741.29.

(d) Complaints must be signed by the complainants or their authorized representatives and must contain the following information: (1) Name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a brief statement describing the complainant's job skills or training, if any, job experience of other qualifications for the position, (5) a signed statement that the individual is handicapped or other documentation of disability as determined by the Department of Labor, and (6) other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency which the employer has contracted.

(e) Where a complaint contains incomplete information, the compliance agency or the Assistant Secretary shall promptly seek the needed information from the complainant. In the event such information is not furnished to the agency or the Assistant Secretary within 60 days of the date of such request, the case may be closed.

(f) Upon final resolution of a complaint by a compliance agency, the complainant shall be furnished with a copy of the decision. The complainant may file an appeal with the Assistant Secretary requesting assumption of jurisdiction under the provisions of § 741.29. The Assistant Secretary shall review the complaint and all relevant material related thereto, including the decision issued by the agency head. If he determines that assumption of jurisdiction under § 741.29 is necessary or appropriate to achieve the purposes of the Act, he shall notify the complainant and agency, and take whatever action he deems appropriate in accordance with the provisions set forth therein.

(g) The Employment Standards Administration or the Agency shall notify the complainant if they find no violation as charged, or if they do not intend to initiate administrative or legal proceedings against the contractor, or if they sign a memorandum of agreement, consent decree of other settlement with the contractor, and shall include therewith a copy of any such agreement. The complainant must be notified within ninety (90) days after the complaint has been filed. Failure to take action and conditions of settlement directly affecting the complainant may be appealed to the Assistant Secretary.

§ 741.28 Processing of complaints by agencies.

(a) *Investigations.* The agency shall institute a prompt investigation of each complaint referred to it, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) Name and address of each person interviewed, (2) A summary of his statement, (3) Copies or summaries of pertinent documents, (4) A narrative summary of the evidence disclosed in the investigation as it related to each charge, and (5) Recommended resolution and/or actions.

(b) *Resolution of matters.* (1) If the investigation of a complaint by an agency pursuant to paragraph (a) of this section shows no violation of the affirmative action clause, the agency shall so inform the Assistant Secretary. The Assistant Secretary shall periodically review such findings of the agency, and he may request further investigation by the agency or may undertake such investigation as he may deem appropriate. (2) If any complaint investigation indicates a violation of the affirmative action clause, the matter should be resolved by informal means whenever possible. Each contractor shall be advised that the resolution is subject to review by the Assistant Secretary and may be disapproved if he determines that such resolution is not sufficient to achieve compliance. (3) Hearings shall be conducted in accordance with § 741.32. For reasonable cause shown, the Assistant Secretary or his designee or an agency head may reconsider or cause to be reconsidered any matter on his own motion or pursuant to a request from the complainant or contractor.

(c) *Reports to the Assistant Secretary.* Within 60 days from receipt of a complaint by the agency, or within such additional time as may be allowed by the Assistant Secretary for good cause shown, the agency shall process the complaint and submit to the Assistant Secretary the case record and a summary report containing the following information: (1) Name and address of the complainant; (2) brief summary of findings including a statement as to the agency's conclusions regarding the contractor's compliance or noncompliance with the requirements of the affirmative action clause; (3) a statement of the disposition of the case, including any corrective action taken and relief provided or, whenever appropriate, the recommended corrective action and sanctions or penalties.

§ 741.29 Assumption of jurisdiction by the Assistant Secretary.

(a) The Assistant Secretary may inquire into the status of any matter pending before an agency, including complaints and matters arising out of reports, reviews, and other investigations. Where he considers it necessary or appropriate in order to achieve the purposes of the Act, he shall assume jurisdiction over the matter and proceed as provided herein. Whenever the Assistant Secretary assumes jurisdiction over any matter, he may conduct, or have conducted, such investigation, hold such hearings, make such findings, issue such recommendations and directives, and order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purposes of the Act. The Assistant Secretary shall promptly notify the agency of any corrective action to be taken by the agency including action for nonperformance. The agency shall take such action and report the results thereof to the Assistant Secretary within the time specified.

(b) Hearings convened by the Assistant Secretary shall be conducted in accordance with § 741.32.

§ 741.30 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the Affirmative Action Clause is a ground for taking appropriate action for nonperformance as set forth in § 741.31 by the agency, the Assistant Secretary, prime contractor, or subcontractor. Any such noncompliance shall be reported in writing to the Assistant Secretary by the agency as soon as practicable after it occurs.

§ 741.31 Actions for nonperformance.

(a) *General.* In every case where any complaint investigation or compliance review indicates the existence of a violation of the affirmative action clause or these regulations, the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include, where appropriate, establishing a program for future performance. Where the apparent violation is not resolved by informal means the agency shall proceed in accordance with the enforcement and sanction procedures contained in this Part.

(b) *Specific performance and/or breach.* The Assistant Secretary may, as an alternative or supplement to the administrative remedies set forth herein, seek appropriate judicial relief for breach of contract or specific performance of the affirmative action clause of the contract or both.

(c) *Withholding progress payments.* With the prior approval of the Assistant Secretary, so much of the accrued payment due on the contract or any other contract between the government prime

contractor and the Federal government may be withheld to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.* A contract or subcontract may be cancelled or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 741.32 Formal hearings.

(a) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the agency or Assistant Secretary in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any investigation, is not resolved by informal means and a hearing is requested; or

(2) The Assistant Secretary or an agency, upon prior notification to the Assistant Secretary, proposes to request the Secretary or other agency head to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or termination of a subcontract or subcontracts or withholding of progress payments; or

(3) The Assistant Secretary or an agency, upon prior notification to the Assistant Secretary, proposes to request the Secretary or other agency head to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) *Notices of proposed action for nonperformance.* Written notices of proposed action for nonperformance, signed by the Assistant Secretary or appropriate agency official, shall be sent to the last known address of the prime contractor or subcontractor by registered mail, deliver to addressee only, return receipt requested. If the contractor does not receive such notice, a copy of such notice shall be published in the FEDERAL REGISTER. The notice shall contain a precise jurisdictional statement, a short and plain statement of the matters furnishing a basis for the action for nonperformance, an enumeration of the actions being requested, and a citation of the provisions pursuant to which the requested action may be taken. The prime contractor or subcontractor shall be afforded at least 14 days from receipt of the notice of proposed action for nonperformance in which to file an answer to the notice and a request for a hearing with the Assistant Secretary or the agency and the contractor shall be so informed in the notice. The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the notice unless the prime contractor or subcontractor is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. The hearing request shall be included as a separate paragraph of the answer.

(c) *Hearings.* Reasonable notice of the hearing shall be sent by registered mail, return receipt requested, to the last known address of the prime contractor or subcontractor complained against. Such notice shall contain the time, place, and nature of the hearing and a statement of the legal authority pursuant to which the hearing is to be held. Copies of such notice shall be sent to all agencies. Hearings shall be before a hearing officer designated by or under the direction of the Assistant Secretary or agency head. Each party shall have the right to counsel; a fair opportunity to present evidence and argument and to cross-examine. Whenever a formal hearing is based in whole or in part on matters subject to the collective bargaining agreement and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party. Whenever a hearing is held on a complaint under § 741.27 any person or organization shall be permitted to participate upon a showing that such person or organization has an interest in the proceedings and may contribute materially to the proper disposition thereof. The hearing officer shall make his proposed findings and conclusions upon the basis of the record before him.

(d) *Action for nonperformance without a hearing.* If at the end of the 14-day period referred to in this section no answer including a hearing request has been filed, or the answer does not raise issues of fact or law, the Assistant Secretary or other agency head may cancel or terminate or cause to be canceled or terminated, or withhold progress payments with respect to any one or more contracts or subcontracts, or parts thereof, held by the prime contractor or subcontractor complained against, or enter an order declaring such contractor or subcontractor ineligible for further contracts, subcontracts, or extensions or other modifications of existing contracts, until the contractor or subcontractor has satisfied the Assistant Secretary that it has established and will carry out personnel and employment policies and practices in compliance with the provisions of the Act, affirmative action clause, and the regulations.

(e) *Decision following hearing.* When the hearing is conducted by an agency, the hearing officer shall make recommendations to the head of the agency who shall make a decision whether action for nonperformance will be taken against the contractor or subcontractor. No decision by the head of the agency, or his representative, shall be final without the prior approval of the Assistant Secretary. When the hearing is conducted by a hearing officer appointed by or under the direction of the Assistant Secretary, the hearing officer shall make recommendations to the Assistant Secretary, who shall make the final decision whether action for nonperformance will be taken against the contractor or subcontractor. Parties shall be furnished with copies of the hearing officer's recommendations, and shall be given an opportunity to submit their views.

§ 741.33 Notification of agencies.

The Assistant Secretary of Labor shall notify the heads of all agencies of any action for nonperformance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 741.24(b)(1) to any contractor subject to such action without prior approval of the Assistant Secretary.

§ 741.34 Contractor ineligibility list.

The Assistant Secretary shall distribute periodically a list to all exectuive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the Act.

§ 741.35 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this Part govern all disputes relative to a contractor's compliance with the affirmative action clause and the requirements of this Part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

Subpart C—Ancillary Matters

§ 741.50 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Assistant Secretary. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that he has established and will carry out employment policies and practices in compliance with the affirmative action clause.

§ 741.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the agency or the Assistant Secretary against any prime contractor or subcontractor, who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 741.52 Recordkeeping.

(a) Each contractor and subcontractor shall maintain for a period not less

than three years such employment or other records as required by the Assistant Secretary or agency or by this Part and shall furnish such information in the form required by the Assistant Secretary or agency as the Assistant Secretary deems necessary for the administration of the Act and regulations issued under this Part.

(b) Failure to maintain complete, accurate and annually updated records as required under this section constitutes noncompliance with the contractor's or subcontractor's obligations under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

§ 741.53 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to his places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of complaint investigations, compliance reviews and investigations of performance under the affirmative action clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 741.54 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations contained in this Part 741 shall be made by the Assistant Secretary or his designee.

Signed at Washington, D.C., this 22nd day of August, 1975.

BERNARD E. DELURY,
Assistant Secretary for Employment Standards.

[FR Doc.75-23042 Filed 8-28-75;8:45 am]

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. SCP-1]

TOXIC SUBSTANCES: KETONES

Comment Period Concerning Inflation Impact

On May 8, 1975 the Occupational Safety and Health Administration (OSHA) published in the FEDERAL REGISTER at 40 FR 20202 proposed standards concerning six ketones: 2-butanone, 2-pentanone, cyclohexanone, hexone, methyl (n-amyl) ketone, and ethyl butyl ketone. The proposed standards mark the first phase of the Joint NIOSH/OSHA Standards Completion Project which contemplates issuing more complete standards for nearly all the substances listed in Tables Z-1, Z-2 and Z-3 of 29 CFR 1910.1000. The proposed standards, if adopted, will establish requirements for measurements of employee exposure, medical surveillance, methods of compliance, employee training, recordkeeping, sanitation and certain housekeeping procedures, among other things.

Pursuant to the notice published on June 20, 1975 (40 FR 20645) hearings on the proposed standards have been scheduled to begin on September 3, 1975.

OSHA hereby solicits comments from interested persons concerning the potential inflationary impact of each of the proposed standards. The potential inflationary impact of these proposed standards may be raised at the scheduled hearings. Comments must be sent to the U.S. Department of Labor, Occupational Safety and Health Administration, Docket Officer, Docket SCP-1, Room N3620, 200 Constitution Avenue NW., Washington, D.C. 20210. The comments will be available for inspection and copying at the above address.

Appropriate subjects for comments are any or all of the following:

(1) Cost impact on consumers, businesses, markets, or Federal, State or local government;

(2) Effect on productivity of wage-earners, businesses, markets, or government;

(3) Effect on competition;

(4) Effect on supplies of important materials, products or services;

(5) Effect on employment; and

(6) Effect on energy supply and demand.

After the presentation of oral testimony, the hearings will be recessed for such time as is necessary to prepare inflation impact statements for each of the six standards, if appropriate, or a certification that such standard(s) will have no substantial inflationary impact. The hearings will be reconvened 30 days after such documents become available for public inspection and comment, whereupon further testimony will be accepted on the subject of economic and inflationary impact.

This procedure has been concurred in by the Council on Wage and Price Stability in accordance with Office of Management and Budget Circular No. A-107 (January 28, 1975), issued pursuant to Executive Order 11821 (39 FR 41501, November 27, 1974).

Signed at Washington, D.C., this 27th day of August, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-23151 Filed 8-28-75;8:45 am]

[29 CFR Part 1952]

SOUTH CAROLINA

Proposed Supplements to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On December 6, 1972, a notice was published in the FEDERAL REGISTER (37 FR 25932) on the approval of the South Carolina plan and adoption of Subpart C of Part 1952 containing the decision and describing the plan. During June 1975, the State of South Carolina submitted three (3) supplements to the plan involving developmental, State-initiated, and evaluation changes to the Atlanta Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplements were forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) for his determination as to whether they should be approved. The supplements are described below.

2. *Description of the supplements.* (a) *Public Employee Program.* On January 23, 1975, a notice was published in the FEDERAL REGISTER (40 FR 3606) describing a number of South Carolina plan supplements and providing opportunity for public comment. Among these supplements was a Public Sector Assistance Program originally submitted by the State on May 23, 1974. Subsequently, the State substantially amended this program and submitted a revised plan supplement dated June 24, 1975. The currently proposed public sector program, rather than proposing an alternative method of protection, now provides coverage of employees of State and local governments in a manner identical to that of private employees. Inspections will be conducted by regular compliance officers in the same manner as in the private sector including the issuance of citations and proposal of penalties. State/local government and private employees and employers have identical rights and responsibilities.

(b) *Regulations for enforcement of violations and administrative review of contested cases (Article IV).* As originally approved, the South Carolina plan contained a regulation, Article IV, setting out procedures for issuing citations, proposing penalties and conducting the administrative review of contested cases. State experience and Federal evaluation of the implementation of this regulation indicated a need for revision and expansion of Article IV. On June 5, 1975, the South Carolina Commissioner of Labor, Edgar L. McGowan, promulgated an amended Article IV which in addition to detailing procedures for the issuance of citations and proposed penalties includes revised procedures for informal conferences (limited to within the 20 day contest period), consideration of petitions for modification of abatement dates, and formal hearings. Under South Carolina law, both employees and employers may contest citations, proposed penalties and abatement dates. The Commissioner of Labor, rather than an independent Review Commission, is the review authority for contested cases.

(c) *Radiological Health Program.* In order to formalize enforcement of State standards addressing radiation hazards (South Carolina standards are identical to Federal standards), South Carolina has amended Section 7.02-4 of the State plan. The Division of Radiological Health of the South Carolina Department of Health and Environmental Control, be-

ginning July 1, 1975, will make inspections to "cover employment which is not subject to the jurisdiction of the Atomic Energy Act of 1954." A total of 3.3 professional man-years will be devoted to the program with an anticipated 740 inspections during fiscal year 1976 for the purpose of evaluatting exposure from X-ray machines and microwave ovens.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal working hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, NW., Washington, D.C. 20210; Regional Office, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30309; and the South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211.

4. *Public participation.* Interested persons are hereby given until September 29, 1975, in which to submit written data, views, and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Programs at his address as set forth above where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplements by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If, in the opinion of the Assistant Secretary substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplements, make appropriate amendments to Subpart C of 1952, and initiate further proceedings, if necessary.

Signed at Washington, D.C., this 26th day of August, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-23043 Filed 8-28-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 561]

[FRL 421-7; FAP 5H5070/P1]

TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Methoprene

On May 28, 1975, the Environmental Protection Agency (EPA) published a regulation (40 FR 23071) which provided for the safe use of the insect growth regulator methoprene (isopropyl (E,E)-11 - methoxy - 3,7,11 - trimethyl - 2,4 - dodecadienoate) in processed feed supplements for cattle (§ 561.282). This regulation was amended on June 20, 1975 (40 FR 26027), to include the use of methoprene as a feed additive in the complete feed of poultry.

The regulation established for the safe use of the insect growth regulator in processed feed supplements for cattle was proposed by Zoecon Corp., 975 California Ave., Palo Alto CA 94304, in a pesticide petition (FAP 5H5070) filed with the EPA. Zoecon has requested that the prescribed conditions of use as a feed additive in the feed for cattle at the rate of 0.375 to 0.750 milligram per 100 pounds of body weight per month be amended to increase the rate to 22.7 to 45.4 milligrams per 100 pounds of body weight per month. It has been concluded, based on a reevaluation of the data submitted in the petition as well as other relevant material, that the regulation can be amended as requested. The regulation, as amended, will protect the public health; therefore, it is proposed that § 561.282 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this notice, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register, Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St., SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before September 29, 1975 and should bear a notation indicating the subject (FAP 5H5070/P1). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: August 21, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

It is proposed that § 561.282(a)(1) be revised as follows:

§ 561.282 Methoprene.

(a) * * *

* * * * *

(1) It is used as a feed additive in the feed for cattle at the rate of 22.7 to 45.4 milligrams per 100 pounds of body weight per month.

* * * * *

[FR Doc.75-22934 Filed 8-28-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 67-SW-68]

AIRWORTHINESS DIRECTIVES

Bell Models 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47G-3B-2, 47G-4, 47G-4A, 47G-5, 47J-2, and 47J-2A Helicopters

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to certain Bell Model 47 helicopters. The agency initially issued AD 68-2-3, Amendment 39-546 (33 FR 2885), and then issued AD 70-10-8, Amendment 39-983 (35 FR 7006), as amended by Amendment 39-1063 (35 FR 12834), to supersede AD 68-2-3, in order to prevent failures of the tail rotor blade, P/N 47-642-102, on all Model 47 series helicopters certificated in all categories. Although mandatory inspections have been required since January 1968, accidents have occurred in which a tail rotor blade, P/N 47-642-102, is suspected to have failed. These accidents occurred on Models 47G-4A, 47G-5, 47J-2, and 47G-2 helicopters, some of which were used in restricted operations. The tail rotor blades on these particular helicopters are reported to have attained 130 to 491 hours' total time in service with an average of 296 hours' time in service. The frequent inspections specified in paragraph (a) of AD 70-10-8, may have not been effective in detecting fatigue cracks.

In 1970, Bell Helicopter Company obtained approval of an improved tail rotor system, P/N 47-704-008, using tail rotor blades, P/N 47-642-117, for the Models 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47G-3B-2, 47G-4, 47G-4A, 47G-5, 47J-2, and 47J-2A helicopters. The remaining Model 47 helicopters were not available and were not presented for FAA evaluations and approvals. As noted, only one Model 47G-2, and no other earlier Model 47's, experienced an alleged tail rotor failure since AD 68-2-3 and AD 70-10-8 were issued.

In the interest of safety, the agency proposes to issue an AD requiring installation of the tail rotor blades, P/N 47-642-117, on those models for which the improved tail rotor system has been approved, namely, Bell Models 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47G-3B-2, 47G-4, 47G-4A, 47G-5, 47J-2, and tail rotor blades, P/N 47-642-117, and 47J-2A helicopters. The installation would be accomplished within 300 hours' time in service after the effective date of the AD. It is acknowledged that Bell Models 47G-3B-2A, and 47G-5A helicopters were originally equipped with the tail rotor blades, P/N 47-642-117, and were not eligible to use the 47-642-102 tail rotor blades.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data,

views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before September 19, 1975, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date, for comments in the Office of Regional Counsel for examination by interested persons.

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

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

BELL. Applies to Bell Models 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47G-3B-2, 47G-, 47G-4A, 47G-5, 47J-2, and 47J-2A helicopters certified in all categories.

Compliance is required within 300 hours' time in service after the effective date of this AD unless already accomplished.

To prevent possible failure of tail rotor blades P/N 47-642-102, install tail rotor blades P/N 47-642-117 in accordance with Bell Helicopter Company's Service Instruction No. 428, issue date May 1, 1970, or later approved revision.

The manufacturer's specifications and procedures, identified and described in this directive, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to the Service Manager, Bell Helicopter Company, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

Issued in Fort Worth, Texas, on August 11, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-22972 Filed 8-28-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-48]

ALTERATION OF TRANSITION AREA

Amended Notice of Proposed Rule Making

On August 1, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 32345) stating that the Federal Aviation Administration proposed to alter the transition area at Athens, Tex.

Subsequent to publication of the notice of proposed rule making, additional instrument approach procedures have been established which will require additional controlled airspace for aircraft executing these approaches. The airspace docket is hereby amended to further alter the Athens, Tex., 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 September 29, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

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

In §71.181 (40 FR 441), the Athens, Tex., transition area is amended to read:

ATHENS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jones Municipal Airport (latitude 32°10'00" N., longitude 95°50'00" W.); within an 8.5-mile radius of Lochridge Ranch Airport (latitude 31°59'21" N., longitude 95°57'03" W.); within 3.5 miles each side of the 176° bearing from the Athens RBN (latitude 32°09'35" N., longitude 95°49'50" W.) extending from the 5-mile-radius area to 11.5 miles south of the RBN; within 3 miles each side of a 211° bearing from the Athens RBN extending from the 5-mile-radius area to the 8.5-mile-radius area; and within 4.5 miles each side of the 356° bearing from the Lochridge Ranch RBN (latitude 32°03'48" N., longitude 95°57'27" W.) extending from the 8.5-mile-radius area to 10.5 miles N. of the RBN.

Alteration of the transition area will provide controlled airspace for aircraft executing new instrument approach procedures proposed for the Lochridge Ranch Airport, Tex.

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

Issued in Fort Worth, Tex., on August 20, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-22973 Filed 8-28-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-61]

ALTERATION OF TRANSITION AREA

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Vivian, 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 September 29, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

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

In § 71.181 (40 FR 441), the Vivian, La., transition area is amended to read:

VIVIAN, LA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Vivian Municipal Airport (latitude 32°51'55" N., longitude 94°00'30" W.); within 2 miles each side of the Shreveport VORTAC 290° radial extending from the 6.5-mile-radius area to 5.5 miles northwest of the VORTAC; and 3 miles each side of the 277° bearing from the NDB (latitude 32°51'37" N., longitude 94°00'42" W.) extending from the 6.5-mile-radius area to 8.5 miles west of the NDB.

Alteration of the transition area will provide controlled airspace for aircraft executing a new instrument approach procedure proposed for the Vivian, La., Municipal Airport.

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

Issued in Fort Worth, TX, on August 20, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.75-22974 Filed 8-28-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-RM-29]

DESIGNATION OF TRANSITION AREA AND CONTROL ZONE

Notice of Proposed Rule Making

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations so as to designate a transition area and control zone at Hayden, Colorado.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207. All communications received on or before September 29, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

A new public use instrument approach procedure has been developed for the Yampa Valley Airport, Hayden, Colorado. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area and control zone at Hayden, Colorado. The new procedure will become effective concurrently with the designation of the control zone and transition area.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.171 (40 FR 354) the following control zone is added:

HAYDEN, COLORADO

Within a 5 mile radius of Yampa Valley Airport (latitude 40°28'53" N, longitude 107°13'08" W), within 3.5 miles each side of the Hayden VOR 301° radial extending from the 5 mile radius zone to 11.5 miles northwest of the VOR.

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 Airmen's Information Manual.

In § 71.181 (40 FR 441) designate a transition area for Hayden, Colorado to read:

HAYDEN, COLORADO

That airspace extending upward from 1200 feet above the surface within an area bounded by a line beginning at latitude 40°-06'00" N, longitude 107°00'00" W; to latitude 40°43'00" N, longitude 107°00'00" W; to latitude 40°43'00" N, longitude 107°41'00" W; to latitude 40°07'05" N, longitude 107°41'00" W; thence along the north edge of V200 to the point of beginning.

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

Issued in Aurora, Colorado, on August 21, 1975.

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

[FR Doc.75-22975 Filed 8-28-75;8:45 am]

Federal Railroad Administration

[49 CFR Part 257]

ACQUISITION AND MODERNIZATION LOAN ASSISTANCE

Notice of Proposed Rulemaking

The purpose of this notice is to propose an amendment to Title 49 of the Code of Federal Regulations by adding a new Part 257, which sets forth the procedures and requirements of the Federal Railroad Administration ("FRA"), with respect to the filing of applications for loans for acquisition or for loans or the guarantee of loans for modernization of rail properties under section 403 of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 763 ("Act"). The Secretary of Transportation has delegated his authority with respect to this section to the Administrator of the Federal Railroad Administration ("Administrator"). Agreements for loans or the guarantee of loans between recipients and the United States Railway Association ("Association") are to be entered into under procedural regulations which will be published by the Association. To insure consistency between the regulations of FRA under section 403 and the procedural regulations of the Association, FRA will coordinate its activities with the Association.

These proposed regulations under section 403 of the Act are modeled after and designed to be used in conjunction with regulations of FRA under section 402 of the Act. Those regulations became effective as Part 255 of Title 49 of the Code of Federal Regulations (40 FR 4232). The regulations under section 402 of the Act establish a two year transitional program whereby FRA provides funds for continuation of local rail services to a State or a local or regional transportation authority in the region.

After a review of subsection 402(b)(2) and section 403 of the Act and its legislative history, the Administrator has determined that funds may be made available, at the discretion of the Administrator, under subsection 402(b)(2), to provide up to 70 percent of the minimum 30 percent non-federal share of the purchase price or of the cost of modernizing rail properties pursuant to section 403. A proposed amendment to the section 402 regulations (Part 255 of this chapter) providing for such assistance will be published shortly.

Section 403 of the Act provides that the Administrator may direct the Association to provide to a State or a local or regional transportation authority in the region loans for acquisition or loans or the guarantee of loans for modernization of rail properties. Loans under subsection 403(a) may not exceed 70 percent of the purchase price of the rail properties for which assistance is sought. Loans or the guarantee of loans under subsection 403(b) may not exceed 70 percent of the cost of modernizing such rail properties to a condition that will enable safe and efficient rail transportation operations over such rail properties. To modernize a rail property with a loan or a guarantee of a loan under section 403, a recipient of such assistance must own the rail property for which loan assistance is sought or own such property prior to the time loan assistance is provided. Where modernization assistance is sought for rail properties not yet acquired, applications for the acquisition and modernization of such properties may be submitted at the same time in accordance with § 257.9(b) of the proposed regulations. The use of section 403 assistance by a recipient must be consistent with the State Rail Plan developed in accordance with § 255.9(b) of Title 49 of the Code of Federal Regulations (40 FR 4235).

Subsection 403(a) provides for loans for acquisition while subsection 403(b) provides for loans and the guarantee of loans for modernization. While these proposed regulations recognize the availability of a guarantee of a loan with respect to modernization, potential applicants for loan assistance should be aware that a guarantee of a loan from the Association may be less advantageous since the interest rate would be higher than the rate on a direct loan from the Association. Moreover, a guarantee of a loan would reduce the total amount of Federal funds available for use under section 403 to the same extent as a direct loan. For these reasons the Association is considering the limitation of loan assistance under section 403 to the use of loans only. The final regulations of FRA as well as the procedural regulations of the Association will reflect the outcome of these considerations.

In view of the scope of the acquisition and modernization program and in view of the diverse interests involved, the Administrator wishes to encourage the broadest possible public participation in connection with the development of these regulations. Accordingly, persons, organizations and governmental entities may participate in this proposed rulemaking by submitting written data, views, or comments to the Office of Chief

Counsel, Federal Railroad Administration, 400 Seventh Street, SW, Washington, D.C. 20590. All material received on or before October 10, 1975, will be considered by the FRA before taking final action on the proposed amendment. All comments received will be available for examination at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The proposals contained in this notice may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 49 of the Code of Federal Regulations by adding a new Part 257 as follows:

PART 257—APPLICATION FOR ACQUISITION AND MODERNIZATION LOAN ASSISTANCE

Sec.

257.1 Definitions.
257.3 Applicability.
257.5 Eligibility.
257.7 Loan assistance.
257.9 Applications.
257.11 Loan assistance agreements.
257.13 Record, audit and examination.
257.15 Waivers and Modifications.

APPENDIX A—CERTIFICATE

APPENDIX B—INCLUSION OF SPECIFIC JURISDICTIONS

AUTHORITY: Sections 402 and 403 of the Regional Rail Reorganization Act of 1973, as amended, 45 U.S.C. 762, 763 (1975); Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(q).

§ 257.1 Definitions.

As used in this part—

(a) "Act" means the Regional Rail Reorganization Act of 1973, as amended.

(b) "Administrator" means the Federal Railroad Administrator or his or her delegate.

(c) "Acquisition" means the purchase of rail properties under subsection 304(c)(2)(C) of the Act or other lawful authority.

(d) "Applicant" means the designated State agency of a State in the region or of a contiguous State, or a local or regional transportation authority in the region, which has submitted an application and meets the following requirements:

(1) If a designated State agency, the State must have established a State Rail Plan for rail transportation and local rail services which meets the requirements of § 255.9 of this chapter and which is administered or coordinated by a designated State agency, and such plan provides for the equitable distribution of loan assistance among State, local and regional transportation authorities; and

(2) If a local or regional transportation authority, its application is consistent with an approved State Rail Plan.

(e) "Association" means the United States Railway Association.

(f) "Commission" means the Interstate Commerce Commission.

(g) "Contiguous State" means a State which is contiguous to a State in the region which has a portion of its territory located in the region as determined by Ex Parte Order 293 of the Commission.

(h) "Designated State agency" means the State agency designated in the State Rail Plan to administer or coordinate that plan as provided in subsection 402(c)(1) of the Act and paragraph (a)(1) of § 255.5 of this chapter, provided that with respect to a contiguous State, the designated State agency may be either a State agency or a local or regional transportation authority.

(i) "Final System Plan" means the plan of reorganization for the restructure, rehabilitation, and modernization of railroads in reorganization prepared under section 206 and approved under section 208 of the Act.

(j) "Loan assistance" means a loan for acquisition or modernization purposes or the guarantee of a loan for modernization purposes.

(k) "Modernization" means to upgrade rail properties included in the State Rail Plan to a condition that enables safe and efficient rail transportation operations over such rail properties.

(l) "Rail properties" means assets or rights which are used or useful in rail transportation service.

(m) "Rail service continuation subsidies" means subsidies calculated in accordance with the provisions of subsection 205(d)(3) of the Act to cover the costs of operating adequate and efficient rail service in the region, including where necessary, improvement and maintenance of tracks and related facilities.

(n) "Region" means the States of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia; the District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business primarily in those jurisdictions (as determined by the Commission by order described in Appendix B).

(o) "State" means any State or the District of Columbia.

(p) "State in the region" means the States enumerated in subsection 102(13) of the Act.

(q) "State Rail Plan" means the plan developed in accordance with § 255.9 of this chapter, provided that with respect to a contiguous State the approved State Rail Plan may be limited to that portion of the State which is within the region.

§ 257.3 Applicability.

Loan assistance is available under this part only for acquisition or modernization or both of rail properties for which the applicant has made an offer to purchase pursuant to section 304(c)(2)(C) of the Act or other lawful authority.

§ 257.5 Eligibility.

(a) An applicant is eligible to receive loan assistance under section 403(a) of the Act for acquisition of rail properties if the applicant:

(1) Has made an offer to purchase rail properties of a railroad under subsection 304(c)(2)(C) of the Act or other lawful authority;

(2) Has authority to acquire rail properties and to apply for and obtain loan assistance for the acquisition of the rail properties it has offered to purchase;

(3) Has submitted an application which meets the requirements of § 257.9 of this part; and

(4) Has entered into an agreement for loan assistance in accordance with § 257.11 of this part.

(b) An applicant is eligible to receive loan assistance under section 403(b) of the Act for modernization of rail properties if the applicant:

(1) Has purchased, or will purchase prior to receipt of the loan assistance, the rail property pursuant to an offer to purchase made under section 304(c)(2)(C) of the Act or other lawful authority;

(2) Has authority to modernize rail properties and to apply for and obtain loan assistance for modernization of the rail properties it seeks to modernize under this section;

(3) Has submitted an application which meets the requirements of § 257.9; and

(4) Has entered into an agreement for loan assistance in accordance with § 257.11.

§ 257.7 Loan assistance.

(a) Loan assistance under section 403 of the Act is to be used solely for the acquisition or modernization or both of those rail properties included in the State Rail Plan.

(b) The Administrator may direct the Association to provide loan assistance for up to 70 percent of the total costs for acquisition or modernization or both of the rail properties for which loan assistance is sought.

(c) Each applicant shall provide as the non-federal share the balance of the total cost of acquisition or modernization or both of rail properties for which the loan assistance is sought. However, with the approval of the Administrator, funds available under section 402(b)(2) of the Act and § 255.7(b)(1)(iv) of this chapter may be used to provide up to 70 percent of the non-federal share required under this paragraph. In addition, a State or a local or regional transportation authority may obtain its non-federal share from shippers or other available sources except that the applicant's share may not be augmented by any Federal funds, directly or indirectly, unless the funds are provided through a Federal program which specifically authorizes the augmentation of a non-federal share of a federally subsidized program with these funds.

§ 257.9 Applications.

(a) Coordination. To ensure coordination with appropriate State agencies, each application for loan assistance must be submitted by or under the coordination of the designated State

agency and must be consistent with the approved State Rail Plan.

(b) Loan assistance may be sought and a single application may be submitted for one or more of the following:

(1) Acquisition of a rail property or properties;

(2) Modernization of a rail property or properties; and

(3) Acquisition and modernization of the same rail property or properties.

(c) Each application must include for each property to be purchased with the requested loan assistance:

(1) A copy of the offer to purchase and, if the offer to purchase was made under subsection 304(c)(2)(C) of the Act, a copy of the offer of a rail service continuation subsidy as required by subsection 304(d) of the Act; and

(2) The information required under paragraph (e) of this section.

(d) Each application must include for each property to be modernized with the requested loan assistance:

(1) Evidence that the applicant has purchased or will purchase prior to receipt of any modernization assistance, the rail property for which loan assistance is sought pursuant to an offer to purchase under section 303(c)(2)(C) or other lawful authority prior to the receipt of any modernization assistance; and

(2) The information required under paragraph (e) of this section.

(e) In addition to the requirements of paragraph (c) or (d) or both of this section, each application for loan assistance must contain the following:

(1) The full and correct name and principal business address of the applicant;

(2) The name, title, and address of the person to whom correspondence regarding the application should be addressed;

(3) A detailed description of the rail properties for which loan assistance is sought, together with a map of those rail properties, and certification by the Chief Executive Officer of the applicant as to their inclusion in the State Rail Plan;

(4) Evidence of review and coordination within the State in accordance with the applicable sections of the approved State Rail Plan;

(5) A description of the steps necessary, and the cost and timing thereof, for acquisition or modernization or both of rail properties for the current calendar year and each succeeding year until completion;

(6) A detailed description of the program for acquisition or modernization or both which the applicant plans to accomplish including (i) the goals and related objectives which the program is designed to achieve, including a description of the rail service to be provided over the rail properties acquired or modernized with loan assistance, (ii) an itemization of the proposed use of loan proceeds by general category, (iii) the maintenance level which the applicant believes necessary to maintain safe and efficient rail transportation operations and the cost of providing maintenance at that level, (iv) the criteria and priorities (and their application to the analysis of the alternatives) which the applicant used in making determinations with respect to the program, and a description of the alternatives which the applicant considered, including subsidy, discontinuance and abandonment of service, use of alternative modes of transportation, and other pertinent alternatives, (v) an analysis of the alternatives evaluated by the applicant including explicit consideration of those factors listed in paragraph (b)(2)(iv) of § 255.9 of this chapter, (vi) the proposed source of the non-federal share, (vii) the proposed method and timing of repayment of loan assistance, (viii) projected financial statements for the first five years of operation showing in detail revenues and expenses of the proposed rail service, including an itemization of revenue sources from which repayment will be made and indication of any revenue authority granted to the applicant, (ix) the proposed method of financing the operation of such rail services, and (x) any additional financial or supporting data as requested by FRA or the Association.

(7) Satisfactory written assurance that the applicant will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under section 403 of this Act;

(8) Written evidence that the applicant has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail services; employs or will employ, directly or indirectly, sufficient trained and qualified personnel; and maintains or will maintain adequate programs of investigation, research, promotion, and development with provisions for public participation;

(9) An opinion of the counsel for the applicant showing that he or she is familiar with the corporate or other organizational powers of the applicant and that the applicant has the authority to apply for and obtain a loan for acquisition or modernization or both of the rail properties for which loan assistance is sought and that the applicant has the requisite authority to carry out actions proposed in the application and to assume the responsibilities and obligations created thereby;

(10) Certification that the applicant is in compliance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d et seq. ("Civil Rights Act"), and all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation ("Civil Rights Regulations"), and other pertinent directives, and that, in accordance with the Civil Rights Act, the Civil Rights Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, religion, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives loan assistance and the applicant will promptly take any measures necessary to effectuate these requirements; and

(11) Such other information as the Administrator may require.

(f) Execution and Filing of Application. (1) Each original application must bear the date of execution and be signed by the Chief Executive Officer of the applicant. The Chief Executive Officer required to execute the application shall execute a certificate in the form of Appendix A to this Part. (2) Each original application and certificate, and nine copies thereof, must be filed with the Administrator of the Federal Railroad Administration, Department of Transportation, 400 7th Street, SW, Washington, D.C. 20590.

(g) Review and Approval of Applications. Applications for loan assistance must be submitted to the Administrator for review and approval. If the Administrator approves an application, the applicant will be notified in writing. If the Administrator disapproves all or part of an application, the applicant will be notified in writing of the reasons for such disapproval. These reasons may include, insufficiency of the application, inconsistency with the approved State Rail Plan, or insufficiency in the amount of available funds.

§ 257.11 Loan assistance agreements.

After receipt, review, and approval of an application meeting the requirements of § 257.9, the Administrator will direct the Association to provide loan assistance for acquisition under section 403 of the Act. Loan assistance will be provided in accordance with loan assistance agreements under the Association's regulations describing its procedures for such assistance.

§ 257.13 Record, audit, and examination.

(a) Each recipient of loan assistance under this part shall keep such records, in addition to those required by the Association, as the Administrator may prescribe, including records which fully disclose the amount and disposition by the recipient of the loan assistance, the total cost of the project or undertaking in connection with which the loan assistance was used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after completion of the project or undertaking referred to in paragraph (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Administrator or the Comptroller General

may be related or pertinent to the loan assistance referred to in such paragraph.

§ 257.15 Waivers and Modifications.

The Administrator may upon good cause shown, waive or modify any requirement of this part not required by law, or make any additional requirements he deems necessary.

APPENDIX A—CERTIFICATE

The following is the form of the certificate to be made by each person signing an application.

_____ certifies that he
(Name of Person)
or she is the Chief Executive Officer of _____ that he or she is authorized to sign and file with the Federal Railroad Administrator this application; that he or she has carefully examined all of the statements contained in the application relating to _____; that he or she has knowledge of the matters set forth therein and that all statements made and matters set forth therein are true and correct to the best of his or her knowledge, information and belief.

_____
(Date) (Signature)

Subscribed and sworn to before me the ____ day of _____, 19____.

APPENDIX B

By order dated January 23, and supplemental order dated May 23, 1974, (Ex Parte No. 293, and Northeastern Railroad Investigation (Definition of the Midwest and Northeast Region)) the Commission has included, in addition to the jurisdictions specifically named, the following: (1) Points in Kentucky in the Louisville, Kentucky, Standard Metropolitan Statistical Area as used in the latest national census; (2) Points in Missouri in the St. Louis, Missouri, Standard Metropolitan Statistical Area as used in the latest national census; and (3) Kewaunee and Manitowoc, and the Port of Milwaukee, Wisconsin.

This notice is issued under the authority of 49 U.S.C. 1651 et seq.

Issued in Washington, D.C. on August 26, 1975.

ASAPH H. HALL,
Administrator.

[FR Doc.75-23026 Filed 8-28-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1016]

PRIVATE LITIGATION

Policies and Procedures Regarding Information Disclosure and Commission Employee Testimony; Reopening of Comment Period

The purpose of this notice is to reopen until September 10, 1975, the period for receiving comments on the proposed regulations containing Policies and Procedures Regarding Information Disclosure and Commission Employee Testimony in Private Litigation (40 FR 29092, July 10, 1975).

The comment period for the proposed regulation expired on August 11, 1975. The Commission received on August 4, 1975, a request from the Association of Home Appliance Manufacturers (AHAM) that the comment period be extended until September 10, 1975. That request was supported by the claim that AHAM foresees important effects on its members and needs more time for comment.

In response to the above request, the Commission has decided to reopen the comment period until September 10, 1975. Any comments received in the Office of the Secretary before that date will be considered. Comments received after September 10, 1975 will be considered to the extent practicable. Comments, preferably in five copies, should be addressed to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Dated: August 25, 1975.

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

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FEDERAL TRADE COMMISSION

[16 CFR Part 453]

FUNERAL INDUSTRY PRACTICES

Trade Regulation Proceeding

Notice of Proceeding, Proposed Trade Regulation Rule, Statement of Reason for Proposed Rule, Invitation to Propose Issues of Fact for Consideration in Public Hearings, and Invitation to Comment on Proposed Rule.

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended 15 U.S.C. 41, et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, et seq., and 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning Funeral Industry Practices.

Accordingly, the Commission proposes the following Trade Regulation Rule and to amend subchapter D, Trade Regulation Rules, Chapter 1 of 16 CFR by adding a new Part 453 as follows:

PART 453—FUNERAL INDUSTRY PRACTICES

Sec.
453.1 Definitions.
453.2 Exploitative practices.
453.3 Misrepresentations.
453.4 Merchandise and service selection.
453.5 Price disclosures.
453.6 Interference with the market.
453.7 Retention of documents.

AUTHORITY: The provision of this Part 453 are issued under 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

§ 453.1 Definitions.

For the purpose of this part, the following terms and definitions shall apply:

(a) *Funeral service industry member.* A "funeral service industry member" is any person, partnership or corporation, or any employee or agent thereof, engaged in the business of selling or offering for sale, directly to the public, funeral services and merchandise; of preparing deceased human bodies for burial, cremation or other final disposition; or of conducting or arranging funerals.

(b) *Funeral services.* "Funeral services" consist of services performed incident to: (1) the care and preparation of deceased human bodies for burial, cremation or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony and the final disposition of the deceased including, but not limited to, transporting the remains, securing necessary permits, embalming, arranging for death notices and other funeral-related items.

(c) *Funeral merchandise.* "Funeral merchandise" consists of articles and supplies sold or offered for sale, directly to the public, or used by funeral directors incident to: (1) the care and preparation of deceased human bodies for burial, cremation or other final disposition; (2) the arrangement, supervision or conducting of the funeral ceremony.

(d) *Person, partnership or corporation.* The term "person, partnership or corporation" refers to any party, other than a state, over which the Federal Trade Commission has jurisdiction, and may include in appropriate circumstances, but is not limited to, individuals, groups, organizations, trade associations, and professional societies.

(e) *Customer.* A "customer" is any person, association, or other entity who purchases, attempts to purchase or seeks information regarding possible future purchase of funeral services and/or merchandise, without intention of resale.

(f) *Immediate cremation.* An "immediate cremation" is a disposition of human remains which includes reduction of the remains by a heating process and which does not involve formal viewing or a prior funeral ceremony with the body present.

(g) *Outer interment receptacle.* An "outer interment receptacle" is any container or enclosure which is placed in the grave around the casket to protect the casket and/or to prevent the collapse of the grave including, but not limited to, receptacles commonly known as burial vaults, grave boxes or grave liners.

(h) *Casket.* A "casket" is a rigid container which is designed for the encasement and burial of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric.

(i) *Suitable container.* A "suitable container" is any receptacle or enclosure other than a casket which is of sufficient strength to be used to hold and transport human remains including, but not limited to, cardboard, pressed-wood or composition containers and canvas or opaque polyethylene pouches.

(j) *Crematory.* "Crematory" refers to an establishment which reduces human remains by a heating process.

(k) *Defacing.* "Defacing" consists of deliberate efforts to make merchandise

appear unattractive to customers including, but not limited to, displaying broken, soiled or defective merchandise.

(l) *Accounting year.* "Accounting year" refers to the particular one year period, which may but need not necessarily correspond to the calendar year, utilized by a funeral home in keeping financial records for tax or accounting purposes.

(m) *Adult funeral services.* "Adult funeral services" refers to funeral services which are provided, at retail prices, for adults, and does not include services provided for infants or small children.

(n) *Standard funeral service package.* A "standard funeral service package" is defined to include at least the following: removal of remains to funeral home; preservation, restoration, and dressing of remains; use of funeral home facilities and equipment for viewing and the funeral service; arranging for obituary notices, church services, burial permits, and transcripts of death certificates; arranging and care of flowers; use of hearse; arranging for veteran, social security, fraternal, labor union, and/or life insurance burial benefits, arranging for pallbearers; other services of funeral director and staff; and casket.

(o) *Offered for sale.* "Offered for sale" refers to making available for purchase or suggesting the availability of merchandise or services for purchase by use of any of the following: media advertising; promotional materials, including brochures, handbills or calendars; the display or stocking for sale of merchandise; or expressions, direct or indirect, of a willingness to furnish services and/or merchandise to the public for a retail price.

(p) *Memorial society.* A "memorial society" is a non-public membership association which assists members in obtaining and making arrangements for funerals, cremations, or other methods of disposition.

§ 453.2 Exploitative practices.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral services industry member:

(a) *Embalming without permission.* To furnish embalming, other services or merchandise without having first obtained written or oral permission from a family member or other person authorized by law to make funeral arrangements for the deceased. *Provided,* That embalming without permission to satisfy requirements of state or local laws shall not be considered a violation of this provision.

(b) *Pick-up and release of corpses.* (1) To obtain custody of a deceased human body without having first received written or oral authorization from a family member or other person authorized by law to make funeral arrangements for the deceased. *Provided,* That obtaining custody of human remains without authorization from a family member or other person authorized by law to make funeral arrangements to satisfy requirements of state or local laws shall not be considered a violation of this provision.

(2) To refuse to release a deceased human body to a family member or other person authorized by law to arrange disposition of the body, including any funeral director acting on directions of a family member or other authorized person, when requested to do so, whether or not money is owed for services already rendered. *Provided, however,* That this provision shall be subject to any valid state or local laws respecting release or transportation of deceased bodies.

(c) *Casket for cremation.* Who arranges cremation services, (1) or any crematory to require customers who express interest in immediate cremation of deceased human remains to purchase a casket or to claim directly or by implication that a casket is required;

(2) To fail to make available to any customer expressing an interest in immediate cremation of deceased human remains a suitable container, as defined by this part.

(d) *Profit on cash advances.* (1) To charge in excess of the amount advanced, paid or owed to third parties on behalf of customers for any items of service or merchandise described as "cash advances", "accommodations" or words of similar import on the contract, final bill, or other written evidence of agreement or obligation furnished to customers.

(2) To charge customers more than the amount advanced, paid or owed to third parties on behalf of customers for:

(i) Cemetery or crematory charges.
(ii) Pallbearers.
(iii) Public transportation charges.
(iv) Flowers.
(v) Clergy honoraria.
(vi) Musicians or singers.
(vii) Nurses.
(viii) Obituary notices.
(ix) Gratuities.

(3) To fail to pass on to customers the benefit of any rebates, commissions or trade or volume discounts received on any items enumerated in paragraph (d) (2) of this section. If the net cost to the funeral director for an item cannot be ascertained at the time of a particular sale, determination of the charges to the customer (the net charges paid by the funeral director) may be based on the adjustments, discounts, or rebate figures for the preceding accounting year.

(4) To misrepresent to a customer in any respect the amount advanced, paid or owed to third parties on behalf of the customer for services or merchandise to be furnished to such customer.

§ 453.3 Misrepresentations.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Misrepresentation of law, public health necessity, and religious customs.* (1) To make any statements or claims, written or oral, which expressly or implicitly contradict, mitigate or detract from the printed disclosures which are required by paragraph (a)(2) of this section or which are false, misleading or unsubstantiated, regarding (i) the legal necessity for embalming, a casket, or an outer interment receptacle; (ii) public health hazards associated with the failure to utilize embalming, a casket, or an outer interment receptacle; or (iii) religious requirements or customs.

(2) To fail to furnish, to each customer who inquires in person about the arrangement, purchase and/or prices of funeral merchandise or services, the following printed or typewritten statement, in clearly legible type:

NAME OF FUNERAL HOME

To avoid purchase decisions based on misconceptions about legal or public health requirements, the following statements are provided for your information. Please ask for an explanation of any statement which is not clear.

(i) Embalming is not required by law except in limited circumstances. It is not to be performed without authorization from a legally responsible individual except in those instances where it is required by law.

(ii) A casket is not required for immediate cremation. In lieu of caskets, this funeral home has available containers suitable for cremation for $_____.

(iii) Purchase of a casket or of a special form of casket, such as a "sealer casket," is not required by law except in limited circumstances, but may be required by cemetery rule.

(iv) Outer interment receptacles (burial vaults or grave liners) are not required by law except in limited circumstances, but may be required by cemetery rule.

Upon request, your funeral director will provide a brief written or printed explanation of legal requirements, including public health regulations, which necessitate the use of any services or merchandise.

(3) To fail to furnish, upon customer request, a brief written, typewritten or printed explanation of legal requirements, including public health regulations, which necessitate the use of any services or merchandise.

(b) *Preservative value claims.* (1) to claim, directly or by implication, that decomposition or decay of a deceased human body can be prevented by the use or purchase of:

(i) Embalming; or

(ii) A casket, unsealed or sealed; or

(iii) A burial vault or other outer interment receptacle, unsealed or sealed.

(2) To make false, misleading or unsubstantiated claims, directly or by implication, of watertightness or airtightness for caskets or vaults, whether sealed or unsealed;

(3) To misrepresent the preservative or protective utility of caskets, burial vaults or embalming.

§ 453.4 Merchandise and service selection.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting

commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Display of least expensive caskets.* Whose establishment contains one or more casket selection rooms, to fail to display therein the three least expensive caskets offered for sale for use in adult funeral services, in the same general manner as other caskets are displayed. *Provided,* That if fewer than twelve (12) caskets are displayed, only one of the three least expensive caskets must be displayed.

(b) *Availability of other colored caskets.* To fail to inform customers, by means of a prominently displayed written notice, that displayed caskets can be obtained in other colors, or to fail to provide caskets in other colors to customers who so request, *provided,* That such caskets in other colors can be obtained from regular commercial suppliers upon twelve (12) hours notice.

(c) *Interference with customer's selection of offered items.* (1) to represent, directly or indirectly, orally, visually, or in writing, that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell said product or service;

(2) To make representations, directly or indirectly, orally, visually, or in writing, purporting to offer any funeral merchandise or service for sale when the purpose of the representation is not to sell the offered merchandise or service but to obtain leads or prospects for the sale of other funeral merchandise and/or services at higher prices;

(3) To discourage the purchase, by customers, of any funeral merchandise or service which is advertised or offered for sale by:

(i) Disparaging the quality, appearance or tastefulness of any such merchandise or service which is advertised or offered for sale;

(ii) Suggesting that such merchandise or service is not readily available or can only be obtained after an appreciable delay, when such is not the case;

(iii) Defacing any merchandise carried for sale; or

(4) To use any policy, sales plan, or method of compensation for salespersons which has the effect, in any manner, or discouraging salespersons from selling, or has the effect of penalizing salespersons for selling, any funeral merchandise or service which is advertised or offered for sale.

(d) *Disparagement of concern for price.* To suggest, directly or by implication, to any customer in any manner that the customer's expressed concern about prices, inexpensive services or merchandise or an expressed desire to save money by the customer is improper, inappropriate or indicative of a lack of respect or affection for the deceased.

§ 453.5 **Price disclosures.**

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Price information over telephone.* To fail to provide by telephone, upon customer request, accurate information regarding the funeral service industry member's retail prices of funeral products and services, including caskets, vaults, basic services and cremation services, if offered.

(b) *Casket price list.* (1) To fail to furnish to each customer, before discussion about caskets offered for sale or the customer's selection of a casket, a printed or typewritten document which lists, in ascending order of price, the prices of all caskets available for purchase without requiring special ordering by the customer, together with sufficient information about each casket to enable the customer to locate and identify a casket among the others on display. The document shall also bear an effective date for prices listed thereon.

(2) To fail to include, on the printed or written list required by paragraph (b) (1) of this section in clearly legible type, the following heading:

CASKET PRICE LIST FOR (NAME OF FUNERAL HOME)

Listed below, in order, are the prices of the caskets offered by this funeral home together with information to help you locate and identify particular caskets which are displayed. If you are interested in any of the caskets which are included on this list but are not on display, please inquire.

(3) To represent to a customer that a casket on the list is not available, when such is not the case.

(c) *Display of casket prices.* (1) to fail to display prominently in or on the caskets on display the price of such caskets by card, sign or other means.

(2) To fail to display prominently prices on any casket photographs shown to customers and on any caskets shown to customers in display rooms maintained by casket manufacturers or wholesalers.

(d) *Vault disclosure and price list.* (1) to fail to furnish to customers, at the time they are shown or informed as to the availability of outer interment receptacles, before such a customer has made his or her selection, the following printed or typewritten notice:

Some cemeteries require that an outer enclosure be placed around the casket in the grave, while others do not. Where such a requirement exists, it can usually be satisfied by either a burial vault or a grave liner, which is usually less expensive than a burial vault. Outer interment receptacles are often sold by cemeteries as well as by funeral homes. Before selecting any other enclosure you may want to determine any applicable cemetery requirements as well as the offerings of your cemetery and funeral home.

(2) To fail to include on the printed statement required by paragraph (d) (1) of this section, in clearly legible type, the price for each outer interment receptacle available from the funeral home for purchase by the customer, together with a brief description of each enclosure, and an effective date for the prices specified.

(e) *Price list.* (1) To fail to furnish to each customer who inquires in person about the arrangement, purchase, and/or prices of funeral goods or services, prior to any agreement on such arrangement or selection by the customer or to any customer who by telephone or letter requests written price information, a printed or typewritten price list, which the customer may retain, containing the prices (either the retail charge or the price per hour, mile or other unit of computation) for at least each of the following items:

(i) Transfer of remains to funeral home.

(ii) Embalming.

(iii) Use of facilities for viewing.

(iv) Use of facilities for funeral service.

(v) Casket (a notation that a separate casket price list will be provided before any sales presentation for caskets is made).

(vi) Hearse.

(vii) Limousine.

(viii) Services of funeral director and staff.

(ix) Outer interment receptacles (if outer interment receptacles are sold, a notation that a separate outer interment receptacle price list will be provided before any sales presentation for such items is made).

Provided, however, that the list may include total or package prices for any standard adult funeral service package under $_____. The items covered by any such single quoted price shall be specified, but need not be separately priced. However, if a customer wishes to decline one or more items, the price shall be reduced by at least the amount of savings accruing to the funeral home from the declination.

(2) To fail to include, on the printed price list specified in paragraph (e) (1) of this section, directly above the price listings, in clearly legible type, the following:

(i) The name, address, and telephone number of the funeral home;

(ii) An effective date for the prices listed thereon;

(iii) The statement "You are free to select only those items of service and merchandise you desire. You will be charged for only those items you select. In some instances, depending on the circumstances of death and/or the type of service you select, some additional services or merchandise may become necessary. If you are required to pay for certain services or merchandise you have not selected, because they are required by other factors, an explanation shall be provided in writing by the funeral director on the memorandum of funeral services selected which you will receive."

(f) Memorandum of funeral service selected. (1) To fail to furnish to each customer making funeral arrangements, on a written memorandum of the funeral service selected, a list, in at least the following categories, of the services and merchandise selected by the customer together with a price for each item:

(i) Embalming.
(ii) Other preparation of the body.
(iii) Use of facilities for viewing.
(iv) Use of facilities for funeral service.
(v) Other services of funeral director and staff.
(vi) Casket, as selected.
(vii) Other specifically itemized merchandise.
(viii) Specifically itemized transportation charges.
(ix) Specifically itemized charges for any special services required.
(x) Specifically itemized cash advances or expenditures.

Provided, however, that there may be single prices quoted for each standard adult funeral service package whose total price is below $_____, if the services and merchandise included for the package price are specified, and if the listed price reflects appropriate adjustments for any items declined by the customer, as set forth in paragraph (e)(1) of this section.

(2) To fail to include on the written memorandum, required by paragraph (f)(1) of this section, in clearly legible boldface type the following:

(i) The name, address, and telephone number of the funeral home;

(ii) The disclosure required by paragraph (e)(2)(iii) of this section;

(iii) The statement "no substitutions of agreed-upon merchandise shall be made, unless agreed to in advance, by both parties;"

(iv) The statement "I have read and understood the above statements. I have also received written information regarding the prices of caskets and other merchandise and services."

(v) Immediately below the statements required by paragraph (f)(2)(iii) and (iv) of this section, the signatures of the customer and the funeral service industry member, or an authorized representative, and the date signed.

§ 453.6 Interference with the market.

In connection with the sale or offering for sale of funeral services and/or merchandise to the public, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, it is an unfair or deceptive act or practice for any funeral service industry member:

(a) *Offering of inexpensive funerals.* Or any person, partnership, or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder, or restrict: (1) The offering, or advertising of the availability of, low-cost funerals, immediate cremation or other forms of disposition, or arrangements for funeral services in advance of need by any funeral director, memorial society, or other person, partnership or corporation;

(2) Contracts or arrangements between memorial societies and any funeral director or other person, partnership or corporation providing services for the disposition of deceased human bodies.

(b) *Price advertising.* Or any other person, partnership or corporation, directly or indirectly, to prohibit, hinder or restrict, or attempt to prohibit, hinder or restrict, the disclosure of accurate merchandise or services by any funeral price information regarding funeral director, memorial society, or other person, partnership or corporation offering services for the disposition of deceased human bodies, whether such disclosure is made by means of advertisements in print media or broadcast media, or in any other manner.

(c) *Reliance on price advertising restrictions.* To change, restrict, make or fail to make any disclosure of accurate price information about any funeral merchandise or service by print media, broadcast media, telephone, leaflets, mailings, or in any other way, because of or in connection with any law, rule, regulation or code of conduct of any non-federal legislative, executive, regulatory or licensing entity or any other entity or person whatsoever, including but not limited to professional associations.

(d) *Price availability notice.* To fail to display prominently, in any advertising or promotional materials in print or broadcast media of funeral merchandise or services, the following notice:

Funeral home prices vary substantially. For information on our prices for funeral merchandise and services, call: (Telephone number).

§ 453.7 Retention of documents.

To assure compliance with the provisions of this part and prevent future use of the unfair and deceptive practices it prohibits, all funeral homes subject to the provisions of this part shall be required to retain and to make available for inspection by Federal Trade Commission officials, upon request, true and accurate copies of the written disclosures or price lists required by § 453.3(a)(2) and § 453.5 (b)(1), (d)(1), and (e)(1), and all revisions thereof, for at least three years after the date of their last distribution to customers, and a copy of each selection memorandum signed by a customer, as required by § 453.5(f)(1), for at least three years from the date on which the memorandum was signed.

STATEMENT OF REASON FOR THE PROPOSED RULE

It is the Commission's purpose in issuing this statement to set forth its reason for proposing this rule with sufficient particularity to allow informed comment. The precise format of such statements may vary from rule to rule depending upon the complexity of the issues involved. In this proceeding, we have determined that meaningful comment by the public will be facilitated by presenting (1) a brief statement describing the basic factual and legal premises upon which the Commission has determined to issue the rule, and (2) a series of questions designed to draw to the public's attention matters which the Commission deems particularly pertinent and those upon which comment is especially solicited.

The Commission emphasizes that neither this statement of factual and legal premises nor the questions should be interpreted as designating disputed issues of material fact. Such designations shall be made by the Commission or its duly authorized presiding official pursuant to the Commission's procedures and rules of practice.

STATEMENT

The Commission has reason to believe that: (a) The funeral transaction has distinctive characteristics which combine to place consumers in a peculiarly vulnerable position. Funeral purchases—one of the largest single consumer expenditures—are made out of necessity, not by choice. Funeral arrangements typically must be made under extreme time pressures by buyers whose bereaved condition may render them unable to protect themselves by careful inquiry or to exercise their normal care and business judgment. Often, buyers have almost no knowledge of funeral procedures, legal requirements or restrictions and available choices and costs. By contrast, the funeral director is in the business of arranging disposition of the dead for profit, and he is familiar with procedures, legal issues, costs, alternatives, and is skilled at transacting business with buyers who are distraught, disoriented and dependent;

(b) Bereaved buyers are susceptible to and have been subjected to a variety of practices which exploit their disadvantaged position or which interfere with personal selection of funeral merchandise and services. Moreover, these practices frequently involve the creation of false expectations in the funeral purchaser concerning funeral requirements and choices or mislead the customer by misrepresenting and necessity or nature of the funeral merchandise and services purchased. Such practices include: obtaining custody of and embalming corpses without permission, refusing to release a decedent's remains upon request of surviving relatives, requiring use of a casket for immediate cremation services, profiting on cash advances, concealing the availability of less expensive caskets or caskets in other colors, and discouraging selection of particular merchandise and services offered for sale. In addition, the consumer's disadvantageous position has been used to impede personal selection of funeral arrangements by funeral service industry members who have disparaged the buyer's economic concerns;

(c) Sections 453.2 and 453.4 of the proposed rule are necessary to halt and prevent future use of the foregoing practices, which are unfair or deceptive within the meaning of Section Five of the Federal Trade Commission Act (15 U.S.C. Section 45, as amended).

The Commission is proceeding upon the theory that the practices prohibited by Sections 453.2 and 453.4 of the Proposed Rule are unfair if they cause substantial harm (i.e., their economic and social utility to the public is substantially less than their economic and social disutility) and they result from the inequitable use of the superior bargaining position of the funeral service industry

member relative to that of consumer buyers. In so doing, the Commission is mindful that its authority to examine and prohibit unfair practices in or affecting commerce has been anlogized to the jurisdiction of an equity court.[1]

The Commission has further reason to believe that: (d) Many consumers have been injured by misrepresentations concerning: the use, necessity, or preservative utility of embalming, caskets or burial vaults; public health hazards resulting from failure to use embalming, a casket or a burial vault; or religious requirements or customs;

(e) The foregoing practices are deceptive within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45, as amended). Section 453.3 of the proposed rule is necessary to prevent the use of such deceptive practices and to avoid purchase decisions which are premised on misconceptions.

The Commission also has reason to believe that: (f) The availability of price information for consumers has been severely restricted. A substantial number of funeral homes refuse to divulge price information by telephone or limit the amount of information obtainable at the funeral home concerning the prices of funeral merchandise and services;

(g) A widespread failure to advertise funeral prices has contributed to the lack of price information. Such failure may be attributable not only to individual reluctance to advertise prices but also to historical institutional opposition to price advertising (by industry groups and state regulatory boards) and to state laws and regulations which restrict or prohibit funeral price advertising;

(h) The inadequate availability of price data has prevented price competition from operating in the funeral industry, has severely hampered comparison of the prices and offerings of different funeral homes by consumers and has deprived consumers of material information which is essential to informed purchase decisions. Unless the Commission undertakes to require certain price disclosures and to remove all varieties of private and public restraints, consumers may continue to receive inadequate price information throughout the United States;

(i) Actions by funeral industry members to inhibit economical funeral offerings, pre-need arrangements, immediate disposition services, or memorial societies disadvantage consumers by restricting their choice of funeral arrangements and may suppress competition in the industry;

(j) Section 453.5's price disclosure requirements are necessary: (1) to prevent deception regarding funeral prices offerings; (2) to remedy the unfair withholding of information essential for informed consumer purchase decisions; and (3) to prevent future use of various unfair and deceptive merchandising techniques which exploit consumers' lack of information;

Section 453.6 is necessary to cure the unfair nondisclosure of funeral prices, whether or not due to private or official restraints, and to prevent unfair activities which restrict the funeral choices available to consumers and price competition within the funeral industry.

For the purposes of this trade regulation rule proceeding, the Commission is proceeding upon the theory that nondisclosure of funeral prices is unfair if it creates substantial harm (i.e., its economic and social utility to the public is substantially less than its economic and social disutility) and it offends public policy by being basically contrary to clear national policy, as articulated by the federal antitrust statutes, and not vital to achieve important State policy goals. In light of the foregoing, the Commission has reason to believe that the widespread failure by funeral service industry members to disclose to consumers retail price information for funeral merchandise and services, whether or not due to private or official restraints, is unfair within the meaning of Section 5 of the Federal Trade Commission Act.

(15 U.S.C. section 45, as amended)

In addition, the Commission has reason to believe that: (k) The retention of documents required by § 453.7 of the proposed rule is necessary to facilitate enforcement of the rule and to effectuate its purposes;

(l) The magnitude of the economic and emotional injuries inflicted on large numbers of particularly vulnerable consumers by the abuses identified and the frequency of their use by funeral directors in different parts of the United States are sufficient to warrant issuance of this proposed rule by the Commission.

The Commission has reason to believe the above statements based on information compiled by Commission staff during a comprehensive industry-wide investigation.

In the course of the investigation the Commission staff has received extensive documentary evidence bearing upon the issues and has consulted numerous experts, industry members and consumers. In addition, the staff has conducted independent surveys and investigational hearings; evaluated consumer complaints, pertinent State statutes and judicial rulings; and examined the findings of various industry studies. The Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on matter in the rulemaking record.

Effect of Rule on Contrary State Laws

Particularly with respect to §§ 453.2 (c), 453.5 and 453.6 of the proposed rule, it is the Commission's intent in issuing this proposed rule to override contrary state or local law. The rule is an interpretation of the Federal Trade Commission Act (15 U.S.C. section 41, et seq.) and constitutes a declaration of federal law. Under the supremacy clause of the United States Constitution,[2] the rule will become the supreme law of the land on the matters it covers and within the confines of the Commission's jurisdiction, preempting all repugnant state or local laws.[3]

General Legal Authority

The Commission's legal authority to promulgate a Funeral Industry Practices Trade Regulation Rule derives principally from Sections 5 and 18 of the Federal Trade Commission Act (15 U.S.C. Sections 45 and 57, as amended). Section 5 declares unlawful the use, in or affecting commerce, of unfair or deceptive acts or practices or unfair methods of competition. In FTC v. Sperry & Hutchinson Co.,[4] the Supreme Court affirmed, in broad terms, the Commission's authority to proscribe not only practices which are anticompetitive or deceptive, but also practices which are unfair.[5] The Court analogized the Commission's role, in evaluating unfairness, to that of a court of equity.

Thus legislative and judicial authorities alike convince us that the Federal Trade Commission does not arrogate excessive power to itself if, in measuring a practice against the elusive, but congressionally mandated standard of fairness, it, like a court of equity considers public values beyond simply those enshrined in the letter or encompassed in the spirit of the antitrust laws.[6]

The Commission's authority to define particular practices as unfair or deceptive within the meaning of Section 5 of the Federal Trade Commission Act by promulgating rules has been explicitly recognized by case[7] as well as by the statutory authority of Section 18 of the Act, as amended.[8] Section 18 further affirms the Commission's authority to include, within rules, requirements prescribed for the purpose of preventing future use of unfair or deceptive acts or practices.[9]

Questions

1. How prevalent are the following funeral industry practices which are addressed by the rule?

Furnishing embalming or other services without permission.

Obtaining remains without authorization.

Refusing to release remains when requested to do so.

Requiring purchase of a casket for cremation, and refusing to make an inexpensive container available.

Misrepresenting to customers and overcharging customers on the amounts for cash advance items.

Misrepresenting legal, public health, or religious requirements.

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[1] F.T.C. v. Sperry Hutchinson Co., 405 U.S. 233, 244 (1972).

[2] U.S. Const., art. VI, § 2.

[3] See, e.g., Perez v. Campbell, 402 U.S. 637 (1971); Free v. Bland, 369 U.S. 663 (1962); Double-Eagle Lubricants v. Texas, 248 F. Supp. 515 (N.D. Tex.), appeal dismissed, 384 U.S. 434 (1966); Mobil Oil Corp. v. Attorney General, 280 N.E.2d 406 (Mass. 1972).

[4] 405 U.S. 233 (1972).

[5] See also F.T.C. v. R. F. Keppel & Bro., 291 U.S. 304 (1934).

[6] 405 U.S. at 244 (footnote omitted).

[7] See Nat'l Petroleum Refiners Ass'n v. F.T.C., 482 F. 2d 672 (D.C. Cir. 1973), *rev'g* 340 F. Supp. 1848 (D.D.C. 1972).

[8] Pub. L. 93-637, § 202 (Jan. 4, 1975).

[9] § 18(a)(1)(B).

Misrepresenting the preservative capabilities of embalming, caskets, or outer interment receptacles.

Failing to display inexpensive caskets.

Displaying inexpensive caskets in a manner which is calculated to discourage their selection by customers.

Pressuring customers into purchasing high-priced merchandise and services.

Disparagement of inexpensive merchandise.

Sales plans or commission schemes which penalize salespersons for selling inexpensive funerals while rewarding them for high-priced sales.

Disparaging a consumer's interest in price considerations.

Refusing to provide price information over the telephone.

Arranging the casket selection room so as to confuse customers and lead them to purchase more expensive caskets.

Displaying caskets without prices.

Misleading customers about the necessity for burial vaults and failing to disclose the availability of less expensive grave liners.

Tying together funeral products and services and refusing to quote separate prices on component items or give discounts for declined items.

Restricting the availability of low-cost funerals, pre-need plans, alternative methods of disposition, and memorial society programs.

Limiting the availability of price information through restrictions on price advertising.

The Commission particularly desires analysis and comment based on specific data and experience.

2. Is it necessary for the Commission to specify a maximum price or formula for the cremation container required by § 453.2(c), to prevent funeral directors from charging excessive prices for such alternative containers?

3. To what extent do existing state and local laws permitting the practices otherwise declared unfair or deceptive by § 453.2(a) and § 453.2(b) of the proposed rule (i.e., embalming without permission, obtaining custody of remains without authorization, refusing to release remains to the deceased's family) protect the public health, safety or welfare or serve other legitimate state interests? Should any of these requirements of state or local law be preempted?

4. Does § 453.3(d) abridge constitutionally protected speech? If so, by what means can the protective purposes of the provision be attained constitutionally?

5. Are the funeral price disclosure requirements of § 453.5 necessitated by inadequate availability to consumers of price information? If so, is this inadequate availability the result of funeral directors' withholding of price information? Would the price disclosures required by § 453.5 help consumers make better-informed purchase decisions?

6. Will mandatory itemization of prices of funeral merchandise and services, as required by § 453.5(e) of the proposed rule, benefit consumers in their selection of funeral merchandise and services? Will the itemized memorandum of funeral merchandise and services selected, as required by § 453.5(f) of the proposed rule, benefit consumers? Please be specific. Are the categories of items which must be enumerated by § 453.5 (e) and (f) useful and appropriate? If not, what changes should be made?

7. Should the offering of low-cost package funerals be encouraged? Would itemization preclude the offering of low-cost funerals? Would exempting the least expensive funerals from the itemization requirements of § 453.5 (e) and (f) prevent such a result? If so, what is a reasonable dollar cut-off point for exempting such funerals from the itemization requirements of § 453.5 (e) and (f)?

8. Are there additional funeral industry practices which should be addressed by this rule?

9. Should the coverage of this rule be expanded to include unfair or deceptive practices used by funeral merchandise manufacturers, cemeteries or other allied industries? What specific practices should be addressed, and in what way are they unfair or deceptive?

10. What will be the impact of the rule on consumers?

11. What costs, economic or otherwise, to funeral homes, especially those which are small businesses, would result from implementation of the proposed rule, and how could such costs be minimized?

12. To what extent do the circumstances of the funeral transaction place the consumer in a more vulnerable position than in other consumer transactions?

Invitation To Propose Issues of Fact For Consideration In Public Hearings

All interested persons are hereby given notice of opportunity to propose any disputed issues of fact, The Commission or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a Notice which will be published in the Federal Register. Such issues shall be considered in accordance with Section 18(c) of the Federal Trade Commission Act as amended by Public Law 93-637, and rules promulgated thereunder. Proposals shall be accepted until October 28, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Fact—Funeral Industry Practices Rule", and furnished, when feasible and not burdensome, in five copies. The times and places of public hearings will be set forth in a later Notice which will be published in the Federal Register.

Invitation To Comment on the Proposed Rule

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law, or policy which may have some bearing upon the proposed rule. Written comments, other than proposed issues of fact, will be accepted until forty-five days before commencement of public hearings, but at least until October 28, 1975. To assure prompt consideration of a comment, it should be identified as a "Funeral Industry Practices Rule Comment", and furnished, when feasible and not burdensome, in five copies.

Issued: August 29, 1975

By direction of the Commission.

Virginia M. Harding,
Acting Secretary.

[FR Doc.75-22962 Filed 8-28-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 75-149]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Correction

AUGUST 25, 1975.

In FR Doc. 75-16620 appearing at page 27062 in the FEDERAL REGISTER of June 26, 1975, the first sentence is corrected to read as follows: ". . . from the quarterly rate published in Treasury Decision 75-95 . . .".

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-22998 Filed 8-28-75;8:45 am]

[T.D. 75-150]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Correction

AUGUST 25, 1975.

In FR Doc. 75-16621 appearing at page 27062 in the FEDERAL REGISTER of June 26, 1975, the first sentence is corrected to read as follows: ". . . from the quarterly rate published in Treasury Decision 75-95 . . .".

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-22999 Filed 8-28-75;8:45 am]

[T.D. 75-167]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Correction

AUGUST 25, 1975.

In FR Doc. 75-18188 appearing at page 29557 in the FEDERAL REGISTER of July 14, 1975, the first sentence is corrected to read as follows: ". . . from the quarterly rate published in Treasury Decision 75-95 . . .".

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-23000 Filed 8-28-75;8:45 am]

[T.D. 75-173]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Correction

AUGUST 25, 1975.

In FR Doc. 75-19030 appearing at page 30846 in the FEDERAL REGISTER of July 23, 1975, the first sentence is corrected to read as follows: ". . . from the quarterly rate published in Treasury Decision 75-95 . . .".

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-23001 Filed 8-28-75;8:45 am]

[T.D. 75-175]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Correction

AUGUST 25, 1975.

In FR Doc. 75-19031 appearing at page 30846 in the FEDERAL REGISTER of July 23, 1975, the first sentence is corrected to read as follows: ". . . from the quarterly rate published in Treasury Dicision 75-95 . . .".

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

[FR Doc.75-23002 Filed 8-28-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Meeting

Pursuant to Public Law 92-563 notice is hereby given that the next meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held October 5-9, 1975 at Hilton Head Island, South Carolina.

Composed of 30 civilian women, DACOWITS meets twice each year to provide the Department of Defense with assistance and advice on matters relating to women in the Armed Forces, to interpret to the public the role of and the need for servicewomen and to encourage the acceptance of military service as a career opportunity.

The agenda for this meeting will include discussion on pending legislation affecting women, pre-commissioning training, recruitment needs, fringe benefits, assignment and promotion. Members will also visit the Marine Corps Recruit Depot at Parris Island, South Carolina. Sessions will be conducted from 8:00 to 5:00 p.m. daily and will be open to the public.

The following rules and regulations will govern the participation by members of the public at this meeting:

(1) All business sessions, to include executive committee sessions, will be open to the public.

(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(3) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Major Barbara P. King, DACOWITS Executive Secretary, OASD (Manpower and Reserve Affairs), Room 2B257, The Pentagon, Washington, D.C. 20301, by September 19, 1975.

(4) Length and number of oral presentations to be made will depend on the number of requests received.

(5) Oral presentations will be permitted only from 8:00 am to 8:30 am on October 6, 1975 before the full Committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 30 copies of the presentation/statement by October 1, 1975.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within ten (10) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into the oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by members of the Committee.

(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, the executive committee sessions or the final general session on October 9, 1975.

(11) Members of the public will not be permitted to question the Committee members during any session.

Additional information regarding the Committee and/or this meeting may be obtained by contacting Major Barbara P. King, DACOWITS Executive Secretary, OASD(M&RA), The Pentagon, Washington, D.C. 20301, telephone (202) OXford 5-5153.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

AUGUST 26, 1975.

[FR Doc.75-23027 Filed 8-28-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES. PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of

the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: David R. Blankinship, 721 Pine, Rockport, Texas 78382.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☑ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Band Eastern Brown Pelicans on the Texas Coast using standard Fish and Wildlife Service bands and colored plastic leg bands

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
David R. Blankinship
721 Pine
Rockport, Texas 78382

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
SEX: ☐ MALE ☐ FEMALE ☐ UNK. | HEIGHT: 6'1" | WEIGHT: 220
DATE OF BIRTH: March 9, 1940 | COLOR HAIR: Brown | COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: 512-729-5649 | SOCIAL SECURITY NUMBER: 465-62-1268
OCCUPATION: Biologist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Applicant is employed by National Audubon Society 950 Third Ave. New York, N.Y. 10022

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Texas Coast

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☑ YES ☐ NO
(If yes, list license or permit number(s))
Banding - 9423
Scientific Collecting - No. not available as yet

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☑ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Texas - coast - applications to be approved following granting of Federal Permit.

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO "THE U.S. FISH AND WILDLIFE SERVICE" ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: Aug. 1, 1975

11. DURATION NEEDED: Support 3-5 years with possible five renewal

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): D. R. Blankinship | DATE: July 24, 1975

3-200
10-74

It is our plan in Rockport, Texas and I am completing this form while on research assignment on Andros Island, Bahamas. To avoid lengthy mail delays, I am sending it to you directly.

JULY 24, 1975.

D. R. BLANKINSHIP,
Fresh Creek,
Andros, Bahamas.

Attachment to: Federal Fish & Wildlife Licenses/Permit Application

Note: please excuse hand printing. Typewriters are rather rare on this part of Andros Island.

Approval is asked for a permit to band with standard U.S. Fish & Wildlife Service bands and colored plastic leg bands Eastern Brown Pelicans on the Texas Coast. Only nestlings would be banded and no attempt would be made to capture adult birds. Plastic bands would be fabricated from plastic engraving stock using the colors yellow or yellow with red or black numerals, stripes or figures. These color combinations have been co-ordinated with other researchers to avoid confusion with pelicans color marked on the Atlantic coast, or in Florida or Louisiana. This program is now in its second year and has been conducted with the help of personnel of the Fish and Wildlife Service and Texas Parks and Wildlife Department.

The Texas population of brown pelicans has been very low for several years. Production of young has ranged from one to eleven in years since 1970. Only four nesting sites have been used for several years past. Banding and color marking of nestlings will allow collection of data on survival and breeding activity of each year's cohort and on seasonal movements. Results from the past two years activities indicate an interchange with Mexican pelican populations and the movement into Texas of at least one young bird hatched in Louisiana.

If additional information is needed, I can be reached at the Rockport, Texas, address where mail will be forwarded to me.

DAVID R. BLANKINSHIP,
Research Biologist,
National Audubon Society.

NATIONAL AUDUBON SOCIETY
RESEARCH DEPARTMENT, 721 PINE, ROCKPORT, TEXAS 78382—(512) 729-5649

JULY 28, 1975.

MR. GEORGE M. JONKEL,
Chief, Bird Banding Laboratory, U.S. Fish and Wildlife Service, Laurel, Md. 20811

DEAR MR. JONKEL: In reference to my application to band and color mark brown pelicans on the Texas Coast which I trust you have received; It would be most desirable to include *Alexander Sprunt, IV*, Director of Research, National Audubon Society and *Richard T. Paul*, Biologist, National Audubon Society in the authorization. Both are banding under permit No. 7104.

Mr. Paul is currently engaged in a research effort on reddish egrets and is working extensively on the Texas Coast. Mr. Sprunt is our superior. Address for both Sprunt and Paul is: Research Department, National Audubon Society, 115 Indian Mound Trail, Tavernier, Florida 33070.

Thank you for your help in this matter.

Sincerely,

DAVID R. BLANKINSHIP,
Biologist.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before September 29, 1975 will be considered.

Dated: August 26, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-23004 Filed 8-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Mr. Charles Sivelle, 41 Westcliff Drive, Dix Hills, Long Island, New York 11746.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
To deliver, transport and ship in interstate and foreign commerce pairs of three different endangered species of pheasants for propagation purposes.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-HA-3-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'11" WEIGHT: 187 lbs.
DATE OF BIRTH: 9-24-18 COLOR HAIR: Brown COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 914-968-3535 SOCIAL SECURITY NUMBER: 125-07-3277
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION
Not applicable

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
None

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Not applicable

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Not applicable

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Not applicable

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit numbers)
Permit No. ES - 68

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Not required

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ No fee required

10. DESIRED EFFECTIVE DATE: At Once

11. DURATION NEEDED: 9 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Charles Sivelle DATE 7/22/75

3-200
10/74

CHARLES SIVELLE
41 WESTCLIFF DRIVE, DIX HILLS, LONG ISLAND, N.Y. 11746
JUNE 27, 1975.

The Director, Bureau of Sport Fisheries and Wildlife, U.S. Dept. of the Interior, Washington, D.C. 20240.

DEAR SIR: The undersigned is applying for an "Endangered Species" permit in accordance with the Endangered Species Act of Dec. 28, 1973 to export from the United States and to deliver, transport and ship in interstate and foreign commerce 5 pairs of 1975 hatched Crossoptilon Drouyni (White Eared Pheasants.) The parents of these birds were originally imported thru the Jersey Wildlife Preservation Trust on Jan. 18, 1973, Permit No. 18030, 4 White Eared Pheasants and on March 12, 1973, Permit No. 18289, 2 White Eared Female Pheasants and on Jan. 14, 1974, Permit No. 19441, 2 White Eared Pheasants.

4 pair were hatched from the above importations and 1 pair was hatched from a '74 pair of pheasants, the F 1 generation of young. These birds, part of our captive self sustaining populations will be sent only to the finest bird propagators in the world so as to further increase the captive self-sustaining population. The undersigned will still have on his premises all the original importations and the F 1 generations hatched during 1974.

When permission is granted for same, a list of the propagators and their facilities will be submitted to you.

Sincerely yours,

CHARLES SIVELLE.

The undersigned is applying for an "Endangered Species" permit in accordance with the Endangered Species Act of Dec. 28, 1973 to export from the United States and to exchange, deliver, transport and ship in interstate and foreign commerce Cros. Cros. Drouyni (White Eared Pheasants), Mikado Pheasants and Edwards Pheasants. The parents of the White Eared bird were originally imported thru the Jersey Wildlife Preservation Trust on Jan. 18, 1973 Permit No. 18030, 4 White Eared Pheasants and on March 12, 1973, Permit No. 18289, 2 White Eared Female Pheasants and on Jan. 14, 1974, Permit No. 19441, 2 White Eared Pheasants.

12 pair were hatched from the above importations and 1 pair was hatched from a '74 pair of pheasants, the F 1 generation of young. These birds, part of our captive self sustaining populations will be sent only to the finest bird propagators in the world so as to further increase the captive self-sustaining population. The undersigned will still have on his premises all the original importations and the F 1 generations hatched during 1974.

The parents of the Edwards and Mikado Pheasants were propagated by the undersigned in 1969 and the young represent the F 4 generation.

2 pairs of Cros. Cros. Drouyni (White Eared Pheasants) '74 Hatch, 5 pairs of Edwards Pheasants '75 hatch, and 3 pair of Mikado Pheasants '75 hatch are to be shipped to Ise-Shima Zoological Garden, 28, Nakayamate-3, Ikutaku, Kobe, 650, Japan in exchange for Malaysian and Sumatra Peacock Pheasants. Birds shipped and birds received are for propagation purposes only.

1 male '74 hatch Cros. Cros. Drouyni (White Eared Pheasant) to be shipped to the National Zoo, Washington, D.C. to the attention of Guy Greenwell, for propagation purposes only.

1 pr. Cros. Cros. Drouyni (White Eared Pheasants) '75 hatch to Jerry McRoberts, Gurley, Nebraska for propagation purposes only.

1 pr. Cros. Cros. Drouyni (White Eared Pheasants) '75 hatch to the St. Louis Zoo, St. Louis, Missouri, attention of Stephen Wylie, for propagation purposes only.

1 pr. Cros. Cros. Drouyni (White Eared Pheasants) '75 hatch to Dr. Jesus Estudillo Lopez, Rumania 909 Colonia Portales, Mexico, for propagation purposes only.

1 pr. Cros. Cros. Drouyni (White Eared Pheasants) '75 hatch to Ed Miller, 315 Kingsway N. Port Alberni, British Columbia, Canada V9Y 3B6, for propagation purposes only.

3 additional pairs to be sent to premier propagators in the United States.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in the application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of the 18 U.S.C. 1001.

CHARLES SIVELLE.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before September 29, 1975 will be considered.

Dated: August 26, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-23005 Filed 8-28-75;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: David Michael Turner, Box 1364, Kealakekua, Hawaii 96750.

OMB NO. 40-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To observe and study the Hawaiian hoary bat, Lasiurus cinereus semotus, for scientific research.

3. APPLICANT: (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
David Michael Turner
Box 1364
Kealakekua, Hawaii 96750
808-322-2530

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 5' 11" | WEIGHT 160 lbs
DATE OF BIRTH 30 October 45 | COLOR HAIR brown | COLOR EYES blue
PHONE NUMBER WHERE EMPLOYED none | SOCIAL SECURITY NUMBER 585-03-4938
OCCUPATION biologist

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION
N/A

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THE REQUESTED PERMIT
N/A

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Kau District and Kona District County of Hawaii, Hawaii

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
attached sheet page two

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N/A

10. DESIRED EFFECTIVE DATE: 1 Oct 75

11. DURATION NEEDED: one year

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
sections of 50 CFR 13.12(a), 17.23(a), and 17.23(b) attached

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (IN INK) David Michael Turner | DATE 7 Aug. 75

3-200
10-74

(1) The name of the subspecies to be studied is the Hawaiian hoary bat, *Lasiurus cinereus semotus*. I wish to collect 50 individuals male and female adults.

(3) I have collected and studied bats for three years being a research assistant to Doctors W. G. Bradley and M. J. O'Farrell Department of Biology, University of Nevada, Las Vegas, Nevada. During that period I have studied several species of bats in the Southwestern American desert and published the data in the Journal of Mammology. Residing in Hawaii now for the last five years, I would like to resume the study of bats as they are my specialty. When I began preliminary investigations concerning this, I found them to be on the endangered species list, their rarity was becoming apparent having done a few years of field observation here and collecting local reports of their activity.

What I propose to do is mist net the bats over water tanks and other suitable places. Before release, the rectal tempertaure, sex, body weight, ectoparasites, fur color, and general description will be taken. Although I would like to band individuals prior to release, I have decided that it might hamper their success as a whole. However, my associate, Dr. O'Farrell has perfected a tatoo method on the interfemoral membrane which might be used later as the identification is necessary for population studies and range differentiation on the capture-recapture basis. Also my partner Dennis Lynn Pribble, an entomologist, will be assisting in the hopes of collecting ectoparasites which are most likely present.

(3) As he and I have done this same type of study on *Myotis californicus, Pipistrellus hesperus, Tadarida brasiliensis,* and *Antrozous pallidus.*

The ultimate hopes in this project are naturally publication on the total ecology of the subspecies, and at the same time hope that the implications of pure observation will give insights as to the necessary avenues of further study, for as an endangered species we are all concerned as to their preservation and success as a population.

(4) The principal study area will be on the West rift zone of the volcano Mauna Loa, this being where the activity is most prevalent. All studies will be done immediately, on the spot, and release will follow within minutes. It is our desire to only observe, but collection is required for the needed data.

(1) We hope that our effect on the population will be non existant, as we plan to release the individuals in the field where they are captured. It is my belief, from past experience, that this manner of capture will not effect the individuals success, or for that matter his feeding habit.

(2) To reduce the severity of the threat of extinction facing this subspecies can only be determined after preliminary observation has been done. At this point, all is conjecture until we have some raw data to postulate from. However our ultimate aim is the preservation of this subspecies.

(3) At this time I have no letters of recommendation from my former associates. However if it becomes necessary, I can forward them later to make the application more complete.

(4) The equipment to carry out this study has already been supplied by the University of Nevada, Las Vegas, Nevada. The articles are few and rather simple, except obtaining the mist nets and special rectal thermometers which we now have.

(5) The purpose of this permit will enable me, a competent Chiropterist, to study and observe our Hawaiian hoary bat not only to give an ecological picture of the animal, but also to investigate any possible reasons for its struggle as a subspecies.

To my knowledge there are no other Chiropterists on the islands and no one has yet had the interest to investigate this animal. We have many endangered plants and animals on our islands, yet no one is interested in the hoary bat. We care and ask your permission to conduct this preliminary study of *Lasiurus cinereus semotus.*

Respectfully,

DAVID MICHAEL TURNER.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before September 29, 1975 will be considered.

Dated: August 26, 1975.

LOREN K. PARCHER,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-23006 Filed 8-28-75;8:45 am]

ENDANGERED SPECIES PERMITS

Notice of Official Action

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications received under section 10 of the Endangered Species Act of 1973, 16

U.S.C. 1539. Each permit was issued only after it was determined that it was applied for in gold faith; that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent wiith the purposes and policy set forth in the Endangered Species Act of 1973.

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" MARCH 13, 1975 (40 FR 11764)

Applicant: Everett L. Towle, Forest Supervisor, Inyo National Forest, 2957 Birch Street, Bishop, California 93514.

Official action: Issued permit May 1, 1975: "Authorized to capture no more than 100 PAIUTE CUTTHROAT TROUT (*Salmo clarki seleniris*) per year, take blood samples and translocate them to adjacent streams."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" MARCH 13, 1975 (40 FR 11761–62–63)

Applicant: Dr. Lucille F. Stickel, Director, Patuxent Wildlife Research Center, U.S. Fish and Wildlife Service, Laurel, Maryland 20811.

Official action: Issued permit May 5, 1975. Authorized to: "Import blood samples of KAKAPO (*Strigops habroptilus*), from New Zealand, at the non-designated port of Baltimore, and perform studies on the samples."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" MARCH 7, 1975 (40 FR 10700)

Applicant: Walter O. Stieglitz, San Francisco Bay National Wildlife Refuge, U.S. Fish and Wildlife Service, Fremont, California 94536.

Official action: Issued permit May 6, 1975: "Authorized to collect no more than ten (10) CLAPPER RAIL eggs (*Rallus longirostris obsoletus*), and analyze for population studies."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" MARCH 10, 1975 (40 FR 11007–8–9)

Applicant: Mr. Avery Wood, Director of Conservation, Mississippi State Game and Fish Commission, Post Office Box 451, Jackson, Mississippi 39205.

Official action: Issued permit May 6, 1975: "Authorized to capture and transport ALLIGATORS, not to exceed 1000, from locations in Louisiana and Mississippi, and move them to more advantageous locations in either state."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" APRIL 7, 1975 (40 FR 15407–8–9–10)

Applicant: J. A. Bergeron, V.M.D., Managing Director, Duke University Primate Facility, Durham, North Carolina 27705.

Official action: Issued permit May 12, 1975. Authorized to import thirteen LEMURS: 12 *Microcebus murinus* -and- 1 *Lemur fulvus collaris*, which must be accompanied by documentation of legal export from Madagascar, and transport to Duke University, Durham, North Carolina, for care, study, and propagation.

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" APRIL 11, 1975 (40 FR 16353–54)

Applicant: David R. Cline, U.S. Fish and Wildlife Service, 813 D Street, Anchorage, Alaska 99501.

Official action: Issued permit May 22, 1975: "Permittee may disturb AMERICAN PEREGRINE FALCONS (*Falco peregrinus anatum*), and—ARCTIC PEREGRINE FALCONS (*Falco peregrinus tundrius*), while inventorying the number of aeries and determining nesting success."

NOTICE OF APPLICATION PUBLISHED IN "FEDERAL REGISTER" APRIL 7, 1975 (40 FR 15410)

Applicant: Lion Country Safari, Inc., Post Office Box 400, Kings Mills, Ohio 45034.

Official action: Issued permit May 27, 1975: "Permittee may transport from California to Kings Mills, Ohio, four (4) CHEETAH (*Acinonyx jubatus*), for propagation."

Each permit is available for public inspection during normal business hours at the U.S. Fish and Wildlife Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Dated: August 26, 1975.

LOREN K. PARCHER,
Acting Chief,
Division of Law Enforcement.

[FR Doc.75-23007 Filed 8-28-75;8:45 am]

National Park Service

NATIONAL REGISTRY OF NATURAL LANDMARKS

Additions

By notice in the FEDERAL REGISTER of May 5, 1975 (40 FR 19503–19508), there was published a list of sites eligible for inclusion in the National Registry of Natural Landmarks. Further notice is hereby given that the list of eligible natural landmarks is amended by addition of the sites listed below.

All Federal agencies should take cognizance of the sites included in the National Registry of Natural Landmarks to fulfill the intent of Section 102 of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4331).

Dated: August 21, 1975.

RUSSELL E. DICKINSON,
Acting Director,
National Park Service.

The following sites have been added to the National Registry:

CALIFORNIA

Deep Springs Marsh, Inyo County—20 miles southeast of Bishop.

Fish Slough, Mono and Inyo Counties—8 miles due north of Bishop.

Mitchell Caverns and Winding Stair Cave, San Bernardino County—23 miles northwest of Essex.

COLORADO

Russell Lakes, Saguache County—10 miles south of Saguache.

IDAHO

Hagerman Fauna Sites, Twin Falls County—Center of site is 3 miles southwest of Hagerman.

IOWA

Anderson Goose Lake, Hamilton County—1 mile east of Jewell.

Dewey's Pasture and Smith's Slough, Clay and Palo Alto Counties—4 miles north-northwest of Ruthven.

KENTUCKY

Rock Creek Natural Area, Laurel County—Daniel Boone National Forest, center of site is 2 miles west of Baldrock.

MAINE

Bigelow Mountain, Somerset and Franklin Counties—Center of site is 6 miles east of Stratton.

New Gloucester Black Gum Stand, Cumberland County—2 miles southwest of Upper Gloucester.

MINNESOTA

Cedar Creek Natural History Area, Anoka and Isanti Counties—30 miles north of Minneapolis.

Upper Red Lake Peatland, Beltrami County—Center of site is 15 miles northwest of Waskish.

MISSOURI

Golden Prairie, Barton County—16 miles northeast of Carthage.

Pickle Springs, Ste. Genevieve County—7 miles east of Farmington.

Taberville Prairie, St. Clair County—2½ miles north of Taberville.

Tucker Prairie, Callaway County—7 miles north-northwest of Fulton.

Wegener Woods, Warren County—One-fourth mile north of Holstein.

NEW MEXICO

Kilbourne Hole, Dona Ana County—26 miles southwest of Las Cruces.

Ship Rock, San Juan County—35 miles west of Farmington.

Valles Caldera, Sandoval and Rio Arriba Counties—30 miles northwest of Santa Fe.

NORTH DAKOTA

Rush Lake, Cavalier County—5 miles south of Hannah.

Sibley Lake, Kidder County—5 miles north of Dawson.

PUERTO RICO

Mona and Monito Islands—Two separate islands in the Caribbean.

SOUTH DAKOTA

Cottonwood Slough-Dry Run, Roberts County—extends for 11 miles south of Victor.

Lake Thompson, Kingsbury County—8 miles southeast of De Smet.

Red Lake, Brule County—8 miles southeast of Chamberlain.

TEXAS

Greenwood Canyon, Montague County.

UTAH

Henry Mountains, Garfield County—43 miles south-southeast of Hanksville.

WISCONSIN

Kickapoo River Natural Area, Vernon County—between Ontario and La Farge.

[FR Doc.75-23019 Filed 8-28-75;8:45 am]

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. on Tuesday, September 16, 1975, at the Mount Tamalpais High School, Mill Valley, CA.

The purpose of the Golden Gate National Recreation Area Advisory Commission is 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 problems and programs pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Advisory Commission are as follows:

Mr. Frank Boerger, Chairman
Mrs. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Mr. Lambert Lee Choy
Mrs. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. William Thomas
Dr. Edgar Wayburn

The major item on the agenda will be discussion and resolution on the Point Reyes wilderness.

This meeting will be open to the public. Any member of the public may file with the Commission 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 William J. Whalen, General Superintendent. Golden Gate/Point Reyes, Fort Mason, San Francisco, CA 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by October 18, 1975 in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA.

Dated: August 25, 1975.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc.75-23197 Filed 8-28-75;9:12 am]

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

ORGANIZATION, FUNCTIONS, & DELEGATIONS OF AUTHORITY

This notice describes the basic organization of the Agricultural Research Service and the assignment of functions and delegation of authority to each of the major organization units that comprise the Service. This statement supersedes the notice of Organization, Authorities and Responsibilities of the Agricultural Research Service appearing at 33 FR 15485.

I. AUTHORITY

The Agricultural Research Service (ARS) was established on November 2, 1953, pursuant to authority vested in the Secretary of Agriculture by 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953 (18 FR 3219). The Administrator of ARS reports to the Assistant Secretary for Conservation, Research, and Education. The delegations of authority to the Administrator of ARS to direct the activities of the Service are contained in 7 CFR 2.7 and 7 CFR 2.57.

II. BASIC MISSION

The Mission of ARS research is to develop new knowledge and technology which will insure an abundance of high quality agricultural commodities and products at reasonable prices to meet the increasing needs of an expanding economy and to provide for the continued improvement in the standard of living of all Americans. This Mission focuses on the development of technical information and technical products which bear directly on the needs to (1) manage and use the Nation's soil, water, air, and climate resources and improve the Nation's environment; (2) provide an adequate supply of agricultural products by practices that will maintain a permanent and effective agriculture; (3) improve the nutrition and well-being of the American people; (4) improve living and rural America; (5) strengthen the Nation's balance of payments; and (6) promote world peace.

In addition to the regular research program, ARS directs foreign research mutually beneficial to the United States and the host country which can be advantageously conducted in foreign countries.

The Agency conducts basic, applied, and developmental research in support of farm animals, plants, soil-water-and-air resources, marketing and use of agricultural products, food and nutrition, consumer services, agricultural health hazards, and environmental quality.

III. ORGANIZATION AND FUNCTIONS

The Agency's research is conducted at approximately 175 locations in the 50 States, Puerto Rico, the Virgin Islands, and in several foreign countries. Much of the work is conducted in direct cooperation with the State Agricultural Experiment Stations or other state and federal agencies. Central offices for the Administrator and his staff are maintained in the Washington, D.C. Metropolitan Area. The principal central staff offices and their functional responsibilities are described under paragraph A. The field activities are managed on a geographical basis through four Regional Offices, 20 Area Offices and seven major Research Centers. The Regional and Area Offices and Major Research Centers and their functional responsibilities are listed under paragraph B.

A. *Central offices.*

1. *Office of Administrator.* Provides overall leadership and direction to the programs and activities assigned to the Agricultural Research Service and provides advice and support to the Assistant Secretary for Conservation, Research and Education in formulation of national agricultural research policy and coordinating research activities of the Department.

2. *National program staff: Livestock and veterinary sciences, marketing, nutrition, and engineering sciences, plant and entomological sciences, soil, water, and air sciences.* The National Program Staff is comprised of four functional units, each headed by an Assistant Administrator. Collectively, the National Program Staff is concerned with developing national plans for agricultural research, concentrating upon insuring the proper interaction, balance, and distribution of research effort and focusing upon major national policy and program issues. They serve as the Administrator's principal staff arm for exercising his authority in managing ARS research programs nationally. To this end they are responsible for:

(a) Assisting the Administrator in establishing policy for all aspects of program planning, evaluation, budgeting, and coordination with emphasis on national programs, goals, and objectives.

(b) Conducting onsite reviews with scientists and their Regional and Area managers.

(c) Carrying out a national program evaluation and assessment of program balance considering inputs, objectives, needs, priorities, and plans.

(d) Assisting the Administrator in the presentation and defense of the ARS budget.

(e) Providing liaison needed at the national level with other Federal Departments and Agencies, Congress, agribusiness industries, commodity groups, and the public.

(f) Determining need for and planning and conducting national workshops that will provide interaction of research leaders and regional and area managers across regional and area lines in the pursuit of national program objectives.

(g) Developing, revising, and otherwise responsible for the program structure which describes the ARS national programs and technological objectives and serves as the guide for the development and coordination of program plans at locations within the field organization.

3. *Program analysis and coordination staff.* This Staff assists the Administrator, participating with the National Program Staff and the Regional Deputy Administrators in establishing policy and developing program plans, evaluation, budgeting, and coordination as related to national programs, goals, and objectives with respect to:

(a) Development of systems, procedures, models, and criteria needed for program review, evaluation, planning, and budget development, as well as program aids for resource allocation and reallocation.

(b) Cordination of the development of the Program and Financial Plan of the agency and cooperating with Budget and Finance Division in the development of the annual budget.

(c) Development of statistical methodology and analytical techniques for use in program planning and evaluation.

(d) Development and maintenance of the comprehensive program structure with crosswalks to programs, goals, missions, regions, locations, and with other task force activities.

(e) Coordination of the preparation and assembly of the aids and inputs to Congressional budget presentations.

(f) Coordination and maintenance of documentation of program plans.

(g) Cooperating with National Program Staff in program analysis at the national level, with emphasis on economic justification, technology assessment, cost-benefit analysis, and special

studies of an economic and technological nature.

(h) Coordination of the assembly, flow, and disposition of program planning and reporting documents.

4. *International programs division.* This Division is responsible for administration of the foreign research contract and grant activities for the Department of Agriculture carried out by foreign governments and scientific organizations under Public Law 480 and related legislation. The objectives of this program are (a) to develop fields of farm products research; (b) to bring about the greatest practical increase in the utilization of agricultural products; (c) to give impetus to solutions for existing problems of basic and applied research; and (d) to channel efforts of foreign scientists and research facilities for mutual economic benefit and to advance scientific knowledge. This Division is also responsible for overall ARS activities in the field of international economic, technical, and cooperative assistance and relations, including all ARS programs located outside the U.S., all ARS activities where international organizations or Participating Agency Service Agreements (PASA's) are involved, training in this country in ARS subject-matter fields as requested for foreign nationals, and coordination of all foreign translation activities in the Department.

5. *Information division.* This Division is responsible for planning and developing a continuing information program that achieves the prompt widespread use of research results, and increases general public knowledge of ARS activities. It provides staff support on information matters for agency administration, and plans and conducts a broad information program, utilizing all media, in support of the objectives and goals of ARS and the Department.

6. *Legislation and special assignments staff.* This Staff advises and assists the Administrator on matters relating to the ARS legislative programs, USDA and ARS committee management procedures, and the preparation of correspondence for the signature of USDA officials.

7. *National technical editing staff.* Provides agency-wide technical editing service to ARS scientists on manuscripts to be published in a wide variety of scientific and technical journals.

8. *Administrative management.* A Deputy Administrator directs and coordinates the administrative management activities of one Staff and four Divisions. Their assigned functions are:

(a) *Management improvement staff* is responsible for providing assistance to agency managers in the formulation of policies and programs to increase management effectiveness through effective organization structures, optimium utilization and productivity of manpower and improvement of directives and other existing systems and procedures.

(b) *Budget and finance division* is responsible for providing assistance to agency managers in the formulation and presentation of the annual budget and multi year financial plans, the development of financial control and accounting systems, analysis and fiscal control of ARS funds, and the review and evaluation of financial management operations throughout the agency.

(c) *General services division* is responsible for providing assistance to agency managers in the formulation of policies, programs, and procedures and the evaluation of agency activities related to procurement and construction; personal property management; real property management including engineering, design and construction of research facilities; records management; and research agreements including research grants and contracts.

(d) *Personnel division* is responsible for providing assistance to agency managers in the formulation of policies, programs, and procedures and the evaluation of agency activities related to position management, position classification, wage administration, recruitment and placement, employee development, safety, and employee relations.

(e) *Data systems application division* provides technical and administrative direction and coordination for data processing activities in the agency. Assists agency managers in the formulation of policies, programs, and standards relating to data processing services for research and management activities, laboratory automation systems and procedures, statistical services, and other numerical analysis.

B. *Field Offices.*

1. *Regional Offices.* Regional Deputy Administrators assist the Administrator along with the National Program Staff and other headquarters staffs in establishing policy for all aspects of program planning, evaluating, budgeting, and coordination with emphasis on matters relating to the assigned Region, as well as their relationship to national programs, goals, and objectives.

(a) Consistent with national program policies, plans, and objectives, the Regional Deputy Administrators are responsible for formulating and recommending Regional program policies and objectives.

(b) Coordinating and implementing program planning, review, and evaluation within the Region.

(c) Directing and executing programs within the Region.

(d) Participating with National Program Staff in planning and carrying out onsite reviews.

(e) Representing ARS in the planning and execution of the USDA-SAES-Industry sponsored Regional planning and coordinating committee activities.

(f) Developing inputs for the Agency's budget development cycle.

(g) Recommending new and revised program elements that set forth research goals of the agency and approving project plans at locations that contribute to these agency goals and objectives.

2. *Area offices and major research centers.* Directors of Area Offices and Major Research Centers are responsible for:

(a) Assisting the Regional Deputy Administrator in establishing policy for all aspects of program planning, evaluating, budgeting, and coordination for the Region.

(b) Formulating and recommending Area or Center policies and objectives to guide Area or Center program operations.

(c) Coordinating and implementing program planning, review, and evaluation within the Area or Center.

(d) Directing and executing programs within the Area or Center that contribute to agency goals and objectives.

(e) Participating with National Program Staff, Regional Deputy Administrator, and scientists in carrying out onsite reviews.

(f) Advising the Regional Deputy Administrator concerning the Area or Center research programs relative to industry, State, and national problems and needs.

(g) Working with the Regional Deputy Administrator and the Regional Staff in developing the information and carrying out the evaluation needed from the Region by National Program Staff and other headquarters staffs for program planning the evaluating at the national level.

3. *Listing of regional and area offices and major research centers:*

NORTHEASTERN REGION

Regional Headquarters, Beltsville, Md.
Chesapeake-Potomac Area (Md., Del., W. Va., Wash., D.C.), Area Office, Hyattsville, Md.
North Atlantic Area (N.Y., Pa., N.J., Vt., N.H., Maine, Conn., Mass.), Area Office, Ithaca, N.Y.
Beltsville Agricultural Research Center, Beltsville, Md.
Plum Island Animal Disease Center, Orient Point, N.Y.
Eastern Regional Research Center, Wyndmoor, Pa.

NORTH CENTRAL REGION

Regional Headquarters—Peoria, Ill.
Illinois-Indiana-Ohio Area, Area Office, Lafayette, Ind.
Michigan-Minnesota-Wisconsin Area, Area Office, St. Paul, Minn.
Iowa-Missouri Area, Area Office, Columbia, Mo.
Kansas-Nebraska Area, Area Office, Clay Center, Nebr.
Dakotas-Alaska Area, Area Office, Fargo, N. Dak.
Northern Regional Research Center, Peoria, Ill.
National Animal Disease Center, Ames, Iowa.

SOUTHERN REGION

Regional Headquarters, New Orleans, La.
Florida-Antilles Area (Fla., P.R., V.I.), Area Office, Gainesville, Fla.
Athens, Ga. Area, Area Office, Athens, Ga.
Georgia-South Carolina Area, Area Office, Tifton, Ga.
Alabama-North Mississippi Area, Area Office, Mississippi State, Miss.
Mississippi Valley Area (Miss., La., Ark.), Area Office, Stoneville, Miss.
Mid-Atlantic Area (N.C., Tenn., Ky., Va.), Area Office, Raleigh, N.C.
Oklahoma-Texas Area, Area Office, College Station, Tex.
Subtropical Texas Area, Area Office, Weslaco, Tex.
Southern Regional Research Center, New Orleans, La.

WESTERN REGION

Regional Headquarters, Berkeley, Calif.
Arizona-New Mexico Area, Area Office, Tucson, Ariz.
California-Hawaii-Nevada Area, Area Office, Fresno, Calif.
Colorado-Wyoming Area, Area Office, Fort Collins, Colo.
Idaho-Montana-Utah Area, Area Office, Logan, Utah.
Oregon-Washington Area, Area Office, Pullman, Wash.
Western Regional Research Center, Albany, Calif.

IV. GENERAL DELEGATION OF AUTHORITY TO THE ADMINISTRATOR

In 7 CFR 2.7 the Administrator has been delegated authority to direct and supervise the employees engaged in the conduct of activities under his jurisdiction, and the authority to take any action, execute any document, authorize any expenditure, promulgate any rule, regulation, order, or instruction required or authorized by law and deemed by him to be necessary and proper to the discharge of his responsibilities. This authority will be exercised subject to applicable administrative rules and regulations. Unless otherwise provided, he may, subject to his continuing responsibility for the proper discharge of delegations made to him, delegate and provide for the redelegation of his authority to appropriate officers and employees.

V. DELEGATION OF AUTHORITY BY THE ADMINISTRATOR

1. To the Associate Administrator.

The Associate Administrator is authorized to act for the Administrator on all matters for which the Administrator is responsible.

2. To the Assistant Administrators, Deputy Administrators and Directors of the Program Analysis and Coordination Staff, International Programs Division, Information Division and Heads of the Legislation & Special Assignments Staff and National Technical Editing Staff.

Within their assigned functional areas of responsibility, these officials have the authority to take any action, not specifically reserved in paragraph VI or in other administrative regulations of the agency or the Department, necessary to the planning, coordination, and operation of their respective programs. Unless otherwise provided this authority may be further redelegated. This delegation does not preclude the Administrator from exercising any of the powers or functions, or from performing any of the duties listed herein, and such authority is subject at all times to withdrawal or amendment.

These officials are responsible for the efficient and effective operation of their respective programs with specific responsibilities for:

(a) Providing overall planning, direction, control, and coordination of the program.

(b) Participating with the Administrator in the establishment of overall policies governing program operation.

(c) Keeping the Administrator informed of significant program and related matters.

VI. RESERVATIONS OF AUTHORITY

The following authorities are reserved to the Administrator.

(a) Issuance of ARS policy including national and regional goals, and major shifts in emphasis among commodities and locations of research activities.

(b) Final decision on priorities and locations of research identified in the ARS Program and Financial Plan and in the budget requests submitted to Office of Secretary.

(c) Allotment of all funds available to the agency and the further distribution of funds with guidelines stating their intended use and purpose.

(d) Approval of changes in research activities at locations that are significant or involve sensitive issues and activities within guidelines furnished by the Administrator.

(e) Approval of research projects funded under the Contingency Research Fund.

(f) Changes in formal organization down to and including (1) Branches or equivalent in Headquarters Divisions & Staffs, (2) Branches or equivalent in Regional Offices, (3) Area Offices and Major Research Centers and (4) Institutes, Laboratories or their equivalent levels at locations.

(g) Changes in major functions assigned to the organization level cited in (f) and jurisdictional shifts in Regional or Area Offices.

(h) Issuance of regulations pursuant to law.

(i) Establishment, relocation, or closing of agency offices or facilities.

(j) Distribution of manpower ceiling to Regions and Headquarters.

(k) Approval of appointment and promotions to GS–14 and above and reassignments to GS–14 & above involving a basic change in the nature of the assignment except for actions on scientists to GS–14 & 15 under the Research Evaluation Plan.

(l) Recommendations to the Office of Secretary for foreign travel and attendance at foreign and international meetings including those held in the United States.

(m) Approval of attendance at national meetings and common interest meetings in Canada and Mexico by Deputy Administrators, Assistant Administrators, and other individuals reporting to the Administrator.

(n) Approval of nominations for awards having broad national significance in government or science.

(o) Approval of all items of construction for which specific authorization is provided in Appropriation Acts.

(p) Acquisition and disposition of real property.

(q) Execution of foreign research contracts.

Done at Washington, D.C. this 26th day of August 1975.

T. W. EDMINSTER,
Administrator,
Agricultural Research Service.

[FR Doc.75-23051 Filed 8-28-75;8:45 am]

Forest Service

GRAND MESA NATIONAL FOREST GRAZING ADVISORY BOARD

Meeting

The Grand Mesa National Forest Grazing Advisory Board will meet at 10:00 a.m., September 29, 1975, at the junction of the Lands End Road and State Highway 65 on Grand Mesa.

The purpose of the meeting will be to tour several grazing allotments and will provide National Forest grazing permittees a means for the expression of their recommendations concerning the management and administration of National Forest grazing lands. An election of officers within the board will also be conducted.

The meeting will be open to the public. Persons who wish to attend should notify District Ranger Donald K. Wood, P.O. Box 1150, Grand Junction, Colorado 81501, telephone 242–8211; or District Ranger Doyne Mayberry, P.O. Box 338, Collbran, Colorado 81624, telephone 487–3249. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation:

1. To the extent time permits, interested persons may be permitted by the Board Chairman to present oral statements at the meeting.

2. Furnish own transportation to, from and during course of tour.

3. Furnish own food and other subsistence as desired for the trip.

JIMMY R. WILKINS,
Forest Supervisor.

AUGUST 22, 1975.

[FR Doc.75-22979 Filed 8-28-75;8:45 am]

HORSE CREEK ADMINISTRATIVE-RESEARCH PROJECT; MULTIPLE USE PLAN

Notice of Availability of Draft Environmental Statement

Pursuant to Section 192(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Horse Creek Administrative-Research Project, Report Number USDA–FS–DES (Adm) R1–76–5.

The environmental statement concerns environmental impacts resulting from the study nature of the project including those on the pristine character of the roadless portion of the Meadow Creek drainage as developed through land use planning procedures of the Northern Region. Nezperce National Forest, Idaho County, Idaho.

The draft environmental statement was transmitted to CEQ on August 22, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.

USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.

USDA Forest Service, Nezperce National Forest, 319 E. Main, Grangeville, ID 83530.
USDA Forest Service, Selway Ranger District, Kooskia, ID 83539.

A limited number of single copies are available upon request to Forest Supervisor, Don Biddison, 319 East Main, Grangeville, ID 83530.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

E. E. LAVEN,
Forest Supervisor, Nezperce National Forest, Northern Region.

[FR Doc.75-22977 Filed 8-28-75;8:45 am]

NORTH EVANGELINE UNIT PLAN

Availability of Final Environmental Statement

Pursuant to Section 101(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the North Evangeline Unit Plan, Kisatchie National Forest, Pineville, LA, USDA-FS-R8-FES (Adm.) 75-16.

The proposed action is the management of the North Evangeline Unit, Evangeline Ranger District, Kisatchie National Forest, located in Rapides Parish, Louisiana. The unit contains 34,837 acres of National Forest land. Recreation, wildlife, range and timber management are the primary activities on this unit.

This final environmental statement was transmitted to CEQ August 22, 1975. Copies are available for inspection during regular working hours at the following locations:

U.S. Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. & Independence Ave., SW, Washington, DC 20250.
USDA, Forest Service, 1720 Peachtree Rd., NW, Rm. 804, Atlanta, GA 30309.
Evangeline Ranger District, 3727 Government St., Alexandria, LA 71301.

A limited number of single copies are available upon request to Forest Supervisor Lamar Beasley, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, LA 71360.

DAVID F. JOLLY,
Regional Environmental Coordinator.

AUGUST 22, 1975.

[FR Doc.75-22978 Filed 8-28-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before September 19, 1975.

Amended regulations issued under cited Act, (40 FR 12253 et seq., 15 CFR 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00072-98-07795. Applicant: Energy Research & Development Administration (ERDA), Sandia Laboratories, Kirtland AFB, East Albuquerque, New Mexico 87115. Article: IMA-Con High Speed Framing Camera. Manufacturer: John Hadland Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of optical signatures, along with electrical signatures, of the vacuum arcs in neutron generator tubes and vacuum arc switch tubes. The experiments to be conducted are to relate the critical performance characteristics of the tubes to the geometries employed, to the materials used for construction, to the electrical parameters for tube operation and to the effects of processing variables, through their optical manifestations. Application received by Commissioner of Customs: August 8, 1975.

Docket Number: 76-00073-33-90000. Applicant: Duke University Medical Center, Department of Radiology, Durham, N.C. 27710. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is being evaluated to determine its impact on related procedures such as arteriograms, pneumoencephalograms, and brain scans as well as its impact on total patient care. In addition, it will be used in an ongoing comparative evaluation of its accuracy as opposed to that of presently used invasive procedures. The article will also be used to train residents in radiology, neurology, and neurosurgery; physicians and X-ray technicians. Application received by Commissioner of Customs: August 8, 1975.

Docket number: 76-00074-00-46500. Applicant: DHEW, U.S. Public Health Service, Center for Disease Control, 1600 Clifton Rd. N.E., Atlanta, Ga. 30333. Article: Cryokit, Model LKB 14800. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to modify an existing ultramicrotome being used in the preparation of frozen tissue sections for immunofluorescence studies. Application received by Commissioner of Customs: August 8, 1975.

Docket number: 76-00075-33-46040. Applicant: National Institutes of Health, NINCDS, IRP, LMB, Bldg. 36, Rm. 3D02, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 201C. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of bacterial cytology as it relates to cellular differentiation. Research projects will include the following:

(1) Statistical definition of the stage or stages at which a bacterial cell is committed to developing an endospore.

(2) Investigation of the effects of deficiencies and excesses of vitamins and organic phosphates on the ability of bacterial cells to form a spore, and the consequence of phospholipid alterations on septation and sporulation.

(3) Correlation of the biogenesis of resistance to an antibiotic with a particular developmental stage of the cell membrane.

(4) Investigation into the effect of lipophilic acids on cultured mammalian cells.

Application received by Commissioner of Customs: August 8, 1975.

Docket number: 76-00076-88-40600. Applicant: University of Miami, Coral Gables, Florida 33124. Article: Mass Spectrometer, Model 602C. Manufacturer: VG-Micromass, United Kingdom. Intended use of article: The article will be used to study the high frequency variation of climate by applying the oxygen isotope method of paleotemperature analysis to sections of deep sea sediments. Application received by Commissioner of Customs: August 8, 1975.

Docket Number: 76-00080-33-90000. Applicant: Administrative Hospital Services, Inc., 400 30th Street, Suite 400, Oakland, California 94609. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for screening for mineral pressure hydrocephalus in a community practice and correlation of headache with neurological abnormality. Application received by Commissioner of Customs: August 14, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director, Special Import Programs Division.

[FR Doc.75-23017 Filed 8-28-75;8:45 am]

Maritime Administration

[Docket No. S-465]

PRUDENTIAL LINES, INC.

Notice of Application

Notice is hereby given that Prudential Lines, Inc., a Delaware corporation, has filed an application dated July 8, 1975, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended (the Act), for a twenty-year operating-differential subsidy contract for operation of the following number of vessels and briefly described services:

Line A (Trade Route No. 2)—Freight Service with six owned vessels and a maximum of 80 sailings annually between United States Atlantic ports and ports in the Panama Canal Zone and the Pacific Coast of South America (Colombia, Ecuador, Peru and Chile) and additional calls at ports on Line C described hereafter.

Line B (Trade Routes Nos. 23, 24 and 25)—Freight and Combination Cargo-Passenger Service with two owned freight ships and four owned combination cargo-passenger ships and a maximum of 42 sailings annually between United States Pacific Coast ports and ports on the Pacific and Atlantic Coasts of South America (Colombia, Ecuador, Peru, Chile, Argentina, Uruguay, Brazil and Venezuela) and additional calls at ports on the Pacific Coast of Central America, Mexico, Balboa, Canal Zone, foreign ports in the Gulf of Mexico, Caribbean Sea and the Guianas, and all islands of the Caribbean and West Indies (including Cuba but excepting Puerto Rico).

Line C (Trade Route No. 4)—Freight Service with three owned or chartered vessels and a maximum of 80 sailings annually between United States Atlantic ports and foreign ports in the Gulf of Mexico (including the Panama Canal Zone) and Caribbean Sea (Mexico-French Guiana included), all islands of the Caribbean and West Indies (including Cuba but excepting Puerto Rico), the Bahama Islands, Bermuda and additional calls at foreign ports on Line A (described above).

Line D (Trade Route No. 10)—Freight Service with five owned or chartered vessels and a maximum of 60 sailings annually between United States Atlantic ports and ports in Portugal, Atlantic Spain, Bay of Gibraltar, Atlantic ports of Morocco, Mediterranean Sea, Adriatic Sea, Black Sea and other seas which are arms of the Mediterranean (including in each case the island ports therein), and additional calls in the Azores and/or at Line C ports (described above) en route to Line D foreign areas.

Existing services and services to be provided include areas or ports on essential Trade Routes Nos. 2, 4, 5–7–8–9, 10, 11, 13, 23, 24, 25.

If this application is approved, the twenty-year agreement would succeed and become effective upon tremination of the applicant's present agreement, Contract No. FMB–49, which will expire on December 31, 1977, or such earlier date as the parties may agree, and under which Prudential Lines, Inc., is presently authorized to operate a fleet of 20 vessels, the same number of vessels as proposed. The Company proposes to increase its maximum sailings on three of its four services, to eliminate certain restrictions on its currently authorized services and to expand certain areas of service.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099–B, Department of Commerce Building, 14 & E Streets, N.W., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on Sept. 22, 1975. The Maritime Subsidy Board will consider these views and comments, and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating Differential Subsidy (OPS))

By Order of the Maritime Subsidy Board.

Dated: August 25, 1975.

JAMES S. DAWSON, Jr.
Secretary.

[FR Doc.75-22944 Filed 8-28-75;8:45 am]

Office of the Secretary

AMERICAN SOCIETY OF TRAVEL AGENTS AND UNITED STATES TRAVEL SERVICE

Meeting

Notice is hereby given that a meeting between several executives of the American Society of Travel Agents and officials of the United States Travel Service, wherein the essential elements of a Federally-sponsored domestic tourism program will be discussed, will take place on September 3, 1975, at 9:30 a.m., in room 1858, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

DAVID N. PARKER,
Deputy Assistant Secretary for Tourism, U.S. Department of Commerce.

[FR Doc.75-23204 Filed 8-28-75;10:05 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

GRAS OR PRIOR-SANCTIONED DIRECT HUMAN FOOD INGREDIENTS

Availability of Information

The Commissioner of Food and Drugs, in notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20054), April 17, 1974 (39 FR 13796), and September 23, 1974 (39 FR 34218), announced the availability of data and information compiled during the safety review of generally recognized as safe (GRAS) and prior-sanctioned food ingredients. The Commissioner announced the availability of such data and information to provide maximum public opportunity to present additional data, information, and views on the substances while they are being reviewed by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), and to serve as a basis for public comment on proposed Food and Drug Administration actions on the ingredients.

This notice announces the public availability of recently prepared scientific literature reviews on several additional GRAS or prior-sanctioned food ingredients. The ingredients are now under review by the Select Committee, and public submission of additional published or unpublished data on the ingredients is invited. Such submissions should be in accordance with procedures set forth in the notice published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053). A notice of public hearing for the ingredients will be published in the FEDERAL REGISTER when the Select Committee has had an opportunity to review and evaluate all available data and information.

Elsewhere in this issue of the FEDERAL REGISTER there is a notice of opportunity for public hearing on the safety of certain ingredients used in food to determine if they are GRAS or subject to a prior sanction.

The Commissioner recognizes that data and information on GRAS and prior-sanctioned food ingredients are of broad public interest. Accordingly, this information is available for public disclosure in the following ways:

1. Copies of each scientific literature review have been placed in the Library of Congress under the title "Scientific Literature Reviews on GRAS Food Ingredients," L.C. Card No. 73–600105.

2. The following scientific literature reviews are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151.

Scientific literature reviews

Ingredient(s)	Ordering No.	Cost
Vitamin A	PB-241-949/AS	$27.75
Carotenes	PB-241-950/AS	7.25
Thiamine	PB-241-951/AS	10.25
Niacin	PB-241-952/AS	10.50
Gases in foods	PB-241-953/AS	5.75
Soybean protein-isolated	PB-241-954/AS	4.75
Tartrates	PB-241-955/AS	4.75
Starches	PB-241-956/AS	7.00
Hydrogen peroxide	PB-241-957/AS	5.75
Lactic acid	PB-241-958/AS	7.00
Carbon dioxide	PB-241-959/AS	7.25
Pyridoxine	PB-241-960/AS	8.50
Copper salts	PB-241-961/AS	4.75
Hydrochloric acid	PB-241-962/AS	4.25
Dental caries and carbohydrates	PB-241-963/AS	4.25
Riboflavin	PB-241-964/AS	8.50
Vitamin B_{12}	PB-241-966/AS	9.25
Citric acid	PB-241-967/AS	5.75
Sodium salts of fatty acids	PB-241-968/AS	4.75
Ascorbic acid	PB-241-969/AS	10.75
Lecithins	PB-241-970/AS	6.25
Urea	PB-241-971/AS	7.25
Nickel	PB-241-972/AS	7.25
Sodium chloride, potassium chloride	PB-241-973/AS	8.75

The titles listed above may also be purchased in microfiche form. Microfiche document prices are $2.25 for each of the items listed above except for the Vitamin A literature, which is $2.50. The documents listed above can also be purchased in sets as follows:

Documents PB-241-949/AS through PB-241-964/AS	$109.00
Documents PB-241-966/AS through PB-241-973/AS	51.00

3. A single copy of all of the data and information given above is available for review in the office of the Hearing Clerk,

Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: August 21, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-22642 Filed 8-28-75;8:45 am]

[Docket No. 75N-0165]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

The Commissioner of Food and Drugs, in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), about the safety of ingredients used in food to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

Elsewhere in this issue of the FEDERAL REGISTER there is a notice of public availability of recently prepared scientific literature reviews on various GRAS or prior-sanctioned food ingredients.

Previous opportunities for public hearings were announced in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218) and December 19, 1974 (39 FR 43865). The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients:

Calcium salts.
Calcium oxide and calcium hydroxide.
Carbonates and bicarbonates.
Dextrin and corn dextrin.
Glycerin and glycerides.
Succinic acid.
Dextrans.

The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing pursuant to notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051, 20053) and April 17, 1974 (39 FR 13796, 13798).

The Select Committee has reviewed all of the available data and information on the categories of food ingredients listed above and has reached one of the four following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. While no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted.

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced.

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the four types of conclusions listed above), and the available information on which the Select Committee reached its conclusion.

Substance	Select committee tentative conclusion	Scientific literature review: Order No.	Scientific literature review: Cost	Animal study report: Order No.	Animal study report: Cost	Other Information
Calcium salts		PB-223-843/AS	$4.50	PB-234-879/AS	$3.25	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)" available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo—FDA in-house investigations of calcium chloride and calcium gluconate.
Calcium acetate	1					
Calcium chloride	1					
Calcium gluconate	1					
Calcium phytate	1					
Calcium oxide and calcium hydroxide.		PB-223-851/AS	2.75			a. Same as a. of calcium salts.
Calcium oxide	1					
Calcium hydroxide	1					
Carbonates and bicarbonates.		PB-221-231	5.45			a. Same as a. of calcium salts. b. Mutagenic evaluation of compound FDA 71-79 sodium bicarbonate—submitted to FDA by Litton Bionetics, Inc. c. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chicken Embryo—FDA in-house investigation of sodium carbonate.
Calcium carbonate.						
Potassium carbonate.						
Sodium carbonate	1			PB-234-868/AS	3.25	
Sodium bicarbonate.	1			PB-234-871/AS	3.25	
Sodium sesquicarbonate.	1					
Dextrin and corn dextrin		PB-228-539/AS	3.75			a. Same as a. of calcium salts.
Dextrin	1					
Corn dextrin	1					
Glycerin and Glycerides		PB-221-227	6.75			a. Same as a. of calcium salts.
Glycerin	1			PB-234-876/AS	$3.25	b. Investigation of the Toxic and Teratogenic Effects of GRAS Substances to the Developing Chicken Embryo—FDA in-house investigation of glycerine. c. Investigations on the Toxic and Teratogenic Effects of GRAS Substances on the Developing Chicken Embryo—submitted to FDA by the Ohio State Univ; d. Toxicological studies of synthetic and natural glycerine in dogs. Summary of interim data at 1 yr. submitted to Atlas Chem. Industries, Inc. by FDRL.
Mono- and diglycerides of fat-forming fatty acids.	1			(glycerin, glycerol)		
Diacetyl tartaric acid esters of mono- and diglycerides.	1					
Triacetin	1					
Acetooleins	1					
Acetostearins	1					
Glyceryl lactopalmitate.	1					
Glyceryl lactooleate	1					
Oxystearin	3					
Sulfoacetate derivatives of mono- and diglycerides.[1]						
Monosodium phosphate derivatives of mono- and diglycerides.[1]						
Monoglycerides citrate[1]						e. Letter dated Feb. 12, 1962 from Hans Kaunitz, Res. Assoc. in Pathology to Drew Chem. Corp., Boonton, NJ.
Succistearin[1]						
Succinic acid	1	PB-223-860/AS.	$3.00			a. Same as a. of calcium salts.
Dextrans	2	PB-234-889/AS.	4.00			a. Monograph on Dental Caries and Carbohydrates submitted to FDA by Informatics (PB-241-903/AS $4.25). b. Letter dated May 10, 1973, from Walter A. Carlson, Tech. Dir., Biochemicals, Gen. Mills Chemicals, Inc., Minneapolis, MN to FDA. c. Letter dated May 20, 1974, from F. H. Hafner, Mgr., Prod. Development, Gen. Mills Chemicals, Inc., Minneapolis, MN to Informatics.

[1] Information available not sufficient to make a tentative conclusion.

Reports in the table with PB prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22151. They can also be purchased in microfiche form for $2.25 each.

In addition to the information contained in the documents listed in the table above, the Select Committee sup-

plemented, where appropriate, their reviews with specific information from specialized sources as announced in the previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The tentative reports of the Select Committee on calcium salts, calcium oxide and hydroxide, carbonates and bicarbonates, dextrin and corn dextrin, glycerin and glycerides, succinic acid and dextrans are available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, D.C. 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review in the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend, and the length of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, Food and Drug Administration, address noted above, and all such requests shall be placed on public display in that office. Any such request must be postmarked on or before September 29, 1975, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. As soon as possible thereafter, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Due to time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days prior to the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: August 21, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-22641 Filed 8-28-75;8:45 am]

Office of Education

CLOSED MEETING ACTIVITIES OF ADVISORY COUNCIL ON INDIAN EDUCATION

Notice of Public Availability of Reports

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (Supp. 11 1972) and OMB Circular A-63 of March 27, 1974, those advisory committees of the Department of Health, Education, and Welfare which held closed or partially closed meetings in 1974 have prepared a report on the activity of this meeting. Copies of the report have been filed and are available for public inspection at three locations:

Library of Congress, Microform Reading Room, Room MB-140B, Main Building, 10 First Avenue SE., Washington, D.C.

National Advisory Council on Indian Education, 425 13th Street NW., No. 326, Washington, D.C. 20004.

Ann Bailey, FOB-6, Room 4156, 400 Maryland Avenue SW., Washington, D.C. 20202.

The name of the subject committee is listed below:

National Advisory Council on Indian Education Executive Committee

LINCOLN C. WHITE,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.75-20984 Filed 8-28-75;8:45 am]

ENVIRONMENTAL EDUCATION PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 3 of the Environmental Education Act (20 U.S.C. 1531-1536), as amended by P.L. 93-278 (88 Stat. 121), applications are being accepted from institutions of higher education, State and local educational agencies, regional research organizations, and other public and private nonprofit agencies, organizations, and institutions for environmental education project grants. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education Application Control Center on or before December 1, 1975.

A. *Applications sent by mail.*

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.522. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 27, 1975 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.*

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m., on the closing date.

C. *Program information and forms.*

Information and application forms may be obtained from the Bureau of School Systems, Office of Environmental Education, Federal Office Building Six, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.*

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Environmental Education regulations published in the FEDERAL REGISTER on May 21, 1974, at 17842.

(20 U.S.C. 1531-1536)

(Catalog of Federal Domestic Assistance Number 13.522 Environmental Education Program)

Dated: August 22, 1975.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-22965 Filed 8-28-75;8:45 am]

FOLLOW THROUGH

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title V, Parts B and C of the Economic Opportunity Act, as amended, applications are being accepted for Follow Through grants or contracts in the following three categories: (1) non-competing continuation grants or contracts for carrying out Follow Through programs, (2) non-competing grants or contracts for research and demonstration, and (3) grants or contracts for technical assistance to Follow Through programs.

In order to be assured of consideration for funding from appropriations for Fiscal Year 1976, applications for projects under the first two categories listed above should be received by the U.S. Office of Education Application Control Center on or before January 9, 1976.

All other applications must be received by the U.S. Office of Education Application Control Center on or before January 9, 1976. Processing of these applications will be subject to the availability of funds.

A. *Applications Sent by Mail.*

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.433. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 5, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand Delivered Applications.*

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program Information and Forms.*

Information and application forms may be obtained from the Division of Follow Through, Bureau of School Systems, Regional Office Building Three, Room 3624, 7th and D Streets SW., Washington, D.C. 20202.

D. *Applicable Regulations.*

The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Follow Through Regulations (45 CFR Part 158) published in the FEDERAL REGISTER on April 21, 1975 in 40 FR 17712.

(Title V, Parts B and C of the Economic Opportunity Act, as amended (P.L. 93-644, section 8(a), 42 USC 2929 *et. seq.*))

Dated: August 22, 1975.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.433; Follow Through)

[FR Doc.75-22964 Filed 8-28-75;8:45 am]

HEALTH AND NUTRITION PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 808 of Title VIII, of the Elementary and Secondary Education Act (20 U.S.C. 887a; and 20 U.S.C. 1801(c)(2)) applications are being accepted from local educational agencies and under exceptional circumstances from non-profit educational organizations for grants for demonstration projects to improve school health and nutrition services for children from low-income families.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 17, 1975.

A. *Application sent by mail.*

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202, Attention: 13.523. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 13, 1975 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Health and Nutrition Program, Room 2043, Bureau of School Systems, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Health and Nutrition Program regulations (45 CFR Part 127) published in the FEDERAL REGISTER on December 3, 1974 at 39 FR 41850.

(20 U.S.C. 887a)

Dated: August 22, 1975.

(Catalog of Federal Domestic Assistance Number 13.523; School Health and Nutrition Services for Children from Low-Income Families).

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75-22963 Filed 8-28-75;8:45 am]

TITLE I AUDIT APPEAL

Notice of Approval of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), an application for an appeal before the Board has been received from the State of California and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board. The appeal involves the allowability of specified expenditures of funds under Title I ESEA during the period of July 1, 1968, through August 31, 1972, by the State Education Agency. Audit Control Number is 40015-09 and the amount involved in the subject audit appeal is $292,207. LEA involved is Pasadena.

Section 7(c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before September 16, 1975. Applications should be addressed to: Chairman, Title I Audit Hearing Board, Office of the Commissioner, U.S. Office of Education, 400 Maryland Avenue SW., Room 4009, Washington, D.C. 20202.

(20 U.S.C. 241a, 1232 c)

Dated: July 25, 1975.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (P.L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children.)

JOHN W. EVANS,
Acting U.S. Commissioner of Education.

[FR Doc.75-22966 Filed 8-28-75;8:45 am]

TITLE I AUDIT APPEAL

Approval of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), an application for an appeal before the Board has been received from the State of California and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board. The appeal involves the allowability of specified expenditures of funds under Title I ESEA during the period of December 23, 1968, through June 30, 1972, by the State Education Agency. Audit Control Number is 30012-09 (followup to Audit Control Number 90074-09) and the amount involved in the subject audit appeal is $258,422.

Subject audit report includes reference to the following LEAs: Corcoran, Corning, Lennox.

Section 7(c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before September 15, 1975. Applications should be addressed to: Chairman, Title I Audit Hearing Board, Office of the Commissioner, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 4009, Washington, D.C. 20202.

(20 U.S.C. 241a, 1232c)

Dated: July 25, 1975.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (P.L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children.)

JOHN W. EVANS,
Acting U.S. Commissioner of Education.

[FR Doc.75-22967 Filed 8-28-75;8:45 am]

Social Security Administration

SUPPLEMENTAL SECURITY INCOME STUDY GROUP

Meeting

Notice is hereby given pursuant to Pub. L. 92-463, that the Supplemental Security Income Study Group will hold a meeting on Thursday, September 11 and Friday, September 12 from 9:00 a.m. to 5:00 p.m. in Room 171 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland. The meeting is open to the public.

Further information on the Study Group may be obtained from Nelson Sabatini, Executive Secretary of the Study Group, Room 960 Altmeyer Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-2330. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

(Catalog of Federal Domestic Assistance Program Number 13.807, Supplemental Security Income for the Aged, Blind, and Disabled)

Dated: August 25, 1975.

NELSON SABATINI,
Executive Secretary Supplemental Security Income Study Group.

[FR Doc.75-22946 Filed 8-28-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[(FDAA-470-DR); NFD-283]

LOUISIANA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Louisiana, dated June 6, 1975, and amended June 6, 1975, is hereby further amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 6, 1975:

PORT OF NEW ORLEANS

Dated: August 22, 1975.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.75-22976 Filed 8-28-75;8:45 am]

Office of the Secretary

[Docket No. D-75-365]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Delegation of Authority

Section A4 of the Secretary's delegation of authority to the Assistant Secretary and Deputy Assistant Secretary for Housing Management published at 36 FR 5005, March 16, 1971, as amended, is revised to read as follows:

4. Housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974 (42 U.S.C. et seq. and 1437, et seq.) and all other power and authority of the Public Housing Commissioner and of the head and other Officers and offices of the Public Housing Administration transferred under section 5(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3534(a)).

(Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This amendment to delegation of authority is effective as of January 1, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-23056 Filed 8-28-75;8:45 am]

[Docket No. D-75-364]

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY—HOUSING PRODUCTION AND MORTGAGE CREDIT

Amendment of Delegation of Authority

The Department is amending the Delegation of Authority published March 16, 1971 (36 FR 5007) to include authority with respect to housing assisted under the United States Housing Act of 1937, pursuant to Title II of the Housing and Community Development Act of 1974, 42 U.S.C. 1437, et seq.

Inasmuch as this amendment involves the Department's internal management and administration, public comment and public procedure are unnecessary and good cause exists for making the amendment effective January 1, 1975.

Accordingly, the Delegation of Authority to the Assistant Secretary and Deputy Assistant Secretary, published March 16, 1971, and revised June 26, 1971, is amended by changing Section A.7. to read as follows:

Housing assisted under the United States Housing Act of 1937, (42 U.S.C. 1401, et seq.), including amendments made by the Housing and Community Development Act of 1974 (42 U.S.C. 1437, et seq.), and all other power and authority of the Public Housing Administration and the head and other officers and offices of the Public Housing Administration transferred under Section 5(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3534(a)), and Section 6 of Public Law 90-480 (42 U.S.C. 4156) with respect to waiver or modification of standards for the design, construction, and alteration of buildings for accessibility to the physically handicapped under such program.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Effective date: This Amendment is effective January 1, 1975.

CARLA A. HILLS,
Secretary, Department of Housing and Urban Development.

[FR Doc.75-23055 Filed 8-28-75;8:45 am]

[Docket No. D-75-368]

ASSISTANT SECRETARY FOR HOUSING MANAGEMENT DIRECTOR, OFFICE OF HOUSING PROGRAMS, ET AL.

Redelegation of Authority

The first paragraph of the redelegation of authority to the Director, Office

of Housing Programs, et al. published at 37 FR 16629, August 17, 1972, is revised to read:

"The Director, Office of Housing Programs; the Director, Programs Services Division; the Chief, Maintenance and Utilities Branch; and the Supply Management Officer, each is authorized to execute contracts and amendments thereto, with respect to the purchase by public housing agencies of materials, equipment, and supplies, for housing assisted under the U.S. Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Secretary's delegation of authority effective March 8, 1971, 36 FR 5005, March 16, 1971)

Effective date. This redelegation of authority is effective as of January 1, 1975.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-23057 Filed 8-28-75;8:45 am]

[Docket No. D-75-367]

Office of Assistant Secretary for Housing Management

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority With Respect to Housing Management

The redelegation of authority by the Assistant Secretary for Housing Management published at 35 FR 16105, October 14, 1970, as amended, is further amended in the following respects:

1. The opening paragraph of section A8 is revised to read:

8. Housing assisted under the U.S. Housing Act of 1937 (42 U.S.C. 1401, et seq.) including amendments made by the Housing and Community Development Act of 1974 (42 U.S.C. 1437, et seq.), including the power and authority under sections 1(1) and 1(2) of Executive Order 11196, except the power and authority to:

2. Section B is superseded by the document published at 36 FR 18339, September 11, 1971, and is deleted.

3. The present section C is redesignated section B and is revised to read:

SEC. B. *Authority Redelegated to Regional Counsels and Associate Regional Counsels With Respect to Housing Assisted Under the U.S. Housing Act of 1937.* Each Regional Counsel, Associate Regional Counsel for Private Market Financing, and Associate Regional Counsel for General Legal Services is authorized to exercise the power and authority of the Secretary relating to the financing and refinancing of housing assisted under the U.S. Housing Act of 1937, including amendments by the Housing and Community Development Act of 1974.

4. The present section D is redesignated section C.

5. The present section E is redesignated section D and the opening paragraph 1 is revised to read and a new subparagraph (w) is added:

1. To exercise the following power and authority of the Secretary in connection with housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974:

(w). To approve requisitions for payments of annual contributions.

6. The present section F is redesignated section E and the opening paragraph of paragraph 1 is revised to read and a new subparagraph (d) is added:

1. In connection with housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974:

(d). To approve requisitions for payments of annual contributions.

7. The present section G is redesignated section F.

8. The present section H is redesignated section G and is revised to read:

SEC. G. *Authority redelegated to Area Economists, Area Offices.* Each Area Economist is authorized to exercise the power and authority of the Secretary with respect to income limits for housing assisted under the United States Housing Act of 1937, including amendments made by the Housing and Community Development Act of 1974, except as provided in 24 CFR, Sec. 200.56 and 200.56d.

9. The present section I is redesignated section H.

10. The present section J is redesignated section I.

11. The present section K is redesignated section J.

12. The present section L is redesignated section K.

13. The present section M is redesignated section L and is revised to read as follows:

SEC. L. *Additional authority redelegated to Insuring Office Officials.* Each Insuring Office Director and Deputy Insuring Office Director in the offices listed below is authorized to exercise the power and authority of the Secretary of Housing and Urban Development for housing assisted under the U.S. Housing Act of 1937, (42 U.S.C. 1401, et seq.), including amendments under the Housing and Community Development Act of 1974 (42 U.S.C. 1437, et seq.).

Anchorage, Alaska	Albany, N.Y.
Honolulu, Hawaii	Providence, R.I.
Des Moines, Iowa	Salt Lake City, Utah
Topeka, Kans.	Boise, Idaho
Helena, Mont.	

The authority delegated above includes the power and authority under sections 1(1) and 1(2) of Executive Order 11196, except the authority to:

14. The present section N is redesignated section M.

15. The present section O is redesignated section N and is revised to read:

SEC. N. *Exercise of redelegated authority.* Redelegations of authority made under sections A through L shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, or Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 FR, 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of January 1, 1975.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-23058 Filed 8-28-75;8:45 am]

[Docket No. D-75-366]

OFFICE OF ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Revocation

Section A. *Redelegations.* The redelegations to the Directors and Deputy Directors of the Honolulu, Hawaii, and Anchorage, Alaska, Insuring Offices published at 37 FR 22397, October 19, 1972, and 39 FR 25969, July 15, 1974, are hereby revoked.

(Delegation of the Secretary, 36 FR 5005, March 16, 1971, as amended)

Effective date. This revocation is effective as of August 18, 1975.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-23059 Filed 8-28-75;8:45 am]

CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

MEETING

The Citizens' Advisory Committee on Environmental Quality will meet on September 29, 1975, at 10 a.m. in Room 500, 1700 Pennsylvania Avenue NW., Washington, D.C.

The Committee advises the President and the Council on Environmental Quality on matters pertaining to environmental quality. The purpose of the meeting is to review pending Committee business and to consider Committee activities for the coming year. Subjects discussed will include legislation, Committee publications, land use, energy, solid waste, flood plain protection, the use of abandoned railroad rights of way and utility rights of way for recreation trails, and other current environmental issues.

The meeting will be open to the public. Persons planning to attend the meeting are requested to notify in writing or by telephone no later than September 26, 1975, Lawrence N. Stevens, Executive Director, Citizens' Advisory Committee on Environmental Quality, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006, telephone (202) 223-3040. Members of the public may file written statements with the Committee before or after the meeting. Persons wishing to speak at the meeting are requested to consult with the Executive Director no later than September 23, 1975.

Requests for information should be submitted to the Executive Director (address given above).

LAWRENCE N. STEVENS,
Executive Director, Citizens' Advisory Committee on Environmental Quality.

[FR Doc.75-22980 Filed 8-28-75;8:45 am]

[Docket No. 28028]

CIVIL AERONAUTICS BOARD

ANDREWS INTERNATIONAL, INC., ET AL.

Enforcement Proceeding; Postponement of Hearing

Notice is hereby given that, at the requests of counsel for the respondents, the hearing in the above-entitled matter, now assigned to be held on September 24, 1975 (40 F.R. 37076, August 25, 1975), is postponed to Thursday, October 23, 1975.

The hearing will be held at 10 a.m. (local time) in Room 1031N, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., August 25, 1975.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.75-23036 Filed 8-28-75;8:45 am]

[Docket No. 28196]

CALIFORNIA-ALBERTA ROUTE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 28, 1975, at 10:00 a.m. (local time), in Room 1031N, Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Henry Whitehouse.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statements of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before October 10, 1975, and the other parties on or before October 17, 1975. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., August 25, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-23037 Filed 8-28-75;8:45 am]

[Docket No. 28163]

INTERNACIONAL DE AVIACION, S.A. (INAIR)

Hearing

Notice is hereby given that, at the request of counsel for the applicant and counsel for the Bureau of Operating Rights, the hearing in this proceeding is set for September 4, 1975. It will follow immediately the prehearing conference, which was previously noticed (40 FR 37078, August 25, 1975) for September 4, 1975, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

Notice is hereby given that objections to the hearing being held immediately following the conclusion of the prehearing conference must show good cause and be filed on or before September 2, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., August 25, 1975.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.75-23035 Filed 8-28-75;8:45 am]

[Docket No. 27571]

TEXAS INTERNATIONAL AIRLINES, INC. DELETION OF JONESBORO, ARKANSAS

Postponement of Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference in the above-entitled proceeding which was assigned to be held on September 10, 1975, (40 FR 31977, July 30, 1975) is postponed until further notice.

Dated at Washington, D.C., August 25, 1975.

[SEAL] DEE C. BLYTHE,
Administrative Law Judge.

[FR Doc.75-23038 Filed 8-28-75;8:45 am]

COMMISSION OF FINE ARTS

PUBLIC PROJECTS IN WASHINGTON, D.C.

Meeting

AUGUST 25, 1975.

The Commission of Fine Arts will meet on Wednesday, September 17, 1975, at 11:00 a.m. in the Commission offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various public projects affecting the appearance of Washington, D.C. Inquiries regarding the agenda or requests to submit written or verbal statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.75-23041 Filed 8-28-75;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

AUGUST 26, 1975.

On July 3, 1975, there was published in the FEDERAL REGISTER (40 FR 28123-28124) letters dated July 1, 1975 and July 2, 1975 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, between the Governments of the United States and the Republic of Korea, which establish specific export limitations, among other categories, on cotton, wool, and man-made fiber textile Categories 9/10, 18/19/26 pt. (printcloth), 26 pt. (duck), 45/46/47, 48, 49, 50/51, 52, 219, 222, 228, 234, 235, 237, 238 and 120, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period beginning on October 1, 1974 and extending through September 30, 1975. As set forth in those letters, the levels of restraint are subject to adjustments pursuant to paragraphs 5 and 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, which provide, in part, that: 1) a limited amount of shortfall in certain categories may be carried over into the next agreement year; 2) a limited amount of yardage in certain categories may be carried forward from the succeeding agreement year; and 3) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by a specified percentage.

Accordingly, at the request of the Government of the Republic of Korea and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of August 26, 1975, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to the cotton, wool, and man-made fiber textile Categories 9/10, 18/19/26 pt. (printcloth), 26 pt. (duck) 45/46/47, 48, 49, 50/51, 52, 219, 222, 228, 234, 235,

237, 238 and 120 for the twelve-month period which began on October 1, 1974.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On July 1, 1975 and July 2, 1975 the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning October 1, 1974 and extending through September 30, 1975 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustments.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraphs 5 and 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on August 29, 1975, the levels of restraint for Categories 9/10, 18/19/26 pt. (printcloth), 26 pt. (duck), 45/46/47, 48, 49, 50/51, 52, 219, 222, 228, 234, 235, 237, 238, and 120 established in the aforesaid directives of July 1, 1975 and July 2, 1975 to the following:

Category:		*12-mo. level of restraint* [1]
9/10	square yards	6,045,850
18/19/26 (printcloth)[2]	do	4,769,933
26 (duck fabric)[3]	do	20,226,106
45/46/47	do	[4] 3,131,708
48	dozens	20,557
49	do	46,999
50/51	do	177,915
52	do	64,756
120	numbers	336,470
219	dozens	3,925,035
222	do	940,434
228	do	812,302
234	do	3,697,507
235	do	1,368,115
237	numbers	175,777
238	dozens	200,952

[1] These levels of restraint have not been adjusted to reflect any entries made on or after Oct. 1, 1974.

[2] In category 26 the T.S.U.S.A. numbers for printcloth are:

320...34 326...34
321...34 327...34
322...34 328...34

[3] In category 26 the T.S.U.S.A. numbers for duck fabric are:

320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

[4] Equivalent to square yards.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce

[FR Doc.75-23082 Filed 8-28-75;8:45 am]

[1] The term "adjustments" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of June 26, 1975 between the Governments of the United States and the Republic of Korea which provide, in part, that: 1) within the aggregate and applicable group limits, specific levels of restraint within Categories 1-38, part of 63 (shoe uppers), 64, 200-213, and 241-243 may be exceeded by 10 percent; within Categories 39-62, part of 63 (other than shoe uppers), and 214-240, by 7 percent; and within Categories 101-132, by 5 percent; 2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; 3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and 4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from August 18, 1975 through August 22, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (October 13, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fowden G. Maxwell, Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Draft

Clarkdale-Williams Highway, Arizona, August 18: The statement is a supplement to a draft statement concerning the Clarkdale-Williams Highway. At the time the draft was circulated there was little information available to describe what the socio-economic needs of the public were; the "no highway" alternative was selected. The supplement introduces new data on the project and proposes that a reduced design standard be implemented. (ELR Order No. 51239.)

St. Joe River, Wild and Scenic Rivers, Shoshone, Benewah, and Kootenai Counties, Idaho, August 22: The statement concerns the legislative inclusion of 72.8 miles of the St. Joe River in the National Wild and Scenic Rivers System. Of the 72.8 miles, the uppermost 26.6 miles would be classified, designated, and administered as a Wild River Area and the lower 46.2 miles would be classified, designated, and administered as a Recreational River Area. The impacts of development and increased recreation use will be controlled on the basis of the capability of the river and its environment to support these uses and activities rather than on projected trends and demands. (ELR Order No. 51265.)

Delta Unit Plan, Delta National Forest, Sharkey, Issaquena, and Warren Counties, Miss., August 18: The proposed action is the implementation of a management plan for the Delta National Forest. The management direction emphasized wildlife management and timber production. Adverse impacts include compaction, rutting soil movement; reduction of terrestrial wildlife habitat caused by greentree reservoirs and structured sloughs; loss of land for timber production; and visual changes from timber harvesting and construction activities. (ELR Order No. 51222.)

Dickey-Sunday Planning Unit, Kootenai National Forest, Lincoln and Flathead Counties, Mont., August 19: The action involves implementation of a revised multiple use plan for the 67,029 acres Dickey-Sunday Planning Unit, Kootenai National Forest. Portions of the unit will be intensively managed for commodity production and yield increase. Development activity will result in continued soil and vegetative disturbance which may cause temporary acceleration of soil erosion and sediment levels, as well as visual disturbance. Areas which are currently unroaded will be developed and the natural conditions of the Forest will be affected. (ELR Order No. 51241.)

Nantahala Unit No. 22, Nantahala National Forest, several counties in North Carolina, August 21: The statement concerns the proposed 10-year management of the 71,164 acre Nantahala Unit located in Macon, Clay, Swain, and Graham Counties. Management decisions will affect major forest resources: wildlife, water quality, soils, vegetative cover, aesthetics, roads, trails, and recreation. Adverse environmental impacts can result from movement of soil into streams from logging operations, construction and reconstruction of roads, trails, and recreation areas, and operation of motor vehicles. Scenic values may be adversely affected by construction activities, timber harvesting, and littering. (ELR Order No. 51260.)

Final

Rolling Prairie Planning Unit, Custer National Forest, several counties in North Dakota, August 18: The action is the implementation of a Multiple Use Plan for the Rolling Prairie Planning Unit, Little Missouri River National Grasslands, Custer National Forest. The Planning Unit is located in McKenzie, Golden Valley, Billings, and Slope Counties and contains 882,680 acres of land. The plan provides for oil and gas extraction, beef production, and the protection of historical, archeological, and paleontological sites. Adverse impacts range from low to

moderate for most of the 18 activities considered. (ELR Order No. 51223.)

Vegetation Control, Arizona and New Mexico, August 18: Proposed is the use of fire, chemical, and mechanical treatment for the control of invading plants on National Forest lands in Arizona and New Mexico. The action is intended to improve water quality and wildlife habitat, increase forage production, soil productivity, and recreational activities, and decrease soil erosion. There will be temporary adverse impact on soil, water, and air quality. Comments made by: USDA, DOI, EPA, State agencies, and concerned citizens. (ELR Order No. 51238.)

Bear Valley Planning Unit Land Use Plan, Idaho, August 18: The statement discusses the Bear Valley Planning Unit Land Use Plan. The Bear Valley Planning Unit contains a gross area of 192,965 acres, with 149,311 acres within the Boise National Forest and 41,304 acres within the Challis National Forest. In developing the plan, the planning unit was divided into six management areas. Of the inventoried roadless and undeveloped areas, 46,730 acres will remain roadless, with the remaining 84,041 acres being developed as the need arises. There will be temporary sedimentation and short periods of air pollution. Comments made by: AHP, HEW, EPA, DOI, State, and local agencies. (ELR Order No. 51221.)

Idaho City Unit, Boise National Forest, Boise and Elmore Counties, Idaho, August 21: The statement refers to the land use plan for the 366,190-acre Idaho City Planning Unit of Boise National Forest. The Unit is divided into five management areas and further into management units for protection, development, and use. Minor adverse effects from some development activities will be temporary stream sedimentation and air pollution. Comments made by: DOI, EPA, DOC, HEW, DOT, HUD, AHP, State and local agencies, and concerned citizens. (ELR Order No. 51254.)

SOIL CONSERVATION SERVICE

Draft

Farm Brook Watershed, New Haven County, Conn., August 18: The purpose of the project is to provide flood damage reduction and recreation opportunities. The project consists of conservation land treatment, one floodwater retarding structure, recreational facilities and about 5,000 feet of stream channel work. Adverse impacts include the displacement of 50 people, three farms and one business, the inundation of 82 acres of land, and the disturbance of 4.6 acres by channel work. (ELR Order No. 51226.)

Final

Chippeewa and Long Prairie Headwaters Development, several counties in Minnesota, August 18: The statement concerns a project for fish and wildlife development in Douglas, Grant, Otter Tail, and Pope Counties, Minnesota which would increase acreage of wildlife land from 54,000 acres to 54,020 acres. The plan includes installation of 89 permanent structures. Construction disruption would result. Comments made by: USDA, COE, DOI, DOT, USCG, EPA, and State agencies. (ELR Order No. 51236.)

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) 693-6861.

Draft

Wrangell Small Boat Harbor No. 2, Alaska, August 18: The proposed project is the construction of a small boat harbor in the northern portion of Shoemaker Bay near Wrangell, Alaska. Project features include constructing a breakwater when and if required. The local sponsor will dredge the mooring basin and furnish the floating breakwater. Adverse impacts include the alteration of between 19 and 31 acres of marine habitat, and long term decrease in water quality from chronic pollution due to harbor operations. (Anchorage District.) (ELR Order No. 51227.)

Final

Long Lake Area, Helena, Ark., and Phillips County, Ark., August 18: The plan proposed consists of enlargement and cleanout of 5.6 miles of Long Lake Bayou to provide flood protection and increased land available for crop production. Cleanout and enlargement of part of the bayou will result in the loss of the existing aquatic biota, including any associated commercial and sport fishing values. Conversion of about 220 acres of woodlands to croplands and clearing of the required 214 acres of right-of-way will result in losses in small game and degrading of aesthetic values. (Memphis District.) (ELR Order No. 51229.)

Lake Chicot Flood Control, Arkansas and Louisiana, August 18: Proposed is a flood control project which will include a 6,500 cfs pumping plant and floodgate in the Mississippi River levee and Lake Chicot, dams in Connerly and Ditch Bayous, channel cleanouts into and from Lake Chicot, a diversion channel from Macon Lake, and Public access and use facilities on Lake Chicot. In addition to impact from construction possible secondary impacts would include increased real estate development around Lake Chicot, with increased urban runoff and sewage into the Lake. (Vicksburg District.) Comments made by: EPA, DOI, USDA, HEW, and DOC. (ELR Order No. 51230.)

Lost and Little Lost Creeks Flood Protection, Newton County, Mo., August 18: The statement refers to a proposed flood control project which will consist of the channelization of Lost and Little Creeks, and the snagging of a channel and selective clearing of a floodway below the Town of Seneca. Impact of the project will include that of changed land use on 47 acres of land. (Tulsa District.) Comments made by: EPA, HUD, DOI, DOT, USDA, AHP, DOC, and State agencies. (ELR Order No. 51225.)

Scotts Creek, North Fork Scotts Creek, Newberry County, S.C., August 21: The proposed project consists of clearing and snagging in Scotts Creek and its tributary North Fork Scotts Creek, for a total of 2.42 miles. Two bridges will be replaced. Increases in water turbidity and sedimentation will occur (42 pages). Comments made by: USDA, EPA, HEW, DOI, AHP, DOT, State and local agencies, and concerned citizens. (ELR Order No. 51262.)

Taylors Bayou, Tex., and Jefferson County, Tex., August 20: The proposed project will provide flood control and major drainage in the Taylors Bayou Watershed. Features include enlarging 1.8 miles of the Gulf Intracoastal Waterway, an outfall canal from Taylors Bayou to the GIWW. Included is a diversion channel from the lower channel to GIWW, and a gated structure in the diversion channel. Spoil will affect 2,913 acres of land including 625 acres of coastal wetlands. An additional 1,610 acres of land will be converted from land to water use. Dredging will increase turbidity. A substantial loss of fish and wildlife habitat will occur (94 pages). Comments made by: USDA, COE, DOI, EPA, DOT, and State and local agencies. (ELR Order No. 51246.)

Milwaukee Harbor, Wisconsin, August 18: 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 nutritve substances (42 pages). (ELR Order No. 51237.)

NAVY

Final

Military Housing, Ft. Story, Virginia Beach, Va., August 22: Proposed is the construction of 600 units of military housing by the United States Navy. These 576-four bedroom and 24 five-bedroom units will be located in the City of Virginia Beach, Virginia. Construction will result in the removal of existing vegetation and relocation of wildlife. Comments made by: USDA, DOI, HEW, EPA, State and local agencies, and concerned citizens. (ELR Order No. 51266.)

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

El Paso Natural Gas Co., Curtailment, August 18: The action consists of FPC's analysis of one permanent curtailment plan for the El Paso Natural Gas Pipeline system. Environmental impacts resulting from curtailment are the increased use of oil to replace the curtailed natural gas and the associated cost increases and the increased pollution in the form of sulfur dioxide and particulates. Alternatives considered in the statement are unregulated curtailment and new sources of gas supplies. Rate structure and deregulation are not included as alternatives to curtailment. (ELR Order No. 51228.)

Consolidated Gas Co., Curtailment, August 22: The action consists of FPC's analysis of two permanent curtailment plans for the Consolidated Gas Company systems. Environmental impacts resulting from curtailment are the increased use of coal and oil to replace the curtailed natural gas and the associated cost increases and increased pollution in the form of sulfur dioxide and particulates. Alternatives include unregulated curtailment and new sources of gas supply. Rate structure and deregulation are not included as alternatives to curtailment. (ELR Order No. 51264.)

Final

Escondido Project No. 176, California, August 20: The action consists of three proposals for the operation of a water diversion project: (1) an application for a new license by the present licensee, (2) an application for a non-power license by five Bands of Mission Indians, and (3) a proposal by the Bureau of Indian Affairs for Federal takeover of all or some of the project facilities. The action also consists of an investigation of the Vista Irrigation District to determine if Vista is involved in the operation of P-176 and the occupancy of Indian or U.S. Government lands. Comments made by: AHP, DOI, DOT, HEW, EPA, USDA, COE, and State and local agencies. (ELR Order No. 51248.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kanders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405 (202) 343-4161.

Final

Federal Building, Jackson, Miss., and Hinds County, Miss., August 22: Proposed is the construction of a new Federal Building in Jackson, Mississippi. The building would house all Federal agencies which are now located in general purpose leased space. The building would provide 277,250 occupiable sq. ft. for 46 Federal agencies and parking for 40 government vehicles. There will be some construction disruption. Depending upon the site selected, residents may be displaced. Comments made by: HUD, OEO, DOT, USDA, HEW, EPA, AHP, and State and local agencies. (ELR Order No. 51268.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6308.

Draft

Sunblest Subdivision, Fishers, Ind., and Hamilton County, Ind., August 21: The project involves an application for mortgage insurance under Section 203b of the National Housing Act for the planned unit development of 1268 acres in Fishers, Indiana. The major adverse environmental impact is the loss of over 1000 acres of farmland. (ELR Order No. 51253.)

University City NDP, Areas 3, 4, and 5, Pennsylvania, August 18: The statement concerns acquisition, demolition, rehabilitation, relocation, and site improvement of University City NDP areas 3, 4, and 5 in Philadelphia. Adverse impacts of the action include clearance of some structures which appear to be feasible for rehabilitation, generation of more vehicular traffic into the area which will aggravate an already serious air pollution problem, removal of residential units from the housing market, and the potential overtaxing of existing resources such as electric energy, water, and sewer facilities. (ELR Order No. 51240.)

University Center Urban Renewal Area, Davidson County, Tenn., August 20: The statement concerns an urban renewal project for 317.2 acres of southwest Nashville to provide for the expansion of Vanderbilt University. The total project proposed to clear 680 buildings and rehabilitate 372 structures. Approximately 1100 families and 800 individuals were affected by the project. Air quality will decrease due to vehicular emissions from the concentration of parking garages in the area. (ELR Order No. 51247.)

Final

Federal Mobile Home Construction & Safety Standard, August 18: Proposed is the establishment of Federal standards for the construction and safety of mobile homes. The goal of the regulation is to reduce the number of injuries and deaths and insurance costs resulting from mobile home accidents and to improve the quality and durability of mobile homes in response to P. L. 93-383. Comments made by: HEW, VA, and USDA. (ELR Order No. 51233.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

SECTION 104(h)

Draft

Sanitary Sewer Trunk Line, Douglas, Ga., and Coffee County, Ga., August 21: The proposed 104(h) project is a sanitary sewer trunk line in Douglas, Georgia. The major environmental impact will be temporary construction disruption. (ELR Order No. 51251.)

NW. Texarkana Sewer Mains, Texas, August 21: The project seeks to provide sewer utilities to the residents in the area north of I-30, east of Summerhill Road, and west of Richmond Road excluding the Richmond Pines subdivision. The sewer mains will collect into one main running roughly north-south parallel to Cowhorn Creek ending at I-30 until completion of the Cowhorn Creek Outfall. Adverse impacts of the project include the disturbance of area ecology, the silting in Cowhorn Creek, site scarring, traffic disruption, construction noise, and air quality degradation, all of which are expected to be temporary. (ELR Order No. 51255.)

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 LAND MANAGEMENT

Draft

OCS Lease Sale, Gulf of Mexico, August 20: The statement concerns the lease sale of 135 tracts offshore Texas, Louisiana, Mississippi, Alabama, and Florida which would add 698,077 acres under federal lease in the Gulf. Development of the tracts would require an estimated 150 to 400 wells from 20 to 50 platforms and require 50 to 100 miles of pipeline. The possibility of an oil spill will be increased. (ELR Order No. 51242.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Final

Proposed Semidi Wilderness Area, Alaska, August 21: The statement refers to the proposed legislative designation of 256,422 acres of the Semidi National Wildlife Refuge as wilderness within the National Wilderness Preservation System. The action would result in the protection of the insular ecosystem in its natural state. Comments made by: USDA, COE, EPA, DOI, and Alaska Clearing House. (ELR Order No. 51257.)

Bombay Hook National Wildlife Refuge, Kent County, Del., August 21: Proposed is the legislative designation of two islands, totalling 2000 acres, of the Bombay Hook National Wildlife Refuge as wilderness within the National Wilderness Preservation System. The option to intensively manage for maximum wildlife production would be foregone by the action. Comments made by: USDA and DOI. (ELR Order No. 51256.)

NATIONAL PARK SERVICE

Final

Wilderness Proposal, Organ Pipe Cactus National Monument, Arizona, August 21: The proposal recommends that 299,600 acres of land within the Organ Pipe Cactus National Monument be designated as wilderness and 10,100 acres of state lands be designated as potential wilderness. Wilderness designation will preclude consumption of resources, to the detriment of some interests. Comments made by: AHP, USDA, COE, DOC, HUD, DOI, and State agencies. (ELR Order No. 51258.)

Lower St. Croix River National Scenic Riverway, Minnesota and Wisconsin, August 20: Proposed is the implementation of a master plan for the acquisition, preservation, and use of the Lower St. Croix National Scenic Riverway. The plan aims at the preservation of 13,600 acres of the St. Croix Valley between Taylors Falls, Minnesota, and Prescott, Wisconsin. Property assessed at a value of $270,443 would be removed from the local tax rolls (two volumes). Comments made by: COE, DOI, EPA, USCG, DOT, AHP, and State and local agencies. (ELR Order No. 51244.)

DEPARTMENT OF LABOR

Draft

Standards Completion Project, August 20: The Occupational Safety and Health Administration proposes to regulate employee exposure to nearly 400 toxic substances currently found in Tables Z-1, Z-2, and Z-3 of 29 CFR 1910.1000. The purpose of these regulations is to reduce the risk of work-related injuries and illnesses due to exposure to toxic substances. The statement indicates no major significant impact is expected on the environment external to the workplace as a result of the promulgation of standards. (ELR Order No. 51243.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Sequoyah Park Airport, Oklahoma, August 20: The proposed project is the upgrading of the present Basic Utility I airport to a General Utility airport initially, and to a Basic Transport airport ultimately. The action consists of extending and widening the existing runway; widening the taxiway; enlarging the parking apron; installing MIRL and VASI-2; constructing a fence around the airport; obstruction removal; construction of an access road; and future construction of a comfort station. The purpose of the project is to increase the air access to the Sequoyah State Park Recreational Area. Moderate increases in air and noise pollution will occur. Comments made by: DOI, EPA, DOT, COE, USDA, HEW, and State agencies. (ELR Order No. 51249.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

SR A-1-A Dania to Ft. Lauderdale, Broward County, Fla., August 20: Proposed is the construction on 3.4 miles of State Road A-1-A, a north-south, six-lane arterial route, on new location from Dania Beach Boulevard in Dania, to S.E. 17th Street in Fort Lauderdale. Also included are three east-west roads which are necessary to connect S.R. A-1-A to U.S. 1. The project will displace families and businesses, and will contribute to commercial development along the route. (ELR Order No. 51250.)

Detroit-Rocky River Bridge, Cuyahoga County, Ohio, August 20: The purpose of the project is to replace the 708 foot long Detroit-Rocky River Bridge spanning the Rocky River between the cities of Lakewood and Rocky River. The statement includes alternatives of replacing the bridge on its present site or relocating it on one of three new alignments, and the involvement of Cleveland Metropoli-

tan Park District's Rock River Reservation which borders on the right-of-way. The present bridge is listed as a "National Registered Historic Place" in the National Register of the Department of the Interior. (ELR Order No. 51245.)

U.S. 17 and U.S. 21 Improvements, Beaufort County, S.C., August 21: The proposed improvement would begin at the Town of Lobeco and continue north to U.S. Route 17/21 near the Town of Pocotaligo, a distance of approximately 10 miles. The existing roadway would be widened to four lanes. The improvement involves the acquisition of approximately 50 to 100 feet of additional right-of-way which way require removal or relocation of about 10 residences, a church and one business. Approximately 4.6 acres of marshland would be filled. (ELR Order No. 51252.)

I-64, Bragg to Sam Black Church, Raleigh, Summers, and Greenbrier Counties, W. Va., August 18: Proposed is the construction of a 21.76 mile segment of I-64 from Bragg in Raleigh County to near Sam Black Church in Greenbrier County, West Virginia. The right-of-way acquisition will require the relocation of a varying number of families depending upon the alternate chosen. Construction disruption will result. (ELR Order No. 51235.)

Final

Route 99, Sacramento and Sutter Counties, Calif., August 18: This statement refers to the construction of approximately 13 miles of 4 lane freeway in Sacramento and Sutter Counties from the junction of Rte. 99 with I-5 to the junction of Rte. 99 with Rte. 70. The proposed Rte. 99 would utilize the existing 2 lane facility. Adverse impacts include the loss of 370 acres of agricultural land, increased urbanized growth and the displacement of 3 families. Comments made by: EPA, COE, USDA, HEW, one regional agency, and individuals. (ELR Order No. 51232.)

Route 412, Rockford to Rochelle, Lee, Ogle, and Winnebago Counties, Ill., August 21: The statement concerns the construction of FA Route 412, a four-lane freeway in LaSalle, Lee, Ogle, and Winnebago Counties. FA Route 412 begins at existing Interstate Route 80 near LaSalle and traverses in a northerly direction for approximately 61 miles until project termination with the existing U.S. Route 20 Bypass near Rockford. The project will result in the conversion of 3,550 acres of land to highway use. Right of way displacements on the recommended alignment consist of 25 families and 3 businesses. Comments made by: USDA, DOC, COE, HEW, EPA, DOI, DOT, and State and local agencies. (ELR Order No. 51261.)

57th St. Improvement, Kansas City, Wyandotte County, Kansas, August 21: The proposed project requires the construction of 1.8 miles of 4 lane minor arterial roadway (57th Street) from Kaw Drive to Parallel Parkway, all within Kansas City, Kansas. Adverse impacts are the acquisition of right-of-way, displacement of 2 families and 1 church, and increased air and noise pollution. Comments made by: USDA, COE, HEW, EPA, HUD, DOI, and regional and State agencies. (ELR Order No. 51259.)

I-24, Marshall to Trigg County, Ky., and several counties in Kentucky, August 18: The project involves the contruction of I-24 in Marshall, Livingston, Lyon, Caldwell, and Trigg Counties. The four lane facility will total 33.66 miles. Adverse impacts are the loss of land, displacement of homes, and increased air, noise and water pollution during construction. Comments made by: COE, DOI, USDA, EPA, DOC, TVA, and State agencies. (ELR Order No. 51224.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Washington METRO System, District of Columbia, and several counties in Virginia and Maryland, August 18: The statement, prepared by the Washington Metropolitan Area Transit Authority (WMATA) in cooperation with DOT, refers to the development, financing, and operation of a 98 mile rapid rail transit system which will serve the District of Columbia, Prince George's and Montgomery Counties in Maryland, and Arlington and Fairfax Counties and the Cities of Alexandria, Falls Church, and Fairfax in Virginia. The system will include 49 miles of subway, 42 miles of surface rail, and 8 miles of raised structure. Adverse effects will result from construction disruption. Metro is expected to stimulate development along its routes, and facilitate suburbanization and decentralization of employment (276 pages). Comments made by: NCPC, AHP, USDA, DOT, DOI, EPA, and State and local agencies. (ELR Order No. 51231.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.75-23003 Filed 8-28-75;8:45 am]

FEDERAL ENERGY RESEARCH AND DEVELOPMENT AND EMERGING ENERGY TECHNOLOGIES

Final Notice of Public Hearings on Environmental and Energy Conservation Aspects

In the FEDERAL REGISTER of Tuesday, July 22, 1975, the Council on Environmental Quality announced public hearings on the environmental and energy conservation aspects of Federal energy research and development and emerging energy technologies, pursuant to the provisions of Section 11 of the Non-Nuclear Energy Research and Development Act of 1974, P.L. 93-577. This is to provide final information on the hearings, including location and hearing procedures.

Location of Hearings: Washington, September 3 and 4: Room 2008, New Executive Office Building, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C.; Los Angeles, September 8 and 9: Room 214, Los Angeles Convention Center, 1201 South Figueroa Street, Los Angeles; Detroit, September 11 and 12: Auditorium, City-County Building, 2 Woodward Avenue, Detroit.

Hearings will start at 9 a.m. each day, and will be continued as long as necessary to accommodate all witnesses. The public is invited to attend.

Length and Copies of Testimony. There are no limits on the length of the written testimony. CEQ would appreciate receiving five copies of the testimony prior to the hearings. Those who would like CEQ to distribute their testimony to the press prior to the hearings should provide 25 additional copies.

Each organization will be allotted approximately 25 minutes. However witnesses are requested to limit their oral presentation to no more than half of this time. The remainder of the time will be devoted to questions from the panel. This interchange between witnesses and panel members will be a most important aspect of the hearings. Witnesses desiring additional time, particularly those who may be representing more than one organization, should notify CEQ.

Subject Matter for Testimony. The Energy Research and Development Administration Plan, *Creating Energy Choices for the Future*, is intended to serve as a focal document for the hearings. However, testimony need not be restricted to a review of proposed Federal Government Energy R&D programs. Descriptions of innovative R&D projects conducted under private and state and local government auspices, as well as proposals for new R&D activities, would be appropriate topics for presentation.

In order to be informative, however, testimony should be as specific as possible. Critiques of the ERDA Plan should include suggestions for improvement, rather than statements of broad disagreement. Descriptions of innovative R&D programs should include detailed information, such as scope, schedule, anticipated results and estimated costs. When available, technical analyses should be submitted.

Report on the Hearings. Since the ERDA Plan is only a first step that will be further analyzed and refined over time (a more comprehensive report is expected in early 1976), public comments will be submitted to the Administrator of ERDA for consideration in future revisions of the Plan. Proceedings of the hearings will also be summarized in an analytical report which will be presented to the President, the Congress, the Office of Management and Budget and other federal agencies, and interested members of the public.

RUSSELL W. PETERSON,
Chairman.

[FR Doc.75-23025 Filed 8-28-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 403-1]

NEW SOURCE PERFORMANCE STANDARDS FOR SULFURIC ACID PLANTS

EPA Response to Remand

In the matter of EPA response to remand ordered by U.S. Court of Appeals for the District of Columbia in Essex Chemical Corp., et al. vs. Ruckelshaus, 486 F. 2d 427 (September 10, 1973).

On September 10, 1973, the U.S. Court of Appeals for the District of Columbia remanded to EPA certain of the new source performance standards for sulfuric acid plants under section 111 of the Clean Air Act. EPA has reviewed its standards for these plants pursuant to the remand and tentatively has concluded that the standards should not be revised.

EPA has prepared the draft response set forth below. Comments on this draft response should be submitted to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, attention: Mr. Don R. Goodwin, on or before October 28, 1975. After reviewing such comments, EPA will publish its final response.

REMANDED ISSUES

The Court remanded the standards for sulfuric acid plants for further consideration with respect to three issues:

(1) the adequacy of provisions regarding the application of emission standards when the sources experience startup, shutdown, or mechanical malfunction through no fault of the manufacturer;

(2) consideration of adverse environmental effects of disposing of the purge from Wellman-Lord sodium sulfite scrubbing systems ("scrubbers") used to remove sulfur dioxide from stack gases from recycle plants; and

(3) the validity of opacity standards.

The first issue with respect to which the Court remanded the standards, the startup, shutdown, and malfunction issue, was addressed by EPA in final regulations promulgated on October 15, 1973 (38 FR 28565). These regulations were not challenged in court, and the issue has been resolved.

ADVERSE ENVIRONMENTAL EFFECTS OF DISPOSAL OF SLUDGE FROM SCRUBBERS USED ON RECYCLE ACID PLANTS

The Court of Appeals stated with respect to this issue:

> As we have earlier noted, 111 of the Act, 42 U.S.C. 1857c-6(a)(1)(1970), requires that when the Administrator makes his "best system" and "achievable limitation" determination that he "take into account counter-productive environmental effects". We cannot conclude on the basis of the record before us that the Administrator met this obligation in promulgating a standard to be applied to recycle acid plants. The record evidence indicates that the standard is achievable only through use of a sodium sulfite-bisulfite scrubber, yet no consideration of the significant land or water pollution potential resulting from disposal of the 52 lbs/ton liquid purge by-product is apparent. A 700 ton/day sulfuric acid plant operating at capacity will produce nearly twenty tons of the purge waste in only one day of operation, and while the scrubber will effectively cut air emissions from a 50 to 100 lbs/ton level, its "counter-productive environmental effects" cannot be ignored. Judge Leventhal's statement in *Portland Cement, supra*, slip op. at 19 n. 42, that "we cannot imagine that Congress intended that 'best' could apply to a system which did more damage to water than it prevented to air," seems particularly apropos.
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> We realize that the only apparent alternative to the scrubbing system is no control at all. Since recycle plants amount to only about twenty percent of the country's sulfuric acid plants, and since collectively the sulfuric acid plants in this country account for only about two percent of the sulfur dioxide emission, such an alternative (at least in selected instances) might prove best for the environment as a whole. We have no way of knowing; it is something that EPA is uniquely suited to determine. We do know, however, that the feeble statements in the Background Document that "[m]ethods for disposing of these products will have to be considered by plant operators," and "process designers are investigating several means of handling these wastes," are poor substitutes for the reasoned consideration of this problem that is required. The record is thus remanded to the Administrator for further consideration and explanation of the adverse environmental effects of requiring a 4.0 lbs-ton standard for recycle acid plants.

EPA's Conclusions. At this time, it appears that the disposal of the sodium sulfite purge stream may not represent a real impediment to the standard since the process is not being installed at new sulfuric acid plants. No new acid plants have been equipped with the Wellman-Lord process; neither are any in the planning stages. The U.S. vendor of Wellman-Lord technology states:

> As far as Davy (Powergas Inc.) can discern, the sulfuric acid plant SO_2 control market virtually disappeared during the last year since existing plants are already under control or are being replaced. All new plants will be designed to meet EPA regulations without requiring tail gas treatment.[1]

It appears that almost all recycle sulfuric acid plants required to meet the new source performance standards will utilize the dual absorption process rather than tail gas treatment. At least one existing recycle acid plant in operation today has been modified to dual absorption. However, tail gas systems are available which do not produce a waste by-product. The molecular sieve system[2] and the peroxide system[3] convert captured sulfur dioxide into product acid. The ammonia scrubbing system, which is finding use for retrofitting existing plants, produces ammonia sulfate which is sold as fertilizer.

Although this should dispose of this issue, EPA has considered a worst case scenario which assumes, contrary to the above, that all new recycle plants will install sodium sulfite scrubbers. Even in the worst case scenario after thorough reconsideration of the adverse environmental effects of the disposal of purge resulting from recycle acid SO_2 scrubbing systems, it continues to be the judgment of the Administrator that such effects can be controlled and are less significant than the adverse environmental effects of additional sulfur dioxide releases into the atmosphere. Under the worst case scenario, the amount of purge solids which would be emitted in 1981 from new acid plants is predicted to be approximately 1,800 tons.

If untreated, the purge stream from Wellman-Lord scrubbers would create adverse environmental effects. However, these problems are subject to the control of the plant operator. On the other hand, once sulfur oxides have been emitted to the ambient air, they are subject to virtually no control whatsoever. Sulfur dioxide as well as sulfur trioxide, sulfuric acid and sulfates resulting from the sulfur dioxides will be deposited in the lungs of people, on vegetation and buildings, on the land and in water. Where they will be deposited will depend upon variables not subject to the control of the plant operator. The issue then is not whether the disposal of the purge stream may have an adverse environmental effect, but whether such adverse environmental effects are likely to be greater than the adverse environmental effects that would result from not using scrubbers.

The problem of sodium sulfite purge disposal is not limited to new acid plants. In order to meet primary and secondary national ambient air quality standards and State and local regulations, some existing sulfuric acid plants have been equipped and others may be equipped with scrubbers. At this date, the only U.S. sulfuric acid plants which have been fitted with Wellman-Lord sodium sulfite scrubbers have been existing installations. All three existing plants are operated by the petitioners, Olin Corporation (2) and Allied Chemical Company.

We do not know all that there is to know with respect to effects associated with different air pollutants. Many effects of acknowledged air pollutants are not completely quantified. In particular, sulfate exposures resulting from sulfur oxide released into the atmosphere are associated with such health effects as increased frequency of asthma attacks, increased frequency of acute lower respiratory disease, increased risk of chronic respiratory disease, decreased lung function in children and aggravation of pre-existing heart and lung disorders.[4] At this time, there is insufficient data to establish national ambient air quality standards that would protect against these effects. However, Congress recognized these problems when it passed section 111 of the Clean Air Act requiring that new sources should be constructed to be as clean as possible even though section 110 of the Act is intended to protect

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NOTE.—Numbered footnotes at end of docket.

[1] The one system which has been installed to date is required to meet only a 6.5 pounds per ton limit. The same technology appears capable of meeting the 4 pounds per ton standard.

against known dangerous levels of pollution.

There are no data indicating adverse health effects associated with disposal of properly treated Wellman-Lord (W–L) purge streams. It is the Administrator's judgment that any such effects are less than those associated with uncontrolled sulfur dioxide releases from new recycle plants. Furthermore, if health effects later are found to be associated with purge disposal, the purge can be dried, sold, transported, or otherwise treated to eliminate or minimize the "problem" or develop the purge solids as an asset.

Technology is available to eliminate adverse environmental effects of disposing of wastes from the W–L scrubber system.

A. *Although liquid wastes are potentially harmful, they can be treated to eliminate chemical oxygen demand (COD) which is the major concern associated with their release to water sources.*[b] Petitioners state that:

> The most economical method of disposal [of W–L purge stream] would be to discharge into a waterway, but this usually would not be acceptable without involving a significant added cost (to eliminate the oxygen-demanding sulfate and protect fish life) which EPA did not consider. [Petitioners' Brief, page 19.]

EPA agrees that treatment of the purge would usually be necessary to eliminate the sulfite and convert it to non-oxygen-demanding sulfate. EPA did consider this as evidenced by the fact that EPA included the cost of treatment in cost estimates for the W–L scrubber.[3 4 5]

The treatment step involves a simple chemical engineering technique that has been in operation in Japan since August 1971. There are presently three such treatment systems in operation.[c]

Two water permits were recently granted to W–L equipped sulfuric acid plants after they agreed to install purge treatment.[d]

B. *Methods are available to substantially reduce the amount of purge from the W–L system.* At the time the NSPS for surfuric acid were proposed, the purge stream volume for existing W–L systems was an average of 10 pounds of dissolved solids per ton of acid produced. For a 1,000 ton per day (TPD) plant, an average of 5 TPD of solids would be contained in the purge stream.[e] The 17 TPD estimated by petitioners was a maximum rate and apparently included water.[f]

EPA stated at the time of proposal that: "The process designers are investigating several means of handling these wastes."[3]

One of the methods being investigated involved a simple engineering technique of cooling the purge so as to remove only the undesirable sodium sulfate while leaving the sodium sulfite in the system. This technique has been proven effective at the Chubu Power Plant in West Nagoya, Japan, and reduces the purge by a factor of 2 or 3.[5] Thus using presently proven technology, a purge containing an average of 4 pounds of solids per ton of acid or 2 TPD from a 1,000 TPD acid plant is attainable.[g]

Other methods of reducing the purge volume are being investigated including the use of oxidation inhibitors.

C. *Treated wastes can be released in brackish water or seawater without causing any adverse environmental effects.* Treated purge solids from the W–L scrubber are essentially all sodium sulfate, a natural ingredient of seawater. Thus disposal of the treated purge would have little or no adverse environmental effect for those plants that discharge into seawater or which can barge or otherwise economically transport the purge to salt water. Ocean dumping permits will be considered for dumping non-toxic substances such as sodium sulfate (40 CFR section 227.51). This is particularly important since spent acid plants are usually connected with petroleum refineries and the majority are located on or near brackish water or seawater.

D. *Treated wastes can be released in fresh water courses with minimal environmental effects.* For the minority of plants that would find it difficult to discharge into salt water, the amount of sodium sulfate discharged would in most cases be insignificant. In one respect comparing the air pollution control problem to the water pollution problem created by an air pollution control device has little meaning because releases of SO_2 into air will eventually become a water pollution problem. At a recent hearing, a witness for the Edison Electric Institute stated that:

> [a] fair amount of the material [sulfur dioxide] is undoubtedly removed by vegetation and land surfaces * * * but I think that the vast bulk of it [sulfur dioxide] probably becomes very tiny particles.[10]

Thus most of the SO_2 becomes particulate or sulfuric acid which will eventually set to earth and be washed into streams and oceans.

The purge stream is of appreciably lesser magnitude than principal existing sources of sodium sulfate. There are numerous sources of this material, many being water treatment processes or neutralization of waste sulfuric acid which discharge into water courses. For illustration, present sodium sulfate emissions from kraft paper pulp mills, household detergents, and from recycle acid plants without scrubbers are compared to potential emissions from W–L scrubbers.

It is projected that no more than one recycle acid plant will be built annually in the near future. The growth rate in capacity from new recycle plants is about 150,000 tons per year,[h] hence there may be as much as 1,500,000 tons per year of plant capacity subject to new source standards by 1981. Of the total, 900,000 tons per year of recycle capacity would be installed after 1975. Based on this growth rate, the total purge stream solids from W–L scrubbers installed to meet new source performance standards might be as much as 1800 TPY (tons per year) by 1981. The estimate is based on worst case assumptions that: (1) the purge solids will not be reduced below levels presently attainable (i.e., 4 pounds per ton of acid); (2) that no one recovers sodium sulfate for sale; and (3) that all new recycle acid plants installed after 1975 are equipped with W–L scrubbers. No reduction is made for those new plants that will have to install scrubbers for reasons other than new source performance standards. Since no W–L scrubbers are installed or planned at new acid plants, this is probably a gross overestimate.

The kraft pulping industry consumes over 1,000,000 TPY of sodium sulfate.[11, 12] This material is make-up for sodium sulfate lost primarily to the air and water. The air emissions will eventually settle to earth and most of it will eventually be washed into streams or oceans. This source of sodium sulfate at current rates is over 500 times as large as the maximum estimated emissions attainable from recycle plans in 1981.

About 2,600,000 TPY of sodium sulfate is used as a "filler" or "builder" in commercial and household detergents.[13, 14] The material is discharged to the sewer and eventually to some body of water. Most water treatment systems do not remove sodium sulfate. This source of so-

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[b] Untreated purge streams contain large amounts of sodium sulfite and thiosulfate. These compounds use oxygen from the water course when they are released untreated. (This is termed Chemical Oxygen Demand or COD.) It is these oxygen-demanding compounds that cause the pollution problem and which apparently were the reason for the denial of the permit in Illinois referred to by DuPont. [Comments of E. I. DuPont de Nemours and Company in No. 72–1072, J. A. at 260.] The treated purge contains only sodium sulfate (Na_2SO_4) which has no COD.

[c] At Olin Corporaton Curtis Bay, Maryland, the Chiba plant of Japan Synthetic Rubber (since 1971) in Chiba, Japan, and the Chubu Power Plant in West Nagoya, Japan.

[d] The two plants are the Paulsboro, N.J., and the Curtis Bay, Maryland, plants of Olin Corporation. The first will discharge into fresh water and the second into brackish water. Delaware River Basin Commission Docket No. A–71–17 and State of Maryland National Pollutant Discharge Elimination System Permit No. 74–DIP–039.

[e] The estimate is based on a 10 percent loss of collected SO_2 in the purge stream and 21.5 to 85 pounds SO_2 per ton of acid from uncontrolled single absorption plants [Background Document, p. 44]. The number given is an average with a 1,000 TPD sulfuric acid plant producing from 1.9 to 9.0 TPD of solids in the purge stream.

[f] Each molecule of sodium sulfate solid will attract 10 molecules of water (written $(Na_2SO_4 \cdot 10H_2O)$. When the solid is heated to greater than 212°F, the water comes off. In solution the solids are in ionic form and cannot really be said to hold the water. Thus the basis chosen for solid weight is somewhat arbitrary.

[g] The range is from 0.7 to 4.5 TPD of solids in the purge stream.

[h] Based on two new 1,000 TPD sulfuric acid plants per year [Background Document] and Petitioners' estimate that 20 percent of acid plants will be recycle acid plants.

dium sulfate at current rates is over 1,400 times as large as the maximum estimated 1981 sodium sulfate emissions from recycle acid plants.

Due to the large amount of water and water-producing impurities (i.e., hydrocarbons) in spent acid plant feed, there is a significant amount of contaminated, low-strength acid produced. In some cases, this low-strength acid can be blended into a product but what cannot be used is neutralized, usually with sodium carbonate or sodium hydroxide to form sodium sulfate. Currently, spent acid plants release from the neutralization process up to 310 pounds of solids per ton of sulfuric acid.[1] This is 75 times the amount attainable from W–L scrubbers.

E. *The purge stream can be eliminated if necessary with no solid waste material produced.* For those plants that cannot or choose not to discharge the purge, there are, as petitioner correctly states (Petitioner's Reply Brief, p. 13), methods for obtaining a dry material from the purge. This material can be recycled by technology used in the kraft pulping industry for years. Although it is presently more economical to do this on a larger scale, as at a kraft pulp mill, rather than at each acid plant, advances in technology generated by requirements to control major sulfur dioxide sources could reduce treatment cost at sulfuric acid plants.

The market for sodium sulfate is considerable. The consumption for 1971 was 1,590,000 tons with the kraft paper pulp industry consuming over 1,000,000 tons. About half of current sales is presently produced as a by-product from production of rayon, cellophane, hydrochloric acid, dichromate, phenol, and other chemicals. There is, however, a large amount of natural product mined, primarily in California, Utah, and Texas. The material is often shipped long distances. An additional 286,000 TPY is imported. Imports alone equal over 160 times the production capacity attainable from spent acid plants in 1981 even if all future spent acid plants used the W–L system and recovered sodium sulfate.[16]

The ability to market sodium sulfate is shown by the plans for a W–L system under construction at the D. H. Mitchell Station of Northern Indiana Public Service in Gary, Indiana. EPA partially funded the project and Allied Chemical (one of the petitioners) has guaranteed that there will be no sodium sulfate released to water courses. Allied will probably sell the sulfate. The volume of purge solids from their plant will be an order of magnitude greater than from any recycle acid plant.

Five of the petitioners (Allied Chemical Corporation, American Cyanamid Company, E. I. DuPont de Nemours & Company, Monsanto Company, and Stauffer Chemical Company) presently produce sodium sulfate for sale.[17] The material is priced f.o.b. the production site at $18.00 per ton.[17] Thus, the "substantial costs" for drying could be largely offset by the revenues produced. For those plants that require drying of the salts, the purge need not make "a large quantity of solid waste material * * *" but rather can produce a saleable product. If costs for disposal become too high and it cannot be discharged or sold, the purge can be transported to salt water for disposal.

F. *The Environmental Protection Agency's action regarding the new source performance standard for SO_2 from recycle sulfuric acid plants is in agreement with the Environmental Protection Agency's concern for water pollution prevention.* For the principal consideration of oxygen demand, there is adequate technology available to meet all applicable limitations. For the lesser consideration of total dissolved solids, there are no numerical criteria and even if there were, whether a discharge from a sulfuric acid plant would meet them, would depend on the concentration of dissolved solids otherwise present in the stream. The latter depends on dissolved solids released by other plants in the area and characteristics of the receiving water as well as the level of solids present in the purge stream.

Summary. It is unlikely that there will be any purge stream to dispose of from new recycle acid plants as it is unlikely that such plants will use the Wellman-Lord scrubber to meet the standards. However, even if all new recycle acid plants were to use Wellman-Lord scrubbers, EPA does not believe that the adverse environmental effects of disposing of the purge from Wellman-Lord scrubbers are so great that the SO_2 standard for new sulfuric acid plants (40 CFR 60.82) should be revised.

REASONABLENESS OF OPACITY STANDARD

On June 29, 1973, the U.S. Court of Appeals for the District of Columbia remanded to EPA the new source performance standards for Portland Cement Plants (40 CFR 60.62) promulgated by EPA under section 111 of the Clean Air Act (42 U.S.C. 1857c–6) (*Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375). One of the issues remanded in that case was the appropriateness of opacity standards. In the *Essex Chemical* case the court noted the similarity of the opacity challenges and remanded the record for additional consideration regarding the reasonableness of opacity standards.

Since the record was remanded in *Portland Cement* for a similar reconsideration of the opacity standard, and since the challenges basically are directed at the test itself rather than particular standards set thereunder, we do not believe that the reconsideration will require much more effort on the part of the EPA than is already required by *Portland Cement*. (Cts footnote 11)

On November 12, 1974, EPA responded to the remand (39 FR 39872). Copies of the remand response are available from the Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

In the Portland Cement (PCA) response, EPA reconsidered the use of opacity standards and concluded that they are a reliable, inexpensive, and useful means of ensuring that control equipment is properly maintained and operated at times when performance tests are not being conducted. EPA also made certain changes to the general provisions and test method for opacity to minimize the possibility that a plant which meets the mass emission or concentration standard applicable to the source and is properly maintained and operated would be in violation of the applicable opacity standard. The changes are applicable to new contact sulfuric acid plants and all other sources for which opacity standards have been promulgated or proposed under section 111. The court which remanded the sulfuric acid plant opacity standard to EPA has sustained EPA's position that opacity standards are a reasonably accurate means of measuring and controlling pollution. *Portland Cement Association* v. *Train*, No. 72–1073 decided May 22, 1975. The latter decision disposes of the issue of the validity of opacity as a test method. This response considers related aspects of opacity not covered in the PCA response which are specific to sulfuric acid plants.

The principal revisions to the regulations (40 CFR Part 60, Standards of Performance for New Stationary Sources) which apply to all opacity standards herein are: (a) revisions were made to Method 9 (the opacity test method) to base compliance on the averaged results of one or more sets of 24 consecutive observations; (b) Method 9 now defines the possible error associated with a set of opacity observations; and (c) section 60.11(e) was added to provide a generally applicable mechanism for any owner/operator to petition the Administrator to obtain a higher opacity standard for any facility that demonstrates compliance with the mass emission standard concurrent with failure to attain the promulgated opacity standard.

The revision to Method 9 to clarify the time over which opacity observations are made (six minutes) was included to require sufficient observations to ensure acceptable accuracy within the 7.5 percent opacity error range referenced in Method 9. The use of sets (the average of 24 observations, each taken at 15 second intervals) of opacity data will preclude a single high reading from being cited as a violation. Section 60.11(e) provides accommodation for those source owners and operators who install unusually large diameter stacks or whose source particulate emissions have unusually small mean particle diameters which could cause the opacity of the emissions to be greater

[1] According to discharge permit N.J.–2SD–OXY–2–000755, Allied Chemical Corporation at its Elizabeth Works releases up to 133,380 pounds of sulfates and sodium compounds per day at its 425 TPD sulfuric acid plant. This same plant also manufactures 108 TPD of chlorofluorocharbons and 5 TPD of polymers. Total solids discharged from this plant are up to 181,210 pounds per day.

than is typical for most other plants in the source category. This provision allows the promulgated opacity standards to be based on typical parameters for well-controlled new installations rather than on the most extreme set of conditions. This provision alone ensures that no owner of an affected facility would be deemed in violation if the facility were not able to meet the current promulgated opacity standard while meeting the mass emission standard. However, EPA additionally has reevaluated the promulgated standard applicable to sulfuric acid plants to determine whether the general standard can be met by most new plants.

The standards for contact sulfuric acid plants limit opacity to less than 10 percent and mass emissions of acid mist to 0.15 pound per ton of acid produced.

Visible emissions from sulfuric acid plants are caused by sulfuric acid mist and its precursor sulfur trioxide and are essentially independent of sulfur dioxide concentrations. Thus, in order to be in compliance with acid mist mass emission and opacity limits, it is necessary to maximize absorption of sulfur trioxide in the manufacturing system and to apply high-efficiency acid mist collection equipment to tail gases. Acid mist and sulfur trioxide which are removed from exhaust gases become part of the acid product and do not generate any waste products. As emitted from the manufacturing process, acid mist is present in extremely small particles which are effective in scattering light and obscuring vision through the plume. Additionally, SO_3 that escapes collection readily unites with moisture in the atmosphere to create finely divided acid mist. Hence, the absence of visible emissions indicates a high degree of SO_3 absorption and mist collection and, conversely, the presence of significant visible emissions indicates less than optimum performance of mist collectors and/or the SO_3 absorber.

A. *Condensed water will only rarely be encountered.* The question of visible water droplets in the exhaust gases is relevant only to those sulfuric acid processes for which wet scrubbers are utilized to remove sulfur dioxide from tail gases. For dual absorption acid plants and plants which utilize molecular sieves for SO_2 control, there is very little water vapor present in the exhaust gases. In fact, the absorption columns used with contact plants remove almost all of the water vapor causing exhaust gases to be appreciably drier than the ambient air. It appears that most new acid plants will employ the dual absorption process rather than scrubbers.

Since the standards were proposed, no new acid plants have been equipped with wet scrubbing systems. The sodium sulfite wet scrubbing process which was a principal basis for establishing the standard in 1971 is not planned for installation at any new plants. A representative of the only U.S. vendor of the Wellman-Lord sulfite process stated that acid manufacturers are exhibiting no interest in sulfite scrubbers (see reference 1 on page 28).

The discussion of wet plumes presented in the reply to the *Portland Cement Association* remand (pp. 102–106) is applicable to sulfuric acid plants utilizing wet scrubbers. During the development of the sulfuric acid standard, only one scrubber installation was identified as capable of meeting the subsequently established limits; this being the sodium sulfite system operated by the Olin Corporation at its Paulsboro, New Jersey, facility. Observations of the unit in warm weather showed no visible pollutants or water vapor.[18] During colder periods, condensed water vapor was detected but no visible acid mist was observed. This was the case at the time that acid mist and sulfur dioxide emissions were measured in 1971.[19] As with any wet scrubber, cold or moist atmospheric conditions will cause condensation of moisture. Under extreme conditions, condensed moisture may persist for a long distance preventing trained observers from evaluating opacity of acid mist. However, the observer will be required to follow the procedure of Method 9 in evaluating visible emissions either before the moisture condensed or after it has evaporated, usually a distance from the stack outlet. As explained in the *Portland Cement Association* response (pp. 102–106), there is no chance that the trained observer will mistake condensed water droplets for acid mist and erroneously record excessive opacities when they are not caused by acid mist. In fact, the reverse is true since the observer usually cannot read the visible acid mist emissions at the point of maximum opacity when condensed water vapor is present. Acid mist causes visible emissions to persist for long distances, even when the air is dry (low relative humidity) and not conducive to the condensation of water vapor.

B. *Trained observers will not confuse condensed water with acid mist.* Sulfuric acid mist is a liquid which is released in finely divided form from sulfuric acid manufacturing operations. Acid mist is an entirely different chemical compound from water with sharply different chemical and physical characteristics. Its behavior in the atmosphere is not similar to condensed water and a trained observer can readily distinguish one from the other.

Acid mist is concentrated sulfuric acid. Unlike water droplets, acid mist will not evaporate in the atmosphere. Instead, it will remain in liquid droplet form. After release to the atmosphere, the droplets slowly grow in size as they absorb water vapor and also agglomerate into larger particles because of collisions. Exhaust gases from acid plants contain almost no measurable moisture because sulfuric acid is a strong dehydrating agent causing moisture to be absorbed in the system.

Because of its strong tendency to remain in the liquid state, any acid mist released in the atmosphere does not evaporate or disappear within a short distance of the stack exit. When visible acid mist is observed at the stack, it persists for long distances until it finally disappears only because of dilution with ambient air.

In contrast, water droplets—present only if a scrubber is used—will readily evaporate under most atmospheric conditions. Only when the ambient air is relatively saturated with moisture, i.e., about 80 percent or greater relative humidity, will water plumes fail to evaporate quickly and become invisible.[1]

C. *The opacity standard is achievable.* The principal devices used in the industry to prevent acid mist emissions are fiber type vertical panel or horizontal pad impactor mist collectors and vertical tubular mist eliminators. The latter usually provide a greater degree of mist removal; however for some installations pad-type collectors may be almost as effective. Electrostatic precipitators also have been utilized for mist collection but few have been installed in recent years.

Observations of actual installations show that many operating acid plants are equipped with high efficiency mist eliminators, and that in several instances no visible emissions can be observed from the units. As shown in Table 1, no visible emissions were observed from six contact sulfuric acid plants, five of which were tested and found to be in compliance with the mass emission limit of 0.15 pound per ton of acid produced. The sixth plant—DuPont's Deepwater (New Jersey) facility—was not tested for mass emissions. The latter is significant since it is equipped with a relatively low efficiency collector—a packed tower—and still had no visible emissions during the inspection period.

Two additional acid plants were tested by EPA to determine mist emissions from the generally less effective pad-type collectors. As shown in Table 2, one of these installations was found to be in compliance with the standard while the other had emissions slightly greater, averaging 0.21 pound per ton. In both cases, opacities ranged from zero to 10 percent at the stack, however, the

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[1] The vapor pressure of a liquid is a measure of its tendency to evaporate. There is a great difference in vapor pressure between water and concentrated sulfuric acid at any given temperature as illustrated by the following table.

Temperature, °F	Vapor pressure of water, mmHg [a]	Vapor pressure of concentrated (95 percent) sulfuric acid, mmHg [a]
32	4.6	--------
68	17.5	--------
104	55.3	.0024
140	149	.0133
176	355	.0606
212	[b] 760	.237
392	-----	36.7
554	-----	[b] 760

[a] Perry, J. H., et al., Chemical Engineers Handbook, 3d edition, McGraw-Hill, New York, 1950.
[b] Boiling point.

NOTE.—At temperatures experienced in exhaust gases from acid plants, i.e., up to 175° F, the vapor pressure of acid mist is less than 1/1000 that of water. Therefore, it does not evaporate as water mist does.

readings were not made in accordance with Method 9 since the observer viewed the plumes at an oblique angle such that the observer's line of sight through the plume was appreciably greater than the cross-section of the plume. Even in these cases, opacities did not exceed 10 percent and no visible emissions were detected much of the time. At one of the plants, emissions were viewed during part of the test from a point perpendicular to the plume, i.e., in conformance with Method 9 and no visible emissions were observed. These observations show that when Method 9 procedures were not followed, opacities were slightly greater than allowed by the standard, i.e., 10 percent versus the requirement of less than 10 percent opacity. It is emphasized that in one of these instances, mass emissions were 30 percent greater than allowed by the standard.[20,21]

Since opacity is a function of plume thickness, the diameter of the stacks which were observed in developing the standard was considered as well as the possibility that larger stacks might be encountered in actual practice. Revised section 60.11(e) provides a mechanism by which the owner/operator can petition the Administrator to obtain a less stringent visible emission standard for any facility that demonstrates compliance with the mass emission standard but fails to obtain the promulgated opacity standard. Thus, even if an owner/operator were to utilize an excessively large stack, accommodation could be made for resultant higher opacities.

Data submitted by an acid manufacturer (Table 3) identify two additional acid plants that were found to meet the existing opacity standard and a third plant that exceeded both mass and opacity limits. Significantly one of the plants (B) was found to emit an average of only one percent opacity while acid mist emissions were twice the level of the mass standard. For the plant (A) with the greatest mist emissions—100 to 300 percent above the mass emissions standard—opacities averaged only 22.3 percent and ranged from 17.5 to 26.1 percent. The third plant (C) easily met both mass and opacity limits. It is noteworthy that the industry observer at Plant A had not attended smoke observer school and commented in his notes that he may have read the opacities somewhat high. Observers at Plants B and C were industry personnel who had attended smoke training school.[22]

The latter data also demonstrate that opacity levels of a plant properly operated and maintained do not vary greatly. As noted in Table 3, the largest variation was 17.5 to 26.1 percent for a plant where mass emissions varied to a much greater degree (0.27 to 0.59 pound per ton) and did not meet the standard.

Opacity of acid mist emissions is governed by particle size and shape as well as mass concentration. Since they are in the liquid state, mist particles are spherical and therefore uniform. Little data are available as to the size of particles exiting from high efficiency mist collectors. If there are large variations in size, some combination of processes and control devices would be expected to produce greater or lesser opacity than a "normal installation". While the possibility of abnormally high opacity is acknowledged, only two such instances have been cited by the petitioners. In this case, single absorption plants were reported to have exceeded the opacity standard when inorganic sulfides and high nitrogen bearing wastes were added to the feedstream.[23] This information is deemed insufficient to require revision of the opacity standard since:

(a) the single absorption plants are not representative of double absorption plants which will be utilized in most instances to achieve the standards,

(b) these types of materials will not be present in the feedstocks of most plants, and

(c) the cited situations are clearly within the intent of section 60.11(e).

Observations of well-controlled plants (Table 1) processing a variety of feedstocks, some producing oleum, indicate that opacity is less than 10 percent when mist emissions are in compliance with the mass standard.

Summary. There is ample evidence that the opacity standard is both reasonable and achievable. The same abatement devices needed to meet mass standards for acid mist will also allow achievement of the opacity standard for acid mist.

Dated: August 21, 1975.

RUSSELL E. TRAIN,
Administrator.

TABLE 1.—*Opacity of acid mist emissions from sulfuric acid plants equipped with mist collectors* [18-21 24-26]

Plant	Produce oleum	Stack diameter	Collector type	Acid mist emissions (pounds per ton)	Average opacity (percent)
American Cyanamid, Linden, N.J.	Yes	3 ft 6 in	Vertical tube and pad	0.02-0.08	0
Olin Chemical Co., Paulsboro, N.J.	Yes	4 ft 0 in	Vertical tube	.04-0.15	0
Allied Chemical Co., Elizabeth, N.J.	Yes	2 ft 11¼ in	do	.08-0.09	0
Anlin Co., Hartford, Ill	No	2 ft 11¼ in	Vertical tube or pad	.11-0.18	0
Texasgulf Inc., Aurora, N.C.	No	5 ft 5 in	Vertical tube and pad	.04-0.06	0
Du Pont de Nemours, Deepwater, N.J.	(1)		Packed tower		0
Essex Chemical Co., Newark, N.J.	Yes		Vertical tube		[2] >10
NL Industries, St. Louis, Mo.	No	5 ft	Vertical pad	.04-0.10	[3] 4.8
Farmland Industries, Bartow, Fla.	No	7 ft 5½ in	Horizontal dual pad	[4] .14-0.28	[3] 3.6

[1] Did not produce oleum during period of observation.
[2] Inspection report indicated probable leak causing some gases to bypass collector.
[3] Opacities greater than 0 recorded only when viewing plume from oblique angle, not in accordance with method 9.
[4] Mist emissions in excess of new source standard.

TABLE 2.—*Opacities up to 10 percent recorded at 2 sulfuric acid plants equipped with pad-type mist collectors* [20 21]

Plants	Acid mist (pounds per ton)[1]	Duration of tests (hours)	Total period of opacity observation (hours)	Opacities recorded [2]
NL Industries, St. Louis, Mo.	0.040-0.096	10 hrs 38 mins	1 hr 32 mins	0 for 1 hr 8¼ mins 5 percent for 6 mins 10 percent for 18 mins.
Farmland Industries, Bartow, Fla.	.14-0.28	11 hrs 40 mins	1 hr 35¼ mins	0 for 36 mins 5 percent for 43¼ mins 10 percent for 15½ mins.

[1] EPA method 8, 40 CFR 60.85.
[2] Opacities of 5 percent or greater recorded when plume viewed obliquely from a point close to the base of stack. Procedure not in accordance with method 9.

TABLE 3.—*Acid mist measurements and opacity evaluations for 3 sulfuric acid plants* [22]

Plant	Acid mist (pounds H_2SO_4 per ton)		Opacity (percent)	
	Average	Range	Average	Range
A	0.43	0.27-0.59	22.3	17.5-26.1
B	.31	.21-.46	1.0	0-3.7
C	.06	.06-.07	4.2	0-5.0

REFERENCES

[1] Letter from Mr. C. B. Earl, Davy Powergas Inc., to Mr. Robert T. Walsh, EPA, dated March 18, 1975.

[2] Collins, J. J., Fornoff, L. L., Manchada, K. D., Miller, W. D., and Lovell, D. C., The Purasiv Process for Removing SO_2 from Sulfuric Acid Plant Tailgas, Annual Meeting AIChE, November 15, 1973, Philadelphia, Pennsylvania.

[3] Report on DuPont SO_2 Abatement, Brochure A-84718, DuPont Company, Wilmington, Delaware 19898.

[4] Commission on Natural Resources, National Academy of Sciences, National Academy of Engineering, National Research Council, *Air Quality and Stationary Source Emission Control*, Prepared for the Committee on Public Works, United States Senate (March 1, 1975).

[5] Memorandum from Mr. D. F. Carey to Mr. J. C. Berry, dated March 9, 1972.

[6] Supplemental Statement of EPA, 36 FR 5967, March 21, 1972.

[7] Letter from Mr. John T. Middleton, EPA, to Mr. William A. Bours, E. I. DuPont de Nemours & Company, dated December 29, 1971.

[8] Background Information for Proposed New Source Performance Standards, Office of Air Programs Technical Report No. APTD-0711, page 47.

[9] McCarthy, J. A., Trip Report—Inspection of Wellman-Lord Systems on Power Plants in Japan, EPA Internal Document, March 1, 1974.

[10] Testimony of Maynard E. Smith at the National Public Hearing on Power Plant Compliance with Sulfur Oxide Air Pollution Regulations, EPA, 1973, pages 982–983.

[11] Jacobs Engineering Company, Sodium Sulfate Market Survey, EPA Contract No. 3–02–01020, October 31, 1972.

[12] Faith, W. L., et al., Industrial Chemicals, John Wiley & Sons, 1966, pages 712–717.

[13] Shreve, R. N., Chemical Process Industries, 3rd Edition, McGraw-Hill, 1961, page 547.

[14] Soap and Detergent Industry, Contract No. CPA 70–142, Task Order No. 8, Prepared for EPA by Environmental Engineering, Inc., and PEDCo Environmental Specialists, Inc., July 15, 1971.

[15] Jacobs Engineering Company, op. cit., Table H.

[16] Faith, W. L., et al., op. cit., pages 716–717.

[17] Jacobs Engineering Company, op. cit., Section 1.0.

[18] Carey, Donald F., Trip Report—Acid Mist Emissions from H_2SO_4 Plants and Attendant Visibility, August 13, 1971.

[19] Carey, Donald F., Summary Report—Acid Mist Observations, September 5, 1972.

[20] Emission Test Report, Environmental Protection Agency, ETB Test No. 73–SFA–2, NL Industries, St. Louis, Missouri, November 29–December 1, 1972.

[21] Emission Testing Report, Environmental Protection Agency, ETB Test No. 73–SFA–1, Farmland Industries, Inc., Bartow, Florida, November 14–16, 1972.

[22] Exhibits 18, 18–1, 18–2, and 18–3 from A Special Report for the U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards on EPA "Guidelines for State Emission Standards for Sulfuric Acid Plant Mist", June 1974, E. I. DuPont de Nemours & Company, Inc., Industrial Chemicals Department, October 4, 1974.

[23] Letter from Mr. Charles C. Quarles, E. I. DuPont de Nemours & Company, to Mr. Don R. Goodwin, EPA, dated June 11, 1975.

[24] Emission Testing Report, Environmental Protection Agency, ETB Test No. 71–PC–01, American Cyanamid Company, Linden, New Jersey, February 15–19, 1971.

[25] Emission Testing Report, Environmental Protection Agency, ETB Test No. 71–PC–03, Olin Chemical Company, Paulsboro, New Jersey, March 20–25, 1971.

[26] Emission Testing Report, Environmental Protection Agency, ETB Test No. 71–PC–15, Allied Chemical Company, Elizabeth, New Jersey, August 31–September 3, 1971.

[27] Emission Testing Report, The Anlin Company of Illinois, Hartford, Illinois, July 29–30, 1974.

[28] Emission Testing Report, Texasgulf, Inc., Aurora, North Carolina, February 16–20, 1974.

[FR Doc.75–22928 Filed 8–28–75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

REFINERS BUY-SELL LIST

Crude Oil Allocation Notice

In accordance with the provisions of 10 CFR 211.65, the notice specified in § 211.65(e) is hereby published. Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), provides that the regulation promulgated and made effective under subsection (a) of section 4 shall remain in effect until midnight August 31, 1975. Consequently, this notice, which lists the sales obligations and purchase opportunities for refiners for the allocation quarter commencing September 1, 1975, shall only become effective if the current expiration date of the EPAA is extended.

The buy-sell list is set forth as an appendix to the notice, and the calculation of refiner-sellers' obligations shown therein reflects amendments to 10 CFR 211.65 issued concurrently herewith. Included as part of the list, as required by § 211.65(e), as amended, are: The quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity of crude oil that each refiner-seller is obligated to offer for sale to refiner-buyers, with a specification as to the portions thereof that constitute the primary and secondary sales obligations for each refiner-seller, in accordance with 10 CFR 211.65(d).

The buy-sell list is applicable for the period September 1, 1975 to November 30, 1975. The provisions of 10 CFR 211, Subpart C, apply to all transactions made under the buy-sell list.

The buy-sell list covers PAD districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to § 211.65(d), each refiner-seller shall offer for sale, directly or through exchange, to refiner-buyers during an allocation quarter a quantity of crude oil equal to that refiner-seller's primary sales obligation plus any portion of that refiner-seller's secondary sales obligation as to which the FEA directs a sale pursuant to 10 CFR 211.65(h). No refiner-seller shall be required to offer for sale to refiner-buyers, whether by directed sale or otherwise, any portion of its secondary sales obligation until each other refiner-seller (except refiner-sellers with minimal primary sales obligations) has sold at least 80% of its primary sales obligation.

The procedures of 10 CFR 211, Subpart C, applicable to transactions under the buy-sell list provide that if a sale is not agreed upon within 15 days of the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request FEA to direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such a request must be made within 30 days of the publication of this notice. For purposes of these requirements, this notice shall not be deemed to be published until such date upon which an extension of the EPAA is effective. Upon such request, FEA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation quarter, providing that the refiner-seller or refiner-sellers in question have fully complied with the provisions of 10 CFR 211, Subpart C. Refiner-buyers making such requests must provide the FEA with the following information:

1. Name of the refiner-buyer and of the person authorized to act for the refiner-buyer and buy-sell list transactions.

2. Names and locations of the refineries for which crude oil is sought, the amount of crude oil sought for each refinery, and the technical specification range of crude oil which can be processed in each refinery.

3. Statement of any restrictions, limitations or constraints on the refiner-buyer's purchases of crude oil, with particular respect to manner or time of deliveries and price.

4. Names and locations of all refiner-sellers from which crude oil has been sought under the buy-sell list and the volume and specification of the crude oil sought from each.

5. The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

6. Such other pertinent information as FEA may request.

Each refiner-buyer and refiner-seller will report the details of each transaction under the buy-sell list to FEA on Form 903 (1–74) within 15 days of the completion of arrangements for the transaction. Each refiner-buyer and refiner-seller is requested to report as promptly as practicable every such transaction to which it is a party.

Refiner-buyers wishing to receive an allocation in the allocation quarter commencing December 1, 1975, with respect to future refining capacity (as defined in 10 CFR 211.62) that is not presently taken into account in determining their respective purchase opportunities, must apply to the FEA for certification of that capacity and provide all necessary information required to enable FEA to evaluate the factors set forth in 10 CFR

211.65(b)(1) no later than September 30, 1975.

All reports and applications made under this notice should be addressed to:

Director, Crude Operations, Crude Oil Buy-Sell Program, 20th Street Postal Station, P.O. Box 19326, Washington, D.C. 20036.

Issued in Washington, D.C., August 26, 1975.

DAVID G. WILSON,
Acting General Counsel.

APPENDIX

The list of refiner-sellers and refiner-buyers for the period September 1, 1975, through November 30, 1975 is as follows. The list sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, and the volumes of crude oil (reflecting all adjustments required under § 211.65) that each such refiner-seller is obligated to offer for sale (with a specification as to primary and secondary sales obligations) or that each such refiner-buyer is eligible to purchase, as the case may be.

FEDERAL ENERGY ADMINISTRATION CRUDE OIL ALLOCATION PROGRAM FOR THE PERIOD SEPTEMBER 1975 THROUGH NOVEMBER 1975

	Sales		
		Barrels	
	Share	Primary obligation	Secondary obligation
Amoco Oil Co	0.099	1,585,802	3,873,638
Atlantic Richfield	.072	740,875	2,844,594
Cities Service Oil	.023	1,113,117	900,680
Continental Oil Co	.034	0	0
Exxon Corp	.112	8,052,889	4,381,564
Getty/Skelly	.020	187,132	784,583
Gulf Oil Corp	.086	9,354,834	3,369,560
Marathon Oil Co	.022	754,146	845,247
Mobil Oil Corp	.089	4,583,606	3,479,462
Phillips Petroleum	.039	109,595	1,530,137
Shell Oil Co	.107	9,096,024	4,201,890
Socal/Chevron	.096	4,111,257	3,756,159
Sun Oil Co	.052	3,564,264	2,052,433
Texaco Inc	.107	11,192,860	4,205,305
Union Oil Co. of Calif	.043	2,596,532	1,690,454
Total		57,042,933	37,924,706
Total allocation obligation			94,967,639

PURCHASES

	Barrels
Allied Materials Co	123,502
Amerada Hess Corp	10,085,883
American Petrofina	1,012,167
Apco Oil Corp	854,813
Arizona Fuels Corp	0
Asamera Oil, Inc	9,138
Ashland Oil Inc	6,123,524
Axel Johnson	130,486
Bay/Dow	136,950
Bayou State Oil Corp	0
Beacon Oil Company	214,725
C & H Refining	26,827
Calumet Industries	0
Canal Refining Co	0
Caribou Four Corners	0
Champlin Petroleum	825,596
Charter Oil Company	767,217
Claiborne Gas Co	0
Clark Oil & Refining	2,591,368
Coastal States Gas	6,015,750
Commonwealth Oil Ref	3,024,775
CRA-Farmland Ind. Inc	2,087,111
Cross Oil & Ref-Ark	95,091
Crown Central Petro	2,073,190
Crystal Oil Refining	0
Crystal Refining Co	135,500
Delta Refining Co	1,561,844
Diamond Shamrock Corp	209,832

PURCHASES

	Barrels
Dingman Oil & Ref. Co	55,159
Dorchester Gas	0
Eddy Refining Co	0
Edgington Oil Co	0
Edgington Oxnard Ref	0
Evangeline Refining	0
Famariss Oil Corp	2,053,634
Farmers Union Exchge	1,239,969
Fletcher Oil and Ref	192,658
Flint Chemical Corp	0
Gary Operating Co	248,000
Giant Industries	203,515
Gladieux Refinery	223,248
Golden Eagle Ref. Co	467,250
Good Hope Refineries	160,150
Guam Oil & Refining	7,375
Gulf States	0
HIRI	765,380
Howell Corporation	931,701
Hunt Oil Company	492,066
Husky Oil Company	1,630,370
Indiana Farm Bureau	306,043
J & W Refining Inc	568,156
John Wight, Inc	12,903
Kentucky Oil Ref. Co	0
Kerr McGee Corp	4,170,920
Koch Refining Co	1,143,529
La Gloria Oil-Gas Co	452,126
La. Land & Exploration Co	358,270
Lakeside Refining Co	15,032
Laketon Asphalt Ref	9,114
Little America Ref	723,074
MacMillan RF Oil Co	330,270
Marion Corporation	79,682
Mid America Refining	10,000
Mid-Tex Refinery	238,847
Midland Coop. Inc	765,392
Mohawk Petroleum Co	242,111
Monsanto Company	337,250
Morrison Petroleum	0
Mountaineer Refinery	15,096
Murphy Oil Corp	2,821,654
National Coop. Ref	1,408,398
National Oil Recovery	159,231
Navajo Refining Co	210,613
Newhall Refining Co	377,486
North American Petroleum	330,635
Northland Oil & Ref	398,078
Oil Shale Corp	2,224,916
OKC Corporation	0
Pasco Incorporated	740,250
Pennzoil Company	343,380
Pioneer Refining	33,925
Placid Refining	0
Plateau Incorporated	104,978
Powerine Oil Company	1,699,718
Pride Refining Inc	1,130,238
Quaker State Oil Refining Co	0
Road Oil Sales, Inc	5,750
Rock Island Refining	0
Saber Refining Co	217,329
Sage Creek Refining Co	67,250
San Joaquin Refining	0
Seminole Asphalt Ref	187,500
Sigmor Corporation	20,827
Somerset Refinery	0
Sound Refining Inc	110,625
South Hampton	1,257,415
Southland Oil Co	124,618
Southwestern Refining Co	0
Standard Oil of Ohio	13,955,472
Sunland Refining Co	263,724
Tenneco Oil Co	1,208,750
Tesoro Petroleum Co	686,571
Texas Asphalt & Refining	322,500
Texas City Refining	3,521,750
Thagard Oil	9,680
The Refinery Corporation	327,438
Thriftway Oil Co	77,983
Thunderbird Resources	20,741
Tonkawa Refining Co	49,822
Total Leonard Inc	317,019
Union Texas Petroleum	0
United Independent Oil Co	0
United Refining Co	701,047
U.S. Oil & Refining Co	380,119
V-1 Oil Company	2,786
Vickers Petroleum Co	878,825
Vulcan Asphalt Ref	97,989
Warrior Asphalt Corp	73,035
West Coast Oil Co	0
Western Refining Co	672,387
Wickett Refining	0
Winston Refining Co	82,991
Wireback Oil Co	8,095
Witco Chemical Corp	522,375
Yetter Oil Co	1,000
Young Refining Corp	257,147
Total	94,967,639

[FR Doc.75-23012 Filed 8-26-75;1:20 pm]

ALLOCATION OF FEEDSTOCK TO SYNTHETIC NATURAL GAS FACILITY

Petition for Assignment of Base Period Volume and Supplier

On July 31, 1974, the Federal Energy Administration issued a Statement of Policy and Special Rule governing the allocation of petroleum feedstocks to synthetic natural gas (SNG) plants (39 FR 27910 August 2, 1974). The special rule sets forth the criteria which are to be considered by the FEA in granting or denying the petition of an SNG manufacturer for assignment or adjustments of its base period volume under § 211.29 of FEA's Mandatory Petroleum Allocation Regulations. In the introduction to its statement of policy, the FEA indicated that such petitions would generally be considered on a case-by-case basis. The case-by-case approach was adopted to develop fully the information necessary to ascertain the effects on competing energy users of an allocation decision respecting a given SNG facility.

The Statement of Policy further provided that "in specific cases, opportunity will be afforded interested parties to challenge or support the implementation of this policy through factual or legal presentation." FEA has determined that personal service of notice on all persons who might be aggrieved by the issuance of a decision and order on an SNG petition is impracticable since such persons are not, at this point, readily identifiable. Therefore, in accordance with the July 31, 1974 statement and pursuant to the provisions of 10 CFR 205.23 and 205.33 the FEA hereby provides notice of a petition requesting a base period volume of 2,100,000 barrels per year of naphtha and 147,619 barrels per year of propane for a SNG plant to be constructed by Philadelphia Gas Works in Philadelphia, Pennsylvania. The annual output will be 60 million cubic feet per day. Amerada Hess, Incorporated would be the designated supplier of the feedstock.

A complete file containing all information and data filed in conjunction with this petition, other than confidential business information which FEA has determined to be exempt from the disclosure requirements of 5 U.S.C. 552, will be made available for public inspection and copying at the Administrator's Reception Area of the FEA, Room 3400, Federal Building, 12th and Pennsylvania

Avenue, N.W., Washington, D.C., between the hours of 8 a.m. to 4:30 p.m., Monday through Friday.

Written comments regarding this petition will be accepted and considered if filed on or before September 12, 1975. Any person submitting written comments with respect to a petition summarized in this notice should comply with the requirements of 10 CFR 205.23 or 205.33 of the FEA procedural regulations, as appropriate. Comments should be submitted to the Office of Specialty Fuels and Products, Federal Energy Administration, Room 6318, 2000 M Street, N.W., Washington, D.C. 20461. Comments should be identified on the outside envelope and on documents submitted to FEA with the designation "Allocation of Petroleum Products to Philadelphia Gas Works' Synthetic Natural Gas Plant." Five copies should be submitted.

DAVID G. WILSON,
Acting General Counsel.

AUGUST 26, 1975.

[FR Doc.75-23014 Filed 8-26-75;1:21 am]

ENERGY RESOURCES COUNCIL; INTERAGENCY TASK FORCE ON MOTOR VEHICLE GOALS BEYOND 1980

Further Notice of Public Hearings

On July 8, and July 21, 1975, notices were published in the FEDERAL REGISTER (40 FR 28666 and 40 FR 30522) regarding public hearings to be held by the Interagency Federal Task Force on Motor Vehicle Goals beyond 1980. This notice supplements those previous two by announcing the location of the hearing to be held in Los Angeles. That hearing, the last in a series of four held in various sections of the United States, will take place in Los Angeles on September 9, 1975, commencing at 10 a.m. p.d.t. in the Civil Service Commission Hearing Room, Room 8544, Federal Building, 300 North Los Angeles Street, Los Angeles, California.

The topic to be emphasized in Los Angeles will be Air Quality, Noise and Health, and Marketing and Mobility. Comment also will be allowed on primary topics already discussed at prior hearings: National/Industry/Consumer Economics, Alternative Implementation Strategies, Automotive Design, Automotive Manufacturing and Maintenance, and Fuels and Materials Resources and Safety.

The information gathered through these hearings will serve as input for the January 1, 1976, report by the Task Force to the Energy Resources Council. The Chairman of the Energy Resources Council, Secretary Rogers C.B. Morton, asked the Task Force to examine long range energy goals for motor vehicles, compatible with environmental, safety and economic objectives.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make a written request for an opportunity to make oral presentation. Such a request should be directed to:

Diane B. Pirkey, Room 6530, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 961-8385.

As previously announced, Ms. Pirkey should be contacted at least 10 days prior to the hearing. Additional information on the conduct of the hearings and the availability of transcripts is contained in the prior FEDERAL REGISTER notices.

Issued in Washington, D.C., August 26, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.75-23015 Filed 8-26-75;1:21 pm]

LANDED COSTS

Establishment of Costs for Certain Crude Oils, May 1974—September 1974

Notice is hereby given of the proper measurement of costs as determined by FEA for certain crude oils when imported pursuant to a transaction between affiliated entities. Pursuant to § 212.83 (f), FEA intends to disallow costs in excess of those set out in Appendix A to this notice.

The standards and procedures used in the determination of these costs are as established in the Notice of the Establishment of Costs for Certain Crude Oils, October 1973–April 1974, dated June 20, 1975 (40 FR 27059, June 26, 1975).

In that notice it was stated that "[a]s an additional degree of freedom, FEA is permitting any overages to be first offset against any underages for imported crude oils from the same country of origin." The potential offsets referred to in that statement apply, both in the period covered in that notice, and in the period covered by this notice, only when the underages and overages involved both accrue within the same month. Thus an underage accrued in one month cannot be offset against an overage accrued in another month.

Issued in Washington, D.C., August 27, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A

Reference crude	May 1974	June 1974	July 1974	August 1974	September 1974
Abu Dhabi (TC-010)	11.74	11.81	11.96	11.59	11.73
Algeria (AG-020)	14.06	14.09	13.20	13.26	13.19
Angola [1] (AO-030)	13.50	13.61	13.16	12.82	12.84
Dubai [2] (TC-015)					
Ecuador [2] (EC-050)			[3] 10.98	[3] 10.82	[3] 11.04
Indonesia [2] (ID-070)	11.70	11.70	12.60	12.60	12.60
Iranian (IR-080)	11.04	10.96	10.49	10.63	10.40
Kuwait (KU-110)	10.00	10.04	10.00	9.95	9.95
Libya (LY-120)	12.70	12.75	12.65	12.34	12.67
Nigeria (NI-140)	13.14	13.25	12.80	12.46	12.48
Saudi Arabia (SA-180)	9.87	9.86	9.99	9.97	9.96
Trinidad [1] (TD-190)	11.34	11.31	12.02	11.86	12.07
Venezuela (VE-235)	9.66	9.63	10.34	10.18	10.39

[1] Less than 4 transactions; figures are based on comparison to most similar crude in same geographical region pursuant to §§ 212.84(f)(1) and 212.84(e)(6).
[2] Proprietary.
[3] Price set by regulation at official selling price.

[FR Doc.75-23171 Filed 8-27-75;3:52 pm]

LANDED COSTS

Representative and Maximum Prices, October 1974—May 1975

Notice is hereby given of the representative and maximum prices as determined by FEA for certain crude oils when imported pursuant to a transaction between affiliated entities for the months of October 1974 through May 1975. These prices, as set out in Appendix A, have been calculated pursuant to § 212.84(e) as modified by the Notice and Order on the Determination of Representative and Maximum Prices for January 1975, dated June 20, 1975 (40 FR 27058, June 26, 1975). The prices for January 1975 set out below supersede the prices listed in that Notice and Order.

The apparent anomaly in the relative prices of Venezuela Light (VE-234) and Venezuela Medium (VE-235) crudes for the month of May 1975 appears to reflect the lack of market support in that period for the sulphur premium set by the Venezuelan government in its Tax Export Values. The bulk of the crude transactions determining the VE-234 price of Appendix A were low-sulphur crudes, and the failure of such crudes to be marketed at prices reflecting a significant low-sulphur premium will depress the calculated price of VE-234. VE-234 has a stipulated sulphur content of 1.7 percent or greater and its value with respect to low-sulphur crudes is obtained by subtracting the premium established by the Venezuelan government. The prices listed for Ecuador (EC-050) and Trinidad (TD-190) crudes are also affected, since their May 1975 prices were calculated (pursuant to §§ 212.84(f)(1) and 212.84(e)(6)) by reference to VE-234. FEA has authority under § 212.84 (e)(7) to provide by order for a modified sulphur premium, if the current premium fails to adequately reflect market values. Pursuant to this authority FEA is reviewing its May 1975 Venezuela data to ascertain whether such a modification would be appropriate.

Interested persons are invited to submit written data, views or arguments with respect to the sulphur premium to Executive Communications, Room 3309, Federal Energy Administration, Box EE, The Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the

documents submitted to the Federal Energy Administration with the designation "Low-Sulphur Premium." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., e.d.s.t., September 19, 1975, will be considered by the Federal Energy Administration in evaluating any adjustment.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., August 27, 1975.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

APPENDIX A.—*Representative prices*

Reference crude	Oct. 1974	Nov. 1974	Dec. 1974	Jan. 1975	Feb. 1975	Mar. 1975	Apr. 1975	May 1975
Abu Dhabi (TC-010)	11.43	11.43	11.43	11.42	11.35	10.87	10.84	10.81
Algeria (AG-020)	12.43	12.39	12.26	12.03	12.10	12.05	11.70	11.71
Angola [1] (AO-030)	12.24	12.25	12.14	12.22	12.10	12.22	11.99	11.95
Dubai [2] (TC-015)								
Ecuador [3] (EC-050)	[1] 11.39	[1] 11.44	[1] 11.47		[1] 11.40	[1] 11.41		[1] 10.89
Indonesia [3] (ID-070)	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran (IR-080)	10.44	10.55	10.68	10.67	10.67	10.67	10.68	10.66
(IR-082)	10.39	10.47	10.53	10.47	10.47	10.46	10.46	10.45
Kuwait (KU-110)	10.60	10.25	10.25	10.41	10.41	10.37	10.37	10.34
Libya (LY-120)	12.61	12.36	12.32	12.02	11.95	11.98	11.62	11.53
Nigeria (NI-140)	11.88	11.89	11.77	11.85	11.73	11.85	11.62	11.58
Saudi Arabia (SA-180)	10.25	10.46	10.47	10.46	10.47	10.46	10.46	10.46
(SA-181)	10.60	10.27	10.27	10.27	10.27	10.27	10.27	10.27
(SA-182)	10.06	10.39	10.39	10.39	10.39	10.43	10.38	10.58
Trinidad [1] (TD-190)	12.41	12.47	12.48	12.94	12.41	12.42	12.35	11.90
Venezuela (VE-234)	11.21	11.27	11.20	11.75	11.22	11.23	11.16	10.71
(VE-235)	10.38	10.37	10.38	10.82	10.82	10.82	10.82	10.82
(VE-236)	9.76	9.71	9.76	10.07	10.20	10.26	10.36	10.26

[1] Less than 4 transactions; figures are based on comparison to most similar crude in same geographical region pursuant to § 212.84(f)(1) and 212.84(e)(6).
[2] Proprietary.
[3] Price set by regulation at official selling price.

APPENDIX A.—*Maximum prices*

Reference crude	Oct. 1974	Nov. 1974	Dec. 1974	Jan. 1975	Feb. 1975	Mar. 1975	Apr. 1975	May 1975
Abu Dhabi (TC-010)	11.58	11.55	11.54	11.57	11.45	11.00	10.94	10.91
Algeria (AG-020)	12.53	12.49	12.40	12.13	12.20	12.15	11.80	11.86
Angola [1] (AO-030)	12.41	12.35	12.26	12.33	12.20	12.32	12.09	12.05
Dubai [2] (TC-015)								
Ecuador [3] (EC-050)	[1] 11.52	[1] 12.76	[1] 11.53		[1] 12.31	[1] 11.51		[1] 11.07
Indonesia [3] (ID-070)	12.60	12.60	12.60	12.60	12.60	12.60	12.60	12.60
Iran (IR-080)	10.84	10.67	10.78	10.77	10.77	10.77	10.78	10.76
(IR-082)	10.53	10.57	10.63	10.57	10.57	10.56	10.56	10.55
Kuwait (KU-110)	10.20	10.40	10.37	10.51	10.51	10.47	10.47	10.44
Libya (LY-120)	12.71	12.83	12.42	12.12	12.05	12.06	11.72	11.63
Nigeria (NI-140)	12.05	11.99	11.89	11.96	11.83	11.95	11.72	11.68
Saudi Arabia (SA-180)	10.36	10.56	10.57	10.56	10.57	10.56	10.56	10.56
(SA-181)	10.10	10.37	10.37	10.37	10.37	10.37	10.37	10.37
(SA-182)	10.17	10.49	10.49	10.49	10.49	10.64	10.48	10.68
Trinidad [1] (TD-190)	12.54	13.79	12.94	13.30	13.32	12.82	12.45	12.08
Venezuela (VE-234)	11.34	12.89	11.75	12.11	12.13	11.33	11.26	10.89
(VE-235)	10.48	10.59	10.48	10.92	10.92	10.92	10.92	10.92
(VE-236)	9.86	9.81	9.86	10.20	10.30	10.36	10.46	10.36

[1] Less than 4 transactions; figures are based on comparison to most similar crude in same geographical region pursuant to § 212.84(f)(1) and 212.84(e)(6).
[2] Proprietary.
[3] Price set by regulation at official selling price.

[FR Doc.75-23170 Filed 8-27-75;3:51 pm]

OLD OIL ALLOCATION PROGRAM

Intent To Publish Entitlement Notices

The Federal Energy Administration hereby gives notice of its intent to issue entitlement notices in September and October to carry out FEA's old oil allocation program (the entitlements program) for the months of July and August 1975, notwithstanding that the FEA's authority to allocate old oil prospectively will expire on August 31, 1975 pursuant to Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 (the "EPAA"), as amended.

Pending a complete review of the advisability, both from the legal and policy standpoints, of issuing these further entitlement notices, FEA advised all refiners by memorandum dated August 15, 1975 of its preliminary determination that no entitlement notices would be issued for these months. However, as a result of its extensive review of this matter, FEA has concluded, as set forth below, that there are compelling reasons in support of issuing the entitlement notices for July and August 1975, notwithstanding its tentative determination to the contrary.

Under the regulations governing the entitlements program, refiners incurred the obligation to purchase or the right to sell entitlements at the time of their crude oil receipts and runs in the months of July and August 1975, notwithstanding that the exact amount of each refiner's liabilities or rights under the program will not be determined until receipt by FEA of the necessary reporting data, analysis and compilation thereof, and publication of entitlement notices in September and October 1975. Thus, since these rights and liabilities will have been incurred prior to the expiration of the EPAA at midnight on August 31, 1975, the FEA has concluded it possesses the requisite legal authority under Section 4(g)(1) of the EPAA and 1 U.S.C. § 109 (the general savings statute) to issue entitlements subsequent to August 31, 1975 for July and August 1975 crude receipts and runs and to enforce the respective legal obligations of refiners to make the required purchases and sales.

The EPAA requires, inter alia, that, to the maximum extent practicable, FEA protect the competitive viability of small and independent refiners and insure the equitable distribution of crude oil and refined petroleum products at equitable prices. Thus, for the period during which the regulations promulgated under the EPAA are in force or remain enforceable, FEA is under a statutory obligation to attempt to the extent practicable to effectuate these objectives. Since the two-tier crude oil pricing system provided for in the FEA's pricing regulations was in effect during July and August 1975, and since a principal purpose of the entitlements program was to ameliorate the crude cost disparities created by the two-tier system, in furtherance of the EPAA's statutory objectives, failure to issue entitlements for crude receipts and runs in July and August would defeat that purpose. The fact that actual cash transactions occur two months after the crude receipts and runs to which they apply is a reflection only of the inevitable delay required to gather necessary information and to negotiate transactions.

Issuance of entitlements for these months will serve to insure that the operation of FEA's price regulations in the period prior to September 1, 1975 and the distortions attendant thereto do not place certain refiners at a competitive disadvantage in the period immediately following termination of price controls because of their relative lack of access to old oil during the months of July and August.

To the extent that the issuance of entitlements for the months of July and August will impose a serious hardship or gross inequity on certain small refiners, the FEA is prepared to consider, on an expedited basis, requests for exception relief.

Issued in Washington, D.C., on August 27, 1975.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.75-23196 Filed 8-28-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. ER76-24; E-7775]

APPALACHIAN POWER CO.

Order Accepting for Filing and Suspending Proposed Fuel Clause, Setting Issue for Hearing, and Consolidating Proceedings

AUGUST 21, 1975.

On July 25, 1975, Appalachian Power Company (Apco) tendered for filing re-

vised fuel adjustment clauses to supersede and replace the present fuel clauses contained in Rate Schedule WS which would affect seventeen of its wholesale customers.[1] Apco contends that the tendered fuel clauses for each of its seventeen customers comply in all respects with the requirements of Section 35.14 of the Commission's Regulations as amended by Commission Order No. 517.

Apco requests that the fuel adjustment clauses be made effective on September 1, 1975.

Apco's July 25, 1975 filing was noticed on August 5, 1975 with all comments, protests or petitions to intervene due on or before August 21, 1975.

Our review of the tendered fuel adjustment clauses filed under Apco's Rate Schedule WS indicate that the form of the fuel clause is in compliance with Order No. 517. However, we note that the cost of service support for the proposed fuel clauses is based on calendar year 1971. We have recently decided that this test year was an inappropriate period upon which to determine just and reasonable rates for Apco under Rate Schedule WS.[2] We therefore provided Apco with the opportunity to file new evidence on rate base, cost of service and test year in Docket No. E-7775 in an attempt to justify the requested rate relief in that proceeding. We further stated in our June 9, 1975 order in Apco that our consideration of additional issues therein presented, including Apco's fuel adjustment clause, would be enhanced by remanding the issue to the Presiding Administrative Law Judge for an initial decision.

Because of our determination of the inopposite nature of 1971 as an appropriate test year we shall suspend the proposed fuel adjustment clauses until September 1, 1975, and permit them to become effective, subject to refund, on that day. We shall further set the issue of the justness and reasonableness of the revised fuel clauses for hearing and consolidate the proceeding with the proceedings in Docket No. E-7775 and permit Apco to use the more recent base period to derive its fuel adjustment factor base cost that it has chosen to use to support its proposed rate increase level in Docket No. E-7775.

The Commission finds. (1) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the Commission accept for filing Apco's revised fuel clauses tendered on July 25, 1975 in Docket No. ER76-24, suspend their effectiveness until September 1, 1975, and permit them to become effective on that day, subject to refund.

(2) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the issue of the justness and reasonableness of Apco's proposed revised fuel clauses to be set for hearing and consolidated with the proceedings in Docket No. E-7775 for purposes of hearing and decision.

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Federal Power Act, we hereby accept for filing the proposed revised fuel clauses tendered by Apco on July 25, 1975, suspend their effectiveness until September 1, 1975, and permit them to become effective on that day, subject to refund.

(B) The issue of the justness and reasonableness of the proposed revised fuel clauses in Docket No. ER76-74 is set for hearing and consolidated with the proceedings in Docket No. E-7775 for purposes of hearing and decision.

(C) The Secretary shall cause prompt publication of this order to be issued in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] The proposed revised fuel adjustment clauses are designated in Appendix A to this order.

[2] *Appalachian Power Company*, Docket No. E-7775, Order Affirming and Adopting Initial Decision, issued June 9, 1975.

APPENDIX A

APPALACHIAN POWER COMPANY

Designations	*Other party*
Supplement No. 3 to Rate Schedule FPC No. 27	City of Martinsville, Va.
Supplement No. 4 to Rate Schedule FPC No. 31	Black Diamond Power Co. (Elkhurst).
Supplement No. 4 to Rate Schedule FPC No. 32	Black Diamond Power Co. (East Hartland).
Supplement No. 4 to Rate Schedule FPC No. 33	Black Diamond Power Co. (Chattaroy).
Supplement No. 4 to Rate Schedule FPC No. 34	Black Diamond Power Co. (Sophia).
Supplement No. 5 to Rate Schedule FPC No. 35	Chesapeake Light and Water Co.
Supplement No. 4 to Rate Schedule FPC No. 36	Elk Power Co.
Supplement No. 4 to Rate Schedule FPC No. 37	Elkhorn Public Service Co. (Elkhorn).
Supplement No. 4 to Rate Schedule FPC No. 38	Elkhorn Public Service Co. (McDowell).
Supplement No. 4 to Rate Schedule FPC No. 40	Kimball Light and Water Co.
Supplement No. 5 to Rate Schedule FPC No. 43	Standard Utility Service Corp.
Supplement No. 5 to Rate Schedule FPC No. 44	United Light and Power Co.
Supplement No. 4 to Rate Schedule FPC No. 46	Union Power Co. (Rhodell).
Supplement No. 5 to Rate Schedule FPC No. 47	Union Power Co. (Mullens).
Supplement No. 1 to Rate Schedule FPC No. 48	Virginia Polytechnic Institute and State University.
Supplement No. 4 to Rate Schedule FPC No. 49	War Light and Power Co.
Supplement No. 2 to Rate Schedule FPC No. 54	Town of Richlands, Va.

[FR Doc.75-22958 Filed 8-28-75;8:45 am]

[Docket No. ER76-72]

ARIZONA PUBLIC SERVICE CO.

Notice of Filing Pursuant to Tax Adjustment Clause

AUGUST 21, 1975.

Take notice that on August 13, 1975, Arizona Public Service Company (APS) tendered for filing a description of the method of applying and recovering the New Mexico Electrical Energy Tax which APS intends to use in connection with APS Rate Schedules FPC Nos. 12, 13 and 17. These schedules are the contracts with Electrical District No. 3, Electrical District No. 7, and Navopache Electric Cooperative. APS has requested any waiver of filing requirements necessary to allow it to begin billing pursuant to the filed procedures during the month of September.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-22947 Filed 8-28-75;8:45 am]

[Project No. 2397]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Notice of Application for Approval of Conveyance of Project Lands

AUGUST 21, 1975.

Public notice is hereby given that application for approval of conveyance in fee of certain project lands has been filed under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Central Vermont Public Service Corporation (Correspondence to: Donald L. Rushford, Vice President and General Counsel, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701) for that portion of 0.67 acres of land required by the State Highway Board which is within the boundary of the Gage Project No. 2397, located on the Passumpsic River in the vicinity of St. Johnsbury, Caledonia County, Vermont. This land is required for the construction of Highway Project Barnet—St. Johnsbury I-91-2 (21), which runs North-South through the eastern part of Vermont, paralleling old U.S. Route 5.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 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. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 C.F.R. § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or inital pleader requests that the shortened procedure of Secton 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22948 Filed 8-28-75;8:45 am]

[Docket No. CP75-345]

CITIES SERVICE GAS CO.

Notice of Extension of Time

AUGUST 21, 1975.

On August 15, 1975, Cities Service Gas Company (Cities) filed a motion to extend the time within which to answer the Commission's letter of August 1, 1975, requesting additional information concerning the Application for a Certificate of Public Convenience and Necessity filed by Cities on May 21, 1975, in the above-designated matter.

Notice is hereby given that the time within which Cities must respond to the above letter is extended to and including September 10, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22947 Filed 8-28-75;8:48 am]

[Docket No. RP72-122; PGA76-1]

COLORADO INTERSTATE GAS CO.

Notice of Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

AUGUST 21, 1975.

Take notice that Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), on August 15, 1975, tendered for filing proposed changes in its EPC Gas Tariff, Second Revised Volume No. 1. The increased jurisdictional cost of purchased gas proposed in this filing amounts to approximately $4.4 million. Such amount reflects the increased jurisdictional cost of gas in this application over the amount contained in CIG's general revenue increase Docket No. RP75-86, reduced by the amount of such increase collected pursuant to CIG's PGA No. 75-4 and PGA No. 75-5, both effective April 1, 1975, and PGA No. 75-6, effective August 1, 1975. Only the commodity components of CIG's rates will be affected by these changes. CIG states that such changes reflect actual and estimated increased purchased gas costs. The filing is made pursuant to the proposed modified provisions of Section 21 of CIG's FPC Gas Tariff, Second Revised Volume No. 1. Alternate tariff sheets were also filed in the event of a one-day suspension due to certain small producer and emergency purchases in excess of the National Area Rate in FPC Opinion 699-H.

CIG has also requested certain changes in Sections 21 and 23 of its FPC Gas Tariff, Second Revised Volume No. 1. The requested changes would enable CIG to properly handle in its PGA filing sales to other companies pursuant to special off-system sales and exchange agreements.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22950 Filed 8-28-75;8:45 am]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.; PIPELINE

Notice of Availability of Draft Environmental Impact Statement

AUGUST 29, 1975.

Notice is hereby given in the above Docket, that on August 25, 1975, a Draft Environmental Impact Statement prepared by the staff of the Federal Power Commission was made available. This draft statement deals with the environmental impact of alternative permanent curtailment plans proposed in Docket No. RP72-89 across the Columbia Gas Transmission Corporation system.

This draft statement has been circulated to Federal, State and Local agencies, and has been placed in the public files of the Commission, and is available for public inspection both in the Commission Office of Public Information Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426 and in its Regional Office located at 26 Federal Plaza, 22nd Floor, New York, New York, 10007. Copies are also available in limited quantities from the Federal Power Commission's Office of Public Information, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23083 Filed 8-28-75;8:45 am]

[Project No. 2485]

CONNECTICUT LIGHT AND POWER CO. ET AL.

Notice of Application for Amendment of License

AUGUST 21, 1975.

Public notice is hereby given that an application was filed on April 2, 1975, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, joint Licensees (Correspondence to: Walter F. Fee, Vice President, Northeast Utilities Service Company, Post Office Box 270, Hartford, Connecticut 06101; and Maurice L. Zilber, Esquire, Peabody, Brown, Rowley & Storey, One Boston Place, Boston, Massachusetts 02108) to amend the major license for their constructed Northfield Mountain Pumped Storage Project No. 2485. The Northfield Mountain Project is on the Connecticut River, in Franklin County, Massachusetts in the Towns of Northfield and Erving, and in the vicinity of Millers Falls and Greenfield.

The application was submitted in compliance with Article 41 of the Northfield Mountain license (39 F.P.C. 746). Included in the application is a revised Exhibit R (recreational use plan) providing for initial and ultimate development of eight recreation areas, and a request that Article 41 of the license be

amended to reflect approval of the revised Exhibit R.

The eight recreational areas provided for in the subject Exhibit R include: (1) the developed Munn's Ferry-Boat Camping Recreation Area, a semi-wooded three-acre tract just off of Route 63 on a bend of the Connecticut River about three miles north of the project tailrace, featuring a shelter, tent camping platforms and picnic facilities, drinking water, pump-out sanitary facilities, fireplaces, a floating boat dock, and a foot bridge across a brook to provide access to other facilities; (2) the proposed Boat Tour and Riverview Picnic Area, to be located along the bank of the Connecticut River adjacent to and north of the project tailrace, which would include boat landing facilities, a seasonal interpretative river boat tour, picnicking and parking facilities, flush toilets, and a potable water supply; (3) the proposed Mountaintop Observation Area, to be located near the project's upper reservoir, which would consist of a low level platform on the Northfield Mountain summit offering a view of the upper reservoir and surrounding area; (4) the proposed Tour and Trail Center, to be located on the north side of the west access road from Route 63, which would consist of a building with a reception alcove, an interpretative exhibit area, a lounge area, a workshop/classroom area, restrooms, and parking facilities; (5) the developed Northfield Mountain Trail System, consisting of a complex of trails totaling approximately 35 miles, which are to be interconnected with existing and proposed State trails; (6) the proposed Barton Cove Nature Area, to be located on a peninsula in the Connecticut River about one mile upstream from Turners Falls Dam (FPC Project No. 1889) and just off of Route 2 (Mohawk Trail), which would consist of an access road and parking area, picnicking and camping areas, a nature trail, wildlife observation blinds, a boat dock, and an administrative shelter; (7) the proposed Pine Grove Picnic Area and Nature Trail, to be located in a meadow north of the Tour and Trail Center, which would feature a picnic area with parking, potable water, and sanitary facilities, and which would provide access by trail to the Northfield Mountain Trail System; and (8) the Bennett Meadows Wildlife Management Area, consisting of approximately 200 acres of alluvial floodplain located on the west side of the Connecticut River adjacent to and south of Route 10, which has been set aside for wildlife purposes.

Article 41 of the Northfield license requires the Applicants to expend $1,350,000 in the initial development of the recreational resources associated with the project, including the Four Mile Brook and the Pauchaug Brook areas. The proposed amendment requests the deletion of the Four Mile Brook area and the approval of the above-mentioned facilities.

Any person desiring to be heard or to make protest with reference to said application should on or before October 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 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 a 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. The application is on file with the Commission and available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, §825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 C.F.R. § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein, and if the applicant or initial pleader requests that the shortened procedure of Section 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22951 Filed 8-28-75;8:45 am]

[Docket Nos. RP72-155, RP73-104, RP74-22, RP74-23, RP74-57, and CP74-314; PGA75-2]

EL PASO NATURAL GAS CO.

Notice of Reorganization of Service List

AUGUST 19, 1975.

Order issued July 16, 1975, set procedural dates to scrutinize rates of El Paso Natural Gas Company's 180-day emergency gas purchases to determine if the prices paid, as reflected in El Paso's PGA increases, are in the public interest. The order also made the involved producers respondents in the proceeding and listed them in the Appendix.

To create a manageable service list for the El Paso 180-day emergency gas purchase proceeding any party who is currently on the service list and desires to participate in this proceeding must notify the Secretary by September 2, 1975. In the event such notification is not received, the party will be removed from the service list.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22950 Filed 8-28-75;8:45 am]

[Docket Nos. E-8769, E-8770, E-8008 and E-9119]

FLORIDA POWER & LIGHT CO.

Notice of Compliance Filing

AUGUST 19, 1975.

Take notice that on July 15, 1975, Florida Power & Light Company (FP&L) filed a letter requesting the Commission to accept the letter agreements with Florida Power Corporation, the City of Fort Pierce, Florida, the Orlando Utilities Commission, the Tampa Electric Company, and the City of Vero Beach, Florida, for emergency service from gas turbine units, filed in Docket No. E-8769, as of August 13, 1973. FP&L also requests the Commission to accept the Contract for Interchange Service between FP&L and Jacksonville Electric Authority, filed in Docket No. E-8770, as of October 31, 1973, and the Contract for Interchange Service between FP&L and the Fort Pierce Utilities Authority, filed in Docket No. E-9119, as of May 1, 1974.

FP&L states that it agrees that the rates charged under the aforementioned agreements will be subject to refund as of the various proposed effective dates listed above, pending final disposition of the proceedings directed by the Commission in its Order of July 3, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 26, 1975.[1] Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22960 Filed 8-28-75;8:45 am]

[Project No. 2574]

MILSTAR MANUFACTURING CORP.

Notice of Application for Approval of Use of Project Lands and Waters and Revised Exhibit K

AUGUST 21, 1975.

Public notice is hereby given that an application was filed on July 11, 1975, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by Milstar Manufacturing Corporation (Applicant) (Correspondence to: Mr. Bradford H. Hutchins, Weeks, Hutchins, Frye & Welch, Two Park Place, Waterville, Maine 04901) for Commission approval of use of project lands and waters and revised Exhibit K for Lockwood Project No. 2574, located in Kennebec County, Maine on the

[1] This document was received August 26, 1975 by the Office of the Federal Register.

Kennebec River, a navigable waterway of the United States.

Applicant requests approval to permit Scott Paper Company to construct a buried effluent outfall pipeline to be located approximately ½ mile upstream from the gate section of the project dam. The pipeline would be 24 inches in diameter and 236 feet long, of which the last 90 feet would be a multiport diffuser, and would have a maximum discharge of 35 mgd near the center of the river at a point within the project boundary. The pipeline would be constructed in connection with Scott Paper's advanced physical-chemical wastewater treatment facilities at the Winslow Mill, Kennebec County, Maine.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 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. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 C.F.R. § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of Section 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22952 Filed 8-28-75;8:45 am]

[Docket No. RP72-154; PGA 76-2]

NORTHWEST PIPELINE CORP.

Notice of Change in Rates Pursuant to Purchased Gas Cost Adjustment

AUGUST 21, 1975.

Take notice that Northwest Pipeline Corporation (Northwest), on August 15, 1975, tendered for filing and acceptance a notice of change in rates applicable to service rendered under rate schedules affected by and subject to the Purchased Gas Cost Adjustment Provision (PGAC), as contained in its FPC Gas Tariff, Original Volume No. 1. The proposed change in rates would increase revenues from jurisdictional sales and service by $53,891,596 based on the 12-month period ending June 30, 1975.

Northwest states that such change in rates is occasioned by a substantial increase in the cost of Canadian gas purchased by Northwest from its Canadian pipeline supplier, West coast Transmission Company, Limited (Westcoast), in compliance with the Canadian Government's decision to increase the border export price to $1.60 per MMbtu (Canadian), effective November 1, 1975. Northwest obtains approximately two-thirds of its total gas supply from Westcoast. A border export price of $1.60 will result in an annualized increase in Northwest's purchased gas cost expense amounting to $54,640,447, which equates to an increase of 1.267¢ per therm above the currently effective rates. By order issued July 28, 1975 in Docket No. CP75-340 et al., the Commission amended Northwest's import authorizations to permit Northwest to continue to import natural gas at the Canadian border at the price of $1.40 per MMbtu (Canadian), effective August 1, 1975 and $1.60 per MMbtu (Canadian) effective November 1, 1975.

Although Northwest's PGAC provides for the tracking of changes in the cost of purchased gas each six months, Northwest emphasizes that the magnitude of the increase in Northwest's purchased gas cost expense requires immediate rate relief on a firm basis concurrently with the effective date of the increased export price. Northwest respectfully requests that waiver be granted of Northwest's PGAC and applicable Commission Regulations, as necessary, so as to permit acceptance and effectiveness of the tendered change in rates on November 1, 1975.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22153 Filed 8-28-75;8:45 am]

[Docket No. RP72-154; PCA76-1]

NORTHWEST PIPELINE CORP.

Notice of Change in Rates Pursuant to Purchased Gas Cost Adjustment

AUGUST 21, 1975.

Take notice that Northwest Pipeline Corporation, on August 15, 1975, tendered for filing a proposed change in rate applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FPC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective on or before September 30, 1975, applied to volumes purchased for the twelve (12) month period ending June 30, 1975 and its change in the unrecovered purchased gas cost since Northwest's prior semi-annual PGA filing dated February 14, 1975, as revised February 28, 1975 and (2) crediting to storage gas purchasers through a special one-time surcharge adjustment the difference between the average cost of storage injections and the base average purchased gas cost as contained in Northwest's tariff rates proposed to be effective as of November 1, 1975 in Northwest's concurrent PGA filing to track the Canadian border export price increase to $1.60 per MMBtu (Canadian).

The current PGA adjustment, for which notice is given herein, aggregates a decrease of .032¢ per therms in all rate schedules affected by and subject to the PGA. The annualized change in Northwest's purchased gas cost aggregates a decrease of $1,920,783. Northwest proposes to recover, through a surcharge, the balance of $250,980 in its FPC Account No. 191, as of June 30, 1975. Northwest also proposes to credit $3,401,168 to storage gas purchasers through a special one-time surcharge adjustment. The proposed change in rates would decrease Northwest's revenues from jurisdictional sales and service by $5,016,432.

Northwest is concurrently filing, pursuant to Commission order issued March 29, 1974 in Docket No. RP74-72, a notice of change in rates applicable to Section 13.4, Change in Rates to Reflect Curtailment Credits ("Demand Charge Credits"), contained in its Original Volume No. 1 Tariff. Both the PGA Adjustment and the Demand Charge Credit Adjustment are reflected on Ninth Revised Sheet No. 10, tendered herewith. Northwest respectfully requests that the Commission accept the tendered tariff sheet for filing and permit it to become effective as of October 1, 1975, in accordance with the provisions of Northwest's tariff.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 9, 1975. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22954 Filed 8-28-75;8:45 am]

[Project No. 1354]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Approval of Change in Land Rights

AUGUST 21, 1975.

Public notice is hereby given that application was filed November 8, 1974, under the Federal Power Act (16 U.S.C. §§ 791a–825r) by Pacific Gas and Electric Company (Correspondence to: Mr. W. M. Gallavan, Vice President-Rates and Evaluation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106) for approval of a change in land rights for Crane Valley Project No. 1354, located on the North Fork San Joaquin River and tributaries, affecting public lands of the United States and United States lands within Sierra National Forest in Madera and Fresno Counties, California.

Applicant seeks Commission approval of the issuance of a permit to the Marina View Heights Association which would allow the construction of a community boat dock at the Bass Lake development of the project.

Bass Lake is a storage reservoir impounded on the North Fork of Willow Creek, a tributary of the San Joaquin River, in Madera County. The reservoir is approximately 4 miles long and ½ mile wide and contains approximately 45,000 acre-feet of storage capacity with 1,165 acres of water surface at normal full pool elevation 3,376 feet m.s.l.

The proposed community boat dock would accommodate eight boats and is contemplated to render unnecessary the construction of a like number of small private boat docks.

Any person desiring to be heard or to make protest with reference to said application should on or before October 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 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 a 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22955 Filed 8-28-75;8:45 am]

[Docket No. E-9383]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Extension of Time

AUGUST 21, 1975.

On August 8, 1975, the City of Burlington filed a request for an extension of time within which to file petitions to intervene or protests to the revised rate schedule filed by Public Service Company of Colorado on July 21, 1975. Notice issued on July 28, 1975, set August 12, 1975, as the date for filing such petitions or protests.

Upon consideration, notice is hereby given that the date for filing petitions or protests in the above-designated matter is extended from August 12, 1975, to August 27, 1975.[1]

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22956 Filed 8-28-75;8:45 am]

[Docket No. RP74-62; PGA 76-1]

TRANSWESTERN PIPELINE CO.

Notice of Proposed Changes in FPC Gas Tariff

AUGUST 21, 1975.

Take notice that Transwestern Pipeline Company (Transwestern) on August 15, 1975, tendered for filing as part of its FPC Gas Tariff, First Revised Volume No. 1, the following sheets:

Revised Third Revised Sheet No. 3–A.
Revised Third Revised Sheet No. 3–B.
Third Revised Sheet No. 3–A.
Third Revised Sheet No. 3–B.

These sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision as set forth in Section 19 of the General Terms and Conditions of its FPC Gas Tariff, Firsts Revised Volume No. 1. This change in Transwestern's rates reflects a Cost of Gas Adjustment to track increased purchased gas costs and a Surcharge Adjustment to clear the balance of the Gas Cost Adjustment Account.

Transwestern requests that the Commission accept tariff sheets Revised Third Revised Sheet Nos. 3–A and 3–B to be effective October 1, 1975. However, should the Commission suspend the effectiveness of these sheets one day, Transwestern requests that the Commission accept Third Revised Sheet Nos. 3–A and 3–B to be effective October 1, 1975.

Copies of the filing were served upon the company's jurisdictional customers and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22957 Filed 8-28-75;8:45 am]

[Docket No. E-9198]

WISCONSIN POWER AND LIGHT CO.

Notice Deferring Procedural Dates

AUGUST 19, 1975.

On August 14, 1975, Municipal Wholesale filed a motion to extend procedural dates fixed by order issued February 19, 1975, as most recently modified by notice issued July 16, 1975, in the above-designated matter.

Notice is hereby given that the procedural dates in the above matter are deferred until August 29, 1975, pending expiration of the 15-day period within to respond to this motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-22961 Filed 8-28-75;8:45 am]

[Docket No. RI76-20]

AMOCO PRODUCTION CO.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund[1]

AUGUST 21, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sec-

[1] This document was received August 26, 1975 by the Office of the Federal Register.

[1] Does not consoldiate for hearing or dispose of the several matters herein.

tions 4 and 5, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A.—DOCKET NO. RI76-29

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf[1][2] Rate in effect	Cents per Mcf[1][2] Proposed increased rate	Rate in effect subject to refund in docket No.
RI76-29	Amoco Production Co.	193	24	El Paso Natural Gas Co., (New Mexico) (Rocky Mountain).	$142	7-25-75		1-25-76	31.6929	32.2691	RI74-85.
	do	203	20	do	170	7-25-75		1-25-76	31.6929	32.2691	RI74-85.

[1] Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[2] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed rate increases of Amoco exceed the applicable area ceiling rate in Opinion No. 658 and are suspended for five months.

[FR Doc.75-22786 Filed 8-28-75;8:45 am]

[Docket No. G-12325, et al.]

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Applications, Abandonment of Service, and Petitions To Amend[1]

AUGUST 19, 1975.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-12325 B 10-31-74	Clinton Oil Co., P.O. Box 1291, Wichita, Kans. 67201.	Panhandle Eastern Pipe Line Co., Greenwood Field, Morton County, Kans.[4]		
G-13138 E 1-27-75	PGP Gas Products, Inc. (successor to Atlantic Richfield Co.), P.O. Box 3069, Odessa, Tex. 79760.	Northern Natural Gas Co., Imperial Gas Processing Plant, Crane and Pecos Counties, Tex.	[3] 18.3544 [3] 36.5	14.65 14.65
C173-166 C 8-11-75	Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Acreage in Rio Arriba County, N. Mex.	[4] 35.3712	14.73
C175-165 C 8-7-75	Chevron Oil Co., Western Division, P.O. Box 599, Denver, Colo. 80201.	Mississippi River Transmission Corp., Mills Ranch (Hunton) Field, Wheeler County, Tex.	[5] 31.9	14.73
C176-79 A 7-28-75	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Transwestern Pipeline Co., Allied State "Com" No. 1 Well, Burton Flat Area, Eddy County, N. Mex.	[6] 83.0	14.73
C176-80 A 8-7-75	Amoco Production Co., Security Life Building, Denver, Colo. 80202.	Northwest Pipeline Corp., Wilson Ranch Area, Lincoln County, Wyo.	[7] 63.776	14.73
C176-81 A 8-7-75	do	Northwest Pipeline Corp., Dry Muddy Creek Area, Lincoln County, Wyo.	[7] 63.776	14.73
C176-83 (C872-162), F 8-7-75	Gulf Oil Corp. (successor to Cenard Oil and Gas Co.), P.O. Box 1589, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Wilshire (Devonian) Field, Upton County, Tex.	[8] 39.075	14.65
C176-84 (C872-162), F 8-7-75	do	Texas Gas Transmission Corp., Bayou Pigeon Field, Iberia Parish, La.	[9][10] 30.75	15.025
C176-85 (C872-162), F 8-7-75	do	El Paso Natural Gas Co., Basin (Dakota) Field, San Juan and Rio Arriba Counties, N. Mex.	[3] 34.4807	15.025
C176-86 (C872-162), F 8-7-75	do	El Paso Natural Gas Co., Basin (Dakota) Field, San Juan County, N. Mex.	[3] 35.7011	15.025
C176-87 (C866-114), D 7-31-75	Southland Royalty Co., 1600 First National Bldg., Fort Worth, Tex. 76102.	Natural Gas Pipeline Co. of America, R.O.C. Field, Ward County, Tex.	Uneconomical	
C176-88 (C870-13), B 8-4-75	Texas City Refining, Inc., et al., 606 Houston First Savings Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., South Tilden Field, McMullen County, Tex.	Depleted	
C176-89 (C172-127), B 8-4-75	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	Transwestern Pipeline Co., Haystack Field, Chaves County, N. Mex.	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI76-90..... (C871-878), B 8-4-75	Hurley Petroleum Corp., 400 Petroleum Bldg., Shreveport, La. 71101.	Mississippi River Transmission Corp., Waskom Field, Harrison County, Tex.	(21)	.....
CI76-91..... (G-10480), F 8-8-75	Franks Petroleum Inc. (Operator) et al. (successor to James M. Cunningham III, et al.), P.O. Box 7665, Shreveport, La. 71107.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Crowley Field, Acadia Parish, La.	[13] 52.02	15.025
CI76-92..... A 8-8-75	Union Oil Co. of Calif., P.O. Box 7600, Los Angeles, Calif. 90051.	Trunkline Gas Co., Block 14 Field, Vermilion Parish, offshore La.	[14] 82.0	15.025
CI76-93..... A 8-11-75	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Ship Shoal Block 183, offshore La.	[14] 80.0	15.025
CI76-94..... A 8-11-75	Murphy Oil Corp., 200 Jefferson Ave., El Dorado, Ark. 71730.	Natural Gas Pipeline Co. of America, Texarkana South Field, Bowie County, Tex.	[13] 51.0	14.65

[2] Lease expired and wells have been plugged and abandoned.
[1] Being renoticed to reflect prices of revised billing statement filed August 6, 1975.
[3] Price based upon original Mar. 21, 1957, gas purchase contract; includes 0.0344¢/M ft³ tax reimbursement.
[4] Price based on May 25, 1972, and May 1, 1971, amendments to gas purchase contract; includes 1.5¢/M ft³ gathering allowance.
[5] Subject to upward and downward British thermal unit adjustment; includes 4.3512¢/M ft³ tax reimbursement.
[6] Subject to upward and downward British thermal unit adjustment.
[7] Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's General Policy and Interpretations.
[8] Includes 10.629¢/M ft³ upward British thermal unit adjustment and 2,147¢/M ft³ tax reimbursement.
[9] Subject to upward and downward British thermal unit adjustment; includes 0.075¢/M ft³ tax reimbursement.
[10] Subject to downward British thermal unit adjustment; includes 6.25¢/M ft³ tax reimbursement.
[11] Applicant is willing to accept a certificate in accordance with opinion No. 568.
[12] Applicant states that the Cocke-Jobe lease was released by instrument dated Sept. 4, 1974, in order to compromise a law suit filed by the mineral owners which asked for a release of the oil, gas and mineral lease.
[13] Subject to upward and downward British thermal unit adjustment and 7.0¢/M ft³ tax reimbursement.
[14] Plus 3.825¢/M ft³ tax reimbursement and subject to downward British thermal unit adjustment; estimated adjustment is 17.0¢/M ft³.

[FR Doc.75-22785 Filed 8-28-75;8:45 am]

[Docket No. RP67-9, and Area Rate Proceedings, Docket Nos. AR61-1, et al. and AR64-1, et al.]

EL PASO NATURAL GAS CO.

Notice of Quarterly Report of Accumulated Refunds

AUGUST 25, 1975.

Take notice that on July 25, 1975, El Paso Natural Gas Company, (El Paso), submitted at the above-referenced proceedings its report of refunds received from its producer-suppliers during the period March 31, 1975, through June 30, 1975, El Paso has received refunds aggreriod January 1, 1975 through June 30, 1975, El Paso has received funds aggregating $1,124,827.92 from certain interstate producer suppliers and that pending disposition, it has retained and commingled said refunds with its corporate funds.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 1, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23222 Filed 8-28-75;10:43 am]

FEDERAL RESERVE SYSTEM

FIRST BUFFALO HOLDING CO.

Formation of Bank Holding Company

First Buffalo Holding Company, Buffalo, North Dakota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 90 percent of the voting shares of First State Bank of Buffalo, Buffalo, North Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than September 29, 1975.

Board of Governors of the Federal Reserve System, August 25, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-23029 Filed 8-28-75;8:45 am]

HANSTON INSURANCE AGENCY, INC.

Order Approving Continuation of Insurance Agency Activities

Hanston Insurance Agency, Inc., Hanston, Kansas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and section 225.4(b)(2) of the Board's Regulation Y, to continue to engage in the activities of a general insurance agency in a community with a population of less than 5,000 persons, through retention of the assets of Hanston Insurance Agency ("Agency"), Hanston, Kansas, an operating division of Applicant. Such activities have been determined by the Board to be closely related to banking (12 CFR § 225.4(a)(9)(iii)a)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 25642 (1975)). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a one bank holding company, controls the Hanston State Bank ("Bank"), Hanston, Kansas, a commercial bank with deposits of $6.4 million, representing less than 0.1 per cent of total deposits in commercial banks in the State.[1] Agency sells credit-related and general lines of insurance including fire, casualty, crop, and hail insurance, and a wide variety of bond insurance. Within the relevant market, which is approximated by Hodgeman County, Agency competes with a number of other insurance agencies.

The same standards under section 4(c)(8) govern retention applications as govern acquisition applications. Applicant purchased the assets of Agency on August 10, 1970, at which time Applicant also acquired control of Bank. The acquisition of Agency was Applicant's initial entry into the insurance field. Accordingly, the acquisition of Agency had no significant effect on existing competition particularly since ownership of both Agency and Bank was transferred at the same time. While Applicant might have had sufficient resources to enter into insurance agency activities de novo, it does not appear that this acquisition eliminated any significant amount of potential competition since there are a large number of alternative sources of insurance services available in the market. For the same reasons, approval of the proposed retention would have no adverse impact on existing competition in the relevant market. In view of the fact that Agency is the only insurance agency located in Hanston, approval of the application would lend assurance that general insurance services will continue to be conveniently available to customers of Bank.

On the basis of these and other facts of record, the Board concludes that the benefits to the public resulting from Applicant's acquisition of Agency outweigh any adverse effects on competition that could have resulted from the affiliation. Further, it is the Board's view that approval of Applicant's retention of Agency can reasonably be expected to continue to produce benefits to the public that outweigh possible adverse effects. Ac-

[1] Banking data are as of December 31, 1974.

cordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4 (c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] effective August 22, 1975.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-23030 Filed 8-28-75;8:45 am]

HILL-DODGE LIMITED

Formation of Bank Holding Company

The Hill-Dodge Limited, Warsaw, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 93.33 per cent or more of the voting shares of The Hill-Dodge Banking Company, Warsaw, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1975.

Board of Governors of the Federal Reserve System, August 22, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-23031 Filed 8-28-75;8:45 am]

MELLON NATIONAL CORP.

Amended Order for Hearing

On July 28, 1975, the Board of Governors of the Federal Reserve System entered an Order (40 F.R. 33072 (1975)) directing a public hearing to be held on September 3, 1975, before Philip J. LaMacchia, former Administrative Law Judge, now retired, on the application of Mellon National Corporation, Pittsburgh, Pennsylvania, to acquire Local Loan Company, Chicago, Illinois, a consumer finance company. That Order is hereby amended to rescind the appointment of Philip J. LaMacchia as presiding officer and to appoint in his place Administrative Law Judge James W. Mast, Room 7150, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Julius L. Loeser and Ronald A. Brown of the Board's Legal Division are hereby appointed, pursuant to the Board's Rules of Practice for Formal Hearings (12 C.F.R. § 263.6(d)), as Board counsel to represent the Board of Governors in this proceeding.

The hearing will remain as scheduled for 10 a.m. in Room 1202 of the Board's Building located at 20th Street and Constitution Avenue, N.W., Washington, D.C.

By Order of the Board of Governors,[1] August 22, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-23032 Filed 8-28-75;8:45 am]

GENERAL ACCOUNTING OFFICE

INTERSTATE COMMERCE COMMISSION

Receipt of Regulatory Reports Review Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on August 25, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before September 16, 1975, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff on 202-376-5425.

INTERSTATE COMMERCE COMMISSION

Request for clearance of revised Annual Report—Class A and B Water Carriers, Form W-1, required to be filed by some 78 Class A and Class B water carriers on inland and coastal waterways, pursuant to Section 313 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1209) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 297 hours per report. Reports are mandatory and available for use of the public.

Request for extension no change of approval of Annual Report of Freight Commodity Statistics, Form TCS, required to be filed by some 564 Class I motor carriers of property, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Reporting burden for carriers is estimated to average 470 hours per report. Reports are mandatory and available for use of the public, except that traffic of less than three shippers of a single commodity may be excluded and filed in a supplemental report not open to public inspection.

Request for clearance of revised Annual Report—Railroad Lessor, Form R-4, required to be filed by some 136 railroad lessors, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1201) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 233 hours per report. Reports are mandatory and available for use of the public.

Request for extension no change of approval of Annual Report—Rate Bureaus and Organizations, Form RBO, required to be filed by some 101 Rate Bureaus and Organizations, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Reporting burden for carriers is estimated to average eight hours per report. Reports are mandatory and available for use of the public.

Request for clearance of revised Annual Report—Carriers of Pipe Line, Form P, required to be filed by some 101 carriers, by pipline, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1204) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 188 hours per report. Reports are mandatory and available for use of the public.

Request for clearance of revised Annual Report—Class II Motor Carriers of Property, Form M-2, required to be filed by some 2,600 Class II motor carriers of property, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1207) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 88 hours per report. Reports are mandatory and available for use of the public.

Request for clearance of revised Annual Report—Class I Motor Carriers of Property, Form M-1, required to be filed by some 900 Class I motor carriers of property and holding companies, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1207) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 52 hours per report. Reports are manda-

[2] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governors Holland and Jackson.

[1] Voting for this action: Chairman Mitchell and Governors Bucher, Wallich and Coldwell. Absent and not voting: Chairman Burns and Governors Holland and Jackson.

tory and available for use of the public.

Request for clearance of revised Annual Report—Motor Carrier Holding Companies, Form M–4, required to be filed by some 77 motor carrier holding companies, pursuant to Section 220 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1207) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 45 hours per report. Reports are mandatory and available for use of the public.

Request for clearance of revised Annual Report—Class A Freight Forwarders, Form F–1, required to be filed by some 124 Class A freight forwarders, pursuant to Section 412 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Revisions made in this annual report form resulted from changes in the Uniform System of Accounts (49 CFR 1210) adopted through rulemaking proceedings. Reporting burden for carriers is estimated to average 17 hours per report. Reports are mandatory and available for use of the public.

Request for extension no change of approval of Annual Report—Class B Freight Forwarders, Form F–2 (formerly F–b), required to be filed by some 29 Class B freight forwarders, pursuant to Section 412 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Reporting burden for respondents is estimated to average six hours per report. Reports are mandatory and available for use of the public.

Request for an extension no change of approval of Annual Report—Persons Furnishing Cars or Protective Services to Railroads or Express Companies, Form C–1 (formerly B–2). This is required to be filed by some 138 persons furnishing cars to railroads or express companies including freezer and heater cars but other than refrigerator car lines owned or controlled by railroad companies, and owning or operating 10 or more cars, pursuant to Section 20 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Form has been redesignated to avoid confusion with other Commission forms. No change is made in the data requirements. Reporting burden for carriers is estimated to average two hours per report. Reports are mandatory and available for use of the public.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.75-23068 Filed 8-28-75;8:45 am]

FEDERAL MARITIME COMMISSION

Receipt of Regulatory Reports Review Proposals

The following request for clearance of a reporting requirement intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 21, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC rule revision are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before September 16, 1975, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–376–5425.

FEDERAL MARITIME COMMISSION

Request for clearance of a material revision to the tariff filing for Truck Detention In the Port of New York to become 46 CFR 551. The revision which is envisioned to be a one-time filing and then only on occasion as needed is designed mainly to provide an equitable solution to the delays in the handling and interchange of freight between ocean and motor carriers experienced at the Port of New York and in furtherance thereof requires certain tariff filings. Potential respondents are terminal operators in the Port of New York subject to Commission jurisdiction and number approximately 20. The burden on the respondents is very difficult to estimate; however, if it is a single terminal and if the operator promulgates his rules by incorporating by reference those parts of the Commission rule describing the service he wishes to provide, then the burden will be approximately two hours of work.

NORMAN F. HEYL,
Regulatory Reports, Review Officer.

[FR Doc.75-23069 Filed 8-28-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temp. Reg. A–11]

INCREASED TRAVEL ALLOWANCES

Extension of Time To Comment

The General Services Administration (GSA) published Federal Property Management Regulations (FPMR) Temporary Regulation A–11, Changes to Federal Travel Regulations, in the FEDERAL REGISTER on May 23, 1975 (40 FR 22617). This regulation, which was effective on May 19, 1975, increased Federal travel allowances and introduced the concept of high rate geographical areas to accommodate areas where unusually high travel costs are incurred. Agencies were requested to submit comments and recommendations concerning the provisions of FPMR Temporary Regulation A–11 to the General Services Administration (FZ), Washington, D.C. 20406, within 60 calendar days after the effective date of the regulation.

In response to requests from several agencies for additional time to comment, this notice informs all agencies that comments and recommendations concerning the provisions of FPMR Temporary Regulation A–11 will be accepted by GSA through September 15, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

AUGUST 22, 1975.

[FR Doc.75-22982 Filed 8-28-75;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, September 18, 1975, from 9:30 a.m. to 3 p.m., Room 202, General Services Administration, Winder Building, 17th and F Streets, NW., Washington, D.C. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Supplemental Services In Region 3, (GS–00B–03470). Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 522(b)(5) the meeting will not be open to the public.

JOHN F. GALUARDI,
Regional Administrator.

AUGUST 19, 1975.

INTERNATIONAL TRADE COMMISSION

[337–TA–18]

MONOLITHIC CATALYTIC CONVERTERS

Notice of Postponement of Hearing, Prehearing Conference and Reply of Complainant

On August 22, 1975, the United States International Trade Commission postponed the scheduled hearing on a request for a temporary order of exclusion or cease and desist order in Investigation No. 337–TA–18, Monolithic Catalytic Converters, until such time as may be set by the Presiding Officer, or the Commission, as may be appropriate.

The Commission also postponed the scheduled prehearing conference until September 29, 1975, and extended the time for complainant to reply to the answers of respondents until September 22, 1975.

By order of the Commission:

Issued: August 25, 1975.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-22945 Filed 8-28-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-376]

PUERTO RICO WATER RESOURCES AUTHORITY (NORTH COAST NUCLEAR PLANT, UNIT 1)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck, Member
Michael C. Farrar, Member

Dated: August 25, 1975.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.75-23024 Filed 8-28-75;8:45 am]

[Docket Nos. 50-346A, 50-500A, 50-501A; 50-440A; 50-441A]

TOLEDO EDISON CO., ET AL. (DAVIS-BESSE NUCLEAR POWER STATION, UNITS 1, 2, AND 3) AND CLEVELAND ELECTRIC ILLUMINATING CO. ET AL. (PERRY NUCLEAR POWER PLANT, UNITS 1 & 2)

ORDER

AUGUST 25, 1975.

The NRC staff and the Department of Justice have filed a "joint request" which, in essence, seeks an extension of briefing time to September 18, 1975. We had previously issued a memorandum indicating that oral argument, if necessary, would be held on Tuesday, September 16, 1975. A grant of the full extension of time requested would require postponement of the argument and, in view of certain scheduling difficulties, would lead to undue delay in reaching a determination concerning the City of Cleveland's right to additional discovery. This, in turn, could delay the commencement or orderly continuation of the trial on the merits, which is now scheduled to begin on October 30, 1975. Accordingly, it is hereby

Ordered that all parties' time for filing briefs in response to the City's brief is extended to Friday, September 12, 1975; and it is

Further Ordered that counsel filing such briefs insure that copies are in the hands of other counsel and this Board no later than the close of business on the filing date; and it is

Further Ordered that oral argument will be heard by this Board at 1 p.m. on Tuesday, September 16, 1975, in the Commission's Public Hearing Room on the 5th floor of the East West Towers Building, 4350 East West Highway, Bethesda, Maryland. Each side will be allotted ninety minutes for its presentation, to be divided among counsel on that side equally unless otherwise agreed.

For the Atomic Safety and Licensing Appeal Board,

ROMAYNE M. SKRUTSKI,
Secretary to the Appeal Board.

[FR Doc.75-23022 Filed 8-28-75;8:45 am]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-27 issued to Wisconson Electric Power Company and Wisconsin Michigan Power Company (the licensees), for operation of the Point Beach Nuclear Plant Unit No. 2, located in the Town of Two Creeks, Manitowoc County, Wisconsin.

The amendment would revise the provisions in the Technical Specifications to permit operation in core cycle 2 to a cumulative fuel residence time of 24,000 Effective Full Power Hours (EFPH) in accordance with the licensee's application for amendment, dated July 15, 1975.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By September 29, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Bruce W. Churchill, Esq., Shaw, Pittman, Potts & Trowbridge, 910 17th Street, NW., Washington, D.C. 20006, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 15, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Manitowoc Public Library, 808 Hamilton Street, Manitowoc, Wisconsin 54220. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 21st day of August, 1975.

For the Nuclear Regulatory Commission.

DONALD M. ELLIOTT,
Acting Chief, Operating Reactors Branch Number 3, Division of Reactor Licensing.

[FR Doc.75-23023 Filed 8-28-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on August 26, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Request for Change (South Georgia), MAAO-47, on occasion, applicants, Caywood, D. P., 395-3443.

Geographical Availability (Florida), ORAO-7, on occasion, individuals, Caywood, D. P., 395-3443.

Work Location Preference (Florida), ORAO-15, on occasion, applicants, Caywood, D. P., 395-3443.

Agency Availability (Miami Area), ORAO-47, on occasion, applicants, Caywood, D. P., 395-3443.

Geographic Availability (South Carolina), PMAC-26, on occasion, applicants, Caywood, D. P., 395-3443.

Occupational Interest Record (North Carolina), RAAO-6, on occasion, applicants, Caywood, D. P., 395-3443.

Geographic Availability Form (North Carolina), RAAO-13, on occasion, applicants, Caywood, D. P., 395-3443.

Supplemental Statement for Respiratory Therapy Technician, GS-649 (Florida), AT-50, on occasion, applicants, Caywood, D. P., 395-3443.

Geographic Distribution of Federal Civilian Employees Annually, government agencies, Caywood, D. P., 395-3443.

Geographic Distribution of Federal Civilian Payrolls Annually, government agencies, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:

Food Stamp Personnel Report, FNS 319, annually, State agencies, Human Resources Division, Lowry, R. L., 395-3532.

Food Stamp Program Corrective Action Status Report, FNS 322, semi-annually, State agencies, Human Resources Division, Lowry, R. L., 395-3532.

Food Stamp Program Performance Reporting System, Report of Review Findings, FNS 320, annually, State agencies, Human Resources Division, Lowry, R. L., 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, the Survey to Prepare or Retrain Education Personnel to Meet the Needs of Persons of Limited English-Speaking Ability, OE 2383-1, single-time, college presidents/institutions of higher educ., Joan Turek.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration Application for Participation in the National Flood Insurance Program, HUD 1650, on occasion, towns, cities, counties, local bodies, Community & Veterans Affairs Division, 395-3532.

DEPARTMENT OF THE INTERIOR

Bureau of Sport Fisheries and Wildlife Waterfowl Hunter Attitude Study (By Contract With National Analysts, Phil., (Pa.), single-time, sample of waterfowl hunting stamp purchasers, Lowry, R. L., 395-3772.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration Contract, Load Transfer Systems in Slip-Formed Rigid Pavements, single-time, pavement engineers, Lowry, R. L., 395-3772.

REVISIONS

VETERANS ADMINISTRATION

Request for Change of Program or School (Veterans), 22-1995, on occasion, veteran students.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Chicken and Egg Report, monthly, egg producers, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census:

Fats and Oils Monthly Report of Renders, M 20 L, monthly, producers of edible and inedible animal fats, Peterson, M. O., 395-5631.

Radio Receivers and Television Sets, Phonographs and Record Players, Speakers and Related Equipment, MA-36M, annually, manufacturing establishments, Peterson, M. O., 395-5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Personal Data on Applicant Faculty Research Abroad, 7628-2, on occasion, faculty members of instit. of postsecondary educ., Lowry, R. L., 395-3772.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Monthly Report on Labor Turnover, DL-1219, monthly, industrial establishments, Strasser, A., 395-5867.

Employment Standards Administration, Certification of Funeral Director's Burial Expenses, LS-265, on occasion, funeral directors.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Salary and Wage Distribution Federal Civilian Employees, 1078, annually, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service Trade Opportunity Referral Questionnaire for U.S. Suppliers, FAS-529, on occasion, food exporters.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Confidential Reference for Graduate Student Applicant, 7628-3, on occasion, faculty given as references on application.

Language Reference for Fulbright-Hays Fellowship, OE 7828-1, annually, faculty members of institutions of postsecondary educ.

Basic Educational Opportunity Grant Program Request for Additional Payment, OE 304-1, on occasion, BEOG recipients & institutions they enrolled in.

Basic Educational Opportunity Grant Program Request for Additional Payment, Award, OE 304, on occasion, individuals and educ. institutions.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Pilot Right-Turn-on-Red Driver Attitude Survey, single-time, persons renewing driver's license.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-23150 Filed 8-28-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655), will meet on Wednesday, September 17, and Thursday, September 18, 1975, starting at 9 a.m., at the Rooftop Room, Quality Inn Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C. 20001. The meeting shall be open to the public.

The Committee will discuss proposed revisions to the asbestos rules as recommended by the Asbestos Subgroup which met August 13 and 14 in San Francisco. Time permitting, the Committee will also discuss proposed revisions to the criteria for rollover protective structures (ROPS) and overhead protection (falling object protective structures (FOPS)) for Subpart W.

Written data, views, or arguments concerning the subjects to be considered may be filed, together with 20 copies thereof, with the Committee Management Officer by September 8, 1975. Such submissions may also be filed with the Committee Management Officer at the meeting. Any such submissions will be provided to the members of the group and will be included in the record of the meeting.

Persons wishing to orally address the group at the meeting should submit a written request to be heard to the Committee Management Officer no later than September 8, 1975. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed.

Communications may be mailed to: Jay Arnoldus, Committee Management Office, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N-3633, Washington, D.C. 20210.

Signed at Washington, D.C., this 27th day of August 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-23198 Filed 8-28-75;9:23 am]

Office of the Secretary

EMERSON TELEVISION AND RADIO CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-112: investigation regarding certification of eligibility to apply for worker

adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 12, 1975 in response to a worker petition received on June 19, 1975 which was filed on behalf of workers and former workers of the National Parts and Service Department at Emerson Television and Radio Company, Jersey City, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 36632) on August 21, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications of the U.S. International Trade Commission, U.S. Department of Commerce, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such declined in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Significant total or partial separations of hourly and salaried workers at the national parts and service department of Emerson Television and Radio Company occurred after October 3, 1974 and have continued to date. Employment has decreased 50 percent since October 3, 1974.

Sales or Production, or Both, Have Decreased Absolutely: Sales of television receivers at Emerson decreased 49 percent from 1966 to 1969. The value of sales for all products made by Emerson dropped 28 percent from 1966 to 1969.

Increased Imports Contributed Importantly. Imports of television receivers like or directly competitive with those produced by Emerson Television and Radio Company increased 163 percent by quantity from 1966 to 1969. Because of the drastic decline in sales Emerson closed its Jersey City plant permanently in July 1970. However, warranty agreements on Emerson's televisions, radios and phonographs required the retention of employees of its national parts and service department. These employees who were an integral part of the Jersey City plant were threatened with separation due to the imports which closed the plant in July 1970. The final separation of employees of the national parts and service department is directly attributable to the increased import competition during the 1966–1970 period.

Conclusion. After careful review of the facts in the investigation, I conclude that increases of imports like or directly competitive with television receivers produced at Emerson Television and Radio Company during the period 1966–1970 have contributed importantly to the separation of workers from the national parts and service department of that firm. Section 223(b)(2) of the Trade Act of 1974 provides that certification of eligibility to apply for worker adjustment assistance may not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with this provision of the Act, I make the following certification:

All hourly and salaried workers of Emerson Television and Radio Company, national parts and service department at Jersey City, engaged in employment related to supplying parts and service for Emerson's televisions, radios and phonographs who became or will become totally or partially separated on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of August 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-23044 Filed 8-28-75;8:45 am]

WILSON SPORTING GOODS CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-61; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 25, 1975 in response to a worker petition received on June 24, 1975 which was filed by the United Textile Workers of America on behalf of workers formerly producing baseballs and softballs at the Tullahoma, Tennessee plant of Wilson Sporting Goods Company, River Grove, Illinois.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 28531) on July 7, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wilson Sporting Goods, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

A significant number or proportion of the hourly, piecework, and salaried workers at the Tullahoma plant became totally or partially separated in the fourth quarter of 1974. Employment declined 49 percent from September 1974 to June 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Tullahoma plant declined 62 percent from 1973 to 1974 and continued to decline in the first half of 1975.

INCREASED IMPORTS CONTRIBUTED IMPORTANTLY

Imports of articles like or directly competitive with baseballs and softballs produced at the Tullahoma plant increased from 11.2 million units in 1970 to 22.0 million units in 1974 and continued to increase in the first quarter of 1975, compared to the first quarter of 1974. The ratio of imports to domestic production and consumption increased from 81.4 percent and 44.9 percent respectively in 1970 to 159.2 percent and 61.4 percent respectively in 1974.

The evidence developed in the Department's investigation indicates that the separation of workers engaged in stitching operations at the Tullahoma, Tennessee plant of Wilson Sporting Goods Company was caused by the transfer of such operations to the Haiti plant. The company transferred its labor-intensive stitching operations to Haiti to reduce production costs and remain price-competitive with imports. Company imports increased 91 percent from 1973 to 1974 and increased 83 percent in the first half of 1975 compared to the same period of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with baseballs and softballs produced at the Tullahoma plant of Wilson Sporting Goods contributed importantly to the total or partial separation of the workers of that plant. Section 223(b)(2) of the Trade Act of 1974 provides that a certification of eligibility to apply for worker adjustment assistance may

not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with the provision of the Act I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the stitching of baseballs and softballs at the Tullahoma, Tennessee plant of Wilson Sporting Goods Company, who become totally or partially separated from employment on or after October 3, 1974, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of August 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-23045 Filed 8-28-75;8:45 am]

Wage and Hour Division

FULL-TIME STUDENTS EMPLOYED IN RETAIL AND SERVICE ESTABLISHMENTS

Certificates Authorizing Employment at Subminimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of full-time students (29 CFR 519), and Administrative Order 621 (36 FR 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates not less than 85 percent of the wage rates otherwise applicable under section 6 of the Act.

This group of establishments consists of retail stores primarily engaged in the selling of clothing, shoes and related articles for personal wear and adornment.

These certificates authorize the establishments listed to employ full-time students at subminimum wage rates for percentages not to exceed 10 percent of the total hours of all employees in the establishment in any calendar month during the effective period of the certificate.

The authority provided by any of these certificates was not effective before March 24, 1975, and expires not later than June 19, 1976, but in no instance does the effective period of any one certificate exceed one year.

Adler's, 1208 Main, Kansas City, MO.

Aland's, Inc., C-10 Hoover Mall, Hoover, AL.

Allegheny Center Apparel, Inc., No. 504, Pittsburgh, PA.

Badger Apparel Corporation, No. 586, Madison, WI.

Bakers Shoe Store: 15 Western Hills Mall, Fairfield, AL; 3269 Bel Air Mall, Mobile, AL; 300 South University, Little Rock, AR; 3929 McCain Boulevard, North Little Rock, AR; 519 Lincoln Road, Miami Beach, FL; 6901 22nd Avenue North, St. Petersburg, FL; U.S. 41 at I-285, NW. and 2481 Greenbriar Parkway, SW., Atlanta, GA; Nos. 2353 and 2354, Fort Wayne, IN; Nos. 2342 and 2343, Indianapolis, IN; 425 Broadway, Paducah, KY; 7253 Florida Boulevard, Baton Rouge, LA; 12 West Side Shopping Center, Gretna, LA; 229 Frontage Road, Lafayette, LA; 3301 Veterans Highway and 4468 Veterans Memorial Boulevard, Metairie, LA; 1074 Oliver Road, Monroe, LA; 837 and 941 Canal Street, New Orleans, LA; Edgewater Park, Biloxi, MS; 232 Jackson Mall, Jackson, MS; 2100 Louisiana Boulevard, NE., Albuquerque, NM; Nos. 2394 and 2395, Akron, OH; No. 2399, Canton, OH; Nos. 240, 2412 and 2414, Cincinnati, OH; Nos. 243, 2431, 2432 and 2433, Columbus, OH; Nos. 2422 and 2423, Dayton, OH; No. 2383, Elyria, OH; No. 2392, Niles, OH; No. 2374, Toledo, OH; No. 2391, Youngstown, OH; No. B-1028 and 1950 Penn Square, Oklahoma City, OK; 4153 South Yale Avenue and 1864 Utica Square, Tulsa, OK; 160 North Gulph Road, King of Prussia, PA; 2 Eastland Shopping Plaza, North Versailles, PA; 20 Eastgate Center, Chattanooga, TN; Sunset Center, Amarillo, TX; 123 Six Flags Mall, Arlington, TX; 1000 East 41th Street and 1256 Highland Mall, Austin, TX; 334 Parkdale Mall, Beaumont, TX; 5452 Padre-Staples Mall, Corpus Christi, TX; 1614 Elm Street, 222 Oak Cliff Shopping Center and 2218 Valley View Center, Dallas, TX; 6015 East Gateway Boulevard West and 220 North Mesa Avenue, El Paso, TX; 342 Seminary South, Fort Worth, TX; 254 Almeda Mall, 131 Gulfgate Mall, 801 Main Street, 217 Northline Mall, 254 Northwest Mall and 7500 Bellaire Boulevard, Houston, TX; 2126 North-East Mall, Hurst, TX; 6002 Slide Road, Lubbock, TX; 911 Big Town and 2054 Town East Mall, Mesquite, TX; 130 Central Park Mall, 225 East Houston Street and 202 Wonderland Center, San Antonio, TX; No. 2199, Orem, UT; 1800 West Mercury Boulevard, Hampton, VA; No. 2101, Greendale, WI; 5500 West Capitol Drive, Milwaukee, WI.

Baskin Clothing Company: 125 River Oaks Mall, Calumet City, IL; 7-13 North Pinckney, Madison, WI; 412 South Peoria and 137 South State Street, Chicago, IL; 1700 Orrington, Evanston, IL; 9628 South Evergreen Plaza, Evergreen Park, IL; 621 Central, Highland Park, IL; 999 Elmhurst Road, Mount Prospect, IL; 70 Oak Brook Mall, Oak Brook, IL; 1035 West Lake, Oak Park, IL; 20 Park Forest Plaza, Park Forest, IL; D-116 Lower Level, Schaumburg, IL; 111 Old Orchard, Skokie, IL; Lincoln Mall, Urbana, IL; Mineral Point & Gammon, Madison, WI.

The Behr Store: Rainbow Shopping Center, Gadsden, AL; Mall Shopping Center, Bowling Green, KY; 4746 Bardstown Road, 4140 Taylor Boulevard and 4056 Taylorsville Road, Louisville, KY; Gabe Shopping Center, Owensboro, KY.

Belden Village Apparel Corporation, No. 638, Canton, OH.

Beloit Plaza Apparel Corporation, No. 502, Beloit, WI.

Boyd's 600 Olive Street, St. Louis, MO.

Brookfield Milwaukee Corporation, No. 516, Brookfield, WI.

Brooks: No. 78, Gadsden, AL; No. 33, Anderson, IN; No. 4, Bloomington, IN; Nos. 8, 51 and 103, Indianapolis, IN; No. 57, Lafayette, IN; No. 32, Mucle, IN; No. 66, Richmond, IN; No. 86, South Bend, IN; No. 13, Terre Haute, IN; No. 114, Fayetteville, NC; No. 106, Cincinnati, OH; Nos. 2 and 17, Dayton, OH; No. 22, Fairborn, OH; No. 54, Lima, OH; No. 9, Mansfield, OH; No. 5, Mentor, OH; No. 49, Springfield, OH; Nos. 36 and 64, Toledo, OH; No. 19, Youngstown, OH; No. 111, Springfield, PA; No. 116, Bristol, VA; No. 62, Jamesville, WI; Nos. 6 and 28, La Crosse, WI; Nos. 39 and 44, Madison, WI.

Burts Shoe Store: 3449 Bel Air Mall, Mobile, AL; No. 2361, Evansville, IN; 827 and 1011 Canal Street, New Orleans, LA; 514 Texas Street, Shreveport, LA; No. L-2134, Oklahoma City, OK; 617 Main Street, Houston, TX; 312 East Houston Street and McCreless Shopping City, San Antonio, TX; 5300 South 76th Street, Greendale, WI.

Byck Brothers & Company: 3500 Bardstown Road, 3738 Lexington Road, 532 River City Mall and 7900 Shelbyville Road, Louisville, KY.

Castleton Apparel Corporation, No. 597, Indianapolis, IN.

Chandlers Shoe Store: No. 4343, Indianapolis, IN; 814 Canal Street, New Orleans, LA; 3576 Mayfield Road, Cleveland Heights, OH; 214 North Park Center, Dallas, TX; 5015 Westheimer Road and 7500 Bellaire Boulevard, Houston, TX; 744 North Star Mall, San Antonio, TX.

Chapel Apparel, Inc., No. 625, Akron, OH.

Charlotte Shop's Ltd., 101 Main Street, Sayville, NY.

Chic Fashions, 6340 Woodland Avenue, Philadelphia, PA.

The Children's Place, 10 Gloria Lane, Fairfield, NJ.

Coles Shoe Store: Nos. 2381, 2382, 2388 and 3151 Westgate, Cleveland, OH; 7850 Mentor Avenue, Mentor, OH.

Columbus Apparel Corporation, No. 526, Columbus, OH.

Cox's, Inc., 300 Fifth Avenue, McKeesport, PA.

Dawahare's, Inc., 1845 Alexandria Drive, Lexington, KY.

Diamond's Men's Stores, 7977 Ridgewood, Parma, OH.

Dean Apparel Corporation, No. 442, Cleveland, OH.

Dodi Fabrics, No. 193, Honolulu, HI.

Eastland Apparel Corporation, No. 514, Columbus, OH.

Edingers Department Store, Inc., 4225 Broadway, New York, NY.

Edwards Men Shop, Inc.: 817 Washington Avenue, Bay City, MI; Fashion Square Mall, Fort Saginaw Mall, Green Acres Plaza, 3075 Shattuck Road, Saginaw, MI.

Elkhart Apparel Corporation, No. 599, Elkhart, IN.

Elmira-Corning Apparel Corporation, No. 518, Horseheads, NY.

Embees, Inc.: 118 Main Street, Beckley, WV; 214 Capital Street, Charleston, WV; 414 3rd Avenue, Montgomery, WV; 330 Grand Central Mall Parkersburg, WV.

Fabric Center: 5947 Sunrise Mall, Citrus Heights, CA; 1016 10th Street, Sacramento, CA.

FABS: No. 1116, Vincinnes, IN; No. 1117, Menominee, MI; No. 1135, Chatham, NJ; No. 1144, Dover, NJ; No. 1134, Garwood, NJ; No. 1105, Linden, NJ; No. 1102, Neptune City, NJ; No. 1142, North Brunswick, NJ; No. 1148, South Plainfield, NJ; No. 1140, West Caldwell, NJ; No. 1111, West Milford, NJ.

The Fashinon Barn, Highway 82 East, Columbus, MS.

Fashion Fabrics: No. 120, Yuma, AZ; No. 83, Alhambra, CA; No. 64, Arcadia, CA; No. 131, Bakersfield, CA; No. 171, Chico, CA; No. 78, Fountain Valley, CA; Nos. 42 and 59, Fresno, CA; No. 148 Laguna Hills, CA; No. 14, La Habra, CA; No. 12, Lakewood, CA; No. 21, Livermore, CA; No. 24, Lodi, CA; Nos. 17 and 34, Los Angeles, CA; No. 178, Modesto, CA; No. 82, Northridge, CA; No. 77, Santa Clara, CA; No. 25, Stockton, CA; No. 104, Torrance, CA; No. 7, Ventura, CA; No. 181, Visalia, CA; No. 173, Yuba, CA; No. 183, Honolulu, HI; No. 210, Kailua, HI; Nos. 37 and 92, Las Vegas, NV; No. 182, Reno, NV.

Fashion Shop: Green Tree Mall, Clarksville, IN; 410 New Albany Plaza and 215 Pearl Street, New Albany, IN.

Freedman's Men's Wear, Inc., 1725 Murray Avenue, Pittsburgh, PA.

Great Lakes Apparel Corporation, No. 620, Mentor, OH.

Greengate Apparel Corporation, No. 493, Greensburg, PA

Golden-Farley of the Pennyrile Mall: Nashville Road, Bowling Green, KY; Fort Campbell Boulevard, Hopkinsville, KY.

Hamilton Apparel Corporation, No. 591, Cincinnati, OH.

Harry Yesness, 133 South Center Street, Casper, WY.

Hart's: 108 South Main Street, Butler, PA; Greengate Shopping Center, Greensburg, PA; 240 Market Street, Kittanning, PA; Heights Plaza Shopping Center, Natrona Heights, PA.

Harzfeld's, Inc.: 1101 Main Street, Kansas City, MO; NW. Highway & Pennsylvania Avenue, Oklahoma City, OK; 1740 Utica Square, Tulsa, OK

Haynes Triangle Sportswear, Inc.: Uniontown Mall, Uniontown, PA; Washington Mall, Washington, PA.

Head Shoe Company, 111 East Douglas, Wichita, KS.

Heads Village Store, 4723 East Douglas, Wichita, KS.

Henry B. Klein: 1111 Fifth Avenue, McKeesport, PA; Monroeville Mall, Monroeville, PA.

Hindelein Apparel Corporation, No. 657, Vernon Hills, IL.

Honeybee of New York, Ltd., 7 East 53rd Street, New York, NY.

Honey Creek Apparel Corporation, No. 536, Terre Haute, IN.

Hoosier Apparel Corporation, No. 666, Columbus, IN.

House of Fabrics: 5870 East Broadway, Tucson, AZ; 800 Yellowstone Avenue, Pocatello, ID; 3100 Harrison Avenue, Butte, MT; 1000 Tenth Avenue South, Great Falls, MT; Gateway West Shopping Center, Kalispell, MT; 1900 Brooks Street, Missoula, MT; 207 Winrock Center, Albuquerque, NM; 509 Main Street, Clovis, NM; #11 Loretto Shopping Center, Las Cruces, NM; 520 Rosario Street, Santa Fe, NM; 6319 Fashion Plaza, Murray, UT; 3171 Harrison Boulevard, 3737 Wall Avenue and 2347 Washington Street, Ogden, UT; A-10 University Mall, Orem, UT; 98 West Center Street, Provo, UT; 1225 Simpson Avenue, Salt Lake City, UT.

Hoyt Wright Company, Inc.: 911 Meridian Street and Mounds Mall, Anderson, IN; Muncie Mall, Muncie, IN.

Hub Clothiers, 515 North Main, Borger, TX.

Hutner's: 4201 and 7200 Coldwater Road, 120 East Rudisill Boulevard, 6520 East State Street and 920 South Calhoun Street, Fort Wayne, IN.

Ingermans Department Store, 135 Main Street, Northport, NY.

Jack Horner Shoes of York, Inc., York County Shopping Center, York, PA.

Jean-Ann's, 109 5th Street, South, Columbus, MS.

Joliet Apparel Corporation, No. 486, Joliet, IL.

Jurgens & Holtvluwer Mens Store, Inc., 2434 Eastern Avenue SE., Grand Rapids, MI.

Kankakee Apparel Corporation, No. 451, Kankakee, IL.

Kanter's, No. 118, Newport News, VA.

Keil's, 50 East Main Street, Shelby, OH.

The Kilgore Toggery, Inc., Kilgore, TX.

John Kinkel & Son, Inc., 44 Apple Street, New Shrewsbury, NJ.

Kinney Shoes: Nos. 3448, 5095 and 5228, Phoenix, AZ; No. 3232, Scottsdale, AZ; No. 5136, Sunnyslope, AZ; Nos. 1480 and 5137, Tucson, AZ; No. 2313, Bakersfield, CA; No. 4080, Buena Park, CA; No. 4120, Campbell, CA; No. 2260, Canoga Park, CA; No. 3422, Carson, CA; No. 5063, Chula Vista, CA; No. 3330, Citrus Heights, CA; No. 3429, City of Industry, CA; No. 5218, Compton, CA; Nos. 3483 and 5160-2, Concord, CA; No. 3482, Conoga Park, CA; No. 4160, El Cajon, CA; No. 5157-1, Escondido, CA; No. 2241, Fremont, CA; Nos. 2138, 3233 and 5130, Fresno, CA; No. 5027, Garden Grove, CA; No. 5025, Gardena, CA; No. 5086, Glendale, CA; No. 2490, Hanford, CA; No. 5123, Harbor City, CA; Nos. 2130 and 4130, Hayward, CA; No. 5111, La Canada, CA; No. 2350, Lakewood, CA; No. 4091, Lancaster, CA; Nos. 2161, 5078, 5129, 5223 and 5269, Los Angeles, CA; No. 5066, Lynwood, CA; No. 5160-1, Milpitas, CA; No. 5024, Mission Hills, CA; No. 5217, Modesto, CA; No. 2760, Montclair, CA; No. 2221, Mountain View, CA; No. 5092, North Hollywood, CA; No. 3313, Northridge, CA; No. 2301, Oakland, CA; No. 2390, Oxnard, CA; No. 902, Panorama City, CA; No. 5088, Pleasant Hill, CA; No. 5164, Redlands, CA; No. 2309, Redding, CA; No. 5021, Reseda, CA; Nos. 2810, 5076 and 5077, Sacramento, CA; No. 5150, Salinas, CA; Nos. 3110 and 4081, San Bernadino, CA; No. 5061, San Diego, CA; No. 2279, San Gabriel, CA; Nos. 2169, 2180, 3271, 4111 and 4121, San Jose, CA; No. 3321, San Mateo, CA; No. 3354, San Rafael, CA; No. 5074, Santa Clara, CA; No. 5233, Santa Cruz, CA; No. 4112, Santa Maria, CA; No. 2160, Santa Rosa, CA; No. 5209, Simi Valley, CA; No. 5210, Southgate CA; No. 5120, Stockton, CA; No. 1099, Sylmar, CA; No. 2320, Tarzana, CA; No. 3290, Torrance, CA; No. 5159-1, Tujunga, CA; No. 5157-2, Venice, CA; No. 2940, Hilo, HI; No. 1691, Aurora, IL; No. 951, Berwyn, IL; No. 1912, Bloomington, IL; No. 1760, Carpentersville, IL; No. 950, Chicago, IL; No. 5079, Downers Grove, IL; No. 5302, Elgin, IL; No. 691, Evergreen Park, IL; No. 3246, Hanover Park, IL; No. 1100, Hillside, IL; No. 5216, Hoffman Estates, IL; No. 1911, Joliet, IL; No. 5105, Lincolnwood, IL; No. 1860, Lombard, IL; No. 1761, Melrose Park, IL; No. 2070, Mount Prospect, IL; No. 1950, Niles, IL; No. 3348, Norridge, IL; No. 1940, Oak Lawn, IL; No. 5211, Palos Heights, IL; No. 707, Peoria, IL; No. 3366, Schaumburg, IL; No. 5064, Villa Park, IL; Nos. 1951 and 3250, Waukegan, IL; No. 5247, Bloomington, MN; No. 1471, Brooklyn Center, MN; No. 1130, Edina, MN; No. 5271, Maplewood, MN; No. 1851, Minneapolis, MN; No. 721, St. Louis Park, MN; Nos. 1132, 1470 and 3210, St. Paul, MN; No. 1460, West St. Paul, MN; Nos. 2340 and 5167, Las Vegas, NV; No. 1504, Reno, NV; No. 3396, Oklahoma City, OK; No. 3340, Murray, UT; No. 3365, Orem, UT.

Kistler-Collister Co., Inc., Albuquerque, NM.

Lafayette Apparel Corporation, No. 521, Indianapolis, IN.

Lakehurst Apparel Corporation, No. 575, Waukegan, IL.

Lakeland Apparel Corporation, No. 540, Mentor, OH.

Lazoviks, Fredericktown, PA.

Lerner Shops: No. 280, Michigan City, IN; No. 285, South Bend, IN; No. 234, Oklahoma City, OK; No. 495, Brownsville, TX; No. 297, Parkersburg, WV.

Loehmann's Fullerton, Fullerton, CA.

Lima Mall Apparel, Inc., No. 621, Lima, OH.

Loeb's, 2425 McHenry, Modesto, CA.

Loehmann's: East Brunswick 233 Highway 18, East Brunswick, NJ; 176 Columbia Turnpike, Florham Park, NJ; 154 West Route 4, Paramus, NJ; Routes 38 & 70, Pennsauken, NJ; 316 West Main Street, Bayshore, NY; 9 West Fordham Road, Bronx, NY; 19 Duryea Place, Brooklyn, NY; 60-06 99th Street, Flushing, NY; 1296 Broadway, Hewlett, NY; 78-14 Linden Boulevard, Howard Beach, NY; 301 West Jericho Turnpike, Huntington Station, NY; 230 East Main Street, Mount Kisco, NY; 41 East Prospect Avenue, Mount Vernon, NY; 29 Tarrytown Road, White Plains, NY.

M & M Boys Centre & University Shop, 428 Broadway, Bayonne, NJ.

Macon Apparel Corporation, No. 589, Decatur, IL.

Mansfield Apparel Corporation, No. 632, Mansfield, OH.

Mari-Ann Westgate Corporation: No. 415, Cleveland, OH; No. 441, Toledo, OH.

Marianne Arkansas Corporation, No. 590, Fort Smith, AR.

Marianne Mellett Corporation, No. 513, West Canton, OH.

Marion Apparel, Inc., No. 633, Marion, OH.

Marah's, Inc., 317 West Main Street, Artesia, NM.

Martins, Inc., 536 Penn Street, Reading, PA.

McKinley Apparel, Inc., No. 468, Mishawaka, IN.

Mellett Apparel, Inc., No. 619, West Canton, OH.

Mid-City Apparel, Inc., No. 467, Mishawaka, IN.

Midtown Apparel Corporation, No. 626, Parma, OH.

Midway Mall Apparel, Inc., No. 623, Elyria, OH.

Morse Columbus Apparel, Inc., No. 478, Columbus, OH.

National Mens Shops, Inc.: No. 37, Huntsville, AL; No. 178, Mobile, AL; No. 215, Montgomery, AL; No. 167, Tucson, AZ; No. 24, Fort Smith, AR; No. 196, Daly City, CA; No. 73, Hayward, CA; No. 39, Smyrna, GA; No. 275, Peoria, IL; No. 190, Richmond, IN; No. 272, Louisville, KY; No. 17, Baton Rouge, LA; No. 90, Gretna, LA; No. 266, Lake Charles, LA; No. 219, Metairie, LA; Nos. 40 and 78, New Orleans, LA; Wheaton Plaza Shopping Center, Wheaton, MD; No. 243, Jackson, MI; No. 242, Kalamazoo, MI; No. 92, Biloxi, MS; No. 302, Cherry Hill, NJ; No. 244, Livingston, NJ; No. 44, Newark, NJ; No. 137, Paramus, NJ; No. 93, Albuquerque, NM; No. 176, Albany, NY; No. 134, Hicksville, NY; No. 292, Lake Grove, NY; No. 222, Nanuet, NY; No. 261, Niagara Falls, NY; No. 163, Rochester, NY; No. 267, Staten Island, NY; No. 143, Valley Stream, NY; No. 191, West Seneca, NY; No. 233, Williamsville, NY; No. 265, Raleigh, NC; No. 197, Akron, OH; No. 246, Cincinnati, OH; No. 95, Cleveland, OH; No. 158, Dayton, OH; No. 207, Niles, OH; No. 245, Charleston Heights, SC; No. 284, Oklahoma City, OK; No. 273, Langhorne, PA; No. 66, Pittsburgh, PA; No. 91, Chattanooga, TN; No. 248, Goodlettsville, TN; No. 27, Beaumont, TX; Nos. 54, 86 and 115, Dallas, TX; No. 165, El Paso, TX; No. 169, Fort Worth, TX; Nos. 33, 77 and 124, Houston, TX; No. 239, Mesquite, TX; Nos. 13, 85 and 166, San Antonio, TX; No. 15, Waco, TX; No. 100, Salt Lake City, UT.

Nettie Lee's Cricket Corner, 2100 North Roan Street, Johnson City, TN.

Newman London Youth Center, Inc., 5834 Forbes Avenue, Pittsburgh, PA.

Nichols Foot Form, Inc.: 6540 Jericho Turnpike, Commack, NY; 28 Smithhaven Mall, Lake Grove, NY; 236 Sunrise-Mall, Massepequa, NY; 2660 Hyland Boulevard and 129 Staten Island Mall, Staten Island, NY; Green Acres Shopping Center, Valley Stream, NY.

Nobil Shoe Store: Fairview Park Plaza, Centralia, IL; 301 North Water Street, Decatur, IL; 124 South Adams Street and Northwoods Mall, Peoria, IL; 500 Maine Street, Quincy, IL; Colonial Village Shopping Center, Rockford, IL; 100 Lincoln Square, Urbana, IL; Markland Mall, Kokomo, IN; Muncie Mall, Muncie, IN; Honey Creek Shopping Center, Terre Haute, IN; LaVale Plaza, LaVale, MD; Fairplain Plaza, Benton Harbor, MI; Clio & Pierson Road, East Court Street and South Flint Plaza, Flint, MI; 16 Woodland Mall, Grand Rapids, MI; Sears Lincoln Park Shopping Center, Lincoln Park, MI; Meridian Mall, Okemos, MI; 4655 Fashion Square Mall, Saginaw, MI; Long Ridge Shopping Center, Rochester, NY; Eastern Hills Shopping Center, Williamsville, NY; 211 Wooster Road, Barberton, OH; 4197 Belden Mall, Canton, OH; 354 Dayton Mall and 5200 Salem Avenue, Dayton, OH; Midway Mall Shopping Center, Elyria, OH; 558 Great Lakes Mall, Mentor, OH; 26225 Great Northern Shopping Center, North Olmsted, OH; 5320 Youngstown Road, Niles, OH; 232 Upper Valley Mall Shopping Center, Springfield, OH; Fort Steuben Mall, Steubenville, OH; West-

gate Village Shopping Center, Toledo, OH; 837 Southern Park Mall, Youngstown, OH; Beaver Valley Mall, Monaca, PA; 276 Grand Central Mall, Parkersburg, WV; 95 North Moorland Road, Brookfield, WI; Memorial Mall Shopping Center, Sheboygan, WI; 124 Fifth Avenue, South Lacrosse, WI.

North Toledo Apparel Corporation, No. 637, Toledo, OH

Northway Mall Marianne Corporation, No. 462, Pittsburgh, PA.

Norwood Apparel Corporation, No. 529, Norwood, OH.

Novell's, Inc., King of Prussia Plaza, King of Prussia, PA.

Oshkosh Apparel Corporation, No. 564, Oshkosh, WI;

Patricia Corporation: Nos. 316 and 321, Cleveland, OH;

Pay Less Self Service Shoes, Inc.: No. 524, La Puente, CA; East 83rd and 117th Street, McAllen, TX; 1402 West Beauregard, San Angelo, TX; 1121 East 5th Street, Tyler, TX; 701 East Rio Grande, Victoria, TX; 400 North 18th Street, Waco, TX.

Petrie's Corporation, No. 568, Fort Smith, AR; No. 602, Toledo, OH. No. 544, Salt Lake City, UT.

Philipp's, Inc., 600 West Second Street, Hastings, NE.

The Quicksilver Company: 523 North Grant and Winwood Mall, Odessa, TX.

Red Robin Corporation: Nos. 147 and 149, Cleveland, OH.

Reynolds Penland Company: 2210 Highland Mall, Austin, TX and 2134 Town East Mall, Mesquite, TX.

The Richman Brothers Company: 2701 Ming Avenue, Bakersfield, CA; 203 Carson Mall, Carson, CA; 5921 Sunrise Mall, Citrus Heights, CA; 485 Parkway Plaza, El Cajon, CA; 127 North Brand Boulevard, Glendale, CA; 155 Los Cerritos, Los Cerritos, CA; 9301 Tampa Avenue, Northridge, CA; 2131 North Orange Mall, Orange, CA; 128 Inland Center, San Bernardino, CA; 1351 Third Street, Santa Monica, CA; 3657 Tyler Mall, Riverside, CA; 49 Del Amo Fashion Square, Torrance, CA; 1656 Northland Mall, Columbus, OH; 5200 Salem Avenue, Dayton, OH; 29720 Lake Shore Boulevard, Willowick, OH; No. 2280, Brookfield, WI; No. 2300, Greendale, WI; No. 2314, Madison, WI; No. 1015, Milwaukee, WI; No. 1100, Racine, WI; No. 2287, Sheboygan, WI;

River Oaks Apparel Corporation, No. 507, Calumet City, IL;

Rose Singer Shop, Inc., 754 Cumberland Street, Lebanon, PA;

Ruth's Shop, 101 5th Street, Columbus, MS.

S & Q Clothiers: Central Mall and Garrison Avenue at 7th, Fort Smith, AR; Main at Broadway Streets, Ada, OK; 349 Cypress Street and 3 River Oaks, Abilene, TX; 256 Parkdale Mall, Beaumont, TX; 314 North Chaparral, and 25 Parkdale Plaza, Corpus Christi, TX; 1112 Broadway and 6002 Slide Road, Lubbock, TX; 315 Andrews Highway and 115 North Colorado, Midland, TX; 5 North Main, Temple, TX; 1401 Village Drive, Victoria, TX; Wichita Falls, TX.

Saginaw Apparel Corporation, No. 644, Saginaw, MI.

Samuel Lepp & Company, 3701 Durand Avenue, Racine, WI.

Santerian's Department Store: Buck's Co. Mall, Feasterville, PA; 14 East Moreland Avenue, Hatboro, PA; South Line & Penn Streets, Lansdale, PA.

Sater's, Inc.: 4498 First Avenue, 317 Main Street and 852 South Green River Road, Evansville, IN.

Scottsdale Apparel Corporation, No. 646, South Bend, IN.

Seifert's, Inc.: Southpark Plaza, Moline, IL; 1205 Merle Hay Mall, Des Moines, IA; 321 South Central, Marshfield, WI.

Shelly Rand's, Inc., McCain Mall, North Little Rock, AR.

Shoregate Apparel, Inc., No. 171, Willowick, OH.

The Show Off, 169 Puente Hills Mall, City of Industry, CA.

Size 5-7-9 Shops: 4470 Veterans Memorial Highway, Metairie, LA; 6901 Security Boulevard, Baltimore, MD; 2195 Brightseat Road, Landover, MD.

So-Fro Fabrics: 4201 Highway 71 North, Fayetteville, AR; 170 Central Mall, Fort Smith, AR; North 33 Sunshine Mall, Clearwater, FL; 7804 Abercorn Street., Savannah, GA; 516 Cobb County Center, Smyrna, GA; No. 115, Clarksville, IN; No. 119, Elkhart, IN; No. 135, Fort Wayne, IN; No. 138, Gary, IN; No. 140, Hammond, IN; No. 145, Indianapolis, IN; No. 150, Kokomo, IN; Market Square Shopping Center, Lafayette, IN; No. 180, Merrillville, IN; No. 160, Michigan City, IN; No. 165, Muncie, IN; No. 190, Terre Haute, IN; 307 D Sagamore Parkway West, West Lafayette, IN; 2749 Nashville Road, Bowling Green, KY; 2502 Wesleyan Park Plaza, Owensboro, KY; 2087 Rawsonville Road, Belleville, MI; No. 314, East Windsor; NJ; No. 345, Lyndhurst, NJ; No. 375, Turnersville, NJ; No. 385, Vineland, NJ; No. 315, Voorhees, NJ; No. 340, Westmont, NJ; No. 903, Albany, NY; No. 904, Amherst, NY; No. 905, Buffalo, NY; No. 960 Massapequa, NY; Route No. 3 and Interstate 87, Plattsburgh, NY; Nos. 950 and 974, Rochester, NY; No. 975, Rome, NY; No. 985, Staten Island, N.Y.; B-1014 Crossroads Mall, Oklahoma City, OK; 205 Millcreek Mall, Erie, PA; 2150 Northwoods Boulevard, Charleston Heights, SC; 6 McAlister Square, Greenville, SC; Eastgate Shopping Center, Chattanooga, TN; 719 Thompson Lane, Nashville, TN; 206 Parkdale Mall, Beaumont, TX; 1120 Valley View Center, Dallas, TX; 6402 Broadway, Galveston, TX; 1018 Town East Mall, Mesquite, TX; Gate City Highway, Bristol, VA; 227 Newmarket North, Newport News, VA; College Park Square Shopping Center, Virginia Beach, VA; 800 West Northland Avenue, Appleton, WI; 835 West Johnson Street, Fond Du Lac, WI; 7544 West Pershing Boulevard, Kenosha, WI; 3347 Kohler Memorial Drive, Sheboygan, WI; 221 South Montana Avenue, Casper, WY; 113 Cole Shopping Center, Cheyenne, WY.

Southern Park Apparel Corporation, No. 631, Youngstown, OH.

Standee Sales Co., Inc., 58 South 2nd Street, Philadelphia, PA.

Stein's Stores, Inc., 28 Dexter Avenue, Montgomery, AL.

Stevens, Jackson Mall, Jackson, MS.

Stuarts Tupelo Apparel Corporation, No. 742, Tupelo, MS.

Susies Casuals: No. 9319, Scottsdale, AZ; No. 9354, Cerritos, CA; No. 9353, San Jose CA; No. 9356, Aurora, CO; No. 9365, Wilmington, DE; No. 9361, Landover, MD; No. 9370, Edina, MN; No. 9301, Houston, TX; No. 9324, Norfolk, VA; No. 9374, Springfield, VA.

J. Svoboda Sons, 12 South Dunton Avenue, Arlington Heights, IL.

Swanky Shops, 872 Main Street, Darby, PA; 6162 Ridge Avenue and 6339 Woodland Avenue, Philadelphia, PA.

Turnpike Apparel Corporation, No. 729, Arlington, TX.

Tyler Apparel Corporation, No. 738, Austin, TX.

Uniontown Apparel Corporation, No. 653, Uniontown, PA.

The Village Shop of Decatur, Inc., 1815-A Sixth Avenue, SE., Decatur, AL.

Village Apparel Corporation, No. 722, Houston, TX.

Wabash Apparel Corporation, No. 570, Lafayette, IN.

Ware Lo, Inc., 3450 Baychester Avenue, Bronx, NY.

Washington Mall Apparel Corporation, No. 530, Washington, PA.

Wicks and Greenman, Inc., New Hartford Shopping Center, New Hartford, NY.

The Wild Pair: 3301 Veterans Memorial Boulevard, Metairie, LA; 5015 Westheimer Road, Houston, TX.

William A. Lewis Clothing Company, 1330 Winston Plaza, Melrose Park, IL.

Wolff's Clothiers, Inc.: 134 Crestwood Plaza, Crestwood, MO; 20 West County Center, Des Peres, MO; 50 River Roads Plaza, Jennings, MO; 440 Nothwest Plaza, St. Ann MO; 700 Olive Street, St. Louis, MO.

Worths: 214 Collinsville Avenue, East St. Louis, IL; 2044 North East Mall, Hurst, TX.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at subminimum wage rates is necessary to prevent curtailment of opportunities for employment and the hiring of full-time students at subminimum wage rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate.

The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 14, 1975.

Signed at Washington, D.C. this 25th day of August, 1975.

ARTHUR H. KORN,
Authorized Representative of the Administrator.

[FR Doc.75-23046 Filed 8-28-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 842]

ASSIGNMENT OF HEARINGS

AUGUST 26, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123407 Sub-234, Sawyer Transport, Inc., now being assigned November 11, 1975 (1 day) at Dallas, Texas; in a hearing room to be later designated.

MC 103498 Sub-43, W. D. Smith Truck Line, Inc., now being assigned November 12, 1975 (1 day) at Dallas, Texas; in a hearing room to be designated later.

MC 63792 Sub-23, Tom Hicks Transfer Company, Inc., now being assigned November 13, 1975 (2 days) at Dallas, Texas; in a hearing room to be designated later.

No. 36090, General Environment Corporation—Petition for Declaratory Order—Applicability of Tariff Provisions, now being assigned November 17, 1975 (1 week) at

Dallas, Texas; in a hearing room to be designated later.

No. 36180, San Antonio, Texas Acting By and Through Its City Public Service Board vs Burlington Northern, Inc., et al., now being assigned October 15, 1975, for a Prehearing Conference, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC 95350 Sub-6, R. W. Jones Trucking Company, now being assigned October 21, 1975 (3 days), at Salt Lake City, Utah in a hearing room to be later designated.

MC 134783 Sub-27, Direct Service, Inc., now assigned September 25, 1975 at Washington, D.C., canceled and transferred to Modified Procedure.

MC-C-8041, Garrett Freight Lines, Inc., et al, V-Puget Sound Truck Lines, Inc., now being assigned October 21, 1975 (2 days) at Olympia, Washington; in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-23062 Filed 8-28-75;8:45 am]

[Notice No. 64]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

AUGUST 29, 1975.

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 September 18, 1975. 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-76029. By order of August 25, 1975, the Motor Carrier Board approved the transfer to Frank Bryan, Jr., doing business as Taos Transportation Company, Dallas, Tex., of the operating rights in Certificate No. MC 99118 (Sub-No. 2) issued May 8, 1964, to Dillard A. Toliver and W. W. Farmer, a partnership, doing business as Farmer Bus Line, Wichita Falls, Tex., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Wichita Falls, Tex., and San Antonio, Tex., serving all intermediate points. Mike Cotten, 12th Floor, Capital National Bank Building, Austin, Tex. 78767, attorney for applicants.

No. MC-FC-76038. By order of August 22, 1975, the Motor Carrier Board approved the acquisition of control by Chiles, Heider Corporation, of Omaha, Nebr., of Travel & Transport, Inc., of Omaha, Nebr., by purchase of stock from The Omaha National Corporation, also of Omaha. Travel & Transport, Inc., holds License No. MC 130006 and subnumber authorizing it to engage in operations as a broker (1) at Omaha, Nebr., Fort Dodge, Council Bluffs, and Cedar Rapids, Iowa, and St. Joseph and Kansas City, Mo., in connection with the transportation of passengers, in special and charter operations, between all points in the United States, including Alaska and Hawaii, restricted to participants whose point of departure is in Kansas, Missouri, Nebraska, or Iowa, and (2) at Fargo, N. Dak., in connection with the transportation of passengers, in round-trip charter operations, beginning and ending at points in North Dakota and extending to points in the United States, including Alaska and Hawaii. Frank J. Dinovo, Jr., 3104 Farnam Street, Omaha, Nebr. 68131, representative for applicants.

No. MC-FC-76039. By order of August 22, 1975, the Motor Carrier Board approved the transfer to Crescent Trucking, Inc., Arlington, Mass., of the Certificate of Registration in No. MC 121418 (Sub-No. 1) issued January 27, 1964, to Albert Guidaboni, doing business as Boston & Falmouth Express, Middleboro, Mass., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in Irregular Route Common Carrier Certificate No. 1142 issued November 7, 1951, by the Massachusetts Department of Public Utilities. Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187, attorney for applicants.

No. MC-FC-76045. By order of August 25, 1975, the Motor Carrier Board approved the transfer to Clell Swift, Nelson, Nebr., of the operating rights in Certificate No. MC 94670 (Sub-No. 1) issued February 26, 1973, to Mrs. Raymond A. Albert, Kay Adams, and Larry Adams, a partnership, doing business as Albert and Adams, Marshall, Mo., authorizing the transportation of animal and poultry feeds, and seeds, from points in Kansas east of U.S. Highway 81 to points in Saline County, Mo.; fertilizer (except in bulk, in tank vehicles), from East St. Louis, Ill., and Olathe, Kans., to points Saline, Howard, Pettis, Johnson, Lafayette, Carroll, and Charlton Counties, Mo., and feed, from East St. Louis, Ill., to points in these seven counties in Missouri. Herman W. Huber, 101 East High Street, Jefferson City, Mo. 65101, attorney for applicants.

No. MC-FC-76050. By order entered August 25, 1975, the Motor Carrier Board approved the transfer to R. F. Box, Inc., Albuquerque, N.M., of the operating rights set forth in Permits Nos. MC 136989 (Sub-No. 2) and MC 136989 (Sub-No. 5), issued November 23, 1973 and July 22, 1974, respectively, to R. F. Box, doing business as R. F. Box Trucking, Albuquerque, N.M., authorizing the transportation of lighting fixtures and floor covering (except carpeting and rugs), from specified points in Pennsylvania, to points in Arizona, Nevada, Utah, California, Oregon, Washington, New Mexico, Utah, Texas, Idaho, Montana, and Colorado, under a continuing contract or contracts with certain specified shippers. Edwin E. Piper, Jr., 1115 Sandia Savings Bldg., Albuquerque, N. Mex. 87102, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-23061 Filed 8-28-75;8:45 am]

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

Meeting

The next meeting of the Board of Directors of the Legal Services Corporation will be held on September 8 and 9, 1975 in Room 426 of the Cloyd Heck Marvin Center of George Washington University. The Marvin Center is located at 800 21st Street NW., Washington, D.C. (Enter at 21st Street).

The meetings will begin at 12:15 p.m. on Monday, September 8, 1975 and 9:00 a.m. on Tuesday, September 9, 1975, and will be for the purpose of considering reports from the Committee on Administration, the Committee on Presidential Search, the Committee on By-laws and Regulations, and the Committee on Appropriations and Audit.

Dated: August 28, 1975.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-23243 Filed 8-28-75;12:15 pm]

COMMITTEE ON ADMINISTRATION

Meeting

The next meeting of the Committee on Administration of the Board of Directors of the Legal Services Corporation will be held on Sunday, September 7, 1975 in the Ohio Room (Second Floor) of the Statler Hilton Hotel at 16th and K Streets NW., Washington, D.C.

The meeting will begin at 9:00 a.m. and will be for the purpose of considering the organization and management of the Corporation; discussing space needs for the Corporation's headquarters; and considering personnel policies with regard to the staffing of the Corporation.

Dated: August 28, 1975.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-23242 Filed 8-28-75;12:14 pm]

COMMITTEE ON APPROPRIATIONS AND AUDIT

Meeting

AUGUST 28, 1975.

The first meeting of the Committee on Appropriations and Audit of the Board of Directors of the Legal Services Corporation will be held on Monday, September 8, 1975 in Room 426 of the Cloyd Heck Marvin Center of George Washington

University. The Marvin Center is located at 800 21st Street NW., Washington, D.C. (Enter at 21st Street.)

The meeting will begin at 9:00 a.m. and will be for the purpose of reviewing the current status of the Corporation's appropriations request for FY 1976; discussing budget justification for FY 1977; considering the selection of a Certified Public Accountant to develop accounting and financial systems for the Corporation; and considering the selection of a Comptroller.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-23244 Filed 8-28-75;12:15 pm]

COMMITTEE ON BY-LAWS AND REGULATIONS

Meeting

AUGUST 28, 1975.

The next meeting of the Committee on By-laws and Regulations will be held on Monday, September 8, 1975, in the conference room of the Corporation's offices at 1725 K Street NW., Washington, D.C., Suite 413. The meeting will begin at 9:00 a.m. and will be for the purpose of considering proposed temporary regulations which were printed in the FEDERAL REGISTER on August 7, 1975 (40 FR 33293), and comments filed with the Corporation on or before September 6, 1975; considering proposed by-laws which were printed in the FEDERAL REGISTER on August 11, 1975 (40 FR 33751-55), and comments filed with the Corporation on or before date of meeting; and discussing proposed Freedom of Information Act regulations.

ROGER C. CRAMTON,
Chairman.

[FR Doc.75-23245 Filed 8-28-75;12:15 pm]

federal register

FRIDAY, AUGUST 29, 1975



PART II:

ENVIRONMENTAL PROTECTION AGENCY

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REGULATION OF FUELS AND FUEL ADDITIVES

Administrative Procedures for Challenging Liability and Penalty Assessment, and Guidelines for Assessment of Civil Penalties

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 411-4]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Administrative Procedures for Challenging Liability and Penalty Assessment

On November 12, 1974 the Environmental Protection Agency proposed regulations to establish procedures for challenging liability and penalties assessed pursuant to 40 CFR Part 80 which provided for the general availability of unleaded gasoline by July 1, 1974 (39 FR 39992). The regulations proposed to add a new Subpart D—Rules for Assessment of Civil Penalties—to 40 CFR Part 80. These regulations would establish procedures by which a person could challenge the Agency's determination of liability and the amount of the assessed penalty for any particular violation. Also under this Subpart uniform criteria were proposed which would be used to assess and mitigate penalties for violations of the unleaded gasoline regulations. These criteria were set forth in Guidelines for Assessment of Civil Penalties under Section 211(d) of the Clean Air Act (42 U.S.C. 1857f-6c) and published as an appendix to the proposed Subpart D.

In conjunction with this promulgation of the Rules for Assessment of Civil Penalties, the Agency is publishing the "Guidelines for the Assessment of Civil Penalties under Section 211(d) of the Clean Air Act (42 U.S.C. 1857f-6c)", hereinafter referred to as the "Guidelines". They appear in today's FEDERAL REGISTER as a Notice as the second document of this Part II. These guidelines will govern the assessment by Agency personnel of civil penalties for violations of the unleaded gasoline regulations.

These regulations establish a formal administrative hearing procedure which may be used to determine both liability for penalties and their amount. The fact-finding is to be done by an Administrative Law Judge assigned to EPA or by an impartial Presiding Officer not connected with enforcement activities, and his decision is subject to review by the appropriate Regional Administrator. Judicial review of the final administrative decision will be available to determine whether it is "unsupported by substantial evidence" within the meaning of 5 U.S.C. 706(2)(E). This formal hearing procedure will only be used where less formal settlement negotiations between EPA and the alleged violator have failed to produce a mutually satisfactory agreement.

SUMMARY OF COMMENTS RECEIVED: AGENCY RESPONSE

Comments were received from various segments of the petroleum marketing industry and the public regarding the proposed regulations. The Agency has evaluated the proposal in light of these comments and has modified certain provisions of the proposed rulemaking as a result. The final regulations incorporating such changes are promulgated below.

Several refiners submitted comments questioning the authority under Section 211 of the Clean Air Act for the Agency to have administrative hearings for fact-finding in enforcement proceedings. The refiners argued that instead the Agency is required to have findings of the facts in a trial de novo.

In its November 12, 1974 proposal, EPA gave two legal reasons why determinative fact-finding in enforcement proceedings under these regulations could properly take place at the administrative level. These were the authority given the Administrator to "determine the facts" in certain circumstances by Section 211(d) of the Clean Air Act and the general principle that courts before intervening in a case will require litigants to exhaust their administrative remedies.

No commentator took direct issue with EPA's reasoning on these points. However, several raised new arguments against EPA's position. Although we do no find these arguments persuasive, a more extensive discussion of the issue in response to them is appropriate.

Section 211(d) of the Clean Air Act provides that any person who violates EPA regulations controlling fuel additives shall pay a civil penalty of $10,000 for each day of the violation. The statute also provides that

> The Administrator may, upon application, remit or mitigate any forfeiture provided for in this subsection *and he shall have authority to determine the facts upon such applications.* (emphasis added).

The italicized language would be meaningless and Congress presumably would not have included it in the statute if it only applied to remission and mitigation applications that result in a mutually satisfactory compromise, since upon settlement the question of what the facts were would become irrelevant. Similarly, the language would be meaningless if it meant that when such an application was made, but no agreement was reached, there would be a trial de novo at which EPA could present its own view of the facts to the court. Since the Agency always has the right to thus present its own view of the facts, the underlined language in that case also would add nothing to the meaning of the statute.

We believe that the only reading of this phrase that gives it independent meaning is one that takes it as directing the Administrator to make findings of fact in all cases where an application for remission or mitigation has been made, even if no mutually satisfactory agreement has been reached. These findings would then be subject to judicial review not in a trial de novo, which in our view would be inconsistent with the "authority" granted the Administrator to determine the facts, but by review of the administrative record to make sure they were based on substantial evidence.

However, the authority to determine the facts only resides in the Administrator when he "upon application" considers remitting or mitigating a penalty. The argument might be made then (though none of the commentators made it) that even granting the Administrator's fact-finding authority a potential defendant could assure itself of a trial de novo in federal district court simply by refusing to apply for mitigation.

Such an argument makes little sense as a matter of policy since it is hard to imagine why Congress would authorize two separate formal methods of determining liability with the choice between them to be made solely by the defendant. It also conflicts with the principle of exhaustion of administrative remedies, which holds that in normal circumstances a person must exhaust all potential avenues for administrative relief before the courts will hear his case. This doctrine rests both on judicial deference to Agency discretion and expertise and on a desire to keep cases out of the courts which might never get there if the administrative process were permitted to run its course. Plainly both factors are present here.[1]

For these reasons it is our opinion that a court would properly require any applicant for judicial review to first apply to EPA for remission or mitigation of the suggested penalty and if necessary to go through the prescribed fact-finding hearing before the court itself would take up the matter.

No commentator took issue with, or even really discussed, this line of reasoning.[2] Instead, several of them pointed uniformly without much discussion or analysis to various other factors which they said overbalanced such considerations.

Several argued that the use in the statute of such terms as "civil suit," "remit," and "mitigate," and the absence of such terms as "assess," all indicated a Congressional intent to require trial of the facts de novo. There is no reason, however, to adopt such a reading. All actions in the federal courts which are not criminal are civil by definition; the question is not the civil nature of the action but the standard of review to be applied. And the word "assess" is absent from two of the oldest statutes under which administrative fact-finding has been practiced. See 8 U.S.C. Section 1227(b) (Immigration and Naturalization Service); 39 U.S.C. Section 5206 (Postal Service).

Texaco points out that EPA has adopted an interpretive approach here different from the one adopted by the

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[1] For further discussion of exhaustion of remedies, see *McKart* v. *United States*, 375 U.S. 185, 193-95 (1969); *McGee* v. *United States*, 402 U.S. 479, 485-86 (1971). See also *Christian* v. *New York Department of Labor*, 414 U.S. 614, 622 (1974); Davis "Administrative Law Treatise—1970 Supplement", Sections 20.01, 20.08; Jaffe, "Judicial Control of Administrative Action" (abridged student ed. 1965), pp. 424-458; *United States* v. *Ruzicka*, 329 U.S. 287 (1946) (Frankfurter, J.).

[2] The Society of Independent Gasoline Marketers of America (SIGMA) at page eight of its comments offers an alternative argument in support of EPA's position on the "exhaustion" point. We agree with SIGMA that the argument advanced has merit.

Coast Guard under Section 311 of the Federal Water Pollution Control Act. This is true but irrelevant. The two statutory provisions have different language and legislative histories and were meant to function in different administrative contexts.

EPA in its Notice of Proposed Rulemaking listed five factors which, according to the Administrative Conference of the United States, make fact-finding at the administrative level desirable and which are present in the case of unleaded gasoline. As slightly reworded from the proposed version they were:

1. *An anticipated large number of cases.*—Approximately three-fourths of the 350,000 retail gasoline outlets in this country are required to offer unleaded gasoline under the regulations in question. In addition, many of the remaining outlets are expected to voluntarily carry the product. Each of these outlets is, at least potentially, the subject of EPA regional enforcement activity. The substantial number of cases that are expected to result would place a significant burden on the district courts in each region.

2. *Speedy adjudication is important to the enforcement scheme.*—The purpose of the substantive regulations to be enforced by these procedures is to greatly increase the availability and the freedom from contamination of unleaded gasoline provided by the petroleum distribution system. Unleaded gasoline must be generally available to serve vehicles produced during the 1975 model year since most cars and light-duty trucks are to be equipped with lead-sensitive catalytic converters to reduce exhaust emissions. These catalysts are deactivated by lead and phosphorus in gasoline. Since the timetable for the introduction of catalyst-equipped vehicles is fixed, and the number of these vehicles is expected to grow steadily from the time of introduction, it is imperative that the supply of uncontaminated unleaded gasoline be increased commensurately. To ensure this, a quick and flexible enforcement scheme is required.

3. *There is a need for specialized knowledge and Agency expertise.*—EPA plans to enforce the regulations at issue here through mobile laboratories that will examine samples of gasoline from an individual station by a field test. If contamination is suspected, the sample will be returned to a laboratory for analysis by atomic absorption spectrometry for lead content and by a complex wet chemical test for phosphorus determination. These sophisticated test procedures will take some time to explain in formal proceedings. It would be far more economical to assign the fact-finding function to a few qualified Hearing Officers who would become sufficiently familiar with the technical issues that will be common to almost all cases than to assign it to perhaps scores of Federal District Judges each of whom would have to have the technical issues explained to him for the first time.

4. *Issues of law will be rare.*—The basic issues of law have been settled already by the United States Court of Appeals for the District of Columbia Circuit, *Amoco Oil Co. v. EPA*, 501 F.2d 722 (1974). The questions arising during enforcement proceedings can be expected to be almost exclusively issues of fact, involving whether the gasoline being sold is contaminated by lead or phosphorus and, if it is, which party should be held responsible for its shortcomings.

5. *Greater consistency of outcome is important.*—Gasoline retailers are composed of many individual entrepreneurs with economic and business problems and practices that are often similar. Given the similarity of conditions that can thus be expected to arise from case to case, it is particularly important that there be coherence to the pattern of penalties assessed in individual circumstances. It is for this reason that the Civil Penalty Assessment Guidelines have been developed and promulgated.

Only one commentator disagreed with EPA's analysis of these points. Standard Oil of California argued that factors "1" and "2" are not satisfied because a fervent industry desire to comply will exist, thus reducing the number of cases and making speedy adjudication unimportant. History demonstrates, however, that the first stage of any new regulatory program involving over 250,000 separate businesses is likely to yield a considerable number of violations, and the unleaded gasoline program has proved to be no exception with almost 1,000 complaints or notices of violation having been issued as of January 1975. Speedy enforcement, as passage number 2 above notes, is even more important where unleaded gasoline is concerned than it would be in most regulatory undertakings because of the need to protect catalysts against poisoning. This point was not addressed by Standard.

Standard also argued that issues of law will be common until the proposed regulations are clarified, although it gave no examples of any issues so raised and the other comments failed to raise them. Finally, it contends that consistency of outcome can be just as well assured by court as by administrative proceedings provided the penalty assessment guidelines are the same. Even conceding that a court would be bound by these guidelines to the same extent as EPA (a point on which the court itself, of course, might disagree), there is likely to be greater consistency in their interpretation and administration if that is carried out on the administrative level, rather than being assigned to U.S. Attorney's Offices throughout the country and to randomly selected district judges.

It is fair to say, however, that the prospect of fact-finding at the administrative level was not in itself strenuously objected to. But commentators urged that if such an approach was to be permissible, the initial fact-finding should be done in every case by an Administrative Law Judge. It was argued that these Judges might tend to be more independent in their evaluations than an EPA employee.

The Constitution does not require the degree of separation of functions for which these comments contend, but only that the adjudicating officer have no direct connection with the class of cases being considered. *Morrisey* v. *Brewer*, 408 U.S. 471, 486, 489 (1972). The regulations promulgated today provide for that. In addition, even under statutes where an Administrative Law Judge would explicitly be required (which is not the case here), the Administrative Procedure Act exempts from that requirement "proceedings in which decisions rest solely on inspections, tests, or elections," 5 U.S.C. Section 554(a)(3). The Attorney General's Memorandum on the Administrative Procedure Act indicates at pp. 44–45 that cases precisely similar to those that will arise under the present regulations were meant to be described by this phrase.

For these reasons, we do not agree that fact-finding by an Administrative Law Judge is necessary to the legal validity of EPA's administrative procedures. Nevertheless, we recognize that there might be advantages to their employment and would have considered amending the regulations along the lines suggested but for one factor. The Agency's supply of Administrative Law Judges is limited, and the Civil Service Commission has a policy of refusing to assign new ones unless the statute clearly and unambiguously requires their employment. For the reasons just given, this showing cannot be made under Section 211 of the Clean Air Act. Nevertheless, EPA will be able to assign its present Administrative Law Judges to serve as Presiding Officers under these regulations to the extent their other duties permit. An attempt will be made to make such assignments in cases where a party makes a bona fide request for one, though long delays in hearing dates will not be granted for this purpose.

The only other objections to the legal validity of the proposed administrative fact-finding procedure centered on the absence of various procedural protections that would be available in court. One commentator suggested, for example, that the absence of subpoena authority was a fatal defect.

In fact, however, the passage from Davis cited on this point in those same comments indicates that Congress often authorizes formal hearings without simultaneously conferring subpoena authority, and that the most that has generally been suggested for such cases is that the Agency involved adopt administrative discovery procedures. Vol. I, Davis, *Administrative Law Treatise* Sec. 8.15, 1970 Supp. Sec. 8.15. Such administrative discovery procedures are contained in the regulations promulgated today. They should function particularly well here, since in enforcement proceedings under these regulations virtually all the relevant information is likely to be in the possession of one party or the other. Proposed Section 80.304(c)(4) provided, in part, that the Presiding Officer shall have the authority to order the production of persons, documents or other non-privileged evidence for good cause. If the order is not complied with, adverse inferences may be drawn. The administrative discovery procedures promulgated today at Section 80.319(f) serve to elaborate the procedures by which that authority can be exercised.

Comments were received on the Agency's use of the size-of-business criterion in determining the appropriateness of a penalty, the proposed manner of computing an alleged violator's previous history of performance under the regulations, and the proposed mitigation criteria. The comments on these issues and the response of the Agency

have been included in the preamble to the Guidelines for the Assessment of Civil Penalties published today in the FEDERAL REGISTER as the second document of this Part II.

Many comments were received on various procedural aspects of the penalty assessment and administrative hearing procedures.

Notice of a hearing is issued pursuant to Section 80.321(b). Objections were raised in several comments that this section does not assure that there will be sufficient time between the issuance of notice and the commencement of the hearing for the parties to prepare their cases. In response this section has been amended to assure, unless otherwise agreed to by the parties, a minimum period of twenty (20) days between issuance of notice and commencement of hearing.

Section 80.319(d) provides that the prehearing conference shall be held in the city in which the EPA Regional Office is located. A comment was received which suggested that the prehearing conference should be held in the major city nearest the location of the alleged violation. The comment expressed concern for the burden that travel would place on the retailer. Prehearing conferences are subject to the discretion of the Presiding Officer. The location of the conference may be changed under Section 80.319(d) by the Presiding Officer for good cause. In addition, if circumstances render a prehearing conference impracticable, the Presiding Officer, on motion or sua sponte under Section 80.319(e), may accomplish the objectives of a prehearing conference through correspondence. The Agency believes that these provisions permit adequate consideration of any travel hardship that may arise in conjunction with the prehearing conference.

Section 80.319(c) provides that a record of a prehearing conference may only be made upon motion of a party or upon sua sponte motion by the Presiding Officer. One commentator felt that a record should be permitted to be made upon request by any party willing to assume the costs of reporting and transcription. Due to the nature of the proceedings, the recording of a prehearing conference cannot be permitted as a matter of right. It is contemplated that most prehearing conferences will involve informal discussions with the possible evocation of admissions and stipulations. It is likely that the recording of such discussions might have a chilling effect on the negotiation process. In order to maintain the desired informal nature of these proceedings, Section 80.319(c) retains a provision providing the Presiding Officer with discretion as to recordation of the prehearing conference.

Under Section 80.314(c) the complainant may amend the complaint at any time prior to the filing of an answer. After an answer has been filed, the complaint may only be amended upon motion granted by the Presiding Officer. Comments suggested that the procedures for amending a complaint after filing of an answer could result in unfairness to the respondent which could be prevented by placing a limitation on the time when a motion for amendment could be entertained. It was also suggested that a standard of review be set forth to govern the Presiding Officer's consideration of such a motion.

Motions for amending a complaint are subject to the discretion of the Presiding Officer. Implicit in the Presiding Officer's consideration of such a motion by the complainant is the fairness, possibility of prejudice, and potential for delay if the amendment is granted. The Agency believes that the procedure for amending complaints by motion at the discretion of the Presiding Officer provides adequate safeguards to assure fairness to the respondent without an explicit standard of review or time limitation.

Section 80.316(e) permits the complainant to withdraw the complaint once without prejudice. For example, this allows for the withdrawal and correction of a complaint that was erroneously issued as a result of misinformation or a procedural error. It was suggested that the right to withdraw without prejudice be limited to the period prior to the commencement of the hearing and that after the hearing has begun withdrawal of the complaint should be with prejudice. The right to withdraw without prejudice is necessary to assure a just result based on substantive issues. In the infrequent instance when this section would be used, the Agency believes the hardship on the respondent would not outweigh the interest in obtaining a result which is based on the substantive issues. A second withdrawal of the complaint, however, will always be with prejudice.

Comments were received suggesting that Section 80.316(a), which established the time in which an answer must be filed, be modified to allow for extensions of time to answer. This section has been amended to provide for the granting of such extensions upon motion to the Regional Administrator.

Objection was taken by one commentator to Section 80.316(d) which established as a binding admission any factual allegation in the complaint which the respondent fails to deny. This section has been amended to eliminate the characterization of an admission as "binding." In addition a provision has been added, paragraph 80.316(f), which permits the respondent to amend the answer upon motion granted by the Presiding Officer.

Section 80.323(b) allows the Regional Administrator to evaluate improperly excluded evidence in the preparation of his final order. A comment to this section noted that under Section 80.323(a) a transcript of the arguments dealing with the admission or exclusion of evidence is not made unless the Presiding Officer orders such arguments to be recorded. The commentator concluded that omitting this from the record will prevent the Regional Administrator from considering arguments made in regard to the admissibility of the evidence. Section 80.323(a) has been revised to provide for the recordation of arguments and debate on any objections raised including the admission or exclusion of evidence. Consequently, the Regional Administrator will be able to independently determine whether excluded evidence should have been included and whether he should properly consider such evidence in the preparation of the final order.

Section 80.304(c)(4) allows an adverse inference to be drawn from the failure to produce nonprivileged evidence. It was suggested in one comment that this provision was unnecessary since Section 80.324 places the burden on the respondent to go forward with an affirmative defense once a prima facie case has been established. Even though the burden of an affirmative defense is on the respondent, there is no assurance that all of the evidence needed to reach a fair adjudication of the issues will be presented. The Agency believes that the party withholding nonprivileged evidence which is pertinent to the hearing should be subject to the rational inference which follows from not producing such information. Withholding evidence is detrimental to the fact-finding process, and the provisions of Section 80.304(c)(4) are intended to encourage the production of such relevant evidence.

Section 80.308 provides procedures for ex parte discussion of proceedings. It requires any ex parte memorandum or other communication to be served on all other parties. A comment to this section pointed out that the sentence "Such other parties may be given an opportunity to reply thereto" created an ambiguity as to whether the reply would be as a matter of right. Since the filing of a reply to an ex parte document is not intended to be limited, this sentence has been deleted.

Sections 80.317(a)(3) and 80.310(b), as proposed, provides for different responses by a Presiding Officer to a respondent's failure to appear at a prehearing conference or a hearing. Section 80.317(a)(3), as proposed, provided that a respondent may be found in default for failure to appear or proceed at a prehearing conference or at a hearing. Such default would constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual issues. Section 80.310(b), however, provided that where a respondent fails to appear at a prehearing conference, he shall be "subject to whatever orders or determinations the Presiding Officer may make in his discretion". This section further provided that where the respondent fails to appear at a hearing, the Presiding Officer "shall require the presentation by the complainant of such evidence as the Presiding Officer deems necessary to develop a prima facie case against the respondent". Under the proposed Section 80.310(b), upon conclusion of the hearing a copy of the initial decision would be served upon the respondent.

Rather than utilizing the default procedures of Section 80.317 in this situation, the Agency has decided to use the procedures set out in Section 80.310(b)

which are more favorable to the respondent. Subparagraph (a)(3) of proposed Section 80.317 has been deleted.

CONTENTS OF THIS PROMULGATION: RULES OF PRACTICE GOVERNING PROCEEDINGS CONDUCTED IN THE ASSESSMENT OF CIVIL PENALTIES

These rules of practice establish procedures for the determination of liability and the assessment of penalties against persons charged with violations of Section 211 of the Act. Complaints issued pursuant to these procedures shall set forth (1) the provisions of the Act and the regulations thereunder which are alleged to have been violated, (2) the factual basis of the allegation, (3) the amount of the civil penalty proposed to be assessed, (4) a description of the appropriateness of the proposed penalty, and (5) notice of opportunity to request a hearing. Within twenty (20) days after receipt of such complaint, the person charged may file an answer in which he (1) admits, denies, or explains material factual allegations contained in the complaint (2) challenges the appropriateness of the proposed penalty or (3) contends that he is entitled to judgment as a matter of law. This twenty-day period in which an answer may be filed can be extended upon motion granted by the Regional Administrator. Such answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested. Failure to file a timely answer to the complaint or failure to comply with prehearing or hearing orders of the Presiding Officer, shall constitute an admission of the allegations contained in the complaint and a waiver of the right to a hearing, and may give rise to a default order requiring payment of the proposed civil penalty.

Motions made after the filing of an answer to the complaint but before the issuance of the initial decision shall be made to and ruled upon by the Presiding Officer assigned to preside over the proceeding. Motions made at any other stage in the proceedings shall be made to and ruled upon by the Regional Administrator. Leave to intervene in a proceeding may be granted to persons who timely demonstrate real interests which (1) raise common questions of fact or law, (2) may be adversely affected by the outcome of the proceeding, and (3) do not unreasonably broaden the issue or unduly prolong the proceeding. Other persons may, for good cause shown, be granted leave to participate in proceedings as amicus curiae and shall be eligible to participate in any briefing following the granting of such motion. Matters involving issues of law or policy for which review would be inadequate or ineffective after the final order may be certified to the Regional Administrator on interlocutory appeal.

These rules of practice encourage settlement of proceedings through informal settlement conferences leading to the signing of a consent agreement by the Agency and the person charged. In such consent agreement the parties shall stipulate to jurisdictional and factual matters, and the person charged shall be assessed a stated civil penalty. The consent agreement shall include terms of the agreement and appropriate conclusions regarding material issues of law, fact or discretion, and a proposed final order of the Regional Administrator. Prehearing conferences and prehearing correspondence may also be utilized to simplify the litigable issues, stipulate to factual matters, encourage settlement, and otherwise expedite the proceeding. The prehearing conference and the subsequent hearing, if any, shall be held in the city in which the EPA Regional Office is located unless changed by Presiding Officer for good cause.

When settlement upon all issues is not reached, a public hearing shall be held to adjudicate all remaining issues of fact and law. Such hearing shall be on the record and shall be conducted by a Presiding Officer pursuant to these rules of practice and in accordance with all appropriate safeguards of due process. Proof shall be had on the basis of all oral or written evidence which is relevant, competent, and material, and which is not unduly repetitious. Evidence regarding trade secrets or other appropriately designated commercial or financial information shall not be revealed to the public but may be considered in camera.

Where a party is entitled to judgment as a matter of law, the Presiding Officer may cause an accelerated decision to be rendered. When questions of fact or law have been adjudicated in the proceeding, the Presiding Officer shall make an initial decision after appropriate review of the hearing record. This initial decision may be appealed to the Regional Administrator by any party or may be reviewed sua sponte by the Regional Administrator. No matter of controversy (whether reaching conclusion by means of a consent agreement, default order, accelerated decision, or an initial decision) may be disposed of except by a final order of the Regional Administrator. The final order shall include findings of fact, conclusions regarding material issues of law, fact or discretion as well as reasons therefor and an order assessing a civil penalty. Parties adversely affected by a final order of the Regional Administrator may take exception thereto and may move to reopen the hearing or to reargue orders, rulings or decisions of the Presiding Officer which were disputed during the proceeding. Appeal from any final order of the Regional Administrator shall be based upon the substantial evidence in the hearing record and heard in the appropriate United States District Court.

Because the regulations requiring general availability of unleaded gasoline were effective on July 1, 1974 and Agency personnel are currently monitoring and enforcing compliance with these regulations, the Agency finds that there is good cause for making these regulations effective on August 29, 1975.

(Sec. 211, Clean Air Act, as amended (42 U.S.C. 1857f-6c).

Dated: August 18, 1975.

RUSSELL E. TRAIN,
Administrator.

A new Subpart D is added to 40 CFR Part 80 as follows:

Subpart D—Rules for Assessment of Civil Penalties

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80.302 Use of number and gender.
80.303 Definitions.
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80.305 Filing and service of pleadings and documents.
80.306 Filing and service of rulings, orders, and decisions.
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80.310 Appearances.
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80.328 Appeal from or review of interlocutory orders or rulings.
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80.330 Final Order.

MOTION TO RECONSIDER

80.331 Motion to reopen hearings, to rehear or reargue proceedings, or to reconsider a final order.
80.332 Procedure for disposition of motions.

AUTHORITY: Section 211 of the Clean Air Act, as amended (42 U.S.C. 1857f-6c).

Subpart D—Rules for Assessment of Civil Penalties

GENERAL

§ 80.301 Scope of these rules.

(a) These rules of practice shall govern all proceedings conducted in the assessment against any person of any civil penalty pursuant to the provisions of section 211(d) of the Clean Air Act (as

amended) (84 Stat. 1698; 42 U.S.C. 1857f–6c(d)).

(b) In the absence of specific provisions in these rules, and where appropriate, questions arising at any stage of the proceeding shall be resolved at the discretion of the Presiding Officer or of the Regional Administrator as appropriate pursuant to the provisions of section 80.315(c) hereof.

§ 80.302 Use of number and gender.

As used in these rules of practice, words in the singular shall be deemed to import the plural and words in the masculine gender shall be deemed to import the feminine and vice versa, as the case may require.

§ 80.303 Definitions.

As used herein:

(a) The term "Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq.) and any other legislation supplementary thereto and amendatory thereof.

(b) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(c) The term "Agency" means the United States Environmental Protection Agency.

(d) The term "Complainant" means the Agency acting through any person authorized by the Regional Administrator to issue a complaint to persons alleged to be in violation of the Act. The complainant shall not be the Regional Judicial Officer or the Regional Administrator.

(e) The term "Complaint" or "Complaint and Notice of Opportunity for Hearing" means a written communication issued by the complainant to a person alleging one or more violations of specific provisions of the Act or regulations promulgated thereunder. The required contents of the complaints are set forth in § 80.314(a).

(f) The term "Consent Agreement" means any written document containing stipulations of fact, conclusions regarding material issues of law, fact, or discretion, and a specified proposed penalty acceptable to both complainant and respondent.

(g) The term "Default Order" means an order issued pursuant to § 80.317 disposing of a matter of controversy between respondent and the Agency upon (1) the failure of respondent to file a timely answer to the complaint, or (2) motion of the complainant to the Regional Administrator or the Presiding Officer as appropriate pursuant to § 80.315(c) because of respondent's failure to comply with an order of the Regional Administrator or Presiding Officer.

(h) The term "Final Order" means an order issued by the Regional Administrator disposing of a matter of controversy between any respondent and the Agency. No matter of controversy which reaches conclusion upon the (1) default of the respondent; (2) ratification of a consent agreement; (3) completion of a hearing and issuance of an initial decision; or (4) rendering of an accelerated decision pursuant to the provisions of § 80.320 may be disposed of except by a final order of the Regional Administrator.

(i) The term "Hearing" means a hearing open to the public and conducted pursuant to these rules of practice.

(j) The term "Initial Decision" means the decision issued by the Presiding Officer based upon the record of the hearing out of which it arises or upon the rendering of an accelerated decision pursuant to the provisions of section 80.320.

(k) The term "Party" means any person, group, organization, agency, or department that participates in a hearing as complainant, respondent, or intervenor.

(l) The term "Person" includes any individual, partnership, association, corporation, and any organized group of persons whether incorporated or not.

(m) The term "Presiding Officer" may include an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR Part 930, as amended by 37 FR 16787). The Regional Administrator may designate one of the Judicial Officers to serve as Presiding Officer. Where circumstances warrant, the Regional Administrator may also designate persons having the qualifications of Regional Judicial Officers to serve exclusively as Presiding Officers at the hearing level and without responsibility for appellate review.

(n) The term "Regional Administrator" means the Administrator of any Regional Office of the Agency or any officer or employee thereof to whom authority is duly delegated, to act in his stead. Where the Regional Administrator has authorized the Regional Judicial Officer to act, the term "Regional Administrator" shall include the "Regional Judicial Officer."

(o) The term "Regional Hearing Clerk" means an individual duly authorized by the Regional Administrator to serve as hearing clerk for a given Region. Correspondence may be addressed to the Regional Hearing Clerk, United States Environmental Protection Agency (address of Regional Office).

(p) The term "Regional Judicial Officer" means an officer or employee of the Agency duly authorized by the Regional Administrator to serve as the Judicial Officer for the region as provided in these rules of practice.

(q) The term "Respondent" means any person proceeded against in the complaint.

(r) The term "Regulations" means any regulations set forth in 40 CFR Part 80.

(s) Terms defined in the Act and not explicitly defined herein are used herein with the meetings given in the Act.

§ 80.304 Powers and duties of the Regional Administrator, Regional Judicial Officer and the Presiding Officer; disqualification.

(a) *Regional Administrator.* The Regional Administrator shall exercise all powers and duties as prescribed or delegated under the Act and these rules of practice.

(b) *Regional Judicial Officer*—(1) *Office.* One or more Regional Judicial Officers may be designated by the Regional Administrator to perform functions hereinafter provided within the Region of their designation.

(2) *Qualifications.* A Regional Judicial Officer shall be an attorney who is a permanent or temporary employee of the Agency and who may perform other duties within the Agency. Such Regional Judicial Officer shall not be employed by the Region's Air and Water Programs Division, Surveillance and Analysis Division or Enforcement Division, and shall have had no connection with the preparation or presentation of evidence for any hearing in which he participates as Regional Judicial Officer. He may be a member of the staff of the Regional Counsel.

(3) *Functions.* The Regional Administrator may delegate to the Regional Judicial Officer all or part of his authority to act in a given proceeding. The Regional Administrator may separately delegate to the Regional Judicial Officer his authority to make findings of fact and draw conclusions regarding material issues of law, fact or discretion in a particular proceeding. This delegation shall not, however, preclude the Regional Judicial Officer from referring any motion or case to the Regional Administrator when such referral is appropriate.

(c) *Presiding Officer.* It shall be the duty of the Presiding Officer to conduct a fair and impartial hearing, assure that the facts are fully elicited, adjudicate all issues, and avoid delay. The Presiding Officer shall have authority to:

(1) Conduct administrative hearings held pursuant to section 211(d) of the Act and these rules of practice;

(2) Rule upon motions, requests, and offers of proof and issue all necessary orders;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine witnesses, receive documentary or other evidence, and, as set out in Section 80.319(f), upon motion or sua sponte, order the production of persons, documents, or other nonprivileged evidence;

(5) Admit or exclude evidence;

(6) Hear oral argument on facts or law; and

(7) Do all other acts and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues of fact and law arising in proceedings in section 211(d) of the Act.

(d) *Disqualification; withdrawal.* The Regional Administrator, Regional Judicial Officer or Presiding Officer may not perform functions provided for in these rules of practice regarding any matter in which he (1) has a financial interest; (2) has any relationship with a party or with the subject matter which would make it inappropriate for him to act; or (3) is unable for any reason to act.

Any party may at any time by motion made to the Regional Administrator request that the Regional Judicial Officer, or Presiding Officer, be disqualified from the proceeding. The Regional Administrator shall then rule upon such motion. Any party may at any time by motion to the Administrator request that the Regional Administrator be disqualified from the proceeding. The Administrator shall then rule upon such motion. The Regional Administrator, Regional Judicial Officer or Presiding Officer may at any time withdraw from any proceeding in which he deems himself disqualified or unable to act for any reason.

(e) *Effect of disqualification or withdrawal.* In the event of the disqualification or withdrawal of the Regional Administrator or Regional Judicial Officer, the Administrator or Regional Administrator, respectively, shall select a qualified individual with no such conflicting interest in the matter or with no such inability to act who shall serve as may be necessary in the proceeding. In the event of disqualification or withdrawal of the Presiding Officer, a new Presiding Officer with no such conflicting interest in the matter or with no such inability to act shall likewise be assigned. This assignment shall be made by the Chief Administrative Law Judge if the original Presiding Officer was an Administrative Law Judge, or if the Chief Administrative Law Judge certifies to the Regional Administrator that no Administrative Law Judge is available as a replacement, the Regional Administrator shall designate the new Presiding Officer. In all cases of disqualification or withdrawal, upon designation of a replacement, the proceding shall continue without abatement unless otherwise ordered to facilitate the proceding and to protect the interests of the parties.

§ 80.305 Filing and service of pleadings and documents.

(a) *Filing of pleadings and documents prior to the filing of an answer to the complaint.* Document filed after the complaint is issued and prior to the filing of an answer to the complaint shall be served directly upon all other parties to the proceeding. The file of the complainant shall be the official file of the proceeding prior to the filing of an answer to the complaint. No file of a proceeding shall be maintained by the Regional Hearing Clerk prior to the filing of an answer to the complaint. Each document shall contain the docket number assigned pursuant to § 80.313. A certificate of service shall accompany each document served or filed.

(b) *Filing of pleadings and documents after the filing of an answer to the complaint.* (1) After the filing of an answer to the complaint, complainant shall prepare and shall file with the Regional Hearing Clerk the original and one copy of each document in the official file of the proceedings. The original shall be included in the file maintained by the Regional Hearing Clerk and the duplicate shall be forwarded by the Regional Hearing Clerk to the Persiding Officer assigned to preside over the proceeding pursuant to § 80.321. The Presiding Officer shall promptly notify the parties that he has been assigned to preside over the proceeding.

(2) Thereafter, the original of any document served in the proceeding shall be forwarded directly to the Regional Hearing Clerk by the party serving the document and a duplicate copy shall be forwarded to the Presiding Officer. Except as otherwise provided, a party filing documents with the Regional Hearing Clerk shall serve copies thereof upon all other parties at the same time. Each document filed shall contain the docket number assigned pursuant to § 80.313. A certificate of service shall accompany each document filed.

(3) When the Presiding Officer corresponds directly with the parties, the original of such correspondence shall be sent to the Regional Hearing Clerk and a duplicate copy shall be maintained by the Presiding Officer in the duplicate file. Parties who correspond directly with the Presiding Officer shall in addition to serving all other parties send a duplicate copy of all such correspondence to the Regional Hearing Clerk. A certificate of service shall accompany each document served under this subsection.

(c) *Service of Complaint.* (1) Service of the complaint may be made personally on the respondent (or his representative), or by certified mail, return receipt requested.

(2) Service upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name shall be made by personal service or certified mail, as prescribed by paragraph (c)(1) of this section, directed to an officer, a managing or general agent, or to any other agent authorized by appointment or by Federal or State Law to receive service of process.

(3) Proof of service of the complaint shall be made by affidavit of the person making personal service, or by properly executed return receipt. Such proof of service shall be filed with complainant immediately upon completion of service.

(d) *Service of documents other than complaint.* All documents other than the complaint may be served personally or by regular mail. Copies shall be served upon all parties to a proceeding unless otherwise ordered by the Presiding Officer. Documents to be served by mail upon the complainant shall be addressed in accordance with the address set forth in the complaint. A certificate of service shall accompany each document served.

§ 80.306 Filing and service of rulings, orders, and decisions.

All rulings, orders, decisions, or other documents made or signed by the Regional Administrator, the Regional Judicial Officer or the Presiding Officer as appropriate pursuant to § 80.315(c) shall be filed with the complainant if made prior to the filing of an answer to the complaint and thereafter with the Regional Hearing Clerk except as provided in § 80.305(b)(3). Such rulings, orders, decisions or other documents shall be served directly upon all parties by the Regional Administrator, Regional Judicial Officer, or Presiding Officer as appropriate pursuant to § 80.315(c).

§ 80.307 Computation and extension of time.

(a) *Computation.* In computing any period of time prescribed or allowed in these rules of practice, except as otherwise provided, the day of the act, event, or default from which the designated period begins to run shall not be included in computing the time allowed for the filing of any document or paper. Saturdays, Sundays, and legal holidays shall be included in computing the time allowed for such filing. When such time expires on a Saturday, Sunday, or legal holiday, however, such period shall be extended to include the next following business day.

(b) *Extensions of time.* A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service. Extensions of time for the filing of any pleading, document, or motion shall be granted sua sponte or upon timely motion of a party to the proceeding only for good cause shown and after consideration of prejudice to other parties. Such motions may be made ex parte and need not be served upon other parties. Motions for an extension of time shall be filed in advance of the date on which the pleading, document or motion is due to be filed, unless the failure of a party to make timely motion for extension of time was the result of excusable negligence. Such motions shall be decided in accordance with the provisions of § 80.315(c).

(c) *Service by mail.* Service shall be deemed complete upon mailing. However, where service of a pleading or document is by mail, three (3) days shall be added to the time allowed by these rules for the filing of a responsive pleading.

§ 80.308 Ex parte discussion of proceeding.

At no time after the issuance of the complaint shall the Regional Administrator, Regional Judicial Officer, or Presiding Officer discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative, investigative, or expert capacity, or with any representative of such person. The Regional Administrator, the Regional Judicial Officer, or the Presiding Officer may discuss the merits of the case with any such person only if all parties to the proceeding, or their representatives, have been given reasonable notice and opportunity to be present. Any memorandum or other communication addressed to the Regional Administrator, Regional Judicial Officer or the Presiding Officer during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding and shall be served upon all other parties. Nothing in

this section shall limit discussion between respondent and complainant for the purpose of exploring settlement of the case.

§ 80.309 Examination of documents filed.

(a) Subject to the provisions of law restricting the public disclosure of confidential information, any person may, during Agency business hours, inspect and copy any document filed in any proceeding. Such documents may be made available by complainant if the request to inspect is made prior to the filing of an answer to the complaint, and by the Regional Hearing Clerk if the request to inspect is made after the filing of an answer to the complaint.

(b) The cost of duplicating documents filed in any proceeding shall be borne by the person seeking copies of such documents filed.

PARTIES AND APPEARANCES

§ 80.310 Appearances.

(a) *Representatives.* Any party may appear in person or by counsel or other representative; a partner may appear on behalf of a partnership and an officer may appear on behalf of a corporation. Persons who appear as counsel or other representative must conform to the standards of conduct and ethics as required of practitioners before the courts of the United States.

(b) *Failure to appear.* Any party to the proceeding, who after being duly notified and without good cause being shown, fails to appear at any prehearing conference shall be subject to whatever orders or determinations the Presiding Officer may make in his discretion. The failure of a party to appear at a hearing shall constitute a waiver of the right to present evidence at such hearing. Where respondent fails to appear at a hearing, the Presiding Officer shall require the presentation by complainant of such evidence as the Presiding Officer deems necessary to develop a prima facie case against respondent. Upon conclusion of the hearing, the Presiding Officer shall cause a copy of the initial decision to be served upon respondent.

§ 80.311 Intervention.

(a) *Motion.* Any person may file a motion for leave to intervene in any proceeding conducted under these rules of practice. Such motion must set forth the grounds for the proposed intervention, the position and interest of movant in the proceedings, and the likely impact that such intervention will have on the expeditious progress of the proceeding.

(b) *When filed.* A motion for leave to intervene in a proceeding must ordinarily be filed prior to the first prehearing conference or, in the absence of a prehearing conference, prior to the initiation of correspondence pursuant to § 80.319(d), or if there is no such correspondence, prior to the setting of a time and place for a hearing. Any motion filed after that time must include, in addition to the information set forth in paragraph (a) of the section, a statement of good cause for the failure to file in a timely manner. Such motion for leave to intervene shall be granted only upon a finding that (1) extraordinary circumstances justify the granting of the motion; and (2) the intervenor shall be bound by any agreements, arrangements and other matters previously made in the proceeding.

(c) *Disposition.* Leave to intervene will be granted only insofar as movant demonstrates that (1) there exist common questions of fact or law; (2) he may be adversely affected by a final order of the Regional Administrator; and (3) his presence in the case would not unreasonably broaden the issues as already presented, or unduly prolong or otherwise prejudice the adjudication of the rights of the original parties. If leave is granted, the movant shall thereby become a party to the proceeding. Any party, or the movant if leave is denied, may request that the ruling on any motion for leave to intervene in a proceeding conducted under these rules of practice be certified on interlocutory appeal to the Regional Administrator as provided in § 80.328.

(d) *Amicus curiae.* Persons not parties to the proceeding who wish to file briefs therein may, upon good cause shown, so move the Presiding Officer or the Regional Administrator as appropriate pursuant to § 80.315(c). Such motion for leave to file briefs shall identify the interest of the applicant and shall state the reasons why the proposed amicus brief is desirable. In the event such motion is granted, the Presiding Officer or Regional Administrator shall issue an order setting the time for filing such brief. An amicus curiae shall be eligible to participate in any briefing following the granting of his motion, and shall be served with all briefs, reply briefs, motions and orders relating to issues to be briefed.

§ 80.312 Consolidation and severance.

(a) *Consolidation.* The Presiding Officer may, by motion or sua sponte, consolidate any or all matters at issue in two or more proceedings docketed under these rules of practice in his Region where there exist common parties, common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation shall not prejudice any rights granted parties to proceedings conducted under these Rules of Practice and shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(b) *Severance.* The Presiding Officer may, by motion or sua sponte, for good cause shown, order any proceedings severed with respect to some or all parties or issues.

PREHEARING PROCEDURES

§ 80.313 Issuance of complaint; docket number.

If the complainant has reason to believe that a person has violated any provision of the Act or the regulations, he may institute a proceedings for the assessment of a civil penalty by issuing a complaint. Prior to service of the complaint to respondent, complainant shall consult with the Regional Hearing Clerk for the assignment of a docket number. Thereafter, each document filed in the proceeding shall bear such assigned docket number.

§ 80.314 Contents of the complaint.

(a) *Alleged violation.* Each complaint shall include (1) specific reference to each provision of the Act or regulations which respondent is alleged to have violated; (2) a concise statement of the factual basis for alleging such violation; (3) the amount of the civil penalty which is proposed to be assessed; (4) a statement indicating the appropriateness of the proposed penalty; and (5) notice of respondent's right to request a hearing on any material fact contained in the complaint, or on the appropriateness of the amount of the proposed penalty.

(b) *Derivation of proposed civil penalty.* The dollar amount of the civil penalty which is proposed to be assessed in the complaint shall be determined on the basis of (1) the gravity of the violation, (2) the size of the respondent's business, and (3) respondent's history of compliance with the Act and the regulations and such penalty shall be derived by complainant in accordance with the Guidelines for the Assessment of Civil Penalties published as a Notice in the FEDERAL REGISTER of August 29, 1975 as part of the part II to that issue.

(c) *Amendment of the Complaint.* At any time prior to the filing of an answer to the complaint the complainant may amend the complaint as a matter of right. Respondent shall have twenty (20) additional days from the date of service of the amended complaint to file his answer. At any time after the filing of an answer to the complaint, the complaint may be amended upon motion granted by the Presiding Officer.

§ 80.315 Motions.

(a) *General.* All motions, except those made orally on the record during a hearing, shall (1) be in writing; (2) state with particularity the grounds therefor; (3) set forth the relief or order sought; and (4) be accompanied by any affidavit, certificate or other evidence relied upon. Such motions shall be served in accordance with the provisions of § 80.305.

(b) *Response to motions.* Except as otherwise provided by the Presiding Officer or the Regional Administrator, as appropriate pursuant to § 80.315(c), any party may file a response in support of or in opposition to any written motion within ten (10) days after service of such motion. This response shall be accompanied by any affidavit, certificate, or other evidence relied upon. If no response is filed within the designated period, the parties shall be deemed to have waived any objection to the granting of the motion. The Presiding Officer or Regional Administrator, as appropriate pursuant to § 80.315(c), may set a shorter time for response, or make such other orders concerning the disposition of motions as he deems appropriate.

(c) *Decision.* The Regional Administrator shall rule upon all motions filed or made prior to the filing of an answer to the complaint or after the filing of an initial decision. The Presiding Officer shall rule upon all motions filed after filing of an answer to the complaint and prior to the filing of his initial decision. Oral argument on motions will be permitted where the Presiding Officer or the Regional Administrator deems it necessary or desirable.

§ 80.316 Answer to the complaint.

(a) *General.* Where respondent (1) contests any material fact alleged in the complaint to constitute a violation of the Act or regulations; or (2) contends that the amount of the penalty proposed in the complaint is inappropriate to such violation; or (3) contends that he is entitled to judgment as a matter of law, he shall file a written answer to the complaint with the Regional Hearing Clerk. Any such answer to the complaint must be filed with the Regional Hearing Clerk within twenty (20) days after service of the complaint. The initiation of informal conferences with the Agency pursuant to § 80.318 does not enlarge this twenty (20) day period. The time period in which to file an answer may be extended upon motion granted by the Regional Administrator.

(b) *Contents of the answer.* The answer shall clearly and directly admit, deny or explain each of the factual allegations contained in the complaint with regard to which respondent has any knowledge. Such answer shall state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested.

(c) A hearing upon the issues raised by the complaint and answer shall be held upon request of respondent in the answer. In addition, a hearing may be held at the discretion of the Presiding Officer, sua sponte, or upon grant of request therefor of any party other than the respondent.

(d) *Failure to answer specifically.* Failure of respondent to plead specifically to any material factual allegation contained in the complaint shall constitute an admission of such allegation.

(e) *Withdrawal of the complaint.* At any stage in the proceeding where on the basis of new information or evidence complainant concludes that no violation of the Act or the Regulations has been committed by respondent or that the issuance of the complaint was otherwise inappropriate, the complainant may withdraw the complaint once without prejudice.

(f) *Amendment of the answer.* The respondent may amend the answer to the complaint upon motion granted by the Presiding Officer.

§ 80.317 Failure to answer the complaint: Default order.

(a) *Default.* Respondent may be found to be in default upon his (1) failure to file a timely answer to the complaint; or (2) failure to comply with a prehearing or hearing order of the Regional Administrator or the Presiding Officer, as appropriate pursuant to § 80.315(c). Default of respondent shall constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations. The penalty proposed to be assessed in the complaint shall become due and payable by respondent without further proceedings upon the issuance by the Regional Administrator of a final order issued upon default.

(b) *Procedures upon default.* (1) Where a default results from respondent's failure to file a timely answer to the complaint, complainant shall prepare and transmit to the Regional Administrator a proposed final order to be issued upon default.

(2) Where the Presiding Officer finds a default to have occurred after the filing of an answer to the complaint, the Presiding Officer may render a proposed default order to be issued against the defaulting party. For the purpose of appeal pursuant to § 80.329 such order shall be deemed to be the initial decision of the Presiding Officer.

(c) *Contents of a final order issued upon default.* A final order issued upon default shall include findings of fact, conclusions regarding all material issues of law, fact, or discretion, and the penalty which is therein assessed. An order issued by the Regional Administrator upon the default of respondent shall constitute a final order in accordance with the terms of § 830.330.

§ 80.318 Informal settlement and consent agreement.

(a) *Settlement policy.* The Agency encourages settlement of the proceeding at any time after the issuance of a complaint if such settlement is consistent with the provisions and the objectives of the Act and the Regulations. Whether or not respondent requests a hearing, he may confer with complainant concerning the facts stated in the complaint or concerning the amount of the proposed civil penalty. If a settlement is reached, the terms of any settlement agreement shall be expressed in a written consent agreement. Conferences with complainant concerning possible settlement shall not affect the requirement to file a timely answer pursuant to § 80.316.

(b) *Consent agreement.* A written consent agreement signed by the parties shall be prepared by complainant and forwarded to the Regional Administrator whenever settlement or compromise is proposed. The consent agreement shall state that, for the purpose of this proceeding, respondent (1) admits the jurisdictional allegations of the complaint; (2) admits the facts as stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the assessment of a given proposed civil penalty. The consent agreement shall include (i) the terms of the agreement; (ii) any appropriate conclusions regarding material issues of law, fact or discretion as well as reasons therefor; and (iii) a proposed final order of the Regional Administrator.

(c) *Final order.* No settlement and no consent agreement shall be dispositive of any action pending under section 211 (d) of the Act without a final order of the Regional Administrator. In preparing such final order, the Regional Administrator may require that any or all of the parties to the settlement appear before him to answer inquiries relating to the proposed consent agreement.

§ 80.319 Prehearing conference.

(a) *Purpose of prehearing conference.* When it appears that such procedure will expedite the proceeding, the Presiding Officer, at any time prior to the commencement of the hearing, may request the parties and their counsel or other representative to appear at a conference before him to consider:

(1) The possibility of settlement of the case;

(2) The simplification of issues and stipulation of facts not in dispute;

(3) The necessity or desirability of amendments to pleadings;

(4) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(5) The limitation of the number of expert or other witnesses;

(6) The setting of a time and place for the public hearing, giving consideration to the convenience of all parties and witnesses and to the public interest; and

(7) Any other matters which may expedite the disposition of the proceeding.

(b) *Exchange of witness lists and documents.* Unless otherwise ordered by the Presiding Officer each party shall at the prehearing conference make available to each other the names of the expert and other witnesses he intends to call, together with a brief narrative summary of their expected testimony. Copies of all documents and exhibits which the party intends to introduce into evidence shall be marked for identification as ordered by the Presiding Officer. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party.

(c) *Record of the prehearing conference.* No transcript of any prehearing conference shall be made unless ordered upon motion of a party or sua sponte by the Presiding Officer. The Presiding Officer shall prepare and file for the record a written summary of the action taken at such conference. Such summary shall incorporate any written stipulations or agreements made by the parties, all rulings upon matters considered at such conference, and appropriate orders containing directions to the parties. Such summary shall direct the subsequent course of the proceeding, unless modified by the Presiding Officer, on motion or sua sponte, to prevent manifest injustice.

(d) *Location of Prehearing Conference.* The prehearing conference shall be held in the city in which the Environ-

mental Protection Agency Regional Office is located unless the Presiding Officer determines that there is good cause for it to be held at another location in the region.

(e) *Unavailability of a prehearing conference.* Where circumstances render a prehearing conference unnecessary or impracticable, the Presiding Officer, on motion or sua sponte, may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section. The Presiding Officer shall include such correspondence for the record and a written summary of any stipulation or agreements reached by means of such correspondence as provided in § 80.319(c).

(f) *Other discovery.* (1) Except as provided by paragraph (b) of this section, further discovery, under this section, shall be permitted only upon determination by the Presiding Officer:

(i) That such discovery will not in any way unreasonably delay the proceeding;

(ii) That the information to be obtained is not otherwise obtainable; and

(iii) That such information has significant probative value. The Presiding Officer shall be guided by the procedures set forth in the Federal Rules of Civil Procedure, where practicable, and the precedents thereunder, except that no discovery shall be undertaken except upon order of the Presiding Officer or upon agreement of the parties.

(2) The Presiding Officer shall order depositions upon oral questions only upon a showing of good cause and upon a finding that:

(i) The information sought cannot be obtained by alternative methods; or

(ii) There is a substantial reason to believe that relevant and probative evidence may otherwise not be preserved for presentation by a witness at the hearing.

(3) Any party to the proceeding desiring an order of discovery shall make a motion or motions therefor. Such a motion shall set forth:

(i) The circumstances warranting the taking of the discovery;

(ii) The nature of the information expected to be discovered; and

(iii) The proposed time and place where it will be taken. If the Presiding Officer determines the motion should be granted, he shall issue an order for the taking of such discovery together with the conditions and terms thereof.

(4) When the information sought to be obtained is within the control of one of the parties, failure to comply with an order issued pursuant to this paragraph may lead to the inference that the information to be discovered would be adverse to the person or party from whom the information was sought.

§ 80.320 Accelerated decision.

(a) *General.* The Presiding Officer or the Regional Administrator, as appropriate, pursuant to § 80.315(c), upon motion or sua sponte, may at any time render an accelerated decision in favor of complainant or respondent as to all or any portion of the proceeding without further proceedings or upon such limited additional evidence such as affidavits as he may require under any of the following conditions:

(1) Failure to state a claim upon which relief can be granted, or direct or collateral estoppel; or

(2) There is no genuine issue nor any material fact in dispute and a party is entitled to judgment as a matter of law; or

(3) Such other and further reasons as are just.

(b) *Effect.* (1) In the event an accelerated decision is issued by the Presiding Officer, the decision shall be treated for the purpose of these rules of practice in the same manner as an initial decision of the Presiding Officer rendered after completion of a hearing under § 80.327.

(2) In the event an accelerated decision is issued by the Regional Administrator, the Regional Administrator shall proceed to issue a final order disposing of all or part of the case as may be appropriate under § 80.330.

Hearing Procedure

§ 80.321 Scheduling the hearing.

(a) *Assignment of Presiding Officer.* Upon the filing of an answer, the Regional Administrator shall assign the Presiding Officer. The Regional Administrator may however request that the Chief Administrative Law Judge assign an Administrative Law Judge as Presiding Officer. If the Chief Administrative Law Judge finds that such an assignment can be made without impairing the ability of his office to timely discharge its other responsibilities, he shall make the assignment. Otherwise, he shall notify the Regional Administrator making the request that he is unable to make such an assignment.

(b) *Notice of hearing.* In the event that a hearing is requested by respondent in his answer, or is ordered by the Presiding Officer pursuant to the provisions of § 80.316(c), the Presiding Officer shall, after consideration of the convenience of the parties, forthwith serve upon parties a notice of a hearing. This notice may set a time and place for such hearing and may contemplate a future prehearing conference between the parties. Unless otherwise agreed upon by all parties, the parties shall be notified of the date set for the hearing at least twenty (20) days prior to such date.

(c) *Postponement of hearing.* Except for good cause shown, no request for postponement of a hearing will be granted. Such request must be received in writing at least three (3) days in advance of the time set for the hearing. In case of postponement, the hearing shall be rescheduled for a date as early as circumstances will permit.

(d) *Location of hearing.* The hearing shall be held in the city in which the Environmental Protection Agency Regional Office is located unless the Presiding Officer determines that there is good cause for it to be held at another location in the region.

§ 80.322 Evidence.

(a) *General.* The Presiding Officer shall admit all evidence which is relevant, competent and material, and is not unduly repetitious. Relevant, competent and material evidence may be received at the hearing although such evidence may be inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given all evidence shall be determined by its reliability and probative value. In the presentation, admission, disposition, and use of evidence, the Presiding Officer shall preserve the confidentiality of trade secrets and other privileged commercial and financial information. The confidential or trade secret status of any evidence shall not, however, preclude its being introduced into evidence. The Presiding Officer may make such orders as may be necessary to consider such evidence in camera, including the preparation of a supplemental initial decision to consider questions of fact and conclusions regarding material issues of law, fact or discretion which arise out of that portion of the evidence which is confidential or which includes trade secrets.

(b) *Examination of witnesses.* Except as otherwise provided in these rules of practice or by the Presiding Officer, witnesses shall be examined orally, under oath or affirmation. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.

(c) *Verified statements.* The Presiding Officer may admit and insert into the record as evidence in lieu of oral testimony, statements of fact or opinion prepared by a witness. The admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced under oral examination. The witness shall be subject to oral cross-examination on the contents of such statements. Before any such statement is read or admitted into evidence, the witness shall deliver a copy of the statement to the Presiding Officer, the reporter, and opposing counsel. The witness presenting the statement shall swear to or affirm the statement and shall be subject to oral cross-examination upon the contents thereof. Such statements shall not be admitted when it appears to the Presiding Officer that the memory or the demeanor of the witness is of importance.

(d) *Exhibits.* Except where the Presiding Officer finds it impracticable, an original and one copy of each exhibit shall be filed with the Presiding Officer for the record and a copy shall be furnished to each party. A true copy of an exhibit may be substituted for the original.

(e) *Official notice.* Official notice may be taken of any matter judicially noticed in the Federal courts, and of other facts within the specialized knowledge and experience of the Agency. Opposing parties shall be given adequate opportunity to

show that such facts are erroneously noticed.

§ 80.323 Objections and offers of proof.

(a) *Objection.* Any objection concerning the conduct of the hearing, the admission or rejection of evidence, the limitation of the scope of any examination or cross-examination, or a ruling by the Presiding Officer may be stated orally or in writing. The party raising the objection must supply a short statement of the grounds for the objection. The transcript shall include all argument and debate on the objection. The ruling and the reasons given therefor by the Presiding Officer on any objection shall be a part of the transcript. An exception to each objection overruled shall be automatic and is not waived by further participation in the hearing.

(b) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. The offer of proof for excluded documents or exhibits shall consist of the insertion in the record of the documents or exhibits excluded. Where the Regional Administrator decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence, or, where appropriate, the Regional Administrator may evaluate such improperly excluded evidence in preparing his final order. In the event that the Regional Administrator in the preparation of his final order relies upon any evidence excluded at the hearing by the Presiding Officer, he shall explicitly identify in the final order any such excluded evidence relied upon and his reasons therefor.

§ 80.324 Burden of presentation; burden of persuasion.

In establishing that the violation occurred as set forth in the complaint and that the civil penalty assessed is appropriate, the complainant has the burden of going forward with and of proving an affirmative case. Following the establishment of a prima facie case, respondent shall have the burden of presenting and of going forward with any defense (subject to any limitation provided for in this Part) to the allegations set forth in the complaint. Each matter of controversy shall be determined by the Presiding Officer upon a preponderance of the evidence.

§ 80.325 Filing the transcripts.

The hearing shall be transcribed verbatim. Promptly following the taking of the last evidence, the reporter shall transmit to the Regional Hearing Clerk as many copies of the transcript of testimony as are called for in the reporter's contract with the Agency, and shall transmit to the Presiding Officer the original transcript. A certificate of service shall accompany each copy of the transcript. The Regional Hearing Clerk shall promptly furnish all parties with a copy of the transcript of the hearing without cost. Any person not a party to the proceeding may receive a copy of such transcript upon payment of the costs of reproduction of such transcript.

§ 80.326 Filing of briefs, proposed findings of fact and conclusions of law, and proposed order.

Unless otherwise ordered by the Presiding Officer, each party may within twenty (20) days after service of the transcript of a hearing as provided in § 80.325 file with the Regional Hearing Clerk and serve upon all other parties proposed findings of fact, conclusions regarding material issues of law, fact or discretion, a proposed order based solely upon the record, and a brief in support thereof, together with references to relevant pages of the transcript and to relevant exhibits. Within ten (10) days thereafter each party may file a reply brief concerning matters contained in opposing briefs and containing alternative findings of fact, conclusions regarding material issues of law, fact or discretion and proposed orders. Oral argument may be had at the discretion of the Presiding Officer on motion of any party or sua sponte.

§ 80.327 Initial decision.

(a) *Contents of initial decision.* The Presiding Officer shall as soon as practicable after the conclusion of the briefing period evaluate the record before him and prepare and file his initial decision with the Regional Hearing Clerk. The initial decision shall contain his findings of fact, conclusions regarding all material issues of law, fact or discretion as well as reasons therefor, a recommended civil penalty assessment, and a proposed final order assessing a civil penalty. The Regional Hearing Clerk shall, in accordance with provisions made for service in § 80.305(d), serve upon each of the parties a copy of the initial decision, and shall also serve one copy upon the Regional Administrator.

(b) *Evaluation of proposed civil penalty.* In determining the dollar amount of the recommended civil penalty assessed in the initial decision, the Presiding Officer shall consider all elements regarding the appropriateness of a civil penalty set forth in section 80.330(b). In determining the appropriate penalty to be assessed, the Presiding Officer may consult and rely upon the Guidelines for the Assessment of Civil Penalties, published as a Notice in the FEDERAL REGISTER of August 29, 1975, as part of the Part II. The Presiding Officer may at his discretion increase or decrease the assessed penalty from the amount proposed to be assessed in the complaint.

(c) *Effect of initial decision.* The initial decision of the Presiding Officer shall become the final order of the Regional Administrator within thirty (30) days after transmission thereof by the Regional Hearing Clerk to the Regional Administrator and without further proceedings unless (1) an appeal to the Regional Administrator is taken from it by a party to the proceedings, or (2) the Regional Administrator elects, sua sponte, to review the initial decision.

APPEALS AND ADMINISTRATIVE REVIEW

§ 80.328 Appeal from or review of interlocutory orders or rulings.

(a) *Request for interlocutory appeal.* Except as provided in this section, appeals to the Regional Administrator shall obtain as a matter of right only from an initial decision of the Presiding Officer. Appeals from other orders or rulings shall lie only if the Presiding Officer, upon motion of a party, certifies such orders or rulings to the Regional Administrator on appeal. Requests to the Presiding Officer for such certification shall be filed in writing within five (5) days of notice of the ruling or service of the order and shall state briefly the grounds to be relied upon on appeal.

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify a ruling for appeal to the Regional Administrator when (1) the order or ruling involves an important question of law or policy concerning which there is substantial grounds for difference of opinion; and (2) either (i) an immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) *Decision.* If the Regional Administrator determines that certification was improvidently granted, or if he takes no action within thirty (30) days of the certification, the appeal shall be deemed dismissed. When the Presiding Officer declines to certify an order or ruling to the Regional Administrator on interlocutory appeal, it may be reviewed by the Regional Administrator only upon appeal from the initial decision, except when the Regional Administrator determines, upon motion of a party and in exceptional circumstances, that to delay review would be deleterious to the public interest. Such motion shall be made within five (5) days of service of an order of the Presiding Officer refusing to certify a ruling for interlocutory appeal to the Regional Administrator. Ordinarily, the interlocutory appeal will be decided on the basis of the submissions made by the Presiding Officer. The Regional Administrator may, however allow further briefs and oral argument.

(d) *Stay of proceedings.* The Presiding Officer may stay the proceedings pending a decision by the Regional Administrator upon an order or ruling certified by the Presiding Officer for an interlocutory appeal, or upon the denial of such a certification by the Presiding Officer. Except in extraordinary circumstances proceedings will not be stayed. Where a stay is granted, a stay of more than thirty (30) days must be separately approved by the Regional Administrator.

§ 80.329 Appeal from or review of initial decisions.

(a) *Exceptions.* (1) Within twenty (20) days after service of the Presiding

Officer's initial decision, any party may take exception to any matter set forth in such decision or to any adverse order or ruling to which he objected during the hearing and may appeal such exceptions to the Regional Administrator. Appeal may be made by filing exceptions in writing with the Regional Hearing Clerk. Such exceptions shall contain alternative findings of fact, conclusions regarding material issues of law, fact or discretion and a proposed order together with references to the relevant pages of the record and initial decision. A copy of each such document taking exception to the initial decision shall be served upon each other party and amicus curiae. Within the same period of time each party filing exceptions and amicus curiae shall file with the Regional Hearing Clerk and shall serve upon all parties a brief concerning each of the exceptions being appealed. The party shall include in its brief, page references to the relevant portions of the record and to the Presiding Officer's initial decision.

(2) Within ten (10) days of the service of exceptions and briefs under paragraph (1) of this section, any other party or amicus curiae may file and serve a reply brief responding to exceptions or arguments raised by any party, together with references to the relevant portions of the record, initial decision, or opposing brief. Reply briefs shall not, however, raise additional exceptions.

(b) *Sua sponte review by Regional Administrator.* Whenever the Regional Administrator determines sua sponte to review an initial decision, notice of such intention shall be served upon the parties by the Regional Hearing Clerk within thirty (30) days after the date of service of the initial decision. Such notice shall include a statement of issues to be briefed by the parties and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* Except when the Regional Administrator determines that additional issues should be argued, the appeal of the initial decisions shall be limited to the issues raised by appellant. Where it is determined that additional issues should be argued, counsel for the parties shall be given reasonable written notice of such determination to permit preparation of adequate argument.

(d) *Argument before the Regional Administrator.* The Regional Administrator may, upon request by a party or sua sponte, set a matter for oral argument. The time and place for such oral argument shall be assigned after giving consideration to the convenience of the parties.

FINAL ORDER

§ 80.330 Final Order.

(a) *Contents of the final order.* As soon as practicable after service upon the Regional Administrator of the initial decision of the Presiding Officer, the Regional Administrator shall issue his final order. Such final order shall include findings of fact, conclusions regarding material issues of law, fact or discretion as well as reasons therefor, and an order assessing a civil penalty. Such final order may accept or reject all or part of the initial decision of the Presiding Officer.

(b) *Evaluation of civil penalty.* The final order of the Regional Administrator shall consider the appropriateness of the penalty proposed to be assessed in the consent agreement, (§ 80.318(b)), default order (§ 80.319(b)) or the initial decision (§§ 80.320 or 80.327) out of which the final order originates.

(1) In evaluating the appropriateness of such proposed penalty, the Regional Administrator must consider (i) the gravity of the violation, (ii) the size of respondent's business, (iii) respondent's history of compliance with the Act, (iv) the action taken by respondent to remedy the specific violation, and (v) the effect of such proposed penalty on respondent's ability to continue in business.

(2) In determining the appropriate penalty to be assessed, the Regional Administrator may consult and rely upon the Guidelines for the Assessment of Civil Penalties, published as a Notice in the FEDERAL REGISTER of August 29, 1975, as part of the Part II. The Regional Administrator may, at his descretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the initial decision, or in the Guidelines for the Assessment of Civil Penalties.

(c) *Payment of a civil penalty.* (1) Except as otherwise provided in conjunction with (i) motions made pursuant to §§ 80.331 or 80.332 or (ii) petitions seeking judicial review of a final order of the Regional Administrator, payment of the full amount of the civil penalty assessed in the final order shall be made within sixty (60) days of service upon respondent of the final order. Such payment shall be made by forwarding to the Regional Hearing Clerk a cashier's check or certified check in the amount of the penalty assessed in such final order. Such check shall be payable to the United States of America.

(2) Failure to make timely payment of the penalty assessed in the final order shall result in reference of the matter to the Attorney General who shall recover such amount by action in the appropriate United States District Court pursuant to section 211(d) of the Act.

MOTION TO RECONSIDER

§ 80.331 Motion to reopen hearings; to rehear or reargue proceedings; or to reconsider a final order.

(a) *Filing and service.* A motion to reopen a hearing to take further evidence, to rehear or reargue any matter related to such proceeding, or to reconsider any final order, must be made by motion to the Regional Administrator, in accordance with § 80.315(a) and filed with the Regional Hearing Clerk. Every such motion must state the specific grounds upon which relief is sought.

(b) *Motion to reopen hearing.* A motion to reopen a hearing for the purpose of taking further evidence may be filed at any time after the service of the initial decision of the Presiding Officer and prior to the issuance of the Regional Administrator's final order. Each such motion shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not cumulative, and shall set forth a good reason why such evidence was not adduced at a hearing.

(c) *Motion to rehear, reargue, or reconsider.* Motions to rehear or reargue any matter related to a hearing or to reconsider the final order shall be filed within ten (10) days after the date of service of the final order. Every such motion must state specifically the matters claimed to have been erroneously decided. The nature of any alleged error must be briefly stated.

§ 80.332 Procedure for disposition of motions.

Within ten (10) days following the service of any motion provided for in § 80.331 any other party to the proceeding may file with the Regional Hearing Clerk and serve on all other parties an answer thereto. As soon as practicable thereafter, the Regional Administrator shall announce his intent to grant or to deny such motion. Unless the Regional Administrator determines otherwise, implementation of the final order shall not be stayed pending the decision to grant or to deny the motion. The conduct of any proceeding which may be required as a result of the granting of any motion allowed in this section shall be governed by the provisions of the applicable section of these rules.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL 411-5]

REGULATION OF FUELS AND FUEL ADDITIVES

Guidelines for the Assessment of Civil Penalties Under Section 211(d) of the Clean Air Act

On November 12, 1974, the Environmental Protection Agency published proposed administrative hearing procedures (39 FR 39992) and published, as an appendix to the proposed procedures, Guidelines for the Assessment of Civil Penalties. Final rules of practice governing proceedings conducted in the determination of liability and the assessment of civil penalties under Section 211 of the Clean Air Act, as amended (42 U.S.C. 1857f-6(c)) are being published today, August 29, 1975, in the FEDERAL REGISTER as the first document of this Part II. The Agency is publishing in conjunction with these final rules of practice a guideline document which will provide guidance to Agency personnel in the assessment and mitigation of penalties for violations of the unleaded gasoline regulations promulgated pursuant to Section 211 of the Clean Air Act.

The Guidelines for the Assessment of Civil Penalties Under Section 211(d) of the Clean Air Act (42 U.S.C. 1857f-6(c)) is published below in three sections. Section I, Application of the Civil Penalty Assessment Schedule, explains the rationale used to derive the monetary penalty which is the unadjusted penalty assessed for a particular violation. It also provides a mechanism whereby Agency personnel may consider mitigating circumstances to determine a final adjusted penalty.

Section II, the Table of Possible Violations, lists violations of the Regulations classified by the potential for that violation to cause vehicle emissions to exceed standards and by the influence of the violation on the effective enforcement of the program. The violations are listed in decreasing order of potential harmfulness. The violations are then divided into seven separate groups of violations, and each group is assigned a schedule number.

Section III, the Civil Penalty Assessment Table, consists of seven separate penalty assessment schedules. Each schedule corresponds to a separate group of violations from the Table of Possible Violations. Each schedule is a matrix consisting of 16 cells. Within each cell is a dollar value or range of values to be used in the assessment of an unadjusted penalty against an alleged violator; the monetary amount is a function of the size of the respondent's business and his history of similar violations.

Comments on the proposed Guidelines focused primarily on the Agency's use of the size-of-business criterion in determining the appropriateness of a penalty, the proposed manner of computing an alleged violator's previous history performance under the regulations, and the proposed mitigation criteria. These comments are addressed specifically below.

Subsection 80.330(b) provides that one of the criteria to be used in evaluating the amount of penalty is the size of a respondent's business, as determined by the gross income for the preceding year. Seven commentators stated that this criterion discriminates against large businesses since the unadjusted penalty assessed against such a business for a violation of the regulations would be considerably larger than the penalty assessed against a smaller firm for a similar violation. Thus, it was contended that the criterion was unfair and inequitable. Two of the commentators suggested, in addition, that the criterion violates equal protection safeguards of the United States Constitution.

The Agency believes that the size of business criterion does not unfairly discriminate against large businesses and does not violate equal protection rights. The objective of the penalty structure is to provide adequate deterrence to all members of the petroleum marketing industry and thereby encourage compliance with the unleaded gasoline regulations. The size of business criterion is utilized to reflect the respondent's ability to pay, thus providing a similar degree of deterrence despite differences in business size.

The Clean Air Act authorizes penalties of $10,000 per day for each violation of the unleaded gasoline regulations and vests in the Administrator the authority to mitigate or remit such penalties. The Administrator has, however, determined that adequate deterrence can be achieved by assessing penalties of less than $10,000 per day for substantially all of the violations. A penalty designed to provide adequate deterrence against a large business would be wholly inappropriate if assessed against a much smaller business. Such a penalty might cause a smaller business to terminate its operations. More nearly uniform deterrence is achieved by assessing the smaller respondent a smaller penalty. Thus, in order that the penalty assessment procedure operate fairly to provide a similar deterrence to all respondents, the size of business criterion is utilized when determining the appropriateness of a penalty.

The Agency believes that the objective of achieving a significant deterrence to all parties is a reasonable and proper purpose for these Guidelines. Assessing varying penalty amounts against different respondents based on the size of the respondent's business is a reasonable manner of achieving this objective, particularly when, as is the case here, the violator may be a very large refiner on the one hand or a very small retailer on the other hand. Finally, we note that in cases when Congress has specified mitigation criteria in statutes, it has included the size of business criterion. See OSHA, 29 U.S.C. Section 659; FIFRA, 7 U.S.C. Section 1361; and Motor Vehicle Safety Act, 15 U.S.C. Section 1398. Thus, the Agency does not believe these Regulations are in conflict with any constitutionally guaranteed rights.

A number of commentators suggested that the proposed provision in the Guidelines which would limit mitigation of an unadjusted penalty to 75% of its initial value for respondents in the third and fourth "size of business" categories is inequitable. The comments generally reflected a concern that all respondents, independent of business size, should be afforded the same degree of mitigation for their good faith efforts to remedy a violation. The commentators argued that when a large business found in violation reacts quickly to remedy the violation and takes steps to prevent its recurrence, it should be entitled to the same degree of mitigation as a smaller business.

We agree that when respondents of varying size act to remedy a violation, the degree to which the penalties are mitigated should be uniform. In response to the comments and in order to clarify the guidance on this topic, the Guidelines have been revised as follows. For all respondents, action taken to remedy a violation and prevent its recurrence may reduce the unadjusted penalty to 60% of its initial value. A further unlimited adjustment may be made for all respondents upon consideration of the effect that the penalty will have upon the respondent's ability to continue in business. This second adjustment has been broadened to also include consideration of any severe economic hardship which the respondent would suffer due to the imposition of such a penalty but which would not cause him to discontinue business operations. The original Guidelines additionally provided that in special circumstances, where equity could not be served within the above limitations, the complainant could petition the Director, Mobile Source Enforcement Division, to make a further adjustment. This provision remains unchanged in these Guidelines. It is the Agency's position that this mitigration scheme provides a reasonable basis for mitigation or remittance when appropriate, and establishes a procedure whereby all respondents are subject to a uniform and fair determination of a penalty.

Some commentators objected to the manner in which the history of performance criterion would operate. This criterion operates to increase the unadjusted penalty according to the number of previous similar violations of the Regulations which the respondent has committed. The Agency expects the marketing industry to establish quality control procedures to prevent the contamination of unleaded gasoline, to monitor the effectiveness of such procedures, and to implement measures to correct any deficiencies that could result in violations of the Regulations.

The comments generally reflected a concern that a large company could quickly accumulate sufficient violations to be subject to the maximum penalty amount in its size-of-business category. One commentator suggested that when a corporation is found in violation at

more than one of its service stations, the corporation's history of performance should apply on an individual basis to each station. If this suggestion were adopted, a corporation which causes violations to occur at several outlets would be charged the lowest penalty for each notwithstanding the fact that its operations continue to generate the same violations at several outlets. This is not consistent with the underlying rationale that a past violator should be subject to a greater penalty than a first offender. Another comment suggested that the history of performance criterion be based onviolation rate (number of station violations divided by total number of stations controlled by the respondent) or on a geographical system whereby violations would be accumulated only within a specified geographical region.

In response to these comments, the history of performance criterion has been revised. Violations will be accumulated in each of the 10 Federal Regions separately through consideration of similar violations by the respondent only within that region. Thus, the history of violations for a respondent who operates in more than one region will increase at a lesser rate than if a nationwide aggregation was being accumulated. Furthermore, only violations that are independent of one another will be cumulative. For example, when a supplier or refiner is found to be in violation for offering for sale contaminated gasoline (40 CFR 80.22(a)) at several retail outlets, and those violations result from a single specific act in a particular distribution chain, they will not be added together for purposes of establishing a violation history. Each violation will be charged against the respondent as a separate offense, but since they resulted from the same error they will be considered as a single violation for the purpose of establishing a violation history.

A change has been made in the way penalties are assessed for nozzle violations under Subsection 80.22(f). The possibility of leaded gasoline being introduced into a car equipped with a restricted filler inlet and requiring unleaded gasoline is much greater if the leaded gasoline pump has an improper size nozzle. In contrast, the case in which an unleaded pump has an improper size nozzle is much less serious. The proposed Guidelines did not separate these violations for penalty assessment. This distinction is now reflected in Section II of the Guidelines. Violations of Subsection 80.22(f)(1), failure to equip leaded gasoline pumps with proper nozzles, have been given a schedule number of 2. Violations of 80.22(f)(2), failure to equip unleaded gasoline pumps with proper nozzles, have been given a schedule number of 5.

Dated: August 18, 1975.

RUSSELL E. TRAIN,
Administrator.

SECTION I: ASSESSMENT OF CIVIL PENALTIES

PURPOSE

Section 211(d) of the Clean Air Act and Section 80.5 of the Regulations provide for the assessment of a civil penalty in the amount of $10,000 per day against anyone who violates the substantive provisions of Section 211 or the Regulations promulgated thereunder. In addition, both sections provide that the Administrator may, upon application by the violator, remit or mitigate such penalty, and that he shall have authority to determine the facts upon all such applications. Furthermore, Subsections 80.314(b) and 80.330(b)(1) of the Regulations provide that the following criteria form the basis for determining the amount of the penalty: (1) the gravity of the offense, (2) the respondent's history of performance under the Regulations, (3) the appropriateness of the penalty in relation to the size of the respondent's business, (4) the action taken by the respondent to remedy the specific violation, (5) the respondent's ability to continue in business, and (6) in extraordinary situations where equity cannot be achieved by application of the preceding five criteria, other special circumstances may be considered.

These Guidelines establish a procedure which can be utilized to determine the proper penalty in accordance with the criteria stated above. This procedure is designed to ensure that penalties of generally uniform magnitude will be assessed among the 10 Federal Regions for violations when similar circumstances prevail.

DETERMINATION OF AN ALLEGED VIOLATION AND COMPLAINT

Subsection 80.303(e) of the Regulations requires the Regional Administrator to designate a person to act for the Agency as the complainant in cases where a violation is alleged to have occurred. This person cannot be the Regional Administrator. In cases where the complainant has reason to believe that a violation has occurred, he may issue a complaint, pursuant to Section 80.313 of the Regulations. The basis for the complaint may be the fuel inspector's report and a chemical analysis of the gasoline according to Section 80.3, Appendix A or B, when the violation is for gasoline that does not comply with Subsection 80.2(g).

The complaint must specifically state the violation or violations which the respondent is alleged to have committed, and must also describe with particularity the facts upon which such allegations are based. Sections 80.4, 80.7, 80.21, 80.22, and 80.23 of the Regulations combine to specifically state eleven independent and distinguishable violations. They are described with appropriate section references in Section II. The allegations of the complaint shall be limited to these eleven violations.

The complaint will also state the amount of the penalty that is proposed to be assessed. This amount shall be referred to as the "unadjusted" penalty.

Finally, the complaint shall apprise the respondent of the courses of action available to him. These include the following: (1) He is entitled to a formal hearing before a Presiding Officer to decide both the validity of the allegations in the complaint and the reasonableness of the proposed assessment. In order to preserve his right to a hearing, he must file an answer to the complaint within 20 days of its receipt, and must respond to the allegations of the complaint and/or state the basis for his belief that the proposed assessment is inappropriate. Failure to file an answer will result in a default, in which case the proposed penalty becomes the assessed penalty. (2) Whether or not the respondent requests a hearing, he may request a mitigation of the proposed penalty. This will be accomplished by means of informal settlement negotiations and, in the event agreement is reached, a consent decree. The mitigated penalty amount shall be determined within the restrictions of the appropriate criteria, and it shall be referred to as the "adjusted" penalty. If the parties agree to enter a consent decree, the adjusted penalty becomes the assessed penalty. However, if the respondent decides to proceed with a hearing in lieu of accepting the settlement offer, the unadjusted penalty remains the assessed penalty. (3) He may elect to pay the proposed penalty in lieu of requesting either a formal hearing or a settlement conference.

DETERMINATION OF THE AMOUNT OF THE ASSESSED PENALTY

As explained above, the assessed penalty may either be the unadjusted or the adjusted penalty depending on the procedure which the respondent elects to follow. The unadjusted penalty is determined through a purely objective procedure which utilizes a Civil Penalty Assessment Table (see Section III). The table consists of a series of schedules in which graduated penalties are set out in accordance with the applicable criteria as they are discussed below. There is a schedule for each of the violations stated in Section II.

The procedure provides for no administrative discretion in establishing the penalty initially assessed for a particular individual violation. Rather, administrative discretion was utilized during the initial determination of the appropriateness of the criteria to be used and penalty amounts to be assigned when the schedules were developed. In contrast, the adjusted penalty is arrived at through a subjective process wherein the complainant is empowered to exercise administrative discretion in reaching the conclusion that the circumstances of a particular case justify the further mitigation of the unadjusted penalty. However, this conclusion must be based on an an-

alysis of the appropriate criteria and be justified by adequate documentation (see discussion in C below).

A. *Factors Considered in Determining the Unadjusted Penalty.* Three of the six criteria listed in the Regulations are involved in the selection of the appropriate unadjusted penalty. These are the respondent's history of performance, the size of his business, and the gravity of the offense.

1. *History of Performance.* This criterion is a direct function of the number of violations which the respondent has committed prior to the one in question. It is restricted to previous occurrences of the same type of violation but independent of the one that the respondent is currently being charged with. A history of respondent's previous performance under the Regulations will be compiled separately for each EPA region. A prior history of committing other acts prohibited by the Regulations will not affect the penalty applicable in the present action. However, prior complaints for the same type of violation which culminated in assessments against the respondent but which did not result from a formal hearing (i.e., default judgments and consent decrees) will be considered when applying the past history criterion. Penalties are graduated in each schedule on the basis of whether the respondent has had zero, one, two, or three or more previous violations.

2. *Size of the Business.* The appropriateness of a given penalty is also a function of the size of the respondent's business. When the respondent is a business entity, size is expressed in terms of the gross income (i.e., total business revenues from the business entity which gave rise to the violation) for the respondent's prior fiscal year. When the respondent is an individual, size is expressed in terms of the individual's gross income for the prior fiscal year from the particular business of which the gasoline marketing is an integral part. Each schedule is graduated into four categories of size. Category I includes respondents whose gross income was less than $250,000. Category II encompasses the range from $250,000 to less than $1,000,000; Category III, $1,000,000 to less than $5,000,000; and Category IV includes those respondents which had gross income of $5,000,000 and above. If the data for the last fiscal year are demonstrably unrepresentative of the respondent's general performance in terms of gross income, gross income for the three previous years may be analyzed in determining a representative figure.

3. *Gravity of the Violation.* The criterion that primarily influenced the penalty amounts assigned to the schedule cells was the gravity of the offense. First, a determination was made as to the relative severity of the violations possible under the Regulations. (They are listed in order of decreasing gravity in Section II.) This determination was made on the basis of the potential for the violation to cause vehicle emissions to exceed standards or the influence of the violation on the effective enforcement of the program. Then the maximum per day penalty for each schedule was assigned based on the relative rank that violation occupies in the order of severity. The assigned maximums were determined in consideration of the statutory maximum of $10,000. Finally, the penalties were assigned to the individual cells of each schedule by gradation down from the maximum as size of business, gravity of violation, and number of past violations decreased.

Special notice should be taken of the manner in which the gravity of the violation criterion affects the selection of the unadjusted penalty for three particular violations. These violations involve the sale, offer for sale, and dispensing (Section 80.22(a)), transfer of contaminated unleaded gasoline (Section 80.21(a)) or the contamination and delivery of unleaded gasoline (Section 80.21(b)). Unadjusted penalties for these violations are shown in schedules 2 and 3. Like the other eight violations, the gravity of the violation influences both the maximum penalties assigned to the schedules and the rate at which they are reduced within each schedule. However, unlike the other eight, these three violations are subcategorized within each cell. That is, the severity of these particular violations is also a function of the lead or phosphorus content of the gasoline found to be in violation of the standard. Thus, these two schedules also reflect this added aspect of the violations. This is done by stating the penalty of each schedule cell as a range rather than as a single amount. If a violation involves gasoline which only slightly exceeds the maximum federal standard of 0.05 gram of lead per gallon or 0.005 gram of phosphorus per gallon, the low end of the range becomes the unadjusted penalty. If the lead or phosphorus content substantially exceeds the standard, however, the high end of the range is applied.

B. *Using the Civil Penalty Assessment Table.* The seven schedules that correspond to the eleven violations of Section II are shown in Section III. The history-of-violations criterion for each is listed on the vertical axis and increases in number of violations from bottom to top. The size-of-the-business criterion is listed along the horizontal axis and increases in category number from left to right. The appropriate unadjusted penalty dollar amount for each possible violation is found by first selecting the proper schedule and then locating the cell which corresponds to the respondent's violation history and business size. In addition, if schedules 2 or 3 are involved, the proper point within the range stated in the cell must be determined. For a violation of Section 80.22(f)(1) (failure to equip leaded pumps with proper nozzles), the lowest penalty value in the Schedule 2 range shall be applicable. The monetary figure is then multiplied by the number of days over which the violation continued.

C. *Adjusting the Unadjusted Penalty.* The procedures outlined place the burden on the respondent to justify any further mitigation of the proposed penalty. The procedure for establishing the unadjusted penalty provides for a measure of mitigation initially in light of the statutory provision for a $10,000 per day penalty per violation. However, if the respondent believes that he should not have been charged with liability or the circumstances of his case justify a further mitigation of the penalty, the procedures allow him to request a settlement conference. Then the complainant may further reduce the penalty if he determines that the circumstances justify it. However, he is limited to the restrictions of the criteria outlined below.

1. *Action Taken to Remedy the Violation.* This is the fourth criterion listed in Section 80.330(b)(1) of the Regulations. It can be analyzed in terms of the respondent's cooperation with EPA to quickly remedy both the violation and the conditions which caused the violation and to initiate action to ensure that similar violations will be less apt to occur in the future. The complaint may, at his discretion, mitigate the unadjusted penalty to 60% of the initially assessed value upon a showing by the respondent of the remedial action taken. The burden of persuasion rests with the respondent, and the complainant shall base the amount of mitigation allowed upon the degree to which he is persuaded of the respondent's good faith efforts.

2. *Ability to Continue in Business and Severe Economic Hardship.* An unlimited adjustment may be made in the unadjusted penalty upon consideration of the effect that the proposed penalty will have upon the respondent's ability to continue in business. This consideration is merely the logical extreme of the criterion that relates the penalty to the size of the business. A penalty would rarely be appropriate, regardless of the previous year's gross income, if the respondent would suffer a severe economic hardship or if business must be terminated because of current financial status. Again, the burden of persuasion rests with the respondent, and any such showing must include a statement of the respondent's current financial status. A determination of such adverse effects shall be made only upon an analysis by the complainant of a certified financial report (or its equivalent) of the business in question. Such reports shall be provided to the Agency at the respondent's expense. These documents must be founded upon generally recognized accounting procedures.

3. *Special Circumstances.* Should a case arise in which the complainant determines that equity cannot be served by adjusting the penalty within the limitations described above, he may petition the Director of the Mobile Source Enforcement Division to make an extraordinary adjustment in the proposed penalty. Such petition should state with particularity: (1) the facts of the case, (2) why the penalty provided by the Assessment Table would be inequitable, (3) why the criteria for adjusting the unadjusted penalty are insufficient, and (4) how the

public interest would be protected by such an extraordinary adjustment in the penalty.

D. *Record of the Settlement Conference.* A summary of the settlement conference, in the form of a memorandum, shall be filed by the complainant, and shall become part of the record of the case that will be retained by the complainant. It shall state the nature of the evidence which the respondent presented in support of his request for a penalty adjustment and shall also describe in detail the evidence and the conclusions upon which the complainant relied in either granting or rejecting the request for adjustment. Copies of all relevant documents submitted by the respondent shall be attached to the summary.

SECTION II.—*Possible violations*

Schedule No.	Section reference	Description
1	80.22(a), 80.23(e)(1) liability	Introduction of leaded gasoline from a leaded pump into a vehicle requiring unleaded gasoline.
1	80.4	Refusal of retailer or wholesale purchaser-consumer or distributor to permit entry, inspection, sampling, or testing.
2	80.22(a), 80.23 (a), (b), (c), and (d), liability.	Dispensing or offering for sale gasoline represented to be unleaded which does not conform to the lead or phosphorus standards (contamination).
2	80.22(f)(1)	Failure to equip leaded gasoline pumps with proper nozzles.
3	80.21(a)	Sale or transfer of leaded gasoline represented to be unleaded to a distributor or retailer or wholesale purchaser-consumer.
3	80.21(b)	Causing unleaded gasoline to exceed the lead or phosphorus standards upon delivery (carrier).
4	80.22(b)	Failure to offer for sale a grade of unleaded gasoline.
4	80.7	Failure to provide information upon request of the regional administrator or his authorized delegate.
5	80.22(f)(2)	Failure to equip unleaded gasoline pumps with proper nozzles.
6	80.22(e)	Failure to properly label gasoline pumps.
7	80.22(d)	Failure to post the required sign at a retail outlet or wholesale purchaser-consumer facility.

SECTION III.—*Civil penalty assessment table* [1]

Schedule No.	Number of previous violations	Size of business [2] I	II	III	IV
1	3 or more	7,000	10,000	10,000	10,000
	2	4,000	6,000	8,000	9,000
	1	2,000	4,000	7,000	8,000
	0	1,000	2,000	6,000	7,000
2	3 or more	6,000–7,000	8,000–10,000	9,000–10,000	9,000–10,000
	2	3,000–4,000	5,000– 6,000	7,000– 8,000	8,000– 9,000
	1	1,000–2,000	3,000– 4,000	6,000– 7,000	7,000– 8,000
	0	500–1,000	1,000– 2,000	5,000– 6,000	6,000– 7,000
3	3 or more	5,000–6,000	7,000– 8,000	9,000–10,000	9,000–10,000
	2	2,000–3,000	4,000– 5,000	6,000– 7,000	7,000– 8,000
	1	800–1,500	2,000– 3,000	5,000– 6,000	6,000– 7,000
	0	400– 850	800– 1,500	4,000– 5,000	5,000– 6,000
4	3 or more	5,000	7,000	9,000	9,000
	2	2,000	3,000	6,000	7,000
	1	1,000	2,000	4,000	5,000
	0	500	1,000	2,000	3,000
5	3 or more	1,500	2,000	2,500	3,000
	2	1,150	1,500	2,000	2,500
	1	800	1,100	1,500	2,000
	0	500	800	1,000	1,500
6	3 or more	1,400	1,600	1,800	2,000
	2	1,050	1,250	1,450	1,650
	1	700	900	1,100	1,300
	0	450	600	800	950
7	3 or more	700	800	900	1,000
	2	600	700	800	900
	1	500	600	700	800
	0	400	500	600	700

[1] The dollar amount in each cell should be multiplied by the number of days over which the violation continued.
[2] I=$0 to less than $250,000; II=$250,000 to less than $1,000,000; III=$1,000,000 to less than $5,000,000; IV=$5,000,000 and above.

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FRIDAY, AUGUST 29, 1975



PART III:

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

■

EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES; NATURAL DISASTER PROCEDURES

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER500-1-1]

PART 203—EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES: NATURAL DISASTER PROCEDURES

Notice is hereby given that the Secretary of the Army, acting through the Chief of Engineers, is publishing a regulation effective 1 September 1975 prescribing policies and procedures implementing Public Law 84-99, Flood Emergency Preparation (33 USC 701n). The regulation establishes procedures to be taken by elements of the Corps of Engineers in pursuing flood emergency preparation, flood fighting, and flood control structure or federally authorized shore protection structure emergency repair as authorized in PL 84-99. Corps of Engineers actions and responsibilities in response to emergency and disaster declarations issued by the President pursuant to PL 93-288 (42 USC 5121 et seq.), and the Federal Disaster Assistance Administration, are included.

Dated: August 22, 1975.

RUSSELL J. LAMP,
Colonel, Corps of Engineers, Executive.

33 CFR Part 203 is added as follows:

Subpart 1—Introduction

Sec.

203.1100 Purpose.
203.1200 Applicability.
203.1300 References.
203.1400 General.
203.1500 Implementation.

Subpart 2—Missions, Authorities, Delegations, and Responsibilities

203.2100 General.
203.2200 Emergency flood and coastal storm activities.
203.2300 Other natural disaster assistance.
203.2400 Related statutory authorities.
203.2500 Rehabilitation or Corps of Engineers facilities damaged by natural disaster.

Subpart 3—Command Channels and Agency Coordination

203.3100 Command channels.
203.3200 Command relationships.
203.3300 Agency coordination.

Subpart 4—Advance Preparation

203.4100 General.
203.4200 Supplements to ER 500-1-1.
203.4300 Organization of emergency teams.
203.4400 Training.
203.4500 Resources.
203.4600 Inspection of non-Federal flood-control works.
203.4700 Flood forecasting.

Subpart 5—Operational Policies and Principles

203.5100 General.
203.5200 Floodfighting, coastal protective work and rescue.
203.5300 Rehabilitation of protective work (PL 84-99).
203.5400 Administration.

Subpart 6—PL 93-288 Operations

203.6100 General.
203.6200 Administrative support of FDAA.
203.6300 Federal-State disaster assistance agreement.
203.6400 FDAA directives to other Federal Agencies.
203.6500 Response by COE.
203.6600 Procedures for handling direct requests.
203.6700 Work authorization and funding.
203.6800 Scope of PL 93-288 assistance.
203.6900 Joint participation and responsibilities.

Subpart 7—Reporting

203.7100 General.
203.7200 Flood control and coastal emergencies under PL 84-99.

Subpart 8—Public Affairs

203.8100 Public affairs policy.
203.8200 Public affairs plan.

Subpart 9—Preservation of Order

203.9100 Preservation of order policy.
203.9200 Preservation of order programs.

APPENDICES

A—Federal agency boundaries
B—Related public laws
C—Functions and agreements with other agencies
D—Interdivisional assistance
E—Rehabilitation
F—Procurement and supply
G—Emergency communications
H—Funding and accounting references

AUTHORITY: Pub. L. 84-99, as amended, Emergency Flood Control Work (69 Statute 186), dated June 28, 1955.

Subpart 1—Introduction

§ 203.1100 Purpose.

This regulation prescribes administrative policies, guidance, and operating procedures for natural disaster activities of the Corps of Engineers. These are summarized below.

§ 203.1110 Flood and Coastal Storm Emergency.

These activities are advance preparation, flood fighting and rescue work, rehabilitation of flood control works damaged or destroyed by flood, and protection or repair of Federally authorized shore protection similarly affected by unusual coastal storm. The work is performed pursuant primarily to the statutory authority of the Corps of Engineers contained in Pub. L. 84-99, as amended by section 206 of the Flood Control Act approved 23 October 1962 (33 U.S.C. 701n) (69 Stat. 186).

§ 203.1120 Disaster Relief and Assistance (Pub. L. 93-288).

This assistance normally involves technical advice and assistance to the Federal Disaster Assistance Administration (FDAA). It encompasses conducting surveys of disaster areas, furnishing recommendations and reports performing specific assignments of an emergency and recovery nature covering protective work, clearance of debris and wreckage, emergency work essential for the protection of life and property, and permanent repair, restoration, reconstruction or replacement of public facilities, and advance preparation during and after natural disasters other than floods and coastal storms. Direction of the work is pursuant primarily to Pub. L. 93-288 (42 U.S.C. 5121 et seq.) (88 Stat. 143).

§ 203.1130 Other Projects.

Emergency repair and restoration of Corps of Engineers facilities necessitated by natural disaster except as covered by other directives of the Chief of Engineers.

§ 203.1200 Applicability.

This regulation is applicable to Corps of Engineers Divisions and Districts performing or supporting natural disaster assistance and recovery operations. Its provisions are applicable within the 50 states, the District of Columbia, and territories where other Corps statutory authorities apply. The Corps will also provide disaster assistance under Pub. L. 93-288 and Pub. L. 84-99 in Puerto Rico, Virgin Islands, American Samoa, Guam, and the Trust Territories.

§ 203.1300 References.

(a) AR 10-5
(b) AR 500-60
(c) ER 11-2-320
(d) ER 1145-2-305
(e) ER 1165-2-101
(f) ER 1165-2-301

§ 203.1400 General.

§ 203.1410 Paragraph Numbering System.

The paragraph numbering system used is intended to minimize changes in numbering required by the subsequent addition of new paragraphs and facilitate referencing emergency provisions.

§ 203.1411 Explanation of the Numbering System.

By using this paragraph number (14.11) for reference, the numbering is as follows:

(a) The first number (1) indicates the chapter number.

(b) The second number (4) indicates the major subject heading in the chapter.

(c) The third number (1) identifies the main paragraphs under the major subject heading.

(d) The fourth number (1) identifies the subparagraph. A fifth number is added if necessary for further subdivision.

(e) Listing of items within a paragraph are given an alphabetic designation.

§ 203.1500 Implementation.

This regulation should be used as the organization's natural disaster procedures. Supplements required will cover specific operational information not included in this regulation.

Subpart 2—Missions, Authorities, Delegations, and Responsibilities

§ 203.2100 General.

§ 203.2110 AR 10-5 and AR 500-60.

The missions of the Corps of Engineers are outlined in AR 10-5. Responsibilities of the Corps of Engineers for providing

assistance during and following disaster emergencies directed in AR 500–60 are fully covered in this regulation.

§ 203.2120 Broad objective.

Responsiveness to the public need is an objective of the Corps of Engineers. Every member of the Corps should be ever mindful of the National mission, and his office should be prepared at all times for National emergencies of all types. In preparation therefor, proposed actions and procedures must be thoroughly and continually planned, documented, taught, and practiced. During flood or other emergencies directly related to Civil Works activities, the full capabilities and authorities of the Corps of Engineers will be utilized for the common good in accordance with basic policies of the Corps of Engineers.

§ 203.2130 Scope.

The primary missions of Division and District Engineers before, during, and following flood emergencies, and at times of other natural disaster, are summarized in this chapter. The extent to which a Division or District Engineer is delegated authority to act in natural disaster emergency situations is also set forth.

§ 203.2140 Delegation of authority and responsibility.

There shall be an aggressive application of the policy and principle of decentralization. This means maximum delegation of authority and responsibility for disaster operations consistent with requirements for adequate supervision and control. Division Engineers are authorized to redelegate, in whole or in part, any of their authorities and responsibilities as set forth in this regulation, unless specifically stated otherwise herein or in other regulations. For delegation of authority to use letter contracts, see para 54.212.

§ 203.2150 Environmental impact statements.

ER 1105–2–507 prescribes the responsibilities for preparing Environmental Statements. Specifically excluded from the required preparation of statements are the emergency flood control, shore protection, and disaster recovery actions performed by the Corps under Pub. L. 84–99, Pub. L. 93–288, and Section 14 of the 1946 Flood Control Act. The work performed pursuant to these authorities is of such urgency that any administrative delay in commencing the work may adversely affect the public interest. The influence of major rehabilitation projects (Code 300) upon the environment, however, must be considered. An environmental assessment (Code 300) will be performed and retained in the project files. The total number of major rehabilitation projects determined during the quarter to not have a significant impact on the environment will be noted on the quarterly submission of the Environmental Impact Statement Schedule.

§ 203.2160 Liaison official.

During emergency operations of major proportions DAEN–CWO–E may request special liaison with the emergency area be established at OCE. A division or district representative will be detailed to OCE when requested.

§ 203.2200 Emergency flood and coastal storm activities.

§ 203.2210 Mission.

Preceding and during flood and coastal emergency, the primary missions are preparation for and conduct of operations appropriate under statutory authorities of the Chief of Engineers as prescribed in this regulation, placing emphasis on:

§ 203.2211 Corps of Engineers facilities.

Preserve Federally owned and maintained flood control works and other facilities operated by the Corps of Engineers.

§ 203.2212 Furnishing technical assistance.

Furnish appropriate technical assistance to state and local authorities, advising them in their efforts to maintain the integrity of flood control works and Federally authorized shore and hurricane protection projects under their jurisdiction. An active interest in assistance to local authorities is desirable.

§ 203.2213 Furnishing required direct assistance during flood and coastal emergencies.

If responsible state or local authorities have committed their resources, or are unable to cope with the flood or coastal storm situations, furnish direct assistance either by supply of needed materials or equipment or by undertaking Federal flood fighting and rescue operations; also, assume leadership and direction of a flood fight or emergency protection of Federally authorized shore and hurricane projects upon request of responsible state or local authorities with the latter retaining their responsibility.

§ 203.2220 Authorities.

§ 203.2221 Pub. L. 84–99 (33 U.S.C. 701n) (69 Stat. 186).

Activities under this statutory authority include: furnishing emergency supplies of clean drinking water (Covered separately); flood emergency preparation; flood fighting and rescue operations; repair or restoration of flood control works threatened, damaged, or destroyed by flood as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work; emergency protection of Federally authorized hurricane or shore protection projects being threatened when in the discretion of the Chief of Engineers such protection is warranted to protect against imminent and substantial loss to life and property; and the repair and restoration of any Federally authorized hurricane-flood or shore protective structure damaged by wind, wave or water action of other than an ordinary nature when in the discretion of the Chief of Engineers such repair and restoration is warranted for the adequate functioning of the structure for hurricane-flood or shore protection. Only minor improvement of existing works is made under this authority. Public Law 84–99 authorizes an emergency fund for these activities, and annual replenishment thereof by Congressional appropriation. The law further provides that should the Emergency Fund be temporarily depleted, other appropriated funds may be used pending reimbursing appropriation. A copy of the law is on page B–1.

§ 203.2222 Section 9, 1936 Act.

In connection with the project for the alluvial valley of the Mississippi River, Section 7 of the Flood Control Act approved 15 May 1928, reenacted in Section 9 of the Act approved 15 June 1936, permits funds specifically appropriated for this purpose to be allocated by the Secretary of Army on the recommendation of the Chief of Engineers for rescue work or in the repair or maintenance of any flood control work on any tributary of Mississippi River threatened or destroyed by flood. This statutory authority is applicable only to work on tributaries of the Mississippi River (excluding the main stem) within the jurisdiction of the Mississippi River Commission. In practice, the authority of Pub. L. 84–99, which is also applicable, is generally utilized in lieu of the authority in Section 9.

§ 203.2230 Delegations.

§ 203.2231 President, Mississippi River Commission.

The President of the Mississippi River Commission, in prosecuting the project "Mississippi River and Tributaries," is authorized to formulate and accomplish, without referral to the Chief of Engineers but within the limitations of applicable and available appropriated funds, emergency flood control work pursuant to Section 9 of the Flood Control Act of 1936.

§ 203.2232 Division engineers.

Division Engineers are delegated authority in actions under Pub. L. 84–99 as follows:

§ 203.22321 Performance of work.

To approve performance of emergency work under PL 84–99 by hired labor and Government plant or rented equipment.

§ 203.22322 Authorization of rehabilitation projects.

May be temporarily delegated authority, without power of redelegation, to act for the Chief of Engineers in authorizing emergency projects for repair and restoration of flood control works or Federally authorized shore or hurricane protection projects under Pub. L. 84–99, to the extent justified by the scope and complexity of disaster damage and the need for maximum expedition of project accomplishment.

§ 203.22323 Military support.

Division Engineers and the President of the Mississippi River Commission, in performing flood and coastal emergency operations, are delegated authority to re-

quest military support in this effort from FORSCOM, CONUSA Commanders, and from commanders of installations and activities directly under control of the Chief of Engineers. Direct communications may be established to obtain necessary military personnel, signal communication, vehicles, construction equipment, supplies, and aircraft for transportation or photographic reconnaissance. Coordinating instructions are contained in Chapter 3.

§ 203.2233 District engineers.

District Engineers are delegated authority in actions under PL 84-99 as follows:

§ 203.22331 Flood or coastal storm potention.

Make special investigation of flood or coastal storm potential to secure essential information or data which cannot be obtained from other sources or provided under other programs.

§ 203.22332 Reconnaissance.

Investigate or make reconnaissance of floods which have just occurred (flash floods), or which are threatening or occurring, and also those flooding situations resulting from hurricanes and coastal storms or tsunami (seismic waves) in order to provide technical advice and assistance or to determine the scope of possible disaster to local interests, and to collect essential data of transitory nature.

§ 203.22333 Flood fighting and rescue work.

Accomplish flood fighting and rescue work required by imminent or actual high water. District Engineers are authorized to collect essential flood data that otherwise would be irretrievably lost. But, Pub. L. 84-99 authority does not extend to post flood debris clearance unless the debris is causing flooding.

§ 203.22334 Emergency protection in a coastal storm.

Accomplish emergency protection to Federally authorized shore or hurricane projects being threatened.

§ 203.22335 Rehabilitation investigations.

Make special investigation of flood control works damage by a flood incident, or to Federally authorized shore and hurricane protection projects damage by a coastal storm with a view to determining what emergency repair and restoration work is to be recommended for authorization by higher authority. If the investigation under the category "Rehabilitation" is estimated to exceed $10,000 in cost, without regard to fiscal year, it requires prior approval by the Chief of Engineers.

§ 203.22336 Post disaster reporting.

Following the cessation of a storm or recession of high water, initiate or continue data collection and other investigative and reporting activities for each storm or flood incident. Obligation for all such post disaster reporting activities under the category "Emergency Operations" is subject to approval by the Chief of Engineers if more than $10,000.

§ 203.22337 Temporary funding.

Defer in the revolving fund, pending reimbursement, the costs of emergency flood and coastal activities within monetary limitations as stated in preceding subparagraphs or as further extended by the Chief of Engineers.

§ 203.2240 Responsibilities.

Division and District Engineers, at their respective levels are responsible for the performance of the following principal duties and functions and such others as they deem necessary.

§ 203.2241 Advance preparation for flood and coastal emergencies.

Division and District Engineers will prepare adequately for flood and coastal emergencies in the watersheds and coastal areas under their jurisdiction. Constant and positive action will be taken to maintain the Corps of Engineers position of leadership in flood and coastal emergency planning. In advance preparation, Division and District Engineers will provide for, but not be limited to, the following:

§ 203.22411 Supplements A and C.

Through annual review and revisions as required, a Supplement A (Natural Disaster Activities Under PL 84-99) and Supplement C (Emergency Communications) arranged for prompt and effective implementation of this regulation will be kept current at divisions and districts.

§ 203.22412 Liaison and cooperation.

Enlist maximum cooperation and participation on the part of local interests, and arrange for the closest cooperation between Division and District Engineers and CONUS Army or Unified Commanders, the Defense Civil Preparedness Agency (DCPA), and FDAA Regional Directors, other Federal agencies, the Red Cross, and other relief and rescue agencies, as appropriate. Maintain continuing liaison and coordination prior to and during flood and coastal emergencies, making every effort to insure that the responsibilities of all agencies are mutually understood and the exchange of information and cooperation during emergencies are facilitated.

§ 203.22413 Flood or Coastal Storm Potential.

Institute necessary measures to keep currently informed of disaster potential, as when rainfall or snowmelt is liable to cause or materially contribute toward floods, or when a coastal storm is likely to create conditions requiring emergency assistance. The Chief of Engineers will be informed of any situation which indicates the possibility of dangerous stream flow in the event of a rapid thaw, and of other factors causing potential disaster. In situations when a local community request for Corps assistance in flood fighting and rescue operations is likely, a preliminary investigation of the anticipated conditions should be undertaken if information available from other sources is inadequate. Obligation authority up to $10,000 in each situation is approved.

§ 203.22414 Operability of Flood Control Works.

Assure that protection works will function with all possible effectiveness.

§ 203.22415 Local Maintenance and Readiness.

Keep up efforts with local interests to obtain proper maintenance of their flood and shore or hurricane protection works and to encourage adequate advance preparation on their part for flood and coastal emergency operations. Local maintenance will include stock piling or otherwise providing for sandbags and/or other materials or equipment. It further includes local training of personnel, stressing familiarization with operation and maintenance manuals or other forms of operation and maintenance instructions.

§ 203.22416 Periodic Inspections.

Make periodic inspections and direct the attention of local interests, as required to potential weaknesses in their flood and coastal protection works. Include operation and maintenance procedures and recommendations to local interests relative to remedial measures. In the scheduling of inspections, opportunities for economy through coordination of inspections with other flood and coastal protective work will be utilized to the utmost.

§ 203.22417 Reservoir Storage Availability.

Insure that required flood control storage space will be available in reservoirs regulated by the Corps of Engineers. Included are other agency reservoirs providing flood control storage space for Corps use.

§ 203.2242 Duties during flood and coastal emergencies.

In time of flood and coastal emergencies, District Engineers will proceed as outlined below:

§ 203.22421 Situation reports.

Dispatch investigators as necessary to carry out appropriate reconnaissance and, by disaster reports, keep higher authority advised of the emergency situation and developments. Furnish similar appropriate information to the CONUS Army or Theater Commanders, the FDAA Regional Directors and National Office, DCPA Regional, and other cooperating agencies in accordance with established liaison procedures.

§ 203.22422 Liaison with local interests.

Provide local interests with such information in flood or coastal storm forecasts as is furnished by the National Weather Service which is responsible for issuing flood or coastal storm warnings. Supplement this information with available pertinent information on observed conditions and technical advice enabling

local interests to develop their own maximum flood or coastal storm protection and perform rescue and relief functions.

§ 203.22423 Operation of flood control and shore or hurricane protection works.

Local interests have primary responsibility to maintain their protection structures. Corps effort should insure that flood control and shore or hurricane protection works are properly operated and maintained during the flood or coastal emergency, with special attention being paid to such activities and features as sandbagging and otherwise closing levee gaps or raising levee heights, operation of pumping plants, interior drainage facilities, and access facilities to protective works. Also, operate gates in Corps operated flood control dams in accordance with the instructions in the pertinent reservoir regulation manuals, and take steps to insure similar operation of other dams subject to regulation by the Corps of Engineers. The above requirements regarding proper operation and maintenance procedures applies to all flood control and shore or hurricane protection works constructed with Federal funds, and also to any work constructed with non-Federal funds if the operation and maintenance of such works are in any way related to the operation and maintenance of Federally constructed works.

§ 203.22424 Protection of Corps facilities.

Take measures necessary to protect and preserve installations and property of the Corps of Engineers.

§ 203.22425 Flood fighting and emergency protection in a coastal storm.

Furnish required assistance in support of efforts of other agencies and by direct effort in supplementing local resources as appropriate. Division and District Engineers who accept responsible local authority requests to assume leadership and direction of flood fighting operations will insure that the responsibilities of all agencies are clearly defined and understood. Flood fighting activities of the Corps of Engineers may include the following: furnishing technical advice and assistance; furnishing flood fighting materials, i.e. sandbags, polyethylene sheeting, lumber, pumps for controlling interior drainage, and rip-rap to stabilize eroding levees; hiring of equipment and operators for flood fighting operations; and removal of log or debris jams that are blocking stream flow and causing or are likely to cause flooding of communities. Further, report to HQDA (DAEN-CWO-E) WASH DC 20314 the need for any further authority beyond standing authorization to obligate up to $100,000 District-wide for Emergency Operations.

§ 203.22426 Responsibilities of local interests during a flood fight.

Local entities are normally responsible within limits of their capabilities for the following in cooperation with the Corps activities to supplement local efforts: providing power for and operating pumps furnished by COE, providing manual labor for filling and placing sandbags, patrolling levees, furnishing at no cost all available community owned equipment and operators, and removal of temporary levees erected during a flood fight.

§ 203.22427 Limitations on COE flood-fighting activities.

Flood fighting activities undertaken under Pub. L. 84-99 authority does not include any of the following: reimbursement of local entities for the cost of any flood fighting activities undertaken by them, removal of log or debris jams causing only agricultural flooding, bank stabilization unless a flood control work or improved property is in imminent danger of damage; debris removal or cleanup, stream clearance, and channel rectification. Floodfighting activities will be terminated as soon as possible.

§ 203.2243 Post disaster rehabilitation of Corps facilities.

Rehabilitation or replacement of any installations, project features, activities, or property owned by the Corps of Engineers which have been damaged or destroyed, will be in accordance with applicable project authority and using funds pertinent thereto.

§ 203.2244 Post disaster investigations.

District Engineers will:

(a) Promptly determine value and need for any further collection of basic flood data and for other investigations in the post disaster period, and determine the usefulness of a formal report thereon.

(b) Secure authorization for post disaster data collection and reporting activities if total costs will exceed the $10,000 limitation. Such authorization may be requested either during the flood or coastal storm period or as soon as possible thereafter.

(c) Ascertain whether disaster damage is sufficiently widespread to warrant a District-wide investigation of damage to flood control or Federally authorized hurricane and shore protection works not maintained by the Corps. Secure special authorization from HQDA (DAEN-CWO-E) WASH DC 20314, if the estimated cost of such investigation under PL 84-99 authority exceeds the $10,000 limitation.

(d) Develop recommendations for authorization under PL 84-99 of such rehabilitation of flood control, shore, or hurricane protective works as is found:

(1) Essential for Corps maintained facilities and which are not deferable for later accomplishment with other authority and pertinent funds applicable thereto.

(2) In conformance with criteria applicable to flood control, shore, or hurricane protective works not maintained by the Corps of Engineers including development of recommended conditions of local cooperation.

§ 203.2245 Coordination.

Emergency rehabilitation of local interest levees will be coordinated with representatives of the Department of Agriculture in case there is an alternative emergency conservation assistance they provide to farmers. If the President has determined that disaster assistance is also arranged under Pub. L. 93-288, coordination through the division office will be accomplished with the concerned FDAA Regional Director.

§ 203.2300 Other Natural Disaster Assistance (AR 500-60 and Pub. L. 93-288).

§ 203.2310 Mission.

In natural disasters beyond the statutory Pub. L. 84-99 authority, Division and District engineers will use the resources at their command to aid civil authorities in preventing immediate human suffering, to mitigate destruction or damage to the public property of the United States, and to assist state and local governments in essential recovery operations when and as directed by the FDAA Regional Director pursuant to the following authorities and delegations.

§ 203.2320 Authorities.

Natural disaster assistance by the Corps of Engineers beyond its statutory flood related authorities will conform to the provisions of AR 500-60. The AR pertains primarily to military assistance rendered in the event of a major disaster warranting assistance by the Federal Government as authorized by the Disaster Relief Act of 1974 (Pub. L. 93-288), amending and supplementary legislation, pertinent Executive Orders, and FDAA regulations.

§ 203.2321 Disaster Relief Act of 1974 (Pub. L. 93-288) (42 U.S.C. 5121 et. seq.) (88 Stat. 143).

Sec. 101 of the law authorizes Federal assistance to states and local governments in a major disaster or emergency. A major disaster or emergency is defined as any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire or other catastrophe which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments, in alleviating the damage, loss, hardship, or suffering caused thereby. The authority conferred by Pub. L. 93-288, and any funds provided thereunder, are supplementary to and not limiting upon or in substitution for any other authority conferred or funds provided under any law such as Pub. L. 84-99.

§ 203.23211 Section 306 Cooperation.

Section 306 of Pub. L. 93-288 authorizes Federal agencies, when directed, to utilize or lend their resources to provide specific types of assistance. Following are types of assistance the Corps of Engineers may be called upon to render when specifically authorized in mission assignments by the FDAA:

(a) Damage surveys and investigations.

(b) Mission-type assignments in the following categories:

(1) Performing on public and private lands or waters any emergency work essential for the protection and preservation of life and property including channel clearance and emergency shore protection.

(2) Clearing and removing debris and wreckage.

(3) Making repairs to restore to service, or replacing public facilities (including streets, roads and highway facilities) of State and local governments.

(c) Providing technical advice and engineering services.

§ 203.23212 Authority of FDAA Administrator.

The Secretary, Department of Housing and Urban Development (D/HUD) has been designated by the President in Executive Order 11795 to administer the Federal Disaster Assistance Act of 1974, and supplemental legislation, and to prescribe rules and regulations for carrying out provisions thereof. The President reserved the authority to declare major disasters or emergencies. All other authorities pertaining to natural disaster functions pursuant to previous Executive Orders that were transferred by E.O. 11795 to the Secretary D/HUD, have been further delegated to the Federal Disaster Assistance Administration, D/HUD. FDAA Administrator has been given certain authorities and functions under Pub. L. 93–288, including:

(a) The authority to direct Federal agencies to provide assistance in "major disasters or emergencies" with or without reimbursement.

(b) The authority to coordinate the activities of Federal agencies in providing disaster relief.

(c) The authority to appoint a Federal Coordinating Officer.

§ 203.23213 Authority of FDAA Regional Directors.

The FDAA Administrator has redelegated certain authorities and functions to the FDAA Regional Directors within their respective areas including: The authority to direct and coordinate the activities of the Federal agencies in providing disaster assistance and to direct any Federal agency to utilize its available personnel, equipment, supplies, facilities and other resources.

§ 203.23214 FDAA Federal Coordinating Officer (FCO).

The FCO as the representative of the FDAA Regional Office will perform the following functions:

(a) Make an initial appraisal of the types of relief most urgently needed.

(b) Coordinate the administration of voluntary relief organizations.

(c) Take such other action consistent with the provisions of Pub. L. 93–288 and authority delegated to him by the FDAA Regional Director.

§ 203.23215 Emergency assistance.

If the President determines that an emergency exists, he is authorized pursuant to Section 305, Pub. L. 93–288 to use Federal departments, agencies and all other resources of the Federal Government to avert or lessen the effects of such disaster before its actual occurrence. The FDAA Regional Director may alert Federal agencies to mobilize or preposition personnel, equipment, and supplies. Division and District Engineers will comply with such requests.

§ 203.22216 Coordinating assistance under statutory authorities.

Disaster assistance performed simultaneously by several Federal agencies under their own statutory authority may be coordinated by the FDAA.

§ 203.2322 Military disaster relief.

As stated in AR 500–60, the Secretary of the Army has been designated the DOD Executive Agent throughout the United States and its territories for military support in disasters, including responsibility for effective use, coordination and control of military resources employed by the Army, Navy, Air Force and other DOD components. The authority to task appropriate DOD components for resources to conduct disaster relief has been delegated to the Commanding General, United States Army Forces Command (CGFORSCOM). CONUS Army (CONUSA) Commanders are directed to coordinate the military effort with assistance provided by the Corps of Engineers. In major disasters, CONUSA Commanders will appoint a DOD military representative to act as the point of contact for military support. A Unified Commander's authority and responsibility similarly applies to the planning and use of military resources outside CONUS. The provisions of AR 500–60 apply generally except as otherwise covered in directives of the Chief of Engineers pertinent to the Civil Works Program.

§ 203.2330 Delegations.

§ 203.2331 Action in case of imminent seriousness.

In consonance with department policy, authority is delegated by the Chief of Engineers for Division and District Engineers, and other Civil Works installation or activity commanders, to take independent emergency action to provide necessary assistance under conditions of immediate urgency in the absence of specific statutory authority. Action taken will be as necessitated to save human life, prevent immediate human suffering, or mitigate major property damage or destruction. In such a situation, any available Government resources in their charge may be used by Corps officers or subordinates on their own authority. Except for emergency operations under Pub. L. 84–99 authority, contractors must be engaged by non-Federal public entities, unless and until there is a Presidential declaration making Pub. L. 93–288 authority applicable, and an FDAA mission or request has been assigned.

§ 203.2332 Use of civil works plant in emergency to save life or property.

Under circumstances of immediate urgency not permitting advance request for authority, permission is given by authority of the Secretary of the Army to officers of the Corps of Engineers having charge of Government property in Civil Works accounts to use or loan government boats, barges, materials, equipment, and appliances, together with Corps personnel required therefor.

§ 203.2333 Response to requests from FDAA and CONUSA Commanders.

Division Engineers are delegated authority to respond immediately to valid requests for direct disaster assistance, or support of other agency assistance, received from FDAA Regional Directors pursuant to PL 93–288, or CONUSA and Theater Commanders under AR 500–60. HQDA (DAEN–CWO–E) WASH DC 20314 will be notified of action taken and a copy of the requests and supplements furnished.

§ 203.2334 Field Operating Agencies under direct control of the Chief of Engineers.

Division Engineers providing direct disaster assistance under Pub. L. 84–99 and Pub. L. 93–288, are authorized to obtain support in their effort by making direct requests to the Commanders of those field operating agencies under direct control of the Chief of Engineers.

§ 203.2340 Responsibilities.

Division and District Engineers will be prepared and responsible for carrying out the mission of the Corps of Engineers, and performing the principal duties and functions outlined in Chapters 5 and 6.

§ 203.2341 Preparatory reconnaissance and liaison.

If a major emergency is foreseen or is occurring, the Division or District Engineer or key assistants will be on the scene so that their presence may indicate the Corps of Engineers' readiness to assist within authorities and capabilities. The availability and nature of assistance by the Corps will be made known in liaison with responsible local authorities, the CONUSA Commander, and FDAA Regional Director, when it appears that substantial assistance is likely to be needed and requested. Under these circumstances, organization or alerting of disaster teams, and any appropriate positioning of personnel, supplies, and equipment in the disaster area, will proceed without delay in order to be prepared to take prompt and vigorous action if requested. Preparatory action being taken will be promptly made known to the CONUSA Commander concerned, to the FDAA Regional Director and to HQDA (DAEN-CWO-E) WASH DC 20314.

§ 203.2342 Disaster assistance under Pub. L. 93–288.

Disaster missions assigned by the FDAA and Army Commanders under

FDAA direction will be executed by the Corps under authority of PU 93-288 as a civil function. Division Engineers will be responsible for the validity of any request for disaster assistance, requiring that such request be made in writing by the FDAA Regional Director (or oral requests promptly confirmed) as provided by Federal Reimbursement Regulations, 32 CFR 1970. Work for the FDAA will be accomplished expeditiously and effectively in accordance with the directives contained in (a) HUD Handbook 3300.5, "Handbook for Applicants"; (b) HUD Handbook 3300.6 "Eligibility Handbook". These cover Pub. L. 93-288 eligibility conditions, categories, and criteria, and such other guidance as prescribed by the FDAA.

§ 203.2400 Related statutory authorities.

§ 203.2410 Wreck removed.

See ER 1145-2-305 for laws and guidance completely covering the peacetime removal of wrecks and other obstructions to the navigation of any navigable waters of the United States.

§ 203.2420 Other special continuing authorities.

See ER 1165-2-101 for laws and guidance completely covering all special continuing authorities, except Pub. L. 84-99, which are available to the Chief of Engineers. These additional authorities are listed below for reference.

§ 203.2421 Snagging and clearing channels for navigation (Sec. 3 of the River and Harbor Act approved 2 Mar 45) (33 U.S.C. 603a).

This special continuing authority provides for emergency maintenance measures to clear or remove unreasonable obstructions to navigation.

§ 203.2422 Snagging and clearing channels for flood control (Sec. 208 of the Flood Control Act approved 3 Sep 54) (33 U.S.C. 701g).

This special continuing authority provides for removal of snags and debris, for channel clearance, and for straightening or other construction to improve natural unimproved channels in the interest of flood control. ($250,000 project limit)

§ 203.2423 Emergency bank protection (Sec. 14 of the Flood Control Act approved 24 Jul 46) (33 U.S.C. 701r).

This special continuing authority provides for construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services. ($250,000 project limit)

§ 203.2424 Small flood control projects not specifically authorized by Congress (Sec. 205 of the Flood Control Act approved in 1948 and associated legislation) (33 U.S.C. 701s).

This special continuing authority provides for construction of small flood control projects on an expedited basis subject to each project being complete in itself and meeting other specified criteria. ($1,000,000 and $2,000,000 project limits)

§ 203.2425 Small navigation projects not specifically authorized by Congress (Section 107 of the 1960 River and Harbor Act, as amended) (33 U.S.C. 577).

This special continuing authority provides for construction of small river and harbor projects. ($1,000,000 project limit)

§ 203.2426 Beach Erosion Control (Sec. 103a of the 1962 River and Harbor Act as amended) (33 U.S.C. 426g).

This authority provides for construction of shore and beach protection or restoration projects to protect against loss of property. ($1,000,000 project limit.)

§ 203.2427 Work for other Federal agencies.

Section 219, Public Law 89-298, October 27, 1965 permits the Corps of Engineers to accomplish work by contract for other Federal agencies. That provision follows: "The Chief of Engineers, under the supervision of the Secretary of the Army, is authorized to accept orders from other Federal departments and agencies for work or services and to perform all or any part of such work or services by contract."

§ 203.2428 Work for State and local agencies.

The Title III, Intergovernmental Cooperation Act of 1968 authority (ER 1140-2-303) does not extend to performing contract work as the agent for State and local authorities, even with reimbursement of funds. Cooperation under the act is limited to in-house technical and specialized services. Emergency work in support of State and local communities must be limited to that authorized pursuant to Pub. L. 84-99, Pub. L. 93-288, or AR 500-60.

§ 203.2500 Rehabilitation of Corps of Engineers facilities damaged by natural disaster.

§ 203.2510 Civil works facilities.

The applicable Civil Works construction or maintenance funds will be used for the repair and restoration of Civil Works project structures and channels damaged by floods, hurricanes, other natural disasters, except that emergency repairs, in the case of major flood damage to Federally maintained flood control works, may be financed with Pub. L. 84-99 funds subject to the approval of the Chief of Engineers.

§ 203.2520 Military facilities.

§ 203.2521 Rehabilitation authorities.

Rehabilitation of military installations may be accomplished under the regular procedures of AR 415-15 for the Army, AR 415-11 (AFR 88-3A) for the U.S. Air Force, or under the following emergency authorities:

(a) 10 USC 2673 permits the use of construction funds, with Secretary of Defense approval for the acquisition, construction, or rehabilitation of facilities damaged or destroyed.

(b) Sec. 103 of Pub. L. 89-568 and several earlier laws permit construction to meet unforeseen requirements if the Secretary of Defense determines that delay to obtain authorization under regular procedures would be inconsistent with national security.

(c) 10 USC 2674 provides that projects at active Army installations costing not more than $50,000 may be accomplished with funds available for operations and maintenance, and projects costing not in excess of $300,000 with military construction funds.

(d) The above emergency authorities permit the use of applicable funds not otherwise committed or which may be diverted from other uses, but do not provide any additional funds.

§ 203.2600 Other.

§ 203.2610 Nuclear accidents and incidents.

AR 50-2 sets forth policy, concept, and responsibilities in the event of an accident or incident involving a nuclear weapon under the physical control of the Department of Defense. AR 55-203 sets forth responsibilities for incidents or accidents involving shipments of nuclear weapons components and nuclear weapons material. AR 55-55 sets forth responsibilities for incidents or accidents involving shipments of radioactive and nuclear materials other than weapons and weapon components.

§ 203.2620 Accidents and incidents involving hazardous substances.

AR 500-60 provides information on Army support of the "National Oil and Hazardous Substances Pollution Contingency Plan." Notification of Corps involvement in polluting spills will be made to HQDA (DAEN-CWO-M) WASH DC 20341.

§ 203.2630 Volcanic incidents.

AR 500-60 establishes the authority for a military commander to take the required action to save human life, prevent immediate human suffering, or mitigate major property damage or destruction under disaster conditions of imminent seriousness. During any disastrous event, such as a lava flow of disaster proportions, responsible Corps personnel may employ division and district resources within their control to accomplish such humane actions.

§ 203.2640 Nonflood related rehabilitation.

Rehabilitation of non-Corps flood control structures damaged by other-than-floods or coastal storms is not authorized in Pub. L. 84-99. Damages caused by disasters such as earthquakes and tornadoes fall in a repair category eligible under Pub. L. 93-288.

Subpart 3—Command Channels and Agency Coordination

§ 203.3100 Command channels.

§ 203.3110 Chief of Engineers.

The Chief of Engineers, under the guidance and supervision of designated Army General Staff agencies, has Army Staff responsibility for the management of engineer activities of the Army. His Civil Works responsibilities, however, are accomplished under the supervision of the Secretary of the Army and he reports thereon through the Assistant Secretary of the Army (Civil Works).

§ 203.3120 Army establishment.

With the exception of Civil Works programs, responsibility for Army disaster relief activities has been delegated in AR 500-60 to the Commanding General, U.S. Army Forces Command (FORSCOM), who has redelegated responsibilities in CONUS to the Commanders of the CONUS Armies, within their respective areas of jurisdiction. Concerning Alaska, Hawaii, United States possessions, etc., see AR 500-60.

§ 203.3130 Federal Disaster Assistance Administration.

FDAA is part of the D/HUD, and the Administrator, through his staff at National Headquarters, supervises 10 Regional Directors who act for him within their respective areas of jurisdiction.

§ 203.3200 Command relationships.

§ 203.3210 Established liaison.

Division Engineers will take any necessary action to define and clarify further their command relationships and channels for direct action, support, and coordination in discussion with CONUSA Commanders and FDAA Regional Directors. Relationships between subordinate elements of Engineer Divisions and Army Commands will be in accordance with mutual arrangements developed by the Division Engineers and CONUSA Commanders concerned. Similar operating relationships will be developed with U.S. Coast Guard and other Federal agencies at the field level as necessary for joint emergency operations.

§ 203.3220 Detail of military resources to Division and District Engineers.

Military forces or resources supplied by CONUSA Commanders, in support of flood fighting and rescue operations undertaken by a Division or District Engineer, will be under the operational control of the responsible Division or District Engineer. However, such Division or District Engineer's operational control of supporting forces or resources will not extend to disaster operations beyond the Chief of Engineers' statutory authority, except as may be directed by the CONUSA Commander concerned. Relationships regarding forces or resources provided by Theater Commanders will parallel the above.

§ 203.3230 Detail of Corps of Engineers resources to CONUSA Commanders.

Corps of Engineers forces or resources supplied to CONUSA Commanders in support of their natural disaster operations will be under the control of the CONUSA Commander concerned.

§ 203.3240 Command of Corps of Engineers forces providing interdivisional assistance.

Forces of Division and District Engineers operating in an emergency outside the jurisdiction of their home offices will be employed and directed by the local Division or District Engineer, unless operation of such forces as cooperating but independent units is arranged by mutual agreement of the Division and District Engineers concerned.

§ 203.3250 Realignment of Corps activities.

Generally, the established Civil Works boundaries will be adhered to in defining areas of responsibility. However, should the situation dictate a need for temporary realignment to improve coordination or accomplish more definitive requirements, realignment by mutual agreement is authorized. When finalized, HQDA (DAEN-CWO-E) WASH DC 20314 will be advised of the action taken.

§ 203.3300 Agency coordination.

§ 203.3310 Scope of coordination and liaison.

General instructions on coordination and liaison, contained in the following paragraphs, are not intended to limit such activity. See also Appendix C for information on other agencies with which the Corps of Engineers is likely to require coordination and liaison, at least during an emergency, and to be provided for in pre-emergency plans. As indicated in AR 500-60, the closest cooperation, including timely exchange of useful information between District and Division Engineers, appropriate Military Commanders, FDAA and DCPA Regional Directors, American Red Cross, State and local governments, is necessary to mitigate the results of natural disasters. Similar close cooperation is required with the National Weather Service. Information copies of any agreements reached with regional heads of Federal and State agencies will be promptly furnished to HQDA (DAEN-CWO-E) WASH DC 20314.

§ 203.3320 Coordination at national level.

Coordination and liaison is maintained within the Office, Chief of Engineers (OCE) with military staff elements of the Department of the Army, Directorate of Military Support (DOMS), the DCPA and the Commanding General, FORSCOM, on natural disaster matters involving the Civil Works programs and activities. Through these liaison channels are interchanged, as necessary, the information received from the field through the respective chains of command and from other sources.

§ 203.3330 Coordination at field level.

Division Engineers will maintain adequate liaison and coordination with DCPA Regional Directors, and CONUSA and Theater Commanders. The FORSCOM Basic Plan and Joint Chiefs of Staff publications issue similar instructions requiring military coordination with the Corps. Contacts made below the Engineer Division and CONUSA level wil be agreed upon by the Division Engineer and CONUSA Commander concerned. Standing operating procedures for domestic emergencies coordinated between the Corps and CONUSA or Theater Commands will provide for interchange or information during emergencies by the most direct and fastest means practicable and will include provisions covering AR 500-60 requirements. The role of the National Guard, operational responsibilities, and channels of communications and assistance requests will also be included.

§ 203.3340 Coordination with FDAA.

§ 203.3341 Coordination at national level.

The Administrator, FDAA, is charged with responsibility for coordination of Federal agency disaster assistance programs and efforts. Personnel within OCE coordinate directly with the FDAA on natural disaster matters involving only the Civil Works programs and activities, such as emergency protective activities under Public Law 84-99.

§ 203.3342 Coordination at field level.

Division Engineers will coordinate with FDAA Regional Directors regarding all natural disaster matters involving only the Civil Works programs. For matters involving military programs and activities, coordination with FDAA will be through the CONUSA Commander concerned. The division and district Supplements A and B will include current information on the FDAA organization and operating procedures as required for coordination and liaison. The following items will be included in the coordination procedures:

(a) Inform Regional Directors concerned of existing or threatening emergency situations considered to be of such magnitude as may result in Federal agency action coordinated by FDAA.

(b) Regional Directors will inform the Corps of any existing or contemplated course of action within their jurisdiction affecting the statutory or policy responsibility of the Corps of Engineers.

(c) Inform the Regional Directors whenever an emergency field headquarters has been established, or plans for emergency operations have been activated in a district office.

(d) Regional Directors will inform the Corps whenever an emergency field headquarters has been established for operation in a disaster which may affect responsibilities of the Corps of Engineers.

§ 203.3350 Coordination with U.S. Coast Guard.

Forces or resources made available by the Coast Guard in support of flood fighting and rescue operations will be employed and directed by the responsible Division or District Engineer. However, under statutory authority available to the Coast Guard, rescue, ice breaking (App.C), and other emergency assistance may also be provided by that agency independently. Accordingly, Division Engineers will make pre-emergency ar-

rangements for necessary liaison and coordination with appropriate Coast Guard commanders to provide for coordinated flood emergency operations. See ER 1145–2–305 for guidance on cooperation with the Coast Guard in connection with the removal and destruction of derelicts, wrecks, and other obstructions to navigation.

§ 203.3360 Coordination with U.S. Department of Agriculture.

When private agriculture levees are damaged, Division and District Engineers are required to coordinate requested post flood repair and restoration of flood control works, under Pub. L. 84–99, with emergency conservation measures for which assistance is provided to farmers and ranchers through the Agricultural Stabilization and Conservation Service (ASCS) of the U.S. Department of Agriculture (USDA). The role of the Soil Conservation Service in these programs is the provision of technical advise on emergency conservation measures. Coordination on these matters is with the Chairman of the State USDA Defense Board, who is also State Executive Director of the State Agricultural Stabilization and Conservation Service, and in some cases with the Chairman of County ASCS Committees. Coordination is also required with the Soil Conservation Service in regard to emergency measures contemplated by that agency for runoff retardation and soil erosion prevention as authorized by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701, b–3).

§ 203.3370 Coordination with U.S. Department of Health, Education, and Welfare.

§ 203.3371 U.S. Food and Drug Administration.

District Engineers will notify District Directors of the Food and Drug Administration of all floods which are considered to cause damage to food and drug stocks or to contaminate water used in the manufacture or processing of foods and drugs. (See Memo of Understanding, Att. 3 APP C).

§ 203.3372 U.S. Public Health Service.

Coordination and liaison with regional offices of the Public Health Service's Center for Disease Control is required in the event that emergency conditions involve such matters as control of communicable diseases by preventing health hazards including assurance of adequate and safe water supply, safe food supply, sanitary waste disposal, adequate refuse disposal facilities, and control of insects and rodents. Corps operations are limited to those measures under Pub. L. 84–99 or as directed by the FDAA.

§ 203.3380 Coordination with American National Red Cross.

AR 500–60 provides that requests by Red Cross representatives for military assistance be made directly to CONUSA Commanders. Inasmuch as the Corps of Engineers will not normally engage in activities for relief of human suffering from disasters, beyond flood fighting and rescue work, direct coordination and liaison with the Red Cross will usually be effected by Division or District Engineers only for flood or coastal emergency operations. The disaster activities carried on under Division or District Engineer authority and responsibility will be coordinated as necessary with those of the Red Cross, and that organization will be given full cooperation on its work of mass shelter, feeding, and care incident to major floods or coastal storm. For guidance on procedures, the applicable provisions of AR 500–60 will be used.

§ 203.3390 Coordination with U.S. Fish and Wildlife Service (USF&WS).

It is the policy of the Chief of Engineers that the provisions of the Fish and Wildlife Coordination Act (Pub. L. 85–624) and the formal agreement between USF&WS and the Corps of Engineers (ER 1120–2–401) shall apply to emergency work performed by the Corps under authority of Pub. L. 84–99 or at the direction of FDAA under Pub. L. 93–288. District Engineers will cooperate with conservation efforts by coordinating with the USF&WS on work accomplished under Pub. L. 84–99 authority affecting fish and wildlife resources. When time is a limiting factor, informal coordination may be accomplished. For work accomplished under authority of Pub. L. 93–288, coordination will be accomplished with the FDAA. The Corps and USF&WS have agreed that the USF&WS is responsible for recommending appropriate conservation measures to the FDAA prior to any project authorization. Maximum cooperation with conservation agencies will be included in accomplishing FDAA-directed work. Any features considered economically unfeasible or not practical will be referred to the responsible FDAA representative for decision.

Subpart 4—Advance Preparation

§ 203.4100 General.

§ 203.4110 Definition.

Advance preparation consists of planning, training administrative, supply, and organizing activities designed to facilitate quick and effective action when a natural disaster occurs. It encompasses participation in Regional FDAA disaster emergency teams.

§ 203.4120 Basic responsibilities.

Division, district, and commander of Engineer Field Operating Agency responsibilities are outlined in Subpart 2. Further guidance in specific areas of advance preparation is contained in this chapter. Adequate measures insuring performance of directed emergency operations will be instituted throughout the Corps of Engineers. Division and District Engineers are expected to be called upon to furnish personnel as members of FDAA emergency teams and to mobilize in the area of predicted disasters as appropriate to the situation. Plans will be prepared to cover Corps actions prior to expected major disasters and actions subsequent to the disaster. Advance preparation for emergency activities, including predesignation of emergency contracting officers is a continuing responsibility.

§ 203.4200 Supplements to ER 500–1–1.

§ 203.4210 Preparation.

Division and district emergency planners will prepare supplements to this regulation providing supporting implementation of its provisions as follows:

§ 403.4211 Supplement A.

"Natural Disaster Activities under Pub. L. 84–99" will cover advance preparation, flood fighting and rescue work, emergency protection to Federally authorized coastal protection works, and post disaster rehabilitation of flood control and coastal protection works. The supplement includes references to rehabilitation procedures at Corps of Engineers property and facilities pursuant to other statutory authorities in addition to Pub. L. 84–99. Included in Supplement A, or optionally published as a separate document, will be a Hurricane Preparedness Plan for those divisions and districts containing coastal areas susceptible to hurricanes.

§ 203.4212 Supplement B.

"Natural Disaster Activities Under Pub. L. 93–288" will cover advance preparation, disaster fighting, and execution of mission assignments beyond Corps statutory authorities as requested by the Federal Disaster Assistance Administration. The mission assignments include clearance of debris and wreckage, emergency repair to and restoration of vital public utilities and facilities, and administrative support of the Federal Disaster Assistance Administration. Included in the supplement are references to authorized actions in the protection of life, property, and the mitigation of human suffering pursuant to Army Regulations.

§ 203.4213 Supplement C.

"Emergency Communications" will cover organizational policies and procedures for the operation of available communications equipment. It will provide for communications via local and long distance telephone, TWX services, commercial telegraph, and applicable electronic capabilities. The supplement is applicable to all natural disaster situations and other emergencies including civil defense emergencies. In this regard, Supplement C may be in accord with Annex F, Continuity of Operations Plan.

§ 203.4214 Pocket manuals.

The preparation of other documents and procedures, such as field use pocket manuals, necessary for the prompt and efficient individual discharge of assigned responsibilities will be accomplished at operating divisions and districts. Such pocket manuals should be locally oriented and include only those portions of this regulation and related public laws and instructions pertinent to the emergency needs of the user. A similar pocket manual covering the main authorities and principles has been prepared by DAEN–CWO–E for emergency briefings.

§ 203.4220 Option.

Dependent upon the requirements of engineer divisions and districts, Supplements A, B, or C may be combined into one publication.

§ 203.4230 Distribution.

One copy of Supplement A, B, and C, and separate hurricane plans, pocket manuals, and revisions will be furnished HQDA (DAEN-CWO-E) WASH DC 20314 upon issuance. The ER 310-1-1 submission satisfies this requirement for division supplements. Local distribution of this regulation and supplements will be made by Division and District coordinators to CONUSA Commanders, regional directors of participating Federal agencies, and heads of State and local government, as appropriate.

§ 203.4240 Review.

Supplements will be reviewed at least annually (calendar year) by responsible division and district employees and kept current.

§ 203.4300 Organization of emergency teams.

§ 203.4310 FDAA Emergency Support Teams.

The Administrator or Regional Director, FDAA, may request personnel support of emergency teams as discussed in subpart 6. District Engineers are to support such requests. Requirements to furnish members of emergency support teams may be indicated prior to a major disaster declaration. Steps should be taken to alert and preposition team members in order to expedite their availability when called upon.

§ 203.4320 Corps Disaster Teams.

The on-site presence of highly competent Corps personnel prior to, during, and after the occurrence of a natural disaster, to the extent feasible, is desirable and required. Division and District Engineers will assure the organization of an emergency cadre into teams capable of managing an emergency operations center and carrying out activities in the disaster area. The emergency cadre, may consist of a contracting officer with appropriate authority, and representatives of: construction, engineering, administrative services, supply, real estate, public affairs, counsel and construction inspection. Appendix D prescribes procedures for interdivisional assistance to augment resources in case of an extensive disaster commitment. The teams should be prepared to operate from remote temporary headquarters, their permanent headquarters, or may be satellited on field organizations for local operations if preferable. All or individual members of a team may be assigned to TDY with other Corps divisions or districts during major natural emergencies.

§ 203.4321 Emergency Operations Centers (EOC).

An office and group of individuals is to be activated when the imminence of a disaster is noted. It will be a part of the division or district office and under the direction of a senior engineer or officer as the Assistant to the Division (or District) Engineer for Disaster Operations. The center will as a minimum coordinate all emergency measures, be a central point of contact, and furnish required reporting activities. A specific area such as a conference room, will be designated for ready conversion to an EOC when needed. Exclusive use as an EOC is not required. Provision for display boards, radios, telephones, telecopiers, and other requirements is authorized under the funding category, Advance Preparation.

§ 203.4322 (Sub) Area Office.

An emergency area office will be established, preferably at the disaster area, to accommodate the activities of the disaster teams. The nature of the disaster, the distances involved, and other such considerations may require the establishment of sub-area offices to accommodate smaller, subordinate teams. Details of the team functions are covered in Appendix D. (The term "Area Office" is used as a familiar frame of reference and is not intended as an indication of established organizational authorities).

§ 203.4323 Number and uniformity of disaster teams.

The essential, and in most cases regular, functions within district organizations must be maintained during the disaster fight. The commitment of personnel and equipment to disaster teams must be considered in the light of existing organizational strengths and requirements. At least one disaster team to constitute an area office will be organized to survey the disaster area. Its size and composition will depend upon the particular requirements encountered. Personnel rosters, including qualifications of disaster team members, will be maintained at divisions for each district team. The roster will be updated at least annually. Personnel on the roster are considered to be an Alert Cadre and will be advised that they may be called upon to go to a disaster area at any time.

§ 203.4400 Training.

§ 203.4410 General.

Personnel assigned roles in emergency operations will be provided opportunities to familiarize themselves with pertinent publications. Selected individuals will receive in-service training in the disaster operations field through attendance at governmentally sponsored courses. Attendance at the OCE sponsored Emergency Operations Course is a basic requirement. FDAA conducts training which is also applicable and should be a part of the Corps support to FDAA team training.

§ 203.4420 Damage survey teams.

Particular attention to training designated members of Corps damage survey teams in preparing FDAA Damage Survey Reports (FDAA Form 164) is required. Repeat assignment of trained and experienced Corps personnel to these teams is desirable and encouraged. Use of personnel thoroughly familiar with the eligibility criteria for the work categories will aid in expeditious, uniform preparation of the survey reports.

§ 203.4430 Flood and coastal emergency exercises.

Flood and coastal emergency exercises will be conducted within divisions and districts at least every two years, usually prior to the flood or storm season. HQDA (DAEN-CWO-E) WASH DC 20314 will be advised of the scheduled training. If participation in an actual flood or coastal storm fight has occurred within the 12 months preceding the scheduled exercise, Division Engineers may postpone the exercise. They will be designed and developed at division level to evaluate the following.

§ 203.4431 Assigned activities.

Rehearse division and district staff and key personnel in the activities they would be expected to perform in an actual flood or coastal emergency.

§ 203.4432 Capabilities.

Test the operating procedures and supplements and determine strengths and weakness of the emergency capabilities of the engineer district.

§ 203.4433 Coordination.

Test channels of coordination with higher authority, local, and other Federal agencies having direct interests or responsibilities in connection with flood fighting or coastal emergency operations.

§ 203.4434 Local organizations.

Estimate the effectiveness of local organizations and procedures for flood and coastal emergencies.

§ 203.4435 Local responsibilities.

Clarify the responsibilities of local interests and the various agencies concerned.

§ 203.4440 Natural disaster exercises.

The capability of division and district organizations to respond quickly and effectively to non-flood PL 93-288 disasters will be tested when directed by the Chief of Engineers. Natural disasters that result in FDAA coordination are the type subject to such exercises. The Regional Directors of FDAA should be invited to participate.

§ 203.4450 Scope of exercise.

Division and district operations plans will be tested only to the extent warranted by the severity of actual flood or coastal storm problems likely to be encountered. In defining the scope and scheduling of the exercise, care will be taken to avoid major expense and unnecessary disruption of regular duties or personnel. The Minimum test should involve office solution of an emergency problem by key division and district personnel actively concerned with the field operations. Field operations may be simulated, but not executed. Testing of channels of coordination during the exercise will be at and below division level;

communications to the Office, Chief of Engineers will be simulated, not executed.

§ 203.4460 Public information.

Advance dissemination of information on an exercise should be made to the public through normal channels, taking care not to convey the impression that the Corps is solely responsbile for all flood fighting or coastal emergency activity. In this connection, the limitations of the Corps of Engineers statutory role should be strongly emphasized, and full explanation of that role should be made.

§ 203.4470 Reports.

Following each exercise, the District Engineer will furnish the Division Engineer a letter report indicating the nature and scope of the exercise, weaknesses revealed, and any corrective action required. The Division Engineer will forward one copy of the report to HQDA (DAEN-CWO-E) WASH DC 20314 together with a copy of the Division Engineer's action thereon, as well as recommendations on any problems revealed which require action within the Office, Chief of Engineers for solution (Exempt report, AR 335-15).

§ 203.4500 Resources.

§ 203.4510 Design and construction contractors.

To assist in the post disaster selection of contractors, giving preference to those who reside or do business primarily in the disaster area to the extent feasible and practicable (Sec. 310 Pub. L. 93-288), district resources should include a list of prequalified contratcors. The requirement to give preference to local contractors is discussed more thoroughly in Subpart 5. Obtaining a list of contractors, and keeping it current, can be accomplished by inviting contractor registration for emergency work referral. The Associated General Contractors of America, Inc. (AGC), has maintained a list of member and other contractors available for emergency work under its Plan Bulldozer. Prior to each flood season, districts should update their list of contractors by appropriate liaison with local AGC chapters and other organizations to determine contractor capability at that time for emergency work in the area.

§ 203.4220 Supplies and equipment.

Lists of supplies and equipment available for use in a disaster emergency will be prepared and maintained current within districts. These lists should include, but need not be limited to floating plant, construction materials and equipment, portable radio facilities, and emergency office support supplies. A package of Alert Cadre use materials, ready for immediate issue, should be maintained. Stockpiling for natural emergency operations requirements will be limited to supplies charged to the district-wide project Advance Preparation, in conformance with ER 11-2-320.

§ 203.4521 Flood emergency stream gages.

The costs associated with stream gages installed for flood emergency purposes charged to PL 84-99 must be strictly exclusive of those costs otherwise chargeable to General Investigation, Construction General, Operation and Maintenance, or General Expenses funds. As an exception, stream gages previously installed under one of the other Corps activities or projects that are no longer pertinent to the project and can not be charged against it, may be transferred to the category of Advance Preparation if they are essential for flood emergency purposes. In that event their operation is chargeable to the Code 910-200 Emergency Operations category; inspection and maintenance costs are chargeable to Code 910-100 Advance Preparation. Generally, it is not intended that installation of new stream gages be undertaken with Pub. L. 84-99 funds.

§ 203.4522 Emergency radio equipment.

The acquisition of radio equipment essential for flood coastal natural emergency operations supplementing regular project equipment is chargeable to Code 910-100 Advance Preparation. Their operation should be charged to the pertinent activity as a Code 910-200 Emergency Operations expenditure.

§ 203.4523 Training aids and equipment.

Supplies and equipment items pertaining to the training of personnel for natural emergencies may be procured under Code 910-100 Advance Preparation. Training films, slides, publications, and specialized training aids are included in the category.

§ 203.4524 Sandbags.

Depot stocks of sandbags for flood emergency use are not maintained. Engineer district procurement agencies may acquire flood emergency use sandbags under either category, Advance Preparation or Emergency Operations, depending upon the flood emergency phase. When needed, every effort will be made to purchase from shelf stocks and untreated bags to take advantage of cost savings. Preservative treated sandbags may be purchased if required to replace district reserve stocks depleted in the flood fight.

§ 203.4525 Pumps.

Pumps for use during flood emergencies may be rented as the need arises to supplement the community flood fight measures under the Code 910-200 Emergency Operations category. Rental procedures are recommended to avoid maintenance and storage costs when not in use. If necessary, pumps may be purchased with prior approval from OCE during emergencies, and subsequently transferred and maintained under the Code 910-100 Advance Preparation category.

§ 203.4600 Inspection of non-Federal flood control works.

§ 203.4610 General.

Regular inspection of State and local community-installed flood control works will generally be limited to projects that have received Corps assistance pursuant to Pub. L. 84-99. Scheduling of the inspections should be coordinated with other Corps work in the same area when practicable. The inspection under Code 910-100 Advance Preparation should be conducted on a schedule with a thoroughness adequate to establish whether the control works will continue to provide the intended degree of flood protection, but at least every two years for any one location. Usually, these projects will not require the same degree of inspection and maintenance commitments expected for Federally authorized projects.

§ 203.4620 Local requests.

If requested by responsible local interests, inspection and information regarding the condition of flood control works built by local interests may be furnished even though there has been no Corps PL 84-99 assistance provided.

§ 203.4630 Advice and reporting.

Information on the results of inspections and advice offered to local interests should be maintained in district offices. The quality of maintenance and maintenance deficiencies is a factor for consideration of future work and local cost-sharing participation in any proposed work. Liaison with local interests will include suggestions on required remedial maintenance, organization, other measures of preparedness for flood and coastal emergencies.

§ 203.4700 Flood forecasting.

The developing program of flood potential analysis using computer processing of recorded data (and possible future confirmation of earth satellite measurement of ground and snow water content) can be of measurable value to flood protection planners. A computerized flood stage forecast employed during the Foresight operations established emergency levee project elevations. This program used actual field measurements of snow depth and water content. Continued application of the procedure is expected to further refine the forecasting. Advance Preparation should be limited to the consideration of areas affected by heavy snowmelt and to areas where flood damage costs are exceptionally high. Proposed division programs to develop the field collection of computer input data, broken down into individual flood plain tributaries to be investigated and fiscal year project, should be submitted separately from the annual program for funding under Code 910-100.

Subpart 5—Operational Policies and Principles

§ 203.5100 General.

§ 203.5110 Mission execution.

Division and District Engineers are responsible for the overall accomplishment of authorized emergency missions in accordance with the policies, responsibilities, duties, and functions prescribed in this regulation. They execute their responsibilities through an organization of planners and operations personnel who are knowledgeable in the requirements, authorities, and needs within the division or district. This subpart provides guidance in specific operational areas. Where appropriate and required, requests for exception to specific policy with complete justification will be forwarded to HQDA (DAEN-CWO-E) WASH DC 20314 for review and authorization.

§ 203.5120 Objectives of disaster operations.

The objectives of Federal and local agency natural emergency operations fall into three general categories: disaster relief (aid to those in need), disaster fighting, and disaster recovery or rehabilitation. The Corps of Engineers is normally directly engaged in disaster fighting and rehabilitation, but may be called upon to support disaster relief as in the rescue operations.

§ 203.5130 Identification of Corps of Engineers operations.

Corps of Engineers personnel and equipment engaged in emergency operations will be identified as appropriate through the use of Corps of Engineers distinctive identification items as required by current regulation. Corps presence in emergency operations will be evidenced. Red Emergency Operations jackets and shirts have been issued to divisions and districts for distribution to emergency operations teams performing disaster work. A stock of these items is maintained and additional requirements would be submitted to HQDA (DAEN-CWO-E) WASH DC 20314. Distinctive car door signs have been made available for issue. These items are returnable to the warehouse when the operation is complete. An Emergency Operations Award will be issued to personnel taking part in significant flood fights or other disaster operations. These items are described in OCE Supplement 1 to AR 672-20.

§ 203.5140 Safety.

Familiarity with and observation of safety rules and regulations by all personnel connected with disaster operations is of vital importance to the successful accomplishment of the mission. The Division and District Engineers will effect compliance with the provisions of existing safety rules and regulations and will take such other measures as may be reasonably necessary to prevent loss of life, personal injury, and loss of or damage to plant and equipment.

§ 203.5200 Flood and coastal emergency work, (Pub. L. 84-99).

§ 203.5210 Policy.

In time of flood or coastal storm, determine if emergency operations are to be undertaken by the Corps of Engineers to supplement local efforts. Such protective and preventive measures will generally be of a temporary nature. A declaration of a state of emergency or written request by the Governor of a State, or responsible authority of a political subdivision, while desirable, is not a prerequisite to furnishing emergency assistance under Pub. L. 84-99. It is the policy, however, that local assurance and appropriate requests will be obtained. Participation by the Corps of Engineers in emergency operations may extend to assumption of a leadership role if normally responsible local authorities are unable to cope with the situation. Such leadership is limited to operational control of emergency forces and would follow a written request from State or local authorities. These actions must be subordinate to the responsibilities and authorities of State and local officials, but the Corps capabilities and pre-eminence in the field should be made available at a time when it is most needed. An aggressive interest in appropriate assistance to the community is desirable. All available pre-flood information, prediction, and advice should be provided.

§ 203.5220 Limitation on extent of emergency operations.

Following determination that a specific emergency program is to be undertaken by the Corps of Engineers, emergency measures will be of temporary nature designed to meet the imminent threat and to preserve existing protective works. Pub. L. 84-99 authority does not extend to the removal of temporary protective work. They will not include work of a permanent nature except as the work under either heading, temporary or permanent, is identical. Permanent rehabilitation work to protect against the threat of future disasters, however, may be considered separately from emergency measures as discussed in Appendix E.

§ 203.5230 Limitation on Diversion of Emergency (PL 84-99) Funds to Local Interests.

Under Pub. L. 84-99, emergency funds may be expended directly by the Corps of Engineers for authorized purposes. However, there is no authority under Pub. L. 84-99 whereby local interests may be reimbursed for any of the costs of emergency operations accomplished on their own account, nor may they receive thereunder financial contributions of any kind from the Corps of Engineers. This does not preclude local interests receiving such financial assistance in a major disaster as may be authorized by FDAA pursuant to Pub. L. 93-288. Further, distribution of consumable supplies with or without compensation therefor, is authorized under Pub. L. 93-288 when directed by the FDAA.

§ 203.5240 Loan or issue of supplies and equipment.

Issuance of sandbags, other material, or government equipment (less operating personnel) to local interests is authorized only for imminent or actual emergency use. Furnishing government supplies is allowed only after local resources are exhausted or it becomes evident that they will be. Stocks issued to local interests are accountable. They will be subject to return of any unused portion. Consumed supplies will be replaced in kind or paid for by local interests to the extent considered feasible and practicable by the District Engineer.

§ 203.5250 Ice jam removal.

The policy is that ice jam removal is a local flood measure responsibility. Corps support of such operations will be limited to technical advice and assistance. Demolition operations are a local responsibility. The Cold Regions Research and Engineering Laboratory (CRREL), Hanover, N.H. has a representative available to furnish assistance and advice on request. Direct contact between divisions, districts, and CRREL is authorized. CRREL's expenses are chargeable to Pub. L. 84-99 funds. Ice Breaking in navigable waters is a Coast Guard responsibility.

§ 203.5260 Flood threat from possible dam breachings.

If a dam is likely to be breached unless immediate action is taken, and a flood hazard endangering life and improved property would occur, requested flood fight assistance may be given even if the dam is not a flood control structure. The Corps activities will be temporary measures and terminated when the immediate threat passes. The authority extends to drawdown of the pool if required before completion of the temporary protection, or as an alternate measure if appropriate. Close coordination with State and local authorities is required to assure adequate community sanitary health and fire protection services that may be dependent upon the impoundment. Permanent repair and investigations are a local authority responsibility.

§ 203.5270 Dewatering of inundated land and deliberate local interest levee cuts.

Dewatering is a local interest responsibility not normally included in Corps operations. Local interests will be responsible for any deliberate breaching of their levees, either to release impounded waters as an alternative to pumping, or to lower flood crests. In exceptional cases, justified levee cuts during a flood fight to preserve existing flood control works may be considered for Corps rehabilitation.

§ 203.5280 Floods from ocean or lake waters.

The authority of Pub. L. 84-99 is considered applicable to flood fighting and rescue operations necessitated by abnormal and sharp rises in the level of a body

of water as a result of unusual wind-tidal action or a seismic disturbance.

§ 203.5290 Abnormal snowpack.

Flood emergency preparation includes advance measures designed to prevent flood damage. They may be conducted when authorized from OCE during times that recorded snowpack depths are abnormally high posing an appreciable threat of flooding due to snow melt. Advance operations shall be gaged to supplement local capabilities. They should develop maximum local effort and local development of their own flood protection plan. Requested Corps actions may include loan of supplies and equipment, temporary protective work, and operational direction of emergency work. Work undertaken will be justifiable in the engineering and economic aspects, feasible for timely completion, and of a temporary nature sufficient for current emergency. The assurances of local cooperation and participation discussed in § 53.20 will be obtained. The provision to maintain the temporary works may be revised to establish that the local interests must remove them if they desire.

§ 203.52100 Snagging and clearing.

Log jams or obstructions causing flooding, or blockages affecting flood control, beyond the local, county, and State capability, may be cleared to the extent of relieving the immediate threat or flood situation only. When flood waters recede within the channel boundaries, the flood fight is terminated and no additional stream debris clearance should be performed under Pub. L. 84–99. If required, additional work should be considered under other appropriate authorities.

§ 203.5300 Rehabilitation of Protective Works (Pub. L. 84–99).

§ 203.5310 Interpretations of authority.

The Chief of Engineers has authority to decide the appropriate action in developing standards and criteria for rehabilitation of local flood control works threatened or destroyed by flood and Federally authorized shore protection similarly affected by unusual coastal storm, in authorizing specific projects for accomplishment, and in defining the terms of local cooperation and participation to be required. Authorization of work is considered without regard to property ownership or to whom the benefits may accrue. Except for fulfillment of requirements defined for local contribution and participation, the financial ability of local interests is not a factor. For effective use of emergency funds, the general principle is followed that the benefits from rehabilitation work are to be commensurate with the costs. More extensive comments concerning rehabilitation are covered in Appendix E.

§ 203.5320 Requirements for local cooperation and participation.

Though not compelled by the provisions of Pub. L. 84–99, it is the policy that authorization of a rehabilitation project will, insofar as feasible, be on the basis that local interests are required to furnish assurances of local cooperation similar to those set forth for project construction in Section 3 of the 1936 Flood Control Act. As modified therefrom, the requirements are that local interests (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the authorized work; (b) hold and save the United States free from damages due to the authorized work, exclusive of damages due to the fault or negligence of the United States or its contractor; (c) maintain and operate, in a manner satisfactory to the Chief of Engineers, all the rehabilitation work after completion. The assurance should also cover interrelated portions of protective works not requiring rehabilitation in those cases where previous agreements of this nature do not exist. Rehabilitation projects may be sponsored by individual as well as organized property owners. Wherever practicable, in the interest of adequacy of maintenance assurance, the assurance furnished by each property owner should be sponsored collectively by a public entity or other permanently responsible organization. This organization in turn is to furnish its own overall assurance for acceptance by the District Engineer. Additional features of local participation, including financial contribution, will be required with respect to any necessary major improvements undertaken in connection with the work, and for maintenance or other items considered the responsibility of local interests (See App. E).

§ 203.5330 Restriction to flood control works.

For the purpose of considering applicability of the authority under Pub. L. 84–99, structures built for channel alignment, navigation, recreation, fish and wildlife, land reclamation, drainage, or to protect against land erosion which are not designed and constructed to have appreciable and dependable effects in protecting property inundation by irregular and unusual rises in water level, are not to be classed as flood control works. Exception may be made for bank protection works and river control structures constructed by the Federal Government under flood control or similar statutory authority.

§ 203.5340 Scope of rehabilitation.

Pub. L. 84–99 authorizes strengthening, raising, extending, or other modification of any flood control or shore protective work as may be necessary for the adequate functioning of the work for damage prevention. This is interpreted to permit the following: necessary emergency modifications to meet an immediate threat during a flood fight or control action, and accomplishment of minor improvements which will preserve the integrity of existing flood control or shore protective works during high water or storm and consequently lessen subsequent Federal expense to a degree warranting the modification costs. Any overall modification of flood control or shore protective works to increase the degree of protection, or to provide flood or shore protection to a larger area is beynd the scope of work to be accomplished under Pub. L. 84–99. Such major modifications, if not to be accomplished at local expense, require action either in accordance with normal processes for Congressional authorization and appropriation, or under special continuing authorities for construction, as distinguished from maintenance.

§ 203.5350 Effectiveness and rehabilitation.

It is the general policy that rehabilitation incorporating any necessary modifications of a flood control or shore protective work, will be undertaken only when a reasonably adequate degree of damage prevention effectiveness will result. The rehabilitation will normally be designed to provide essentially the same degree of effective protection as provided by the original structures. If improvements necessary for preserving the integrity of the prospective work are incorporated, they will be included in the project with appropriate limitation on Federal cost as described in paragraph 18.40 Appendix E. Other improvements may optionally be included at local cost. Emergency funds will be applied only to properly engineered solutions of the flood or coastal storm problem. Once provision of a higher degree of protection has been justified, the project limitations and resulting effects on maintenance costs will be made clear to the local interests.

§ 203.5360 Maintenance deficiencies.

Rehabilitation under Pub. L. 84–99 will not be applied to flood control or shore protective works which, by reason of poor maintenance, have deteriorated over long periods to the point where substantially complete reconstruction is required. No emergency funds will be expended for rehabilitation, even though built or previously repaired by the Corps of Engineers, as long as local interests are delinquent in meeting their maintenance commitments. For all interrelated parts o fa flood control or coastal protection system, deficient or deferred maintenance outstanding when damage occurs will be accomplished by or at the expense of the responsible local interests, either prior to or concurrently with rehabilitation work for which Pub. L. 84–99 funds are made available. When restorative work accomplished by the Corps will take care of the accumulated deferred maintenance, the estimated maintenance cost will be included in required contributed funds. This policy does not preclude furnishing flood fight assistance in connection with an actual emergency. The imminent failure or failure of a flood control or coastal work because of inadequate maintenance will not preclude provision of flood fight assistance, other than rehabilitation.

§ 203.5370 Alternative methods of rehabilitation.

Alternative methods for providing equivalent protection may be employed

provided the estimated Federal costs under such procedures are not in excess of those for rehabilitation of the existing works. Alternative methods, at conforming projects, such as levee setback, removal of channel obstruction, revetment, bulkheads, or seawalls, should also be considered where emergency remedial action is necessitated by imminent threat to the integrity of flood control or shore protective works. These alternatives must be beyond the scope of local interest maintenance responsibility or capabilities. Any increase in Federal cost resulting from local interest choice of an alternative other than the least expensive when all costs are included, will be borne by the local interests.

§ 203.538 Authorization of rehabilitation work.

Authorization and funding of recommended rehabilitation projects will normally be from OCE. In the event that an extensive program is necessary for expedited accomplishment, authority and responsibility for selection and approval of projects may be delegated to Division Engineers.

§ 203.5381 Project development.

In early negotiations, local interests should be informed (a) of recommended modifications to existing protective works and incremental costs, and (b) that the apportioned cost must be borne by the local interests or applicable local authority other than PL 84–99. Local interests should be further informed that final determination of minimum local participation will be made by higher authority. In reporting on this aspect of a proposed project, recommendations will take into account the need for expedited action, the history of previous efforts by local interests, and other pertinent factors if variations are recommended. In this connection, the fact that proposed modifications conform to an already authorized protection project not yet initiated, while of material significance, is not sufficient justification for accomplishing partial construction of such a project with emergency funds.

§ 203.5382 Release of information.

As indicated in ER 1165–2–101, the findings and recommendations of the reporting officers in reports or studies undertaken pursuant to special continuing authorities are considered to be of an internal nature and not appropriate for release to the public pending final approval or disapproval by the Chief of Engineers or other competent authority. Accordingly, care should be taken not to release information prematurely in order to avoid embarrassment in the event of a reversal by higher authority.

§ 203.5383 Required contributed funds.

Contributed funds as outlined in ER 1140–2–301, Required Contributed Funds, will be made available to the engineer district prior to initiation of the work under the project as authorized. They may be accepted without further reference or approval by the Chief of Engineers. Refund of any unexpended balance, however, is not authorized without prior approval of the Secretary of the Army. See ER 37–2–10. The required certificate of the District Engineer outlined therein will cite as the pertinent authority "Public Law 99, 84th Congress, approved 28 June 1955 as amended."

§ 203.5400 Administration.

§ 203.5410 General.

Normal administrative requirements are secondary to expeditious accomplishment of disaster operations when saving time is essential for public health, safety, and preservation of life and property. As necessary therefor, authority and responsibility will be delegated to the maximum and temporary variations from normal command and communication channels will be permitted.

§ 203.5420 Contracting procedures.

Emergency disaster operations will be accomplished using the most appropriate of the various contracting methods authorized. Normal contract procedures may have to be modified in order to accomplish urgent work promptly. Experience has shown that competitive advertising of emergency work can be compressed into a matter of hours and is a successful method of contracting during emergencies. The use of negotiated lumpsum and unit price contracts will be to the extent that the nature of the work and the time available will permit. Every advantage will be taken of special and emergency procedures in order to minimize serious delay of urgent operations or the procurement of vital equipment and supplies. When time does not permit even modified procedures, immediate authorization to proceed on urgent work pursuant to a letter contract may be used. Special considerations in emergency contracting are discussed below.

§ 203.5421 Contract negotiation.

Negotiation of Contracts in connection with work covered by this regulation is authorized subject to the restrictions below, without limitation to type, if formal advertising is impractical. Usually the "public exigency" exception under 10 U.S.C. 2304(a)(2) is applicable but on occasion, one of the other exceptions may be appropriate. Regardless of the exception used, a Determination and Findings meeting the requirements of Part 3, Sec. III, ASPR, must be executed by the Contracting Officer as a prerequisite to each contract negotiation. Consideration should be given to formal advertising, on a limited basis if necessary, but the principle that routine administrative requirements beyond the basic ASPR are secondary to the disaster mission will be adhered to. Administration will not be permitted to delay urgently required work.

§ 203.54211 Cost plus fixed fee contracts. (CPFF).

Except in extraordinary cases, prior approval for the use of CPFF contracts shall be obtained from an authority no less than the Deputy Director of Civil Works by the most expeditious means required under the circumstances. If the circumstances so dictate, approval action may be effected by telephone with written confirmation following. The contract file shall reflect the means of and person granting such approval.

§ 203.54212 Letter contracts.

Urgent work may be commenced immediately pursuant to a letter contract under ASPR 3–408. Prior OCE approval is required if the contracted amount exceeds 50 percent of the estimated definitive contract. A definitive contract must be established as soon as possible and within limitations set by ASPR 3–408.

§ 203.54213 Performance and payment bonds.

Section 10, ASPR, requires bid, performance, and payment bonds in connection with construction contracts exceeding $2,000.00 (Miller Act). There is no exception to the law for construction contracts even though performed during emergencies pursuant to this regulation. Disaster recovery operations, however, are ordinarily accomplished under service type contracts for which performance and payment bonds are not required, although authority exists permitting Contracting Officers to require bonds if deemed necessary. In the interest of reducing recovery operations costs and, primarily, with the view of facilitating the effect of Sec. 310 Pub. L. 93–288, the policy is that performance and payment bonds will not ordinarily be required for disaster operations other than those under construction type contracts.

§ 203.5422 Use of local firms and individuals.

Section 310 of the Disaster Relief Act of 1974 (Pub. L. 93–288) provides in part that, "In the expenditure of Federal funds * * * preference shall be given, to the extent feasible and practicable, to those organizations, firms and individuals who reside or do business primarily in the disaster area." This provision applies to work for and directed by the FDAA, but may be considered also in Pub. L. 84–99 situations if appropriate. During the immediate post disaster operations, contracts for the most urgent requirements will ordinarily be awarded under the negotiation procedures, including letter contracts. In selecting contractors, or distributing requests for proposals, first consideration must be given to those provided preference under the Disaster Act. When it becomes necessary to seek assistance beyond the immediate disaster areas, preference should be afforded to contractors in the surrounding areas. When competitive negotiation procedures are employed, local contractors can be afforded preference by being permitted to reduce their bids to meet the low proposal, provided that their original proposal does not exceed 130% of the low proposal. The request for proposals will advise all bidders of the requirement for favoring local firms and individuals.

§ 203.54221 Performance of work by contractor.

To assure adequate interest in, and supervision of the entire project, the

prime contractor shall be required to perform a significant part of the work with his own forces as determined adequate by the contracting officer, but not less than 20 percent. The following clause will be included in the contract:

Performance of Work by Contractor. The contractor shall perform with his own organization, work equivalent to at least (words) percent ..... (figures) of the total amount of work to be performed under the contract. If, during the progress of the work hereunder, the Contractor requests a reduction in such percentage, and the Contracting Officer determines that it would be to the Government's advantage, the percentage of the work required to be performed by the Contractor may be reduced; *provided*, written approval of such reduction is obtained by the Contractor from the Contracting Officer.

§ 203.54222 Local labor preference.

All prime contracts awarded, including letter contracts, will include the following clause:

Local Labor Preference. In the performance of work included in the contract, the contractor shall, in procurement of supplies and equipment, awarding subcontracts, and in the employment of laborers and mechanics, give first priority to those residing in or doing business in ..... County(ies). This clause shall be included in all subcontracts awarded. Failure of the contractor to comply with the requirements of this provision may result in termination of the contract for default.

§ 203.54223 Subsequent contracting.

Contracts awarded in the later phases of the operation for work such as major rehabilitation of levees, streets, sewage treatment systems, or for new construction, should be awarded under standard procedures. The clauses prescribed above should, however, be included in all prime contracts offering substantial subcontracting opportunities when there are indications of a high rate of local unemployment.

§ 203.54224 Disaster area.

The disaster area is considered to be that area and its environs affected by the disaster and as designated by the Administrator, FDAA and published in the Federal Register.

§ 203.5423 Appointment of contracting officers.

Authority to appoint Contracting Officers within the Corps is assigned to and retained by the Deputy Chief of Engineers. Accordingly, pre-planning for emergencies will include the selection of individuals occupying or to occupy those positions in which contracting authority would be essential in case of domestic emergency. Requests will be made to HQDA (DAEN-ECA) WASH DC 20314 for appointment of the selected individuals as Contracting Officers as provided by ECI 1-405b(2). The contracting authority of such individuals becomes effective only upon the happening of a certain event creating emergency conditions requiring expedited action. Replacement action will be taken promptly when selected individuals become unavailable.

§ 203.54231 Requests.

Appointment requests will specifically define the contracting authority desired, types of contracts, and monetary limitation. A complete summary of the individual's experience and training will be furnished, as outlined in paragraph 500, Appendix A, ER 1180-1-1. Clearly state under which of the following types of emergency activities the contracting authority is desired.

(a) Emergency Flood Control and Coastal Storm Activities (Pub. L. 84-99)

(b) Natural Disaster Assistance (Pub. L. 93-288)

(c) Related Statutory Authorities Applicable to Emergency operations (discussed in paragraph 24.00)

(d) Rehabilitation of Corps of Engineers Facilities Damaged by Natural Disaster.

The request will include who is to notify the individual that his special contracting authority is being activated, the means of notification, and the basis for activating the special authority.

§ 203.54232 Certificate.

The certificate of appointment as Contracting Officer issued to individuals in this category will clearly state that the authority granted is applicable only to the types of emergency activiites spelled out in the letter request. It will further state that such contracting authority will not be exercised by the individual until he is notified by the specified official (usually the District Engineer) and by the specified means, that such emergency authority has been made effective. Copies of all such notifications will be furnished to HQDA (DAEN-ECA) WASH DC 20314, and when the authority reverts to a "stand-by" basis.

§ 203.54233 Temporary loan.

A Division or District Engineer desiring the temporary services of a conditional Contracting Officer from another office will request that his appointment be modified for service within the desired area. Such request, to OCE, may omit summary of the individual's experience and training. Otherwise the same procedures for appointment, activation, and cessation will apply.

§ 203.5430 Property accounting.

Procedures and policies established for the accountability of property during emergency disaster operations must insure sufficient control thereof to protect the Government against negligence and waste. However, it is also imperative that they do not delay actual operations of an urgent nature.

§ 203.5440 Personnel.

Personnel operating under emergency disaster conditions may be subjected to extreme hardships. Accordingly, all regulations pertaining thereto will insure the maximum possible protection of the personal welfare of the individual. Accomplishment of this requires that arrangements be made, where appropriate, for advance payments of travel allowance, limiting the tour of duty, and judicious control of overtime. Normally, forces on loan will remain under home control for administrative control.

§ 203.5450 Communication and transportation.

Judicious and efficient use of all types of communication and transportation facilities will be required in any emergency disaster operation. Rapid response in both cases is essential to a successful operation. Maximum use will be made of radio communications and air travel. Radio facilities, due to their great flexibility, should be considered as an action arm of the operation forces and controlled as such. All types of commercial communication and transportation facilities, however, will be subject to appropriate administrative procedures.

§ 203.5451 Designation of Transportation Agents.

To facilitate transportation and insure proper shipment and receipt of property during designated emergencies, district emergency plans should provide for prepositioned transportation agents to perform transportation functions.

§ 203.5452 Military Air Transportation.

Emergency operations will be conducted with the policy of utilizing local and commercial resources and organizations to the maximum of their capabilities. Agreements with National Guard and Reserve component units are authorized when additional support is required. However, requests for airlift support by either active Army or Air Force units will be processed through divisions to their respective CONUS Army commands. CONUSA personnel have authority under AR 500-60 to process Division Engineer requests to the Air Force active duty airlift coordinator in the closest AF reserve region office for airlift support. Each request will require the following:

(a) Description, origin, and destination of the cargo.

(b) Weight and cube measurements of the shipment.

(c) A statement by the Division Engineer or his representative that commercial firms are not available, or able, to accomplish the mission as required.

§ 203.5453 Costs.

Costs incurred by DOD agencies that are additional to their normal operating expenses, and in support of Corps flood fighting operations, are reimbursable under Pub. L. 84-99 Code 200 funding. Those DOD costs in support of Corps response to mission assignments from FDAA are reimbursable by FDAA and included as Corps expenses.

Subpart 6—Pub. L. 93-288 Operations

§ 203.6100 General.

§ 203.6110 Federal Disaster Assistance Administration.

The FDAA acts in behalf of the Secretary, Department of Housing and Urban Development, with authority from the President assigned in Executive Order

11795. promulgates Federal Regulations, Orders, Circulars, Handbooks and other publications containing general guidance governing provision of Pub. L. 93–288 assistance. FDAA criteria, standards, and similar guidance are applicable to the prosecution of missions assigned to the Corps.

§ 203.6120 FDAA-Corps relationship.

Pub. L. 93–288 authorizes the President to coordinate the activities of Federal agencies in the interest of providing maximum mobilization of Federal assistance under the provision of the Act. Actions are taken by Federal agencies in accordance with their existing policies, practices, or statutory authority, as required to expedite assistance or action pending determination of a major disaster by the President. Coordination by FDAA will not extend to direction or supervision of the disaster activities of Federal agencies, but will consist of the evaluation of requests received and total assistance needed, and the issuance of directives to various Federal agencies as necessary for action to meet the problems involved. The FDAA will make necessary decisions and issue appropriate directives regarding assistance to be furnished in cases where two or more Federal agencies have conflicting or overlapping interests or authorities. FDAA coordination of Corps of Engineers operations in minor disasters is not normally anticipated. But the authority by direction of FDAA is required for the Corps to conduct operations pursuant to Pub. L. 93–288.

§ 203.6200 Administrative support of FDAA.

§ 203.6210 Emergency support teams.

Regional Directors are authorized to form emergency support teams of Federal personnel to assist the Federal Coordinating Officer (FCO) in carrying out his responsibilities. Team members may be assigned to the FCO staff at FDAA field offices, or may be assigned to assist State or local governments in obtaining Federal assistance. Even before a major disaster declaration, the FDAA regional Director may contact relevant Federal agencies and indicate requirements for members of emergency support teams. In coordination with FDAA Regional Directors, divisions will designate personnel for assignment to emergency support teams. During predisaster threat phase designated personnel will be alerted for pre-positioning to expedite their availability in a major disaster area. Reimbursement by the FDAA for emergency support team members assigned to FDAA field offices will be as outlined in ER 11–2–320.

§ 203.6220 Corps Emergency Office.

Emergency Corps main field offices established to support Pub. L. 93–288 operations should be close to or co-located with FDAA emergency headquarters during major disasters. The same facilities and communications could be utilized. This policy, however, should not override the principle of locating close to the disaster area.

§ 203.6230 FDAA regional disaster assistance plans.

When requested by Regional Directors, Corps Planners will participate in the formulation of appropriate sections of the FDAA Region Disaster assistance plans. Expenses for such planning activities are chargeable to Advance Preparation.

§ 203.6240 Emergency assistance.

If the President determines that an emergency exists, he is authorized to use all resources of the Federal government to avert the disaster or lessen its effects should the disaster occur. Division Engineers will be fully responsive to FDAA requests for predisaster assistance.

§ 203.6250 Preliminary damage survey.

Regional Directors may assign responsibilities to Federal agencies by categories of damages most relevant to the agencies' activities. Preliminary damage surveys are made in those disasters which are not clearly of such severity to be obviously major disasters. Expenses incurred in providing preliminary damage surveys not warranting a major disaster declaration are chargeable to FDAA.

§ 203.6300 Federal-State disaster assistance agreement.

§ 203.6310 Execution and content.

Certain Federal agencies have statutory authority effective upon the declaration of a major disaster by the President. If all the required assistance is not to be made available by Federal agencies under their own or other agency statutory authority, an agreement is jointly executed by the FDAA Regional Director and the governor of the state concerned. Supplementary agreements are made as necessary. Among the matters included in agreement provisions are the determination of the areas adversely affected by the disaster; the manner of Federal assistance; the amount of financial assistance; and pertinent administrative controls, definitions, and limitations. Notice of the areas delineated as adversely affected is published in the Federal Register.

§ 203.6320 Project applications.

Federal financial assistance is provided by the FDAA on the basis of state and local project applications. Each project application is a supplemental contract under the Federal-State Disaster Assistance Agreement. Project applications, and claims filed for payment, will be governed by the terms and stipulations in the HUD Handbook 3300.5, Handbook For Applicants.

§ 203.6321 Termination of Pub. L. 93–288 assistance.

Federal assistance shall terminate upon notice by the FDAA Administrator to the Governor of the State, or upon the expiration of the time periods specified below from the date of the President's determination that a major disaster exists, whichever is first. Under paragraphs "a" and "b" the Regional Director may extend the time a maximum of 6 additional months. Upon a showing of unusual requirements, the FDAA Administrator may extend these periods:

(a) Emergency debris clearance: Start 30 days; Complete 180 days.

(b) Other emergency measures: Start 30 days; Complete 180 days.

(c) Long term permanent projects: Complete 18 months.

§ 203.6322 Requests for time extension.

Division Engineers will take necessary steps to advise the FDAA Regional Office of any requirement for extension, as soon as the need becomes apparent. Administrative delays are not considered to warrant time extension. The extension period required should be carefully estimated to ensure that no additional request for extension will be necessary.

§ 203.6400 FDAA directives to other Federal agencies.

§ 203.6410 Nature of directive.

FDAA Directives, or Letters of Request to appropriate Federal agencies specify in general terms the nature and scope of disaster assistance to be provided. In accordance with Congressional intent, while ensuring necessary coordination, the FDAA does not direct or supervise the operations and administration by each Federal agency in carrying out an assigned mission. Letters of request are supplemented as necessary. The FDAA has grouped certain work items eligible under Pub. L. 93–288 in categories designated A through I (HUD Handbook 3300.6). Project applications are reviewed with consideration of the interrelated statutory authorities of the Corps of Engineers and other Federal agencies. FDAA directives are framed accordingly, to provide for only supplementary Federal assistance.

§ 203.6420 Issuance and channeling.

A directive may initially be issued informally, either orally or by teletype. An informal directive must be confirmed by a Letter of Request. FDAA requests may be addressed either by the Administrator to the Chief of Engineers, or by an FDAA Regional Director or FCO to a Division Engineer. Advice as to the receipt of any informal requests, and an information copy of each letter request and supplements thereto, will be expeditiously furnished to HQDA (DAEN–CWO–E) WASH DC 20314.

§ 203.6500 Responsive action by the Corps.

§ 203.6510 Request to the Corps.

Action will be initiated immediately following receipt of valid FDAA directives, whether formal or informal. Work will be prosecuted in conformance with the FDAA general guidance and directives as well as directives issued pertinent to a specific program of disaster assistance. Consideration will be given to the interrelated statutory authorities of the Corps.

§ 203.6520 Support of other Federal agency missions.

The Corps resources will be utilized in support of disaster recovery operations assigned by the FDAA to other Federal agencies. Written directives which outline the desired Corps support, such as developing sites for temporary housing, are required from the requesting FDAA region.

§ 203.6530 Disaster Operations Coordinator.

During major Pub. L. 93–288 operations involving a disaster declaration covering more than one district area within a division and State, a COE disaster operations coordinator (DOC) will be appointed by the Division Engineer as he determines necessary, and as may be requested by the FCO. The DOC will serve as a liaison and point of contact between the COE operations and other agencies. If the declaration covers areas of more than one division within the state, determining the need for and appointing a DOC will be by mutual agreement between the Division Engineers in coordination with the FCO.

(a) When a large disaster requires declarations in more than one state and more than one FCO has been appointed, a separate DOC will be appointed, if required by the situation, for liaison with each FCO. The DOC will make contact with the FCO and be prepared to be the COE point of contact at the FDAA disaster center, if required.

(b) The DOC will coordinate all Corps requests for military assistance with the appointed DOD Military Representative. AR 500–60 now provides that the CONUSA Commander appoint a single DOD Military Representative to the FCO when a major disaster has been declared. The DOD Military Representatice is to coordinate all requests, including those from the Corps, for military assistance through the FCO. The regulation states that a separate DOD Military Representative will be appointed for each FCO named in the disaster declaration.

(c) In exceptional cases, OCE may designate the Division Engineer to be in overall charge of the COE disaster operation.

§ 203.6600 Procedures for handling direct requests for disaster assistance under Pub. L. 93–288.

§ 203.6610 Without Pub. L. 93–288 Presidential declaration.

In an emergency other than of flood or coastal storm nature or for emergency requirements beyond the statutory authority of the Corps of Engineers, such as landslides or erosion problems, the local interests concerned should address any request for assistance to the State Governor (or his designee) for consideration of State assistance and/or transmission to the FDAA Regional Director. In no case will the applicant be told assistance may be available from FDAA until the problem has been discussed with the Regional Director. If, however, such a request is received directly by a Division or District Engineer, and upon discussions with the requesting local interests and determination that redirection of the request through state channels, or provision of assistance available from state agencies would not meet the situation, it will be forwarded to OCE for decision. The foregoing is exclusive of response to conditions of imminent seriousness or immediate urgency.

§ 203.6620 Prior to a Presidential declaration.

The occurrence of a disaster may be of such magnitude as to assure the Presidential declaration of a major disaster area. Corps participation in these immediate post disaster activities prior to receipt of a formal declaration becomes so manifestly required that the eventual completion of administrative procedures is self-evident. On the other hand, when conditions do not warrant unrestrained Corps assistance, close coordination with FDAA Regional Directors is required to determine the nature of the directives expected. Initially, Division and District Engineers may receive FDAA disaster survey requests to determine appropriate courses of action. Timely response to these requests is required. Generally, Corps action in other existing conditions beyond statutory authority should be abated pending an appropriate request from the FDAA. If in the final disaster analysis a Presidential declaration is not received, only those Corps functions under other authority may be performed. Costs incurred in the pre-declaration period will be referred to the FDAA for reimbursement.

§ 203.6630 Following PL 93–288 Presidential declaration.

If a direct request is received from local interests for disaster assistance beyond the statutory authority of the Corps of Engineers, the Division or District Engineer receiving such a request will inform the applicant tactfully that the request should instead be submitted to the state Disaster Office. Concurrently, send a copy of the request to the FDDA Regional Director. Disaster missions received from the Administrator, Regional Director, or FCO will be performed expeditiously under the authority of Pub. L. 93–288.

§ 203.6700 Work authorization and funding.

The authority of Pub. L. 93–288, made effective by an FDAA request, is the basic authority for the Corps of Engineers to expend the requisite funds with later reimbursement at the discretion of the President. Any indication of monetary authorization or limitation in an FDAA request, as supplemented, pertains only to current possible or probable reimbursement by the President and does not establish the eventual value.

§ 203.6710 Reimbursement.

In the event that funds are not made available for reimbursement of division and district expenses incurred in performing major disaster assistance, all such expenses will be supported by funds available to the Chief of Engineers.

§ 203.6720 Interim financing.

§ 203.6721 Work under sections 306 and 403b Pub. L. 93–288.

The established administrative procedure is for the Corps to treat the FDAA request as a "Reimbursable Work Order", but set its dollar amount according to working or probable estimates of the cost involved. Approval of cost estimates by the FDAA is not required. Obligation of the requisite funds, without regard to any possible reimbursement, will proceed under reimbursable apportionments pertaining to Civil Works appropriations. Except in connection with such financing procedure the Pub. L. 93–288 "Appropriation Reimbursement Activity" is to be considered a regular Civil Works Program element that is separate and distinct from "Work for Other Agencies."

§ 203.6722 Support assistance under sections 306 and 403b Pub. L. 93–288.

To the extent beyond the scope of Pub. L. 84–99 and other Corps authorities pertaining to floods and storms, the Pub. L. 93–288 "Appropriation Reimbursement Activity" will also include support requested by the FDAA in their Pub. L. 93–288 administrative activities. Examples are damage assessment and surveys as required before or after a disaster or emergency declaration; and requested administrative or engineering support in FDAA action or financial assistance applications and claims, including inspection of locally completed work. However, any FDAA directed payment by the Corps of reimbursements and grants are as authorized by sec. 306 of Pub. L. 93–288, and in behalf of the FDAA.

§ 203.6730 Special application of Pub. L. 93–288 authority.

When authorized by the President under Section 401, the FDAA will consider special application of Pub. L. 93–288 by authorizing the Corps to repair, restore, reconstruct or replace any Corps owned facility or project damaged or destroyed by a major disaster which is determined to be of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation and the required appropriation for such purposes. Authorization to perform the work is dependent, in accordance with law, upon certification by the Corps that the required funds are currently available for transfer from funds appropriated to the Corps for other purposes.

§ 203.6800 Scope of Pub. L. 93–288 assistance.

The Federal Disaster Assistance Regulations include a requirement that Pub. L.93–288 work performed at FDAA direction by a Federal agency shall be subject to the same criteria of work eligibility as apply to financial assistance provided to State and local applicants performing work on their own account. Determination by FDAA of the scope of work will further be guided by cost consciousness and economic consid-

erations. In particular, these apply to eligible protective measures undertaken in the general public interest, such as the emergency clearance of flood deposits from stream channels (material other than normal suspended components of a flood control, irrigation, or drainage facility maintained by public entities); and emergency shore protective work beyond the scope of Pub. L. 84–99 authority. The scope of Pub. L. 93–288 work will be the minimum required to prevent immediate damage to property made vulnerable by a disaster, and in accordance with the eligibility set forth in HUD Handbook 3300.6, Eligibility Handbook. Action remedying pre-existing problems by construction of improvements is excluded. The eligible measures shall be geographically limited to those project areas where total benefits are commensurate with costs.

§ 203.6900 Joint participation and responsibilities.

§ 203.6910 Support of Corps operations.

Whenever use of State and local facilities or services is helpful and economical in the provision of Pub. L. 93–288 assistance, local consent to such Corps use on a non-reimbursable basis will be actively sought. Authority for acceptance and use is contained in Sec. 309 of Pub. L. 93–288. Arrangements for use should be formalized whenever appropriate.

§ 203.6920 Reciprocal Corps support.

When directed by the FDAA, the Corps may provide support assistance to States and local governments in their efforts. As authorized by Pub. L. 93–288, such support may be provided by use or loan of Corps equipment, supplies, facilities, personnel or other resources, with or without compensation by the recipient.

§ 203.6930 Provision of real property.

State and local authorities shall be held fully responsible for procurement of all usage rights and permits locally required by the Corps for the requested Federal assistance. The responsible authorities shall provide adequate documentation fully covering rights of access and entry, use of work sites, necessary demolition of structures, disposal area, and other proprietary rights to be permanently acquired or subordinated to the operational necessities.

§ 203.6940 Corps support to State and local governments.

Even though not specifically outlined in the directive, an FDAA request directing the Corps to accomplish work under Sec. 306 or Pub. L. 93–288 will be considered to include any necessary Corps support of pertinent participating efforts by the State and local governments concerned. Such support to the duration and extent determined by operational necessities, will be furnished only as a supplement to State and local capabilities. All actions relating to required procurement of real property, or concerning private property rights, will be taken in behalf of and in the name of the responsible non-Federal interests. Accordingly, Corps use of condemnation procedures pursuant to the Federal eminent domain will clearly be not applicable.

§ 203.6950 State or local government funds.

In the accomplishment of FDAA directed work such as debris removal and repair and restoration of public facilities, the Corps is without authority to accept funds contributed by States or local governments for the inclusion of betterments in work underway. Similarly, grants-in-aid paid to States or local governments by the FDAA for planned accomplishment of recovery work items cannot be accepted by the Corps for undertaking that work at a later date.

§ 203.6960 Government liability.

Pub. L. 93–288 includes a specific provision to the effect that the Federal Government shall not be liable for claims based on actions or omitted actions by a Federal employee or agency in providing Federal assistance under Pub. L. 93–288 authority. Appropriate action will be taken to secure blanket "Hold and Save Harmless" assurances from public entities, in the same manner as for provision of Pub. L. 84–99 assistance. For assurance to be used in debris removal operations, see Sec. 403b, Pub. L. 93–288 and sample resolution in Appendix 16 of HUD Handbook 3300.5. In cases of imminent seriousness, lacking such assurance and pending provision of required real property rights, actions will apply to demolition of unsafe private structures only if public safety requirements cannot be adequately served through temporary exclusion of the public from the area involved.

§ 203.6970 Detailed damage survey.

Corps representatives making on-site inspections of damaged facilities, preliminary to FDAA action on project applications for financial assistance will act as engineer advisors to the FDAA. Initial findings concerning work scope and Pub. L. 93–288 eligibility will be made in the light of established criteria. In that connection, however, specific recommendations furnished will be confined to engineering, design, and cost estimating aspects of the work. As outlined under 43.10, the COE will provide a disaster team trained in the techniques of executing detailed damage surveys.

§ 203.6980 Completion inspection.

The state agency which assisited in performing the detailed damage surveys will notify the district when work in that category has been completed. The State agencies and district personnel will then make arrangements to make a final completed work inspection. The district inspector will decide who is to make the final inspection but a joint Federal-State final inspection is strongly preferred. If State personnel make the final inspection alone, the district is responsible to the FCO for reviewing the State report, and for its adequacy. All final inspections must be completed within 15 days following notification that an applicant has completed all categories of work approved in the project application. The results of the final inspection will be reported on D/HUD Form 485.

§ 203.6990 Completed Corps work.

§ 203.6991 Adequacy.

Except for public facility replacement and projects of improvement, completed Pub. L. 93–288 recovery work by the Corps is not transferred to the public entity concerned, and their formal acceptance of the completed work by signed documents is not required. District Engineers will insure conformance with contract plans and specifications under standard procedures. For each assigned project, FDAA requires the preparation of a D/HUD Form 485, Report of Final Completed Work Inspection, with distribution of one signed copy to the State Coordinating Officer and the original and one signed copy to the FDAA Regional Director. A final joint inspection with the counterpart State agency and local government official, as appropriate, is preferred but not mandatory.

§ 203.6992 Maintenance.

Provision of a State or local maintenance assurance is not a mandatory prerequisite to Pub. L. 93–288 work accomplishment. Such assurance, if voluntarily furnished, will not occasion periodic Corps inspection to monitor compliance. However, emergency preparedness efforts by the non-Federal agencies will be encouraged and requested technical advice furnished on protective measures.

§ 203.6993 Completion notice.

The date of completion and termination of Corps activity will be furnished to the local authority by letter. The letter should include, as applicable and appropriate, advice as to the further maintenance and improvement of completed work. Advice furnished will include any limitations or inadequacies of the work, special inspection and maintenance measures, improvement, or replacement required in the interest of public safety. Copies of the letter will be furnished to the Division Engineer as desired, the FDAA Regional Director, and the State official concerned.

§ 203.6994 Records.

Permanent file maps, drawings, and other records of public facility repair or replacement and protective work accomplished, adequate for possible future Civil Works activities, will be retained as needed.

Subpart 7—Reporting

§ 203.7100 General.

This chapter outlines the submission and distribution of reports required for use within OCE in connection with potential or actual emergency flood control activities under Pub. L. 84–99 and with other natural disasters which involve or may involve action by the Corps of Engineers pursuant to Pub. L. 93–288.

§ 203.7110 Reports control symbol.

Reports Control Symbol DAEN–CWO–2 is assigned to the flood and disaster reports prescribed in this chapter.

§ 203.7120 Commercial teletypewriter (Western Union) service.

Teletypewriter (TWX) machines have been installed in Division and District Offices and in OCE, primarily to permit the fastest means of reporting emergency situations. The TWX machine installed in OCE Civil Works Directorate has a 24-hour automatic receiving capability with an answer back signal DAEN–CW WSH. One receive only monitor is connected to this primary TWX line permitting simultaneous read out of information in the Emergency Operations Center. A second TWX send and receive station (DAEN–CW WSH B) is located in the Emergency Operations Center for emergency use when the primary station cannot be reached. A directory of Corps of Engineers call numbers on the Western Union TWX service is included in Appendix G (Note the Alaska District and Pacific Ocean Division do not have TWX facilities. They will submit reports by the fastest electrical means available).

§ 203.7200 Flood control and coastal emergencies under Pub. L. 84–99.

§ 203.7210 Reports required.

(a) Flood and coastal emergency test exercise reports.

(b) Flood or coastal storm potential reports.

(c) Initial report of flooding or coastal storm.

(d) Follow-up flood or coastal storm situation reports.

(e) Post flood or disaster operations termination report.

(f) Operations progress reports (recovery phase).

(g) Quarterly summary of emergency flood control activities.

§ 203.7220 Classification of emergency situations.

For purpose of reporting, significant floods and other natural disasters are categorized and described below.

§ 203.7221 Category A.

Includes all major floods in large drainage areas in which extensive property damage or serious danger to life or flood protective works prevails or is imminent.

§ 203.7222 Category B.

Consists of relatively localized floods that produce high property damage or hazard to life without creating or contributing substantially to dangerous flooding down stream. Category B floods also include so-called "Flash Floods" and other short duration floods that preclude submission of emergency flood reports to the Chief of Engineers before critical phases of flooding have passed.

§ 203.7223 Category C.

Consists of floods in large drainage areas which have not directly caused loss of life or extensive property damage, but create conditions especially favorable for a major flood if further adverse conditions develop.

§ 203.7224 Category D.

Includes non-flood incidents such as tornadoes, riots, earthquakes or other natural phenomena causing extensive damage where Corps of Engineers assistance will be involved or likely to be involved.

§ 203.7230 Flood and Coastal Emergency Test Exercise Reports.

Following each flood or coastal emergency exercise, the District Engineer will furnish the Division Engineer a LETTER REPORT indicating the nature and scope of the exercise, participation by others, weaknesses revealed, and corrective action required. The Division Engineer will forward one copy of the report to HDQA (DAEN–CWO–E) WASH DC 20314, together with a copy of the Division Engineer's action thereon, as well as recommendations on any problems revealed which require action by the Chief of Engineers (Exempt report AR 335–15).

§ 203.7240 Flood or coastal storm potential reports.

District Engineers will report by TWX or mail to DAEN–CWO–E WASH DC 20314, any potential flood, coastal storm, or other Foresight action that should be brought to the attention of the Chief of Engineers. The report will be designed to enable him to respond to inquiries from Members of Congress and others at the Washington level upon their notice of press dispatches. Accordingly, it should be prepared and dispatched expeditiously, and well in advance of any actual disaster (flash flood expected). Include a narrative summary of the situation and, if possible, an estimate of the probable disaster impact development. If feasible, each report will be definitive and minimize a followup report. Dispatch of subsequent messages will be determined by the urgencies of each situation as it develops. Prefix these reports by "Flood or Coastal Storm Potential Report, Attention: DAEN–CWO–E WASH DC 20314." Information copies will be simultaneously furnished to the Division Engineers, the appropriate CONUSA or Theater Commander, and the FDAA National and Regional Director concerned. The reports required here pertain to emergency short range situations. Long range seasonal conditions are reported in accordance with ER 1110–2–240.

§ 203.7250 Initial report.

§ 203.7251 During OCE office hours.

An initial report from the district on any nonflood disaster or imminently anticipated actual flood or coastal storm conditions, WHATEVER THEIR NATURE, will be made during OCE office hours by TELEPHONE directly to the Chief, Emergency Operations Branch (202–693–6875 or 76), Civil Works. Such initial report will serve the primary purpose of alerting the Chief of Engineers to the possibility of inquiries to him for situation reports. It also provides some information as a basis for reply, and an opportunity for special instructions on further reporting. Accordingly, while any information of the type listed in § 72:60 will be included to the extent immediately available from sources including local news reports, the initial report will not be delayed in order to collect and compile additional information.

§ 203.7252 Outside of OCE office hours.

During periods outside of OCE office hours, the initial report by telephone will be deferred unless it concerns a major emergency or serious short-duration disaster, such as a severe flash flood or tornado. In that event, the initial report will be made to the Chief, Emergency Operations Branch or assistant at their home telephones. A TWX message may be substituted for a deferred telephone initial report if the message is available at the start of the next work day. Confirmation of inital telephone messages to OCE will be by TWX.

§ 203.7253 Advising CONUSA Commanders, FDAA National and Regional Directors, and others.

District Engineers (Reference AR 500–60) will furnish the CONUSA or Unified Commander concerned pertinent information on Category A or B flood or Category D disasters, using the fastest electrical means available or appropriate. Other officials concerned will be similarly informed, including the FDAA Administrator and Regional Director(s), American Red Cross Area Manager, Coast Guard District Commander, State Natural Disaster (Civil Defense) Director and other key Federal, State and local officials, as appropriate in the circumstances. This may be done by means of information copies of the report submitted to OCE, except that such addressees will not be furnished detailed hydrologic data, details concerning the operation of flood control works, or preliminary estimates of damages prevented by engineer projects.

§ 203.7260 Reports during flood or coastal storm.

Following the initial report, additional reports will be made as indicated below.

§ 203.7261 Category A flood situation reports.

Whenever a Category A flood is in progress, submit daily situation reports to the division and direct to HQDA (DAEN–CWO–E) WASH DC 20314. These reports, by TWX, will be dispatched to HQDA (DAEN–CWO–E) WASH DC 20314 as early as practicable but not later than noon (local time). On working days, they will be dispatched by TWX, preceded or supplemented if the situation warrants by telephone report(s), to HQDA (DAEN–CWO–E) WASH DC 20314. On Saturdays, Sundays, holidays and non-working hours, reports by telephone will be made only in the event of significant change in flood conditions as

previously reported, or the occurrence of major flooding or other development of serious proportions, resulting or likely to result in heavy loss of life and/or property damage. TWX reports may be transmitted to Office of the Chief of Engineers on Saturdays, Sundays, holidays, and at night to be available at start of the next working day.

§ 203.7262 Reporting format.

During the Critical phase of a Category A flood, the daily TWX situation report will include the following coverage as available and applicable, using the paragraph numbers shown. Appropriate Subparagraphs may be used as required. If there is no change in a given paragraph from the preceding day's report, say "No change" or "No change except for * * *."

(a) *Subject.* Example: Category A SITREP No. 3, 5–8 May Ohio Floods (Indicate FINAL REPORT submission).

(b) *General situation summary.* Location of stricken area; present weather conditions; extended forecast; preliminary total damage estimate; magnitude of damage estimate for predicted crest stages; lives lost; levee breaks (give cause of failure if known); acres flooded; Federal property, including military and Civil Works installations, damaged or threatened; same for communities and important production centers; railroads or major highways out of service; emergencies declared by Governors; etc.

(c) *Efforts by State and local interests.* Nature, location, and degree to which state and local interests are applying their capabilities in rescue, evaluation of flood fighting, and related matters. Include whether they can cope with the situation and any activity of National Guard. Nature and location of prospective requests for Pub. L. 84–99 assistance. Also likelihood and nature of a Governor's application for Pub. L. 93–288 assistance.

(d) *Military efforts.* Nature of actions where taken by the military (Army, Navy, Air Force and other DOD components). Also where applicable, indicate military participation in flood fighting and rescue work under Corps of Engineers direction and control, specifying unit designations.

(e) *Other efforts.* Brief coverage of nature and location of support being rendered by Red Cross, Coast Guard, and other Federal, State and local agencies furnishing significant aid. Indicate role of FDAA, location of field office if established, name and phone number of person in charge. List or describe liaison and coordination effected with other Federal agencies, stating what agencies are being kept informed of developments whenever not listed as information addressee.

(f) *Corps of Engineers efforts.* Summarize district activity including liaison, rescue, flood fighting, damage surveys, and data collection. If district representatives have been dispatched to the stricken area, indicate their names, locations, and mission. If a field office is being activated, person in charge, and phone number.

(g) *Damages prevented by engineer projects.* Brief preliminary statement on flood control operation of local protection projects and reservoirs, including data for specific projects where critical or special conditions exist, and rounded estimate of dollar damages prevented. As feasible and appropriate, include similar statement on damages preventable by projects being constructed, those authorized but not started, and those recommended but not authorized.

(h) *Tabulation (Column Headings) of River-stage Data.* (for internal COE use)

(1) Name of stream.
(2) Location of gage (city and state).
(3) Flood stage causing significant minor damage.
(5) Current stage and time.
(6) Predicted or actual crest stage and date.
(7) Maximum stage of record and date.

(i) *Tabulation (Column Headings) of Reservoir Data* (for Internal COE use).

(1) Name of reservoir.
(2) Rate of inflow and outflow in c.f.s.
(3) Bottom elevation of flood pool.
(4) Pool elevation this date.
(5) Percent of flood pool used.
(6) Predicted or actual maximum pool elevation and date this event.
(7) Percent of flood pool utilized in paragraph (i) (6).
(8) Date of flood pool evacuation (only on final situation report).

To condense TWX reports, the tabular data referred to above that are not dependent upon daily observations may be furnished HQDA (DAEN–CWO–E) WASH DC 20314 in advance by letter for selected key stations, and subsequently omitted from teletype reports pertaining to those stations. After the critical phase of a flood has passed and stages have receded generally to a relatively non-dangerous stage, daily reports, as specified above, may be reduced in scope. They will include a description of the flood situation in general terms, supplemented as required for clarity, by selected representative river stage and pool data. River stage data normally available on Weather Service teletype, Schedule C, CE sequence, may be omitted from reports submitted during the later recession phases of floods. During critical flood periods, daily reports will be adequately self-contained, inasmuch as the desired data are not always available from Weather Service teletype reports.

§ 203.7263 Category B flood situation reports.

As soon as practicable after occurrence of a Category B flood, a TWX REPORT will be dispatched from the district concerned direct to DAEN–CWO–E in the manner specified. Category B floods will be reported on Saturdays, Sundays, holidays, and night time in the same manner as Category A floods. Telephone reports will be made only when exceptionally severe property damage or loss of life is suffered; otherwise, TWX reports will be dispatched to reach HQDA (DAEN–CWO–E) WASH DC 20314 as early as possible on the first working day following. The initial report will present a summary generally similar to that prescribed for Category A floods, based on information obtainable from all available sources. Subsequent reports will be submitted as required to present a reasonably accurate account of the extent and noteworthy effects of the flood.

§ 203.7264 Category C flood situation reports.

When Category C conditions prevail in a drainage basin tributary to a river already above critical flood stage, TWX REPORT summarizing conditions will be dispatched daily, on regular working days only. In the case of streams characterized by very slow or sluggish runoff, where stages usually remain above official flood stages for long periods during flood seasons without constituting an unusual flood hazard to downstream areas, DAILY TWX REPORTS WILL NOT BE REQUIRED, BUT REPORTS SHOULD BE FORWARDED AT SUCH INTERVALS considered necessary to keep officials informed of stream flow conditions that might reasonably develop into serious floods. In preparing reports pertaining to Category C floods, it may be assumed that OCE has access to data normally transmitted over Weather Service teletype Schedule C.

§ 203.7265 Category D natural disaster situation reports.

Daily TWX situation reports to HQDA (DAEN–CWO–E) WASH DC 20314, subsequent to the initial nonflood disaster report are required only when the Corps of Engineers is engaged or likely to be engaged in furnishing assistance. Frequency of submission may be diminished according to developments. When furnished, these reports should include available and appropriate coverage of:

(a) *TWX Designation.* Example: Tornado: Tornado situation report No. 2.

(b) *Nature of Emergency.* Location, extent and amount of damage, and estimated duration.

(c) *Recovery Efforts.* Those actions by State and local interests; forces, supplies, and equipment committed; adequacy of capability to cope with situation.

(d) *Military Assistance.* Description of Army, Navy, Marine Corps, Air Force, personnel forces, supplies and equipment committed.

(e) *Others.* Activities by Red Cross and other Federal agencies.

(f) *Corps.* Requests for Corps of Engineers assistance; nature of action taken if any; personnel and resources committed.

§ 203.7270 Collection of data and post disaster reports.

§ 203.7271 Scope of data collection.

Data collection activities may include photography (air and ground), damage estimates, hydrologic data not obtainable under other programs, establishment of

flood heights and other flood plain information deemed essential for studies under Section 206, PL 86-645 (ref. ER 1165-2-303) or for flood control studies. However, charges for costs of data collection will be as outlined in ER 11-2-320.

§ 203.7272 Post disaster reports.

As soon as practicable after a Category A or B flood or Category D disaster causing major damage, a letter report thereon, final or interim, will be submitted in duplicate to HQDA (DAEN-CWO-E) WASH DC 20314. If complete, this will be the final post disaster report and will so state; otherwise, it will provide interim information and the subject will so indicate. These reports should include, as appropriate, presentation of principal supporting hydrologic information and complete bibliography of the pertinent data collected and filed in the district office; and evaluation of the stage reduction effected at key stations by flood control or multiple-purpose reservoirs (singly or combined) operated by the Corps of Engineers, or by other agencies under the provisions of Section 7 of the Flood Control Act of 22 December 1964; and whenever practicable, estimates of disaster losses prevented by projects in operation, together with estimates of loses that would have been prevented by projects authorized but not yet constructed, and by projects recommended but not yet authorized. The final post-disaster report normally should be completed within approximately 3 months of the time of disaster; the transmittal will include statement of final cost. In the interest of economy, a consolidated bound report may be prepared if several floods or non-flood disasters have occurred in a given year. However, HQDA (DAEN-CWO-E) WASH DC 20314 will be furnished brief interim information by letter report.

§ 203.7273 Authorization of post-disaster reports.

District Engineers have a standing authority to obligate up to $10,000 for post-disaster reporting activities, including any continuation of flood data collection. In the event the reporting activities are estimated to exceed $10,000; additional authority justification will cover the following items:

(a) Detailed breakdown of proposed expenditures.

(b) Time required for collection of data.

(c) Scope of report and time required for preparation.

(d) Statement of value and need for collection of data for formal report. In preparing this statement consideration will be given to:

(1) Extent and reliability of existing data.

(2) Alternative availability of other authority and funds for authorized surveys and studies including any authorized under Section 206 of the Flood Control Act of 1960 (PL 86-645).

(3) Unusual flood characteristics, and usefulness of new data for flood analysis in connection with survey reports not funded or else likely to be authorized, or for other specific purposes.

(4) Usefulness of formal report summarizing disaster emergency. In the event a detailed report on the emergency would have little historical value, consideration will be given to collecting only basic data for reference use.

§ 203.7280 Recovery phase report.

Special operations of large magnitude PL 84-99 and PL 93-288 usually involve post-disaster recovery activities. Disaster recovery reports to HQDA (DAEN-CWO-E) WASH DC 20314 will be in the format shown as Attachment 1 to Appendix G when requested. The frequency of reporting will be specified by DAEN-CWO-E. They will replace SITREP upon discontinuance of the disaster fight. While these speical reports are required only on request, they may be submitted at any time it appears appropriate to do so.

§ 203.7281 Information for FDAA regional offices.

Districts will be prepared to furnish a requesting FDAA Regional Office with facts on funds, materials, services and other assistance provided in response to each Presidential major disaster declaration. Information requested may include description of work and services under each applicable authority, and costs, assembled for each state involved by Congressional District, localities and/or county.

§ 203.7290 Quarterly summary reports.

Performance reports are required quarterly to provide timely information on the progress being made within each category of emergency activities under Pub. L. 84-99. This report will be prepared as of the final day of the quarter and submitted in single copy without transmittal letter to reach HQDA (DAEN-CWO-E) WASH DC 20314 not later than 15 days after the end of the report period (except 22 days for the period ending 30 September). Further details and instructions in preparation of the report are contained in ER 11-2-320.

Subpart 8—Public Affairs

§ 203.8100 Public affairs policy.

The Chief of Engineers' public affairs policy for floods, hurricanes, earthquakes, and other natural disasters and emergencies is to provide the press, radio, television, and other media with every reasonable access and assistance in the gathering and transmission of news dispatches, articles, still photographs, motion picture film, and pertinent communications.

§ 203.8110 Corps activity information.

Information on a disaster assistance activity by the Corps will be furnished the news media in advance of the start of operations whenever possible. Full explanation will be made of the Corps role in supporting rescue, clean-up, or reconstruction work either under the provisions of Pub. L. 84-99 or as an agent for the FDAA. The public information program for FDAA projects will emphasize and reflect the Presidential direction of the Federal disaster assistance program. Initiative should be taken to assure that the public, and the press and other news media, are fully and accurately informed on disasters and other emergencies and on Corps activities in conjunction with them.

§ 203.8120 Coordination.

Close coordination of public affairs effort should be established and maintained between the districts, divisions, Chief of Engineers, and the respective Federal, State, local, and other agencies concerned with the activity. The public should be assured that the Corps of Engineers is taking all possible actions within its authority to protect the safety and welfare of the public.

§ 203.8200 Public affairs plan.

§ 203.8210 Staffing.

The emergency demand from the news media for information during disaster operations may make it necessary for the regular public affairs staff to be augmented with other personnel who should be thoroughly briefed in the rudiments of press relations. These persons can render valuable assistance in the Public Affairs Office (PAO) during the disaster operation, and may be formed into an Emergency Public Affairs Unit. Once it has been determined to alert the staff for disaster assistance and rehabilitation operations, appropriate augmentation of the Public Affairs Office will be effected at the discretion of the District Engineer.

§ 203.8220 Guidance from Chief, Public Affairs Office, OCE.

The primary responsibility for throughly informing the public, locally and nationally, as to Corps of Engineers activities and accomplishments in disaster operations lies at the district level, to be carried out in coordination with and the assistance of the division and OCE. The guidance and assistance of the Chief, PAO, at both division and OCE should be enlisted immediately upon occurrence or threat of disaster.

§ 203.8230 Liaison with Control Center.

The Emergency Public Affairs Unit will maintain close contact with the Emergency Operations Center in serving the news media and in guiding their contacts with field units. Regular hours should be established for press conferences, taking into account both the availability of new newsworthy information, media deadlines, and a fair break between morning and afternoon news media. For press briefings, a large map of the disaster area should be set up and clearly marked for accurate identification of the locale of newsworthy situations and activities. The map should be located in a room or area sufficiently removed from the Emergency Operations Center so that the press representatives will not interfere with operations. Certain telephones, not in the Emergency Operations Center, should be

designated for use by the press. The location of telephone pay stations should be made known to the press representatives.

§ 203.8240 Pictorial work.

All Corps disaster pictorial work, still or motion pictures, whether accomplished by Engineer or other appropriate Army agency cameramen, will be under the direction and control of the Public Affairs Office. Adequate pictorial coverage, including remote tape TV, will be sought.

§ 203.8250 Area engineers.

The field area engineers and others who are authorized to release statements to the news media, should confine the release of information to matters within their specific jurisdiction. Requests from the news media to the field area engineer for statements concerning disaster operations beyond their jurisdiction should be referred to the Emergency Operations Center.

§ 203.8260 News media.

The news media will be utilized to the utmost to explain to the public the responsibilities of the various agencies involved in disaster assistance.

§ 203.8270 FDAA.

The release of public information concerning disaster activities being performed under Pub. L. 93–288 will be coordinated with the FDAA Regional Director, or the Federal Coordinating Officer.

§ 203.8280 Reports.

The District Public Affairs Office will be primarily responsible for preparing appropriate interim and final reports to be forwarded to the Division Engineer and the Chief of Engineers. Final report may be included in the overall after-action report on the emergency.

§ 203.8290 Plan details.

General guidance on public affairs responsibilities to be included in the Public Affairs Plan follows.

§ 203.8291 Emergency Public Affairs Unit (EPAU).

To effectively meet the requirements of major floods, hurricanes, earthquakes, and other emergencies, wherein normal public affairs facilities are inadequate, an Emergency Public Affairs Unit (EPAU) may be organized by specific assignment of designated personnel from the district staff. They will be trained and maintained on a standby basis and subject to immediate call in an emergency. The unit will work under the direction of the Public Affairs Officer to provide comprehensive service on an around-the-clock basis, or other schedule as determined by the District Engineer. The basic responsibility for handling press relations will remain with the Public Affairs Officer.

§ 203.82911 Duties.

The EPAU duties will include obtaining and making available to the news media all newsworthy information, including, as may be appropriate, photographs and motion picture footage.

§ 203.82912 Assistance.

The EPAU will facilitate the work of the news media in such matters as providing emergency transportation, a place to work, access to communications, and assistance in getting through guard lines. In general, under the direction of the responsible officer in charge of the Corps activities, it will aid in the discharge of all public relations aspects of his mission.

§ 203.8292 Initial media contacts.

As soon as appropriate authority has declared that an emergency exists, all news media will immediately be informed of Corps disaster responsibilities and arrangements will be made to facilitate media coverage of Corps news. Speed in getting information and photographic coverage by the national media is of utmost importance during the early stages of the emergency. Particular attention will be given to national coverage by the press wire services, radio, and television networks, along with the requirements of the local press. Points from which newsmen on the national level are most likely to originate initial coverage will be determined and contacted with dispatch, either directly or through the Office of the Chief of Engineers. Direct contact is authorized, but higher headquarters will be promptly informed of the extent of contact with national media.

§ 203.82921 Media coverage.

Preparations for flood fighting or other emergency action will include providing both key disaster assistance and EPAU personnel with names, addresses, telephone numbers, and deadlines of media personnel who should be contacted for the dissemination of news, or in connection with arrangements for coverage. Where necessary, preparations will include data as to the location of available emergency communications which might be used by the media in the absence of normal commercial communications facilities. Every encouragement will be given to the wire services, television and radio networks, and the newsreels to assign their personnel to cover the Army Engineer Operations Center regularly during the emergency. This arrangement has the advantage of minimizing written releases, and of bringing the news media into direct contact with disaster control officials and up-to-the minute developments as the story unfolds.

§ 203.82922 Questions and answers.

The Public Affairs Officer will prepare for approval by the District Engineer, a set of appropriate questions and answers on the state of the emergency to be disseminated to designated personnel answering queries from the news media.

§ 203.8293 Clippings.

Clippings of news stories and reports on coverage by other media outlets withing the area will be forwarded to HQDA (DAEN–PA) WASH DC 20314 as rapidly as received during and subsequent to a disaster or other emergency action in which the Corps takes part.

§ 203.8294 Project signs.

Project identification signs will be erected in accordance with EM 1130–2–301.

§ 203.8295 Photographic coverage.

Immediate photographic coverage, including such stills and motion picture footage suitable for TV as may be desirable, will be initiated on an expedited basis when the public affairs emergency procedure is activated. Emphasis will be placed on quality pictures, including color when conditions permit, that report the news story with Corps participation (such as Corps personnel and equipment or contractors making rescues from flooded homes or wreckage, clearing debris, sandbagging levees, etc.). These pictures should be made available immediately to the nearest press service offices. When it is necessary to meet deadlines, rush the exposed film by special courier to these news centers and let their personnel handle developing and printing. In all instances send complete captions with this undeveloped film. Additionally, consideration will be given toward filming the emergency activity for possible subsequent production of a documentary film such as "Response to Disaster" which covers the clean-up and reconstruction work carried out by the Corps of Engineers and other Federal agencies following the 1964 Good Friday earthquate in Alaska.

§ 203.8296 Coordination.

§ 203.92961 Within the district organization.

Extreme care must be exercised at all times to insure that communications between the field and the Emergency Operations Center, and within the various elements of the district office, are adequate to permit the prompt recognition, evaluation, and distribution of all newsworthy activities. Telephone and radio communications will normally be utilized. Special messengers and other appropriate means of communications should be utilized when determined necessary.

§ 203.82962 Between the district and higher authority.

The division, district, and OCE Public Affairs Officers will establish immediate telephone communication when a disaster occurs, or is in prospect, and maintain close telephone liaison in handling news until the emergency has passed. Every effort wll be made to coordinate transmission of information for news media wth regular or special operations reports. Close coordination between elements in the Emergency Operations Center can result in minimum duplication of effort, maximum integration of pertinent data, and presentation of the disaster story to higher headquarters with the least possible confusion.

§ 203.82963 Follow-up.

District procedures will embrace measures for compiling newsworthy follow-up

information to be distributed to all interested media. The purpose is to present comprehensive accounts of the action taken during the emergency for subsequent publication, should the situation merit. Such articles or material may be distributed directly by the District PAO to the national news media, in coordination with PAO-OCE, as the situation requires. Summary analyses of the effort, including results, failures, and suggestions for improvement of procedures, will be forwarded through the division to HQDA (DAEN-PA) WASH DC 20314, immediately upon conclusion of the organized Corps emergency action.

§ 203.82964 Collateral activity.

When a disaster has occurred in an adjoining district, the Public Affairs Officer will be on the alert for opportunities to issue collateral news connected with the emergency, in coordination with the district primarily affected. Information and photographs of the areas which would have been damaged without the protection of existing Corps flood control or Federally authorized coastal protective facilities should be provided to the appropriate media, either directly or through channels, on a timely basis. When a district is requested to provide aid in emergency rescue work, evacuation, rehabilitation, etc., to another district, or is alerted on a standby basis, a decision will be obtained from the Division Engineer as to appropriate publicity. Care will be exercised to insure that the existing emergency is not magnified out of proportion by over emphasis of the assistance that has been requested.

Subpart 9—Preservation of Order

§ 203.9100 Preservation of order policy.

The Corps of Engineers preservation of order policy in areas of flood, hurricane, earthquake, and other natural disaster and emergency is to depend upon duly constituted authority for the control of personnel circulation and vehicular traffic and the maintenance of discipline, law and order.

§ 203.9200 Preservation of order program.

§ 203.9210 Plans.

The emergency requirement for timely deployment or employment of Army resources in a disaster area dictates the formulation of plans at all levels to guarantee unimpeded access to and operation in affected areas.

§ 203.9220 Staffing.

The current Corps of Engineers Provost Marshal organization at OCE, divisions, and districts will normally be adequate to execute required actions in a distressed area.

§ 203.9230 Operations.

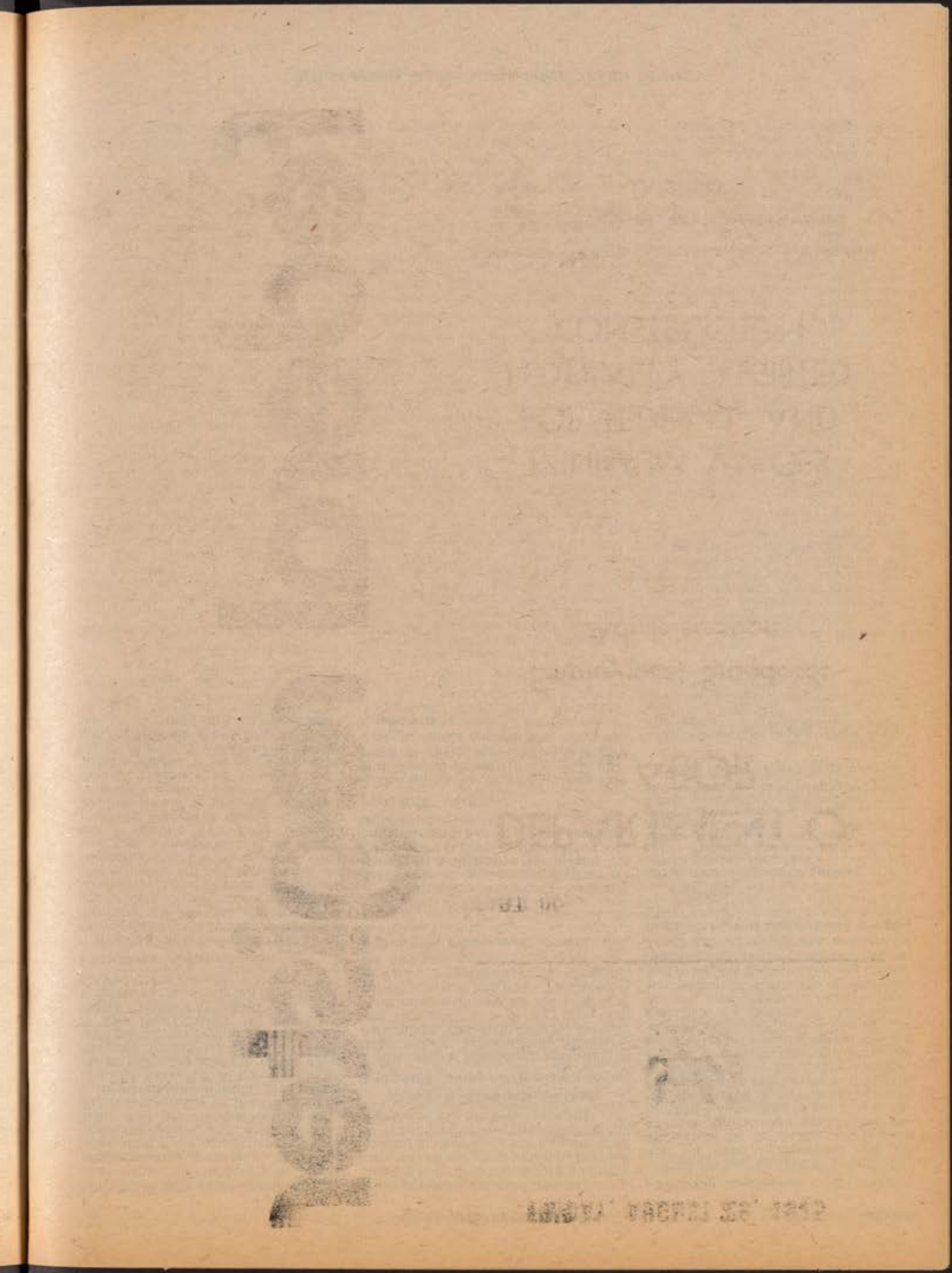
Upon request, the District Security Officer will enter the distressed area. He will act as the coordinator between the emergency area engineer and law enforcement authorities in the area to assure the security of government property and unimpeded functioning of the Corps of Engineers task force. The Engineer Division Provost Marshal will act as the coordinator between the district and law enforcement authorities in the area to guarantee the security of Government property and unimpeded deployment or employment of the Corps of Engineers task force. The Engineer Division Provost Marshal will render assistance as required and act as the link between the Engineer Provost Marshal and the task force.

8 Appendixes [1]

APP A—Federal Agency Boundaries
APP B—Related Public Laws
APP C—Functions and Agreements
APP D—Interdivisional Assistance
APP E—Rehabilitation
APP F—Procurement and Supply
APP G—Emergency Communications
APP H—Funding and Accounting References

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[1] Appendices filed as part of the original document.



federal register

FRIDAY, AUGUST 29, 1975



PART IV:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions, Modifications, and Supersedeas Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Pre-determination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL75–1027	Feb. 25, 1975.
AL75–1063	June 20, 1975.
California:	
CA75–5085; CA75–5086	July 25, 1975.
Illinois:	
IL75–5079	July 11, 1975.
Indiana:	
IL75–5079	Do.
Michigan:	
IL75–5079	Do.
Minnesota:	
IL75–5079	Do.
New Jersey:	
NJ75–3050	Do.
New York:	
IL75–5079	Do.
Ohio:	
IL75–5079	Do.
Pennsylvania:	
IL75–5079	Do.
Virginia:	
MD75–3062	June 20, 1975.
Washington, D.C.:	
DC75–3061	Do.
Wisconsin:	
IL75–5079	July 11, 1975.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois:	
AR–3069 (IL75–2106); AR–3072 (IL75–2107)	Aug. 9, 1975.
Michigan:	
MI75–2101 (MI75–2108)	Aug. 15, 1975.
North Dakota:	
AR–1053 (ND75–5109)	Dec. 6, 1974.
ND75–5058 (ND75–5110)	May 23, 1975.
Pennsylvania:	
AQ–2006 (PA75–3087)	July 12, 1974.

Signed at Washington, D.C., this 22d day of August 1975.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #AL75-1027 - Mod. #3 (40 Fr 8701 - February 25, 1975) Lawrence, Limestone & Morgan Counties, Alabama					
CHANGE:					
Bricklayers:					
Bricklayers, marble masons, stone masons, pointers, cleaners & caulkers	$ 8.80				
Cement masons	8.05				
Plasterers & troweling machine op.	8.30				
Terrazzo workers & tile setters	8.55				
Electricians:					
Electricians, linemen	8.35	.40	1%		1%
Cable splicers	8.60	.40	1%		1%
DECISION #AL75-1063 - Mod. #2 (40 FR 26188 - June 20, 1975) Madison County, Alabama					
CHANGE:					
Electricians; Linemen	$ 8.35	.40	1%		1%

DECISION #CA75-5085 - Mod. #1 (40 FR 31457 - July 25, 1975) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, Eldorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Plumas, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Asbestos Workers	$12.15	.90	.87	1.07	.06
Bricklayers; Stonemasons: Alameda, Contra Costa, San Benito and Santa Clara Cos.	11.15	.95	.95		.20
Carpenters:					
Carpenters	10.70	.72	1.23	.75	.04
Hardwood Floorlayers; Power Saw Operator; Saw Filers; Shinglers; Steel scaffold erectors and/or steel shoring erectors	10.85	.72	1.23	.75	.04
Millwrights	11.20	.72	1.23	.75	.04
Electricians:					
San Benito, Santa Clara and Santa Cruz Counties					
Electricians; Technicians	11.60	.62	1%+.60		.05
Cable Splicers	13.05	.62	1%+.60		.05
Amador, Colusa, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, Eldorado, Nevada, Placer and Sierra Counties West of the Main Sierra Mountain Watershed					
Electricians; Technicians	10.94	.60	1%+.65		.045
Cable Splicers	12.03	.60	1%+.65		.045
Tunnel:					
Electricians	11.07	.60	1%+.65		.045
Cable Splicers	12.18	.60	1%+.65		.045

DECISION NO. CA75-5085 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Electricians (Cont'd):					
Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties					
Electricians; Technicians	$10.57	.75	1½+.505		.02
Cable Splicers	11.63	.75	1½+.505		.02
Ironworkers:					
Fence Erectors	9.34	.93	1.65	1.10	.03
Ornamental, Reinforcing, Structural	10.23	.93	1.65	1.10	.03
Lathers:					
Fresno, Kings, Madera and Tulare Counties	10.33	.35	.45		
San Francisco and N½ of San Mateo County	10.98	.46	.65	1.00	.01
Painters:					
Alpine, Amador, Calaveras and San Joaquin Counties					
Brush	8.72	.70	1.45	1.00	
Spray; Sheetrock tapers; Swing stage; Scaffold; Sandblaster; Structural Steel	9.12	.70	1.45	1.00	
Plasterers:					
Alameda and Contra Costa Cos.	10.10	.745	1.05		.03
Monterey County	10.60	.71	.35		.01
Mariposa, Merced, Stanislaus, and Tuolumne Counties	8.50	.70	1.25	1.00	
Plasterers' Tenders:					
Monterey County	8.40	.80	1.40		
Plumbers; Steamfitters:					
San Benito and Santa Clara Cos.	13.03	.82	1.65		.14
Plumbers:					
Alameda County	13.10	.83	1.55		.12
Roofers:					
Alameda and Contra Costa Cos.					
Roofers	10.19	.92	1.10	.60	.04
Mastic Workers; Kettleman (2 Kettles w/o pumps)	10.44	.92	1.10	.60	.04
Bitumastic; Enamelers; Pipewrappers; Coal tar built up	11.19	.92	1.10	.60	.04
San Francisco and San Mateo Counties					
Roofers	10.23	.50	1.10	.95	.04
Mastic Workers and Kettlemen (2 Kettles w/o pumps)	10.48	.50	1.10	.95	.04

DECISION NO. CA75-5085 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Roofers (Cont'd):					
Bitumastic; Enamelers; Pipewrappers; Coal tar	$11.23	.50	1.10	.95	.04
Lake, Marin, Mendocino, Napa, Solano and Sonoma Counties					
Roofers	9.63	.65	1.10	1.43	.04
Mastic Workers; Kettlemen (2 kettles w/o pumps)	9.88	.65	1.10	1.43	.04
Bitumastic; Enamelers; Pipewrappers; Coal tar pitch	10.63	.65	1.10	1.43	.04
Sheet Metal Workers:					
Alameda, Contra Costa, Lake, Napa, Marin, Mendocino, Solano and Sonoma Counties	10.84	.60	1.60	12%	.04
Tile Setters:					
Monterey and Santa Cruz Cos.	9.72	.845	.73	.87	
Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Siskiyou, Solano, Sonoma and Trinity Counties	9.70	.70	.90	.90	.025

DECISION #CA75-5086 - Mod. #1
(40 FR 31474 - July 25, 1975)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, Eldorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Change:					
Asbestos Workers	$12.15	.90	.87	1.07	.06
Bricklayers; Stonemasons:					
Alameda, Contra Costa, San Benito and Santa Clara Cos.	11.15	.95	.95		.20
Carpenters:					
Carpenters	10.70	.72	1.23	.75	.04
Hardwood Floorlayers; Power Saw Operator; Sawfilers; Shinglers; Steel Scaffold Erectors and/or Steel shoring Erectors	10.85	.72	1.23	.75	.04
Millwrights	11.20	.72	1.23	.75	.04
Electricians:					
San Benito, Santa Clara and Santa Cruz Counties					
Electricians; Technicians	11.60	.62	1%+.60		.05
Cable Splicers	13.05	.62	1%+.60		.05
Amador, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, Eldorado, Nevada and Placer Counties West of the Main Sierra Mountain Watershed					
Electricians; Technicians	10.94	.60	1%+.65		.045
Cable Splicers	12.03	.60	1%+.65		.045
Shasta and Tehama Counties (4 Stories)					
Electricians; Technicians	10.57	.75	1%+.505		.02
Cable Splicers	11.63	.75	1%+.505		.02

DECISION NO. CA75-5086 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Ironworkers:					
Fence Erectors	$9.34	.93	1.65	1.10	.03
Ornamental, Reinforcing, Structural	10.23	.93	1.65	1.10	.03
Painters:					
Alpine, Amador, Calaveras, and San Joaquin Counties					
Brush Spray; Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structural Steel	8.72	.70	1.45	1.00	
	9.12	.70	1.45	1.00	
Plasterers:					
Alameda and Contra Costa Cos.	10.10	.745	1.05	.70	.03
Monterey County	10.60	.71	.35		.01
Mariposa, Merced and Tuolumne Counties	8.50	.70	1.25	1.00	
Plasterers' Tenders:					
Monterey County	8.40	.80	1.40		
Plumbers; Steamfitters:					
San Benito and Santa Clara Counties	13.03	.82	1.65		.14
Plumbers:					
Alameda County	13.10	.83	1.55		.12
Roofers:					
Alameda and Contra Costa Cos.					
Roofers	10.19	.92	1.10	.60	.04
Mastic Workers; Kettlemen (2 Kettles w/o pumps)	10.44	.92	1.10	.60	.04
Bitumastic; Enamelers; Pipe-wrappers; Coal tar built up	11.19	.92	1.10	.60	.04
San Francisco and San Mateo Counties					
Roofers	10.23	.50	1.10	.95	.04
Mastic Workers and Kettlemen (2 kettles w/o pumps)	10.48	.50	1.10	.95	.04
Bitumastic; Enamelers; Pipe-wrappers; Coal tar	11.23	.50	1.10	.95	.04
Marin, Napa, Solano and Sonoma Counties					
Roofers	9.63	.65	1.10	1.43	.04

DECISION NO. CA75-5086 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Roofers (Cont'd):					
Mastic Workers; Kettlemen (2 kettles w/o pumps)	$9.88	.65	1.10	1.43	.04
Bitumastic; Enamelers; Pipe-wrappers; Coal tar pitch	10.63	.65	1.10	1.43	.04
Sheet Metal Workers: Alameda, Contra Costa, Marin, Napa, Solano and Sonoma Cos.	10.84	.60	1.60	12%	.04
Tile Setters: Monterey and Santa Cruz Cos.	9.72	.845	.73	.87	
Alameda, Contra Costa, Del Norte, Humboldt, Marin, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	9.70	.70	.90	.90	.025

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION NO. IL75-5079 - Mod. #2 (40 FR 29490 - July 11, 1975 Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin					
Change:					
Dipper and Hydraulic Dredging:					
Chief engineer	$ 11.50	.35	.35	a	
Operators	11.40	.35	.35	a	
Assistant engineer	11.00	.35	.35	a	
Welder	10.90	.35	.35	a	
Cranemen - Dipper Dredging	10.90	.35	.35	a	
Spill barge operator - hydraulic dredging	10.90	.35	.35	a	

Footnote:

a. 8 paid holidays: A through F plus Washington's Birthday and Veterans' Day; 6-1/2 days vacation with pay for 104 days of service, one additional day of vacation with pay for each of the next 3 periods of 26 days of service, and for 208 days or over of service 13 days of vacation with pay, all in calendar year. Employees not qualifying for vacation, as set forth above, are to receive one day's vacation with pay for each full 24 days of service in one calendar year.

DECISION NO. NJ75-3050 - Mod. #1
(40 FR 29501 - July 11, 1975)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Watren Counties, New Jersey
Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Bricklayers, Stone Masons, Cement Masons & Plasterers:					
Zone 1	$10.35	.60	.70		
Zone 3	9.80	.84	.65		.02
Zone 4					
Bricklayers and Stonemasons	10.50	.87	.75		
Zone 5	10.20	.45	.45		
Zone 6	10.15	.50	.50		.02
Zone 7	10.30	.50	.50		.01
Zone 8	10.19	.45	.45		.01
Drywall Tapers and Finishers	10.25	.50	.50		.10
Electricians and Cable Splicers:					
Zone 1	10.80	6%	8%	10%	1/4 of 1%
Zone 3	11.65	4%	1%+.42		.02
Zone 4	11.60	4%	1%+.50		
Zone 6	11.00	4%	6%	10%	
Zone 7	11.29	4%	1%+.50		
Zone 8	11.95	4%	1%+.42		.02
Zone 9	11.95	4%	1%+.50		
Zone 10	11.95	4%	1%+.50		.02
Zone 11	11.91	4%	1%+.50		.02
Zone 12	11.99	4%	1%+.42		.02
Zone 13	11.78	4% + i	3.75%		.02
Zone 14	10.80	4%	1%+.25		1/4 of 1%
Zone 15	10.80	4%	1%+.50		
Glaziers:					
Zone 3	10.80	.70	.65		.05
Laborers, Building Construction:					
Zone 2	6.80	.90	.60		
Zone 10	7.40	.45	.45		
Zone 12	7.30	.50	.50		
Line Construction:					
Zone 1	10.80	6%	8%	10%	1/2 of 1%
Zone 2					
Linemen and Equipment Ops.	11.00	4%	6%	10%	1/2 of 1%
Cable Splicers	11.95	4%	6%	10%	1/2 of 1%
Groundmen	7.70	4%	6%	10%	1/2 of 1%
Zone 3	11.23	3%	6%+.58		1/2 of 1%
Zone 4	11.60	4%	4%		1/2 of 1%
Zone 5	11.65	4%	1%+.42		1/2 of 1%
Zone 6	11.60	4%	1%+.50		1/2 of 1%

DECISION NO. NJ75-3050 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Zone 7					
Linemen and Equipment Ops.	$10.81	4%	1%+.50		1/2 of 1%
Groundmen and Line Truck Ops.	9.26	4%	1%+.50		1/2 of 1%
Zone 8					
Linemen and Equipment Ops.	11.95	4%	1%+.42		1/2 of 1%
Groundmen and Winch Operators	10.09	4%	1%+.42		1/2 of 1%
Zone 9					
Linemen and Equipment Ops.	11.95	4%	1%+.50		1/2 of 1%
Groundmen and Line Track Ops.	10.09	4%	1%+.50		1/2 of 1%
Zone 10					
Linemen and Equipment Ops.	11.91	4%	1%+.50		1/2 of 1%
Groundmen and Winch Operators	11.06	4%	1%+.50		1/2 of 1%
Zone 11					
Linemen and Equipment Ops.	11.78	4%+i	3.75%		1/2 of 1%
Groundmen and Winch Operators	10.93	4%+i	3.75%		1/2 of 1%
Zone 12					
Linemen and Equipment Ops.	11.99	4%	1%+.42		1/2 of 1%
Groundmen and Winch Operators	11.14	4%	1%+.42		1/2 of 1%
Zone 13					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	10.80	4%	1%+.25		1/2 of 1%
Groundmen	6.47	4%	1%+.25		1/2 of 1%
Zone 14					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	10.80	4%	1%+.50		1/2 of 1%
Groundmen	6.47	4%	1%+.50		1/2 of 1%
Marble Setters, Terrazzo Workers and Tile Setters:					
Zone 1	10.19	.45	.45		.01
Zone 2					
Tile Setters	8.40	.75	1.95		
Marble Setters, Terrazzo Workers and Tile Setters Helpers:					
Zone 2					
Tile Setters Helpers	8.45	6%	7%		
Painters:					
Zone 4					
Painters on New Construction and Major Alterations	8.90	.55	.50	.15	.05

DECISION NO. NJ75-3050 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Painters on Repaint Work	$ 8.50	.55	.50	.15	.05
Spraying or application of hazardous or dangerous materials on Repaint work	9.10	.55	.50	.15	.05
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	9.05	.55	.50	.15	.05
Repaint work described above	8.65	.55	.50	.15	.05
On Bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steam cleaning, spraying or application of hazardous materials	9.50	.55	.50	.15	.05
Plumbers:					
Zone 4	9.86	.60	.90	.85	.11
Plumbers and Gasfitters	10.825	.60	.90		.05
Plumbers and Pipefitters:					
Zone 1	9.83	.60	.90	10%	.05
Zone 2	11.50		.70		.08
Plumbers and Steamfitters:					
Zone 1					
Plumbers	9.865	.60	.90	1.00	
Steamfitters	10.21	.505	.90	1.00	
Zone 2	9.97	.60	.90	.75	.10
Zone 5	9.72	.60	.90	1.00	.15
Zone 7	10.72	.60	.90		.15
Sheet Metal Workers:					
Middlesex County	9.82	6%	4%+.45	8%	.02
Essex and Passaic Counties	10.53	4%+.09	4%+.055	8%	.03

DECISION NO. NJ75-3050 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Morris Somerset, Sussex and Union Counties	$9.70	.56	.61	.54	.02
Warren County	10.00	.86	.50		
Soft Floor Layers	9.83	6%	5%+.50		
Sprinkler Fitters:					
Zone 1	11.03	.50	.80		.07
Truck Drivers:					
Zone 1					
Group 1	7.27	.68	.75	3+%	
Group 2	7.50	.68	.75	3+%	
Group 3	9.55	.68	.75	3+%	
Group 4	7.65	.68	.75	3+%	
Group 5	7.75	.68	.75	3+%	
Zone 2					
Group 1	7.27	L	.81	3+%	
Group 2	7.50	L	.81	3+%	
Group 3	7.55	L	.81	3+%	
Group 4	7.65	L	.81	3+%	
Group 5	7.75	L	.81	3+%	

FOOTNOTES:
L. Employer contribution of $83.00 per month per employee to Health and Welfare Funds

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
DECISION #MD-75-3062 - Mod. #4 (40 FR 26203 - June 20, 1975) Montgomery and Prince Georges Counties, Maryland, Arlington and Fairfax Counties, the City of Alexandria and Dulles International Airport, Virginia					
Change:					
Stone Masons	$10.55	.45	.30	.25	.05
Marble Setters	10.55	.45	.30	.25	.05
DECISION #DC-75-3061 - Mod. #4 (40 FR 26242 - June 20, 1975) Washington, D. C.					
Change:					
Stone Masons	$10.55	.45	.30	.25	.05
Marble Setters	10.55	.45	.30	.25	.05

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Peoria and Tazewell
DECISION NUMBER: IL75-2106 DATE: Date of Publication
Supersedes Decision No. AR-3069 dated August 9, 1974, in 39 FR 28813
DESCRIPTION OF WORK: Building (Including Residential) and Dredging Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.36	.58	.67		.05
BOILERMAKERS	8.55	.40	.65		.01
BRICKLAYERS AND STONEMASONS	9.52	.45	.55		.10
CARPENTERS:					
Residential					
Peoria County:					
Chillicothe & Vicinity	9.53	.45	.35		.03
Remainder of County	9.36	.40	.40		.05
Tazewell County:					
E. Peoria, Washington & Vicinity	9.36	.40	.40		.05
Remainder of County	9.26	.35	.25		.05
Commercial					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen & Soft Floor Layers	9.93	.45	.35		.03
Millwrights	10.18	.45	.35		.03
Remainder of County:					
Carpenters & Soft Floor Layers	9.36	.40	.40		.05
Millwrights & Piledrivermen	9.86	.40	.40		.05
Tazewell County:					
E. Peoria, Washington & Vicinity:					
Carpenters & Soft Floor Layers	9.36	.40	.40		.05
Millwrights & Piledrivermen	9.86	.40	.40		.05
Remainder of County:					
Carpenters & Soft Floor Layers	9.26	.35	.25		.05
Millwrights & Piledrivermen	9.76	.35	.25		.05
CEMENT MASONS	9.40	.40	.40		.05
ELECTRICIANS	9.67	.40	11%+.60		1%
ELEVATOR CONSTRUCTORS:					
Constructors	8.63	.445	.29	3%+a&b	.02
Helpers	70%JR	.445	.29	3%+a&b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	8.585	.40	.30		.005
IRONWORKERS	9.925	.40	.475		
LATHERS	9.37	.40	.40		.01
LEADBURNERS	9.25	.35		c	.01
MARBLE-TILE & TERRAZZO WORKERS	8.70	.45	.40		.02
MARBLE & TILE HELPERS	8.00	.45			
TERRAZZO HELPERS:					
Terrazzo Helpers & Floor Machine Operator	8.08	.45			
Base Machine Operator	8.33	.45			
					1

DECISION NO. IL75-2106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush	$8.80	.45	.30		.03
Structural Steel & Spray	9.30	.45	.30		.03
PLASTERERS	9.40	.45	.50		.01
PLUMBERS & STEAMFITTERS:					
Peoria County & North of Highway #98 in Tazewell County	8.925	.24	.60		.09
Remainder of Tazewell County	8.905	.24	.60		.09
ROOFERS	9.00	.30	.45		
SHEET METAL WORKERS	9.12	.50	.55		.05
SPRINKLER FITTERS	10.55	.50	.80		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six Paid Holidays; A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday and Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. IL75-2106

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$8.40	.40	.35		.035
CLASS 2	8.525	.40	.35		.035
CLASS 3	8.65	.40	.35		.035
CLASS 4	8.575	.40	.35		.035
CLASS 5	8.775	.40	.35		.035
CLASS 6	8.525	.40	.35		.035
CLASS 7	8.65	.40	.35		.035

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)

CLASS 1
Bricklayer Tenders, Common Laborers, Carpenter Tenders, Cement Mason Tenders, Concrete Form Dismantler, Stone & Tile Derrickmen, Tool Crib Men, Window Washers, Wrecking & Dismantling Old Buildings, Wall Men & House Movers, Curing Concrete.

CLASS 2
Cement Men & Sack Shakers, Concrete Saw, Drill Operator, Jackhammer, Kettlemen & Carriers, Men Handling Hot Stuff, Signalling & Spotting of Buckets on Rig or Rig Men Paving Breaker, Plasterers Tenders, Air Tamper, Chain Saw.

CLASS 3
Gunnite Pump Men, Sandblasting Pump Men, Tile Layers or Lateral Sewer, Unloading & Handling of Creosote Materials.

CLASS 4
Power Wheel Barrow or Buggies.

CLASS 5
Cutting & Acetylene Torch, Gunnite Nozzle Men, Sandblasting Nozzle Men, Wood Block Setters.

CLASS 6
Concrete Form Dismantler in Composite Crew with Carpenters, Compactor Rammer Type, Setting up and using Laser Beam Equipment.

CLASS 7
Setting up & using Concrete Burning Bars, Underpinning & Shoring of Existing Buildings.

DECISION NO. IL75-2106

LABORERS: REMAINDER OF TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS 1	$ 7.05	.30	.25		.035
CLASS 2	7.30	.30	.25		.035
CLASS 3	7.425	.30	.25		.035
CLASS 4	7.175	.30	.25		.035
CLASS 5	7.225	.30	.25		.035
CLASS 6	7.45	.30	.25		.035

CLASS 1 Common Laborer or Water Carrier, Top Caisson Men, Plaster Tender, Mortar Mixer, Bricklayer Tender, Non Wrecking & Dismantling all Building, House Movers, All Work pertaining to Pouring of Concrete, Concrete Form Dismantlers, Stone & Tile Setters Helpers, Landscaping, on all Commercial Jobs, Cement Car Men, Sack Shaker, Handling Material for Asbestos Work, Firing Low Press Boiler, Surveyor Helpers, Cement Mason Tenders, Truck Driver Helpers (Min. 1 Laborer for each Service Truck to Load & Unload Materials for Crafts Laborers Tend

CLASS 2 All vibrator Men, All Men Employed in Tunnel, Caisson Workers, Gunnite Pump Men, Sandblasting Pump Men

CLASS 3 Blasting Powder Men, Drill Operator (Tunnel Caisson) Gunnite Nozzlemen, Tile & Pipelayers, Sandblast Nozzlemen, Concrete Saw

CLASS 4 Drill Operator, Jackhammer Men Open, Kettlemen & Carriers of Hot Stuff, Working in trenches where Bracing is required or 6' Below Ground Level, Signalling & Spotting of Rigs & Equipment, Chipping Hammer (Air or Electric)

CLASS 5 Power Wheel Barrow & Buggies

CLASS 6 Wood Block Setters

DECISION NO. IL75-2106

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 1	$8.92	.45	.55		.05
Group 2	8.72	.45	.55		.05
Group 3	8.445	.45	.55		.05
Group 4	8.17	.45	.55		.05
Group 5	8.06	.45	.55		.05

POWER EQUIPMENT OPERATORS:

Group 1: Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydre cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

Group 2: Trench machine, pumpcrete-belt crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, form-less finishing machine, jeeps w/ditching machine, or other attachments, tune-luger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), (require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D. and similar types

DECISION NO. IL75-2106

POWER EQUIPMENT OPERATORS (Cont'd)

Group 3: Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barber greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

Group 4: Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, and truck type boptoe oilers

Group 5: Herman Nelson heater, Dravo, Warner, Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DREDGING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.92	.45	.55		.05
GROUP 2	8.72	.45	.55		.05
GROUP 3	8.395	.45	.55		.05
GROUP 4	8.37	.45	.55		.05
GROUP 5	8.06	.45	.55		.05

CLASSIFICATIONS:

GROUP 1: Operators on hydraulic dipper or clamshell dredges, Engineers and Repairmen, Operators on Work Boats.
GROUP 2: Power Winches 1-2-3 Drums
GROUP 3: Security Engineer
GROUP 4: Cranemen on dipper dredges, Operators on Launches or Power Boats.
GROUP 5: Fireman & Oilers

DECISION NO. IL75-2106

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$8.85	.50	a14.00		
GROUP II	9.25	.50	a14.00		
GROUP III	9.45	.50	a14.00		

TRUCK DRIVERS

GROUP I:
Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II:
2 or 3 exle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III:
2-3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers.

FOOTNOTES:
a.-Per Week Per Employee.

SUPERSEDEAS DECISION

STATE: Illinois
COUNTY: Sangamon
DECISION NUMBER: IL75-2107
DATE: Date of Publication
Supersedes Decision No. AR-3072 dated August 9, 1974, in 39 FR 28822
DESCRIPTION OF WORK: Building (Including Residential), Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$10.48	.45	.62		
BOILERMAKERS	9.15	.60	1.00		.01
BRICKLAYERS:					
Bricklayers; Stonemasons, Marble-Tile-Terrazzo Workers; Pointers; Caulkers & Cleaners	8.90	.40	.50		.02
CARPENTERS:					
Residential					
Housing - 1 & 2 Family Dwellings	6.80	.45	.45		.06
Apartments	7.55	.45	.45		.06
Building					
Carpenters & Soft Floor Layers	9.20	.45	.45		.06
Millwrights & Piledrivermen	9.70	.45	.45		.06
CEMENT MASONS	7.63	.30	.35		.02
ELECTRICIANS	9.67	.40	1%+.30		.2%
ELEVATOR CONSTRUCTORS:					
Constructors	8.535	.45	.29	3%+a&b	.02
Helpers	70%JR	.45	.29	3%+a&b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	7.55	.25	.15		
IRONWORKERS	9.50	.55	.70		.05
LATHERS	8.40				
LEADBURNERS	9.25	.35		c	.01
PAINTERS:					
Brush & Roller	7.95				
Spray	8.45				
PLASTERERS	7.80	.30	.30		.01
PLUMBERS & STEAMFITTERS	9.91	.35	.55		.07
ROOFERS:					
Composition	10.83				
Slate-Tile & Precast Slab	11.08				
SHEET METAL WORKERS	9.45	.35	.25	.25	.03
SPRINKLER FITTERS	10.55	.50	.70		.08

Welder - receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. IL75-2107

PAID HOLIDAY: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

b. Six paid holidays: A through F.

c. Nine Paid Holidays; A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calender days prior to the Holiday, and the regular schedule work immediately preceding and following the holiday.

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP I	$8.85	.50	a14.00		
GROUP II	9.25	.50	a14.00		
GROUP III	9.45	.50	a14.00		

TRUCK DRIVERS

GROUP I:
Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II:
2 or 3 exle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III:
2-3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers.

FOOTNOTES:
a.-Per Week Per Employee.

DECISION NO. IL75-2107

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
UNSKILLED	$8.10	.35	.35		.035
SEMI-SKILLED	8.30	.35	.35		.035
SKILLED	8.45	.35	.35		.035

LABORERS:

UNSKILLED All Sewer Workers plus Depth Pay; Asphalt Plant Laborers; Bankmen on Floating Plant; Batch Dumpers; Carpenter Tenders; Cleaning Lumber; Cofferdam Workers plus depth pay; Deck Hand, Dredge Hand & Shore Laborer; Dispatchers; Driving of Stakes; Stringlines for all machinery; Fencing Laborers; Firemen or Salamander Tenders; Fireproofing Fire Shop Laborers; Flagmen; Form Handlers; Gravel Box Men, Dumpmen & Spotters; Janitors; Laborers w/de-watering systems; Landscapers; Laying of Sod; Material Checkers; Material Handlers; Pit Men; Plastic Installers; Planting of Trees; Removal of Trees; Rip-Rap Men; Rod & Chainmen; Scaffold Workers; Tool Cribmen; Track Laborers; Unloading Explosives; Unloading & Carrying Lath; Unloading & Carrying of Re-Bars; Wrecking, Dismantling Buildings; Wallmen & Housemovers; Wrecking Laborers; Writer of Scale Tickets

SEMI-SKILLED Asphalt Workers with Machine; Asphalt Raker & Layers; Cement Handlers; Cement Silica; Fly Ash; Line & Plasters, Handlers (Bulk or Bag); Chain Saw; Chloride Handlers; Concrete Workers (Wet); Grade Checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle Tar Men; on Concrete Paving, Placing, Cutting & Typing of Reinforcing; Signal Man on Crane; Tank Cleaners; Tunnel Helpers in Free Air

SKILLED Air Tamping Hammerman; Caisson Workers plus depth pay; Concrete Burning Machine Operator; Concrete Saw Operator; Coring Machine Operator; Curb Asphalt Machine Operator; Gunnite Nozzle Men; Jackhammer & Drill Operators; Laborers handling Masterplate or similar materials; Laborers tending Masons with hot material or where foreign materials are used for wet concrete or handling of Building Materials; Multiple Concrete Duct - Leadman; Plasterer Tenders; Ready Mix Scaleman, Portable or Temporary Plant; Screedman on Asphalt Pavers; Steel Form Setters (Street & Highway); Vibrator Operators; Cutters, Burners & Torchmen.

DECISION NO. IL75-2107

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.75	.30	.40		.05
CLASS II	8.775	.30	.40		.05
CLASS III	8.15	.30	.40		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, clam shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders engeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

SUPPLEMENTAL DECISION

STATE: Michigan

COUNTIES: Allegan, Berrien Calhoun, Clinton, Eaton, Ingham, Jackson and Kalamazoo

DECISION NO. MI75-2108

DATE: Date of Publication

Supersedes Decision No: MI75-2101 dated August 15, 1975 in 40 FR 34661

DESCRIPTION OF WORK: Building (excluding single family homes and garden type apartments up to and including four stories) and Heavy (excluding Bridge, Airport and Sewer) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS:					
Berrien County	$ 9.625	.30	.15		
Remaining Counties	9.31	.66	.95		.02
BOILERMAKERS	9.69	.60	1.00	1.00	.01
BRICKLAYERS:					
Allegan County (Casco, Clyde Ganges and Lee Townships) and Berrien County	9.50	.50	.50		
Allegan County (Allegan, Cheshire, Gun Plain, Martin, Otsego, Trowbridge, Valley, and Watson Townships) and Kalamazoo County	9.74	.50	.35		.09
Allegan County (four N.E. Townships)	8.60	.35	.25		.04
Allegan County (remainder)	8.20	.35	.25		
Calhoun County and Bellevue, Carmel, Kalamo, and Walton Townships in Eaton County	9.90	.45	.35		
Clinton and Ingham (except Onondaga, Leslie, Bunker Hill and Stockbridge townships) Counties and the remainder of Eaton County	10.00		.60		.01
Jackson County and remainder of Ingham County	10.52	.45	.50		
CARPENTERS:					
Berrien County (Chikaming, New Buffalo and Three Oaks townships)	9.76	.50	.57		.05
Clinton, Eaton (except Bellevue, Walton, Kalamo and Vermontville townships), Ingham & Jackson Cos.	9.76	.50	.40		.01
Remaining Counties and the remainder of Berrien and Eaton Counties	9.10	.50	.40		.01
CEMENT MASONS:					
Allegan County (North of a line east and west through Pennville and west of the north-south line coinciding with the Kent and Ottawa County Line)	7.40	.35	.25		
Allegan County (Allegan, Cheshire Trowbridge and Valley townships)	8.94	.50	.35		.09
Allegan County (Casco, Clyde, Ganges, and Lee Townships) and Berrien County	8.70	.50	.50		

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CEMENT MASONS (CONT'D)					
Remaining Counties and the remainder of Allegan County	$ 9.13	.40	.25		.02
ELECTRICIANS:					
Allegan County (Laketon, Fillmore, Overisel, Salem, Dorr, and Leighton townships)	9.22	.40	1%+.25		.01
Allegan County (remainder) and Kalamazoo County	10.05	.40	7.5%		.01
Berrien County	9.60	3.8%	5%		.2%
Calhoun County and Sumfield, Vermontville, Kalamo, Bellevue Eaton and Brookfield townships in Eaton County	9.97	.40	7%		.01
Clinton and Ingham (except Onondaga, Leslie, Stockbridge and Bunker Hill townships) Counties and the remainder of Eaton County	11.05	.40	1%+.25		3%
Jackson County and remainder of Ingham County	9.64	.40	1%	10%	
ELEVATOR CONSTRUCTORS:					
Allegan, Kalamazoo, and Calhoun Counties					
Elevator Constructor	9.39	.445	.29	3%+a	.02
Elevator Constructor Helper	6.57	.445	.29	3%+a	.02
Elevator Constructor Helper (Probationary)	4.695				
Berrien County					
Elevator Constructor	9.02	.445	.29	3%+a	.02
Elevator Constructor Helper	6.10	.445	.29	3%+a	.02
Elevator Constructor Helper (Probationary)	4.51				
Clinton County					
Elevator Constructor	9.735	.445	.29	3%+a	.02
Elevator Constructor Helper	6.81	.445	.29	3%+a	.02
Elevator Constructor Helper (Probationary)	4.87				
Eaton, Ingham & Jackson Counties					
Elevator Constructor	10.64	.445	.29	3%+a	.02
Elevator Constructor Helper	7.45	.445	.29	3%+a	.02
Elevator Constructor Helper (Probationary)	5.32				

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
IRONWORKERS:					
Berrien County	$ 9.60	.65	.80		.01
Clinton, Ingham & Jackson Counties					
Structural and Ornamental	9.75	8%	14%	17%	.07
Fence Erectors	8.75	8%	14%	17%	.07
Reinforcing	9.0625	.85	15%	15%	.03
Remaining Counties	9.85	.50	.75		.03
LATHERS:					
All Counties except Berrien	7.85	.54	.10	.50	.01
MARBLE, TILE AND TERRAZZO WORKERS:					
Allegan Co. (North of a line east and west through Pennville west of the north-south line coinciding with the Kent and Ottawa County line)	8.20	.35	.25		
Allegan Co. (4 N.E. townships)	7.35	.25	.25		
Allegan Co. (Gun Plain, Otsego, Martin and Watson townships) and Kalamazoo County	7.70	.35			.05
Clinton, Ingham (except Onondaga, Leslie, Bunker Hill, and Stockbridge townships) and Eaton (except Kalamo, Carmel, Bellevue, and Walton Townships) Counties	9.63		.60		
Jackson County and the remainder of Ingham County	9.80	.45		.50	
PAINTERS:					
Allegan Co. (Northern portion)					
Brush	7.00	.25	.20		.005
Swing stage; Spray; Pressure Roller; Paper hanging, Wall coverings; Pump fed Taping and Finishing machines	7.25	.25	.20		.005
Steamcleaning or Sandblasting	7.50	.25	.20		.005
Steeple Jack or High Work - 50 falling feet	8.50	.25	.20		.005
Allegan Co. (S.E. ½) and Kalamazoo Co.					
Brush; Drywall Taping; Pan Roller	8.65		.20		
Paper and Vinyl Hanger	8.85		.20		
Swing Stage; Structural Steel	9.30		.20		
Steeple Jack	9.50		.20		
Spray	9.55		.20		

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS (CONT'D)					
Berrien County					
Brush	$ 8.11				
Spray or Sandblasting' Drywall Taping	8.86				
Swing Stage	8.61				
Structural Steel	9.11				
Calhoun County					
Brush; Roller	7.55				
Steeple Jack	8.95				
Swing Stage; Spray; Steamcleaning, Sandblasting	8.305				
Clinton, Eaton & Ingham Counties					
Brush and Tapers	9.22	.42	.40		.005
Structural Steel	9.62	.42	.40		.005
Spray	9.97	.42	.40		.005
Jackson County					
Brush and Roller	9.72	.43	.20		.03
Spray and Sandblast	10.47	.43	.20		.03
Drywall Taper	10.12	.43	.20		.03
PLASTERERS					
Allegan County (Casco, Clyde, Ganges and Lee Townships) and Berrien County	8.90	.50	.50		
Remaining Counties and the remainder of Allegan County	8.83	.40	.25		.03
PLUMBERS:					
Allegan County (Northern Tier townships)	10.19	.45	.50		
Allegan County (remainder) and Kalamazoo County	10.55	.53	.77		
Berrien County (except city of Niles and vicinity)	10.60	.45	.50		
City of Niles and Vicinity in Berrien County	9.60	.38	.40		.10
Calhoun County and Bellevue, Olivet, Hastings and Charlotte in Eaton County	10.59	.65	.52		
Clinton and Ingham Counties and Sunfield, Roxand, Onieda, Delta and Windson townships in Eaton County	10.20	.60	.70		
Jackson County	10.05	.97	.60		.02

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ROOFERS:					
Allegan County					
Composition	$ 6.45	.25	.20	.25	
Slate and Tile	6.70	.25	.20	.25	
Berrien County					
Composition	8.50		.30		.03
Slate, Tile and Asbestos	8.65		.30		.03
Calhoun and Kalamazoo Counties					
Composition	7.85				
Slate and Tile	8.10				
Clinton, Eaton and Ingham Cos.	8.10	.25			
SHEET METAL WORKERS:					
Berrien County	9.45	.48	.50		
Remaining Counties	9.46	.68	.73	.51	.02
SOFT FLOOR LAYERS:					
Allegan, Berrien (except Chickaming, New Buffalo and Three Oaks townships), Calhoun, Kalamazoo Counties and Bellevue Vermontville, Kalamo and Walton townships in Eaton County	7.55	.50	.40		.01
Clinton and Ingham Counties and the remainder of Eaton County	8.03	.50	.40	.56	.01
Jackson County	9.76	.50	.40		.01
SPRINKLER FITTERS	9.65	.50	.70		.08
TRUCK DRIVERS:					
Allegan, Berrien and Kalamazoo Counties	5.63	15.00b	14.00b	c	
Calhoun County					
Less than 8 cu. yds.	7.30	15.00b	14.00b	.15	
8 cu. yds. and over; Semi; Tandem	7.40	15.00b	14.00b	.15	
Euclids	7.55	15.00b	14.00b	.15	
Clinton, Eaton and Ingham Cos.					
Truck Driver	6.70	18.00b	12.00b	d	
Truck Drivers on dumps trucks 8 cu. yds. Capacity and over; pole trailers	6.80	18.00b	12.00b	d	
Low boy drivers; Double bottom drivers	6.90	18.00b	12.00b	d	
Jackson County	5.35	18.00b	14.00b	e	
Welders received rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS (Where Applicable)

A-New Years Days; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years; 4% contribution for more than 5 years

b. Per week, per employee

c. Three paid holidays - C,D, and E; One week paid vacation for employees employed one year or more; Two weeks paid vacation for three years or more; Three weeks paid vacation for 10 years or more

d. One year's service, one week vacation; 3 years service, two weeks vacation

e. Paid holidays A through F plus ½ day before Christmas and ½ day before New Years; Paid vacations; employees who have worked for the company for one year and have worked nine months of the time shall receive vacation pay as follows: 1 week - 1 year; 2 weeks - 3 years; 3 weeks 12 years; 4 weeks - 16 years or more.

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Allegan, Berrien, Calhoun and Kalamazoo Counties					
Group 1	$ 7.00	.60	.30		.04
Group 2	7.15	.60	.30		.04
Group 3	7.25	.60	.30		.04
Group 4	7.12	.60	.30		.04
Group 5	7.22	.60	.30		.04
Group 6	7.50	.60	.30		.04
Group 7	7.32	.60	.30		.04
Clinton, Eaton and Ingham Counties					
Group 1	7.45	.60	.30		.04
Group 2	7.53	.60	.30		.04
Group 3	7.59	.60	.30		.04
Group 4	7.74	.60	.30		.04
Group 5	7.69	.60	.30		.04
Group 6	7.81	.60	.30		.04
Group 7	8.065	.60	.30		.04
Jackson County					
Group 1	7.38	.60	.30		.04
Group 2	7.88	.60	.30		.04

LABORERS - GROUP DESCRIPTIONS

Allegan, Berrien, Calhoun and Kalamazoo Counties

Group 1: All construction laborers on Building and Heavy Construction not specified in Group 2 through 7 below

Group 2: Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds

Group 3: Jackhammer Operators

Group 4: Signal men

Group 5: Windlass Operator

Group 6: Top men on chimneys or towers over 30' in height

Group 7: Crock Layers (or pipe layers), caisson work

Clinton, Eaton and Ingham Counties

Group 1: Building Laborers

Group 2: Mortar Mixers, hand or machine

Group 3: Plasterer Tenders; Portable concrete mixer operator (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; Concrete saw; Signal men and top men

Group 4: Tunnelmen; Concrete shovelers; Car pushers, etc.

Group 5: Windlass Operator (on caisson work)

Group 6: Crock layers (or pipe layers); Caisson workers; Tunnel muckers

Group 7: Tunnel Miners

Jackson County

Group 1: General Laborer

Group 2: Jackhammer and Acetylene Torch

DECISION NO. MI75-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
Building and Heavy:					
Class A	$11.05	.55	.75		.05
Class B	10.80	.55	.75		.05
Class C	10.55	.55	.75		.05
Class D	10.20	.55	.75		.05
Class E	10.00	.55	.75		.05
Class F	8.95	.55	.75		.05
Class G	8.25	.55	.75		
Steel Erection:					
Clinton, Ingham & Jackson Cos.					
Class A	11.57	.55	.75	10%	.05
Class B	11.33	.55	.75	10%	.05
Class C	10.85	.55	.75	10%	.05
Class D	10.70	.55	.75	10%	.05
Class E	9.61	.55	.75	10%	.05
Class F	8.65	.55	.75	10%	
Remaining Counties					
Class A	11.40	.55	.75		.05
Class B	11.15	.55	.75		.05
Class C	10.90	.55	.75		.05
Class D	10.55	.55	.75		.05
Class E	9.30	.55	.75		.05
Class F	8.25	.55	.75		
Underground Construction:					
Calhoun, Clinton, Eaton, Ingham and Jackson Counties					
Class I	8.90	.55	.75	10%	.05
Class II	8.78	.55	.75	10%	.05
Class III	8.12	.55	.75	10%	.05
Class IV	7.60	.55	.75	10%	.05
Remaining Counties					
Class I	7.53	.55	.75	10%	.05
Class II	7.26	.55	.75	10%	.05
Class III	6.81	.55	.75	10%	.05
Class IV	6.56	.55	.75	10%	.05

DECISION NO MI75-2108

POWER EQUIPMENT OPERATORS - (CONT'D) GROUP DESCRIPTIONS

Building and Heavy:

Class A: Crane Operator, with main boom and jib 220' or longer

Class B: Crane Operator, with main boom and jib 140' or longer to 220'; Tower Cranes; Gantry Cranes; Whirley Derrick

Class C: Regular Equipment Operator; Stiff leg derrick; Scraper; Dozer; Grader; Front-end loader; Hoist; Job Mechanic; Head Grease Man

Class D: Air Tugger (single drum); Material Hoist; Fork Truck; Boom Truck (non-swinging); Boiler Operator; Sweeping Machine; Winch Truck; Bob Cat and similar type equipment

Class E: Pump 6" or over; Well point; Freese Systems

Class F: Air Compressor; Generators; Conveyors; Pumps under 6"; Grease man

Class G: Fireman; Heater Operator; Oiler

Steel Erection:

Clinton, Ingham and Jackson Counties

Class A: Engineer when operating combination of boom and jib 220' or longer

Class B: Engineer when operating combination of boom and jib 140' or longer to 220'; Tower crane and Derrick operator (where operator's work station is 50' above first sub-level)

Class C: Crane operator and job mechanic

Class D: Hoisting operator

Class E: Compressor operator

Class F: Oiler or Fireman

Remaining Counties

Class A: Crane operator with boom and jib 220' or longer

Class B: Crane operator with boom and jib 140' or longer up to 220'; Tower Crane; Gantry Crane; Whirley derrick

Class C: Regular equipment operator; Crane, Dozer, Loader, Hoist, Staddle Wagon, Job Mechanic

Class D: Air Tugger (single drum); Material hoists; Pump 6" or over

Class E: Air compressor; Generators; Conveyors

Class F: Oiler and Fireman

DECISION NO MI75-2108

POWER EQUIPMENT OPERATORS:

Underground Construction

CLASS I Backfiller Tamper; Backhoe; Batch Plant Operator (concrete); Clamshell; Concrete Paver (two drum or larger); Conveyor Loader (Euclid Type); Crane (crawler, truck or pilodriving); Dozer (9 ft. blade and over); Dragline; Elevating grader; Endloader (over 1½ c.y. capacity); Gradall (and similar type machine); Grader; Mechanic; Power Shovel Roller (asphalt); Scraper (self-propelled or tractor drawn); Side Boom Tractor (type D-4 or equivalent and larger); Slip Form Paver; Slope Paver; Trencher (over 8 ft. digging capacity); Well Drilling Rig

CLASS II Boom Truck (power swing type boom); Crusher; Dozer (less 9 ft. blade); Endloader (1½ cubic yard capacity and smaller); Hoist; Pump (one or more — 6 in. discharge or larger — gas or diesel powered or powered by generator of 300 amperes or more - inclusive of generator); Side Boom Tractor (smaller than type D-4 or equivalent); Sweeper (Wayne type and similar equipment); Tractor (pneu-tired, other than backhoe or front-end loader); Trencher (8' digging capacity and smaller)

CLASS III Air Compressors (600 cfm or larger); Air Compressor (2 or more - less than 600 cfm); Boom Truck (non-swinging, non-powered type boom); Concrete Breaker (self-propelled or truck mounted-includes compressor); Concrete Paver (one drum - ½ yard or larger); Elevator (other than passenger); Maintenance Man; Pumps (2 or more 4" up to 6" discharge gas or diesel powered - excluding submersible pumps); Pumprete Machine (and similar equipment); Wagon Drill (Multiple); Welding Machine or Generator (2 or more, 300 amps. or larger - gas or diesel powered)

CLASS IV Boiler; Concrete Saw (40 hp or over); Curing Machine (self-propelled); Farm Tractor (with attachment); Finishing Machine (concrete); Fireman; Hydraulic Pipe Pushing Machine; Mulching Equipment; Oiler; Pumps (2 or more up to 4" discharge if used 3 hours or more per day - gas or diesel powered excluding submersible pumps); Roller (other than asphalt); Stump Remover; Trencher (service) Vibrating Compactor Equipment, Self-propelled (6' wide or over)

DECISION NO. MIT5-2108

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION					
Williamston, Locke, Leroy, Wheatfield and White Oak townships in Ingham County					
Lineman	$10.90	.85	3.4%		4%
Cable Splicer	11.37	.85	3.4%		4%
Combination Equipment Oper. Groundman	8.80	.85	3.4%		4%
Combination Driver-Groundman	8.31	.85	3.4%		4%
Groundman	7.67	.85	3.4%		4%
Remaining Counties and the remainder of Ingham County					
Lineman; Heavy Equipment Oper.	8.75	.35	*	a	*
Combination Digger Oper.-Tractor Oper.:					
First Six Months	6.36	.35	*	a	*
After Six Months	6.86	.35	*	a	*
Light Equipment Oper.-Groundman:					
Distribution Line Truck Driver Oper.					
First Six Months	5.54	.35	*	a	*
After Six Months	6.03	.35	*	a	*
Combination Winch Truck Driver-operator					
First Six Months	5.05	.35	*	a	*
After Six Months	5.76	.35	*	a	*
Combination Truck Driver-Groundman	4.88	.35	*	a	*

FOOTNOTE:

a. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving and Christmas Day

SUPERSEDEAS DECISION

ND75-5109 P. 2

STATE: North Dakota
DECISION NUMBER: ND75-5109
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision Number AR-1053 dated December 6, 1974, in 39 FR 42823.
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Cement Masons	$4.00				
Electricians:					
Fargo (Cass County); Grand Forks (Grand Forks County)	7.95	.30	1%	6%	1½%
Bismark (Burleigh County); Minot (Ward County)	7.00	.20	1%	6%	1½%
Laborers:					
Group 1					
General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker, Pump Operator (prewater) Tunnel Worker, Signl Erector); Reinforced steel setter; Sack shaker (cement and mineral filler); Pipe handler; Drill runner helper; Salamander heater and blower tender	3.20				
Group 2					
Semi Skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk cement handler; Conduit layer, telephone or electrical; Form setter (pavement); Gas, electric or pneumatic tool operator (chipping hammer, grinders and paving brakers (tamper (dirt) concrete vibrator operator); Chain saw operator; Concrete curing man (not water); Bituminous worker (shoveler, dumper, raker and floater); Kettleman (bituminous or lead); Concrete bucket signalman; Power buggy operator; Brick and mason tender; Multiplate pipe layer; Culvert pipe layer	3.30				
Group 3					
Caisson work; Bottom man, (sanitary sewer, storm sewer, water, and gas lines); Concrete mixer operator (one bag capacity); Mortar mixer	3.40				
Group 4					
Pipe Layers (sanitary sewer, storm sewer, water and gas lines); Drill runner (including wagon churn or air track); Powderman, gunite and sandblast, nozzleman	$3.50				
Power Equipment Operators:					
Group 1					
Cableway Operator; Crane Operator with over 135' boom; Derrick (Guy and Stiff Leg), (power), (skids and stationary); Front end loader over 10 cu. yds.; Gantry crane operator; Hole operator, incl. power supply or tunnel mucking machine; Power shovel and/or other equipment with shovel type controls 3½ cu. yds.	7.45	.35	.25		
Group 2					
Concrete Mixer Stationary Plant Operator over 34E; Dredge operator or engineer, Dredge Operator (power) and engineer; Elevator grader operator; Locomotive, crane operator; Master mechanic; Mixer (paving) Concrete paving operator, road; Power shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3½ cu. yds.; Scraper tandem; Tandem pusher quad 9 or similar; Tractor operator (pipeline); Side boom; Truck crane operator; Hydrocrane operator, 15 ton and over	7.30	.35	.25		

Power Equipment Operators: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 3					
Dope Machine Operator (pipeline); Drill rigs, heavy duty rotary or churn or cable drill; Front end loader operator, 6 cu. yds. and over; Locomotive, all types, Pipeline wrapping, cleaning and bending machine operator; Power actuated horizontal boring machine over 6" operator (pipeline); Pumpcrete operator; Refrigeration plant engineer; Slip form operator (power driven) (paving); Tandem scraper-twin engine, 50 cu. yds. struck and over	$ 7.15	.35	.25		
Group 4					
Asphalt Paving Machine Operator; Asphalt plant operator and console board operator; CMI grading operator; Crushing plant operator (gravel and stone or gravel washing crushing and screening plant operator); Front end loader operator, 1 cu. yd. up to 6 cu. yds.; Grader or motor patrol, finishing earth work and bituminous; Mechanic or welder (heavy duty); Rubber tired industrial tractor with backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper operator; Tractor type dozer D-6 and over; Trenching machine operator, sewer and water, (except ditch witch or similar use oiler rates); Turnapull operator, (or similar type)	7.10	.35	.25		

Power Equipment Operators: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Group 5					
Bituminous Spreader and Bituminous Finishing Operator (power); Concrete distributor and spreader operator, finishing machine - longitudinal float operator, Pt. machine operator and spray op.; Concrete Mixer operator on job site 16S or over; Paving breaker or tamping machine op., incl. machine with power shovel attachments (power driven); Power actuated augers and boring machine operator; Power actuated jacks operator; Power plant engineer, 100 K.U.H. and over; Push tractor; Self-propelled traveling soil stabilizer; Soil cement stabilizer; Truck mechanic	$ 6.85	.35	.25		
Group 6					
Concrete Saw Operator (multiple blade)(power operated); Fine grade operator; Roller, steel and self-propelled rubber, on hot mix asphalt paving; Tractor type dozer under D-6 H.P.; Distributor operator	6.62	.35	.25		
Group 7					
Brakeman or Switchman; Concrete batch plant operator (cement, rock and sand) electronic; Concrete mixer operator on job site under 16S; Crane truck oiler; Grader operator (motor patrol) (haul road); Gravel screening plant operator (portable not crushing or washing); Greaser (truck or tractor); Gunnite op. gunall; Hoist engineer (power); Launchman (tankerman or pilot license); Pick-up sweeper, 1 yd. and over hopper capacity; Shouldering machine op. (power) (Apsco or similar type)including self-propelled sand chip spreader flaherty or similar; Sheepsfoot roller or compactor (self-propelled)	5.69	.35	.25		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators: (Cont'd)					
Group 8					
Crawler Type Tractor Pulling Compaction or Areating Equipment; Farm type rubber tired tractor with backhoe attachment; Self-propelled vibrating packer operator pad type (35 hp and over); Off road self-propelled watering equipment; Boom truck operator; Roller, steel and self-propelled rubber, on other than hot mix	$ 5.54	.35	.25		
Group 9					
Bituminous Spreader & Bituminous Finishing Machine Operator (helper) (Power); Concrete batch operator (cement, rock and sand) (manual); Form Trench digger (power); Front end loader op. up to 1 cu. yd.; Hyster carrier or forklift; Leverman; Mechanics' helper or greaser helper; Oiler (power shovel, crane dragline); Pugmill operator; Pump operator (well points); Self-propelled broom	5.44	.35	.25		
Group 10					
Conveyor Operator; Curb Machine Operator (manual); Dredge deck hand; Farm tractors, rubber tired for compacting and areating; Front end loader operator (farm type rubber tired tractor); Stump chipper operator; Tie tamper and ballast machine operator	5.10	.35	.25		
Truck Drivers:					
Single Axle	4.97	.35	.30		
Tandem	5.07	.35	.30		
Agitator dumpcrete	5.32	.35	.30		
Off road heavy end dumps, 20 yds. and under; Tandem semi, Lowboy	5.32	.35	.30		
Euclid, over 20 yds.	5.95	.35	.30		

SUPERSEDEAS DECISION

STATE: North Dakota

COUNTIES: Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward

DECISION NUMBER: ND75-5110

DATE: Date of Publication

Supersedes Decision No. ND75-5058 dated May 23, 1975 in 40 FR 22776

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

DECISION NO. ND75-5110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS (except Walsh County)	$8.19	.35	.50		.005
BOILERMAKERS (except Walsh County)	9.45	.70	1.00		.02
BRICKLAYERS, Stonemasons:					
Burleigh and Morton Counties	8.30		.15		
Grand Forks, Steele & Walsh Counties	9.25		.15		
Cass and Richland Counties	9.24	.40	.15	.30	
Ward County	7.23		.15		.02
CARPENTERS:					
Burleigh and Morton Counties					
Carpenters	7.40				.02
Piledrivermen	7.525				.02
Grand Forks, Steele(Northern area) and Walsh Counties					
Carpenters	8.01		.20		.02
Piledrivermen	8.27		.20		.02
Millwrights	7.53		.20		.02
Cass, Richland and Steele (Southern area) Counties					
Carpenters	8.08		.30		
Ward County					
Carpenters	7.03				.02
Piledrivermen	7.51				.02
Millwrights	7.26				.02
CEMENT MASONS:					
Grand Forks and Steele Counties	7.00		.15		
Cass, and Richland Counties	7.51				
Ward County	5.50				
ELECTRICIANS:					
Cass, Grand Forks, Richland and Steele Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo.					
Zone (A) within 0-15 miles of each main P. O.					
Electricians	8.05	.30	1%	6%	1½%
Cable Splicers	8.35	.30	1%	6%	1½%
ELECTRICIANS: (Cont'd)					
Zone (B) 15-30 miles of each main P. O.					
Electricians	$8.67	.30	1%	6%	1½%
Cable Splicers	9.97	.30	1%	6%	1½%
Zone (C) Over 30 miles of each main P. O.					
Electricians	9.30	.30	1%	6%	1½%
Cable Splicers	9.60	.30	1%	6%	1½%
Burleigh, Morton and Ward Cos.					
Zone mileage from main P. O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) Within 0-25 miles of each main P. O.					
Electricians	8.50	.30	1%	6%	1½%
Cable Splicers	8.90	.30	1%	6%	1½%
Zone (B) Over 25 miles from main P. O.					
Electricians	10.00	.30	1%	6%	1½%
Cable Splicers	10.40	.30	1%	6%	1½%
ELEVATOR CONSTRUCTORS (excluding Walsh County)	8.75	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS:					
Ornamental; Structural; Reinforcing	9.19	.52	.50		.05
PAINTERS:					
Cass, Grand Forks, Richland and Steele Counties					
Brush; Roller; Paperhangers	7.75				.02
Sandblasting; Structural Steel					
Spray	8.50				.02
Burleigh and Morton Counties					
Brush	5.55				
Spray	5.85				

DECISION NO. ND75-5110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS: (Cont'd)					
Ward County					
Brush	$5.20				
Spray	5.55				
PLASTERERS:					
Grand Forks and Steele Counties	7.62		.15		
Ward County	6.50				
Cass and Richland Counties	8.30				
PLUMBERS:					
Cass, Grand Forks, Richland, Steele, and Walsh Counties	8.50	.38	.20		.01
Burleigh and Morton Counties	7.85	.35	.25		.02
Ward County	8.05	.35	.25		.04
ROOFERS:					
Cass and Richland Counties	6.85				
SHEET METAL WORKERS:					
Burleigh, Grand Forks, Morton, Steele and Ward Counties	9.20				
Cass and Richland Counties	8.05	.40	.10		.01
SOFT FLOOR LAYERS:					
Cass and Richland Counties	5.75	.20			
SPRINKLER FITTERS (except Walsh County)	8.75	.50	.80		.08

FOOTNOTE:
a. Employer credits 2% basic hourly rate for employee with 6 months to 5 years' service; 4% basic hourly rate with over 5 years' service as Vacation Credit Plan. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

DECISION NO. ND75-5110

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS					
Grand Forks and Steele Counties					
Group 1:					
Laborers; Concrete bucket dumpman	$5.72	.20			
Group 2:					
All power tools (air, gas and electric); Operators of tools that come under the laborers' jurisdiction; Brick, plaster and finisher tender; Sandblaster and gunnite pot tender; Hose tender where under the laborers' jurisdiction	5.87	.20			
Group 3:					
Hod carriers; Non-metallic pipe-layer; Gas line wrapping or taping; Sand blaster and gunnite nozzleman where under laborers' jurisdiction; Cutting torch for demolition	6.07	.20			
Burleigh and Morton Counties					
Group 1:					
Laborers; Concrete bucket man; Brick and plasterer tender	5.10	.20			
Groups 2 and 3:					
All power tool operator of tools that come under the laborers' jurisdiction; Mortar mixer; Hod carriers; Non-metallic pipe layer; Gas line wrapping or taping; Cutting torch for demolition	5.20	.20			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS: (Cont'd)					
Cass and Richland Counties					
Group 1:					
Laborers; Concrete bucket dumpman; Bricktender	$5.29	.20			
Group 2:					
All power tool operators of tools that come under the laborers' jurisdiction; Plasterers tender; and Mortar mixer	5.44	.20			
Group 3:					
Hod carriers; Non-metallic pipe layer; Gas line wrapping and taping (Distribution only); Cutting torch for demolition	5.44	.20			
Ward County					
Group 1:					
Laborer; Concrete bucket dumpman	5.29	.20			
Group 2:					
All power tool operators of all tools that come under the laborers' jurisdiction; Mortar mixer; and Plasterer tender	5.39	.20			
Group 3:					
Non-metallic pipe layer; Gas line wrapping or taping (Distribution only); Cutting torch for demolition	5.54	.20			

DECISION NO. ND75-5119

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
BUILDING CONSTRUCTION					
POWER EQUIPMENT OPERATORS					
Group 1:					
Cranes, tower and overhead; Cherry picker	$7.40	.35	.25		
Group 2:					
Brakemen; Any air compressed operations over 300 well points; Frontend loader over 1½ cu. yds.; Power plant engineer; Straddle carrier; Oiler; Mechanic and welder; Batch plant drill rig; Tractor, over 75 HP; Concrete pumps, stationary and boom type; Forklift, over 3,000 lbs. lifting capacity	6.80	.25	.25		
Group 3:					
Hoist; Greaser; Concrete mixer operator; Boom truck; Firemen; Tractor, 75 HP and under; Front-end loader, 1½ cu. yds., and under; Air compressor, 300 and under; Forklift, 3,000 lbs. and under lifting capacity; Self-propelled scissor jax	5.80	.35	.25		

DECISION NO. ND75-5110

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Site Preparation Excavation and Incidential Paving (except Walsh County)					
LABORERS					
Group 1	$3.20				
Group 2	3.30				
Group 3	3.40				
Group 4	3.50				
Site Preparation Excavation and Incidential Paving (except Walsh County)					
POWER EQUIPMENT OPERATORS					
Group 1	7.20	.35	.25		
Group 2	7.05	.35	.25		
Group 3	6.90	.35	.25		
Group 4	6.85	.35	.25		
Group 5	6.60	.35	.25		
Group 6	6.37	.35	.25		
Group 7	5.44	.35	.25		
Group 8	5.29	.35	.25		
Group 9	5.19	.35	.25		
Group 10	4.85	.35	.25		
Site Preparation Excavation and Incidental Paving (except Walsh County)					
TRUCK DRIVERS					
Single Axle	4.77	.35	.15		
Tandem	4.87	.35	.15		
Agitator Dumpcrete	5.12	.35	.15		
Off road heavy end dumps, 20 yds. and under; Tandem Semi, Lowboy	5.12	.35	.15		
Euclid, over 20 yds.	5.75	.35	.15		

DECISION NO. ND75-5110

LABORERS

Site Preparation Excavation and Incidential Paving (except Walsh County)

Group 1: General Construction Laborer (Chip Spreader Leverman, Fine Grader, Form Grader, Landscape Worker, Pump Operator (prewater) Tunnel Worker, Sign Erector); Reinforced Steel Setter; Sack Shaker (cement and mineral filler); Pipe Handler; Drill Runner Helper; Salamander Heater and Blower Tender

Group 2: Semi-skilled Laborer (Joint Filler Machine Operator, Chip Spreader Operator); Bulk Cement Handler; Conduit Layer, telephone or electrical; Form Setter (pavement); Gas, Electric or Pneumatic Tool Operator (Chipping Hammer, Grinders and Paving Breakers, Tamper (dirt), Concrete Vibrator Operator); Chain Saw Operator; Concrete Curing Man (not water); Bituminous Worker (Shoveler, Dumper, Raker and Floater); Kettleman (bituminous or lead); Concrete Bucket Signalmn; Power Buggy Operator; Brick and Mason Tender; Multiplate Pipe Layer; Culvert Pipe Layer

Group 3: Caisson Work; Bottom Man, (sanitary sewer, storm sewer, water, and gas lines); Concrete Mixer Operator (one bag capacity); Mortar Mixer

Group 4: Pipe Layers (sanitary sewer, storm sewer, water, and gas lines); Drill Runner (including Wagon Churn or Air Track); Powderman, Cunite and Sandblast, Nozzleman

POWER EQUIPMENT OPERATORS

Site Preparation Excavation and Incidential Paving (except Walsh County)

Group 1: Cableway Operator; Crane Operator with over 135' boom; Derrick (Guy and Stiff Leg), (power), (skids and stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Mole Operator, including power supply or tunnel mucking machine; Power Shovel and/or other equipment with shovel type controls 3½ cu. yds.

Group 2: Concrete Mixer Stationary Plant Operator over 34E; Dredge Operator or Engineer, Dredge Operator (power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (paving) Concrete Paving Operator, road; Power Shovel and/or other equipment with shovels and/or other equipment with shovel type controls up to 3½ cu. yds.; Scraper Tandem; Tandem Pusher Quad 9 or similar; Tractor Operator (pipeline); Side Boom; Truck Crane Operator; Hydrocrane Operator, 15 ton and over

DECISION NO. ND75-5110

POWER EQUIPMENT OPERATORS (Cont'd)

Site Preparation Excavation and Incidential Paving (except Walsh County)

Group 3: Dope Machine Operator (pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. and over; Locomotive, all types; Pipeline wrapping, cleaning and bending Machine Operator; Power actuated Horizontal Boring Machine over 6" Operator (pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Operator (power driven) (paving); Tandem Scraper - twin engine, 50 cu. yds. struck and over

Group 4: Asphalt Paving Machine Operator; Asphalt Plant Operator and Console Board Operator; CMI Grading Operator; Crushing Plant Operator (gravel and stone or gravel washing crushing and screening plant operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (heavy duty); Rubber Tired Industrial Tractor with Backhoe attachment (water main sanitary sewer and storm sewer, truck line construction); Scraper Operator; Tractor type Dozer D-6 and over; Trenching Machine Operator, sewer and water, (except Ditch Witch or similar use oiler rates); Turnapull Operator, (or similar type)

Group 5: Bituminous Spreader and Bituminous Finishing Operator (power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator and Spray Operator; Concrete Mixer Operator on job site 16S or over; Paving Breaker or Tamping Machine Operator, including machine with power shovel attachments (power driven); Power actuated Augers and Boring Machine Operator; Power actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. and over; Push Tractor; Self-propelled Traveling Soil Stabilizer; Soil Cement Stabilizer; Truck Mechanic

Group 6: Concrete Saw Operator (multiple blade) (power operated); Fine Grade Operator; Roller, steel and self-propelled rubber, on Hot Mix; Asphalt Paving; Tractor type Dozer under D-6 H.P.; Distributor Operator

Group 7: Brakeman or Switchman; Concrete Batch Plant Operator (cement, rock and sand) Electronic; Concrete Mixer Operator on job site under 16S; Crane Truck Oiler; Grader Operator (Motor Patrol) (haul road); Gravel Screening Plant Operator (portable not crushing or washing); Greaser (truck or tractor); Gunnite Operator Gunall; Hoist Engineer (power); Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over hopper capacity; Shouldering Machine Operator (power Apsco or similar type) including self-propelled Sand Chip Spreader; Flaherty or similar; Sheepsfoot Roller or Compactor (self-propelled)

DECISION NO. ND75-5110

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Crawler type Tractor pulling Compaction or Areating Equipment; Farm type Rubber Tired Tractor with Backhoe attachment; Self-propelled Vibrating Packer Operator Pad type (35 hp and over); Off road self-propelled watering equipment; Boom Truck Operator; Roller, steel and self-propelled rubber, on other than Hot Mix

Group 9: Bituminous Spreader and Bituminous Finishing Machine Operator (helper) (power); Concrete Batch Operator (cement, rock and sand) (manual); Form Trench Digger (power); Front End Loader Operator up to 1 cu. yd.; Hyster Carrier or Forklift; Leverman; Mechanics' Helpers or Greaser Helper; Oiler (power shovel, crane, dragline); Pugmill Operator; Pump Operator (well points); Self-propelled Broom

Group 10: Conveyor Operator; Curb Machine Operator (manual); Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting and Areating; Front End Loader Operator (farm type rubber tired tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator

DECISION NO. MD75-5110

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apprentice
Group 1: Cable Splicer; Lineman; Tractor dozer operator (D-4 and larger) all rigs erecting steel tower and "H" fixtures, also tension-pulling machines	$8.30	.35	1%		1/2%
Group 2: Groundman - operating special equipment hole digging machines; Aerial baskets on energized circuits; Tractors (D-4) and larger; Transmission line pole hauling; All Fifth wheel trucks and other setting and assembly equipment excluding steel tower and "H" fixture erection	6.69	.35	1%		1/2%
Group 3: Groundman - truck or tractor driver (with winch); Operators of trucks up to and including 2½ tons; Tractor including D-2 and smaller; Including wheel tractors and crawler tractors	5.58	.35	1%		1/2%
Group 4: Groundman - truck or tractor driver (without winch); Operators of trucks up to and including 2½ tons; D-2 and smaller; including wheel tractors and crawler tractors; Groundmen	5.13	.35	1%		1/2%

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester, Delaware, Montgomery and Philadelphia

DECISION NO.: PA-75-3087

DATE: Date of Publication

Supersedes Decision No. AQ-2006, dated July 12, 1974, in 39 FR 25905.

DESCRIPTION OF WORK: Residential construction of single family homes and garden type apartments up to and including 4 stories.

51-PA-1-J

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$10.52	.50	.50		
Boilermakers	10.20	.65	1.00		.01
Bricklayers	9.50	.80	.68		.01
Carpenters	9.52	1.58	1.10		.12
Cement masons	9.25	.99	1.25		
Electricians:					
Up to and including three stories	10.42				
Four story garden type apartment	11.52	.52	1%+.46		.23
Elevator constructors	10.68	.445	.29	3%+a+b	.02
Elevator constructors' helper	7.48	.445	.29	3%+a+b	.02
Elevator constructors' helper (Prob.)	5.34				
Glaziers	8.38	.35	.30		.01
Glaziers working 30' above ground	8.68	.35	.30		.01
Ironworkers, structural	10.22	.64	1.06		.04
Ironworkers, ornamental	10.22	.64	1.06		.04
Ironworkers, reinforcing	9.97	.64	1.06		.01
Landscape:					
Landscape laborers	6.95	.45	.20	g	
Farm tractor driver	7.45	.45	.20	g	
Hydroseeder nozzle men	7.45	.45	.20	g	
Mulcher nozzle man	7.45	.45	.20	g	
Lathers	8.61	.225	.10		
Lead burners	9.25	.35		c	.01
Line Construction:					
Linemen	12.32	.30	1%		1%
Groundmen	7.39	.30	1%		1%
Winch truck operator	8.62	.30	1%		1%
Marble setters	9.50	.67	.65		
Millwrights	10.02	1.58	1.10		.12
Painters:					
Brush	8.325	.275	.30	.30	.02
Spray, Steel & wing	8.505	.275	.30	.30	.02
Roller	8.325	.275	.30	.30	.02
Piledrivermen	10.17	1.58	1.10	f	.12
Plasterers	9.47	.53			.01
Plumbers	9.52	.57	.92		.08

DECISION NO. PA75-3087

51-PA-1-J

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Pointers, caulkers and cleaners	$ 9.25	.45	.50		
Roofers:					
Composition, damp & waterproofers	9.97	1.15	.75	d	
Slate, tile and asbestos	9.40	1.00	.50		
Slate, tile and asbestos helpers	5.83	1.00	.50		
Asphalt shingle	7.94	1.00	.50		
Asphalt shingle helpers	5.83	1.00	.50		
Drywall Finishers	8.54	.65	.25	.85	.03
Sheet metal workers	10.74	.88	.50		.01
Soft floor layers	8.33	1.28	1.10		.12
Sprinkler fitters	9.70	.30	.50		.04
Steam fitters	11.22	.57	.92		.10
Stone setters	8.73	.67	.65		
Tile setters	9.06	.85	.65		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

Footnotes:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid Holidays: A through F.

c. Paid holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

d. Election Day - paid holiday.

e. Employer contributes $1.50 to a combined Health and Welfare and Pension Fund.

f. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

g. Paid Holidays: July 4th, Labor Day and Thanksgiving Day.

DECISION NO. PA75-3087

PA-51-LAB-I-Y

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 7.65	.75	.45		
CLASS II	7.75	.75	.45		
CLASS III	7.80	.75	.45		
CLASS IV	7.95	.75	.45		
CLASS V	8.05	.75	.45		
CLASS VI	7.59	.75	.45		

DEFINITION CLASSIFICATIONS
BUILDING CONSTRUCTION LABORERS

Class I - Stripping & dismantling concrete form work, loading, unloading, carrying & handling of all reinforced steel & steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers & all other pneumatic tools, building scaffolds, raking, shoveling & tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non-metallic pipe & caulking, all other types of Laborers.

Class II - Mason tender, power buggies, burners on demolition

Class III - Wagon drill operator (single)

Class IV - Powderman, wagon drill operator (multiple), circular cassions excavation: Caisson groundmen, underpinning excavation: Laborers, working at depth of 8 feet or under

Class V - Caisson bottom man

Class VI - Yard workers

DECISION NO. PA75-3087

PA-51-PED-1-G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
Class I	$11.26	4.6%	9.5%	a	1.2%
Class II	11.00	4.6%	9.5%	a	1.2%
Class III	11.13	4.6%	9.5%	a	1.2%
Class IV	9.91	4.6%	9.5%	a	1.2%
Class V	9.61	4.6%	9.5%	a	1.2%
Class VI	9.43	4.6%	9.5%	a	1.2%
Class VII	8.91	4.6%	9.5%	a	1.2%
Class VIII	8.17	4.6%	9.5%	a	1.2%

CLASSIFICATIONS

Class I - Handling steel and stone in connection with erectico; cranes doing hook work; any machines handling machinery; cable spinning machine; helicopters; machines similar to the above

Class II - Engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes; cableways; draglines, keystones; all types of shovels; derricks; trench shovels; trenching machines; pippin type backhoes; hoist with two towers; pavers 21E and over; all types overhead cranes; building hoists - double drum (unless used as single drum); mucking machines in tunnel; gradalls; front-end loaders over 3 cu. yd., boat captain; Tandem scrapers; tower type crane operation, erecting, dismantling, jumping or jacking; drills self-contained (drillmaster type); fork lift (20 ft. and over), motor patrols (fine grade), batch plant with mixer; machines similar to the above

Class III - Conveyors (except building conveyors), building hoists (single drum), scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing); caterpillar-type tractors with frontend overhead loaders and Rubber-tired loaders 2 c.y. to & including 3 c.y., maintenance engineers with tools; spreaders, high or low pressure boilers, concrete pumps, well drillers, forklift trucks of all types; bulldozers D-7 or equivalent and over; ditch witch type trencher, motor patrol; machines similar to the above

Class IV - concrete breaking machines, rollers and machines similar to the above

Class V - All bulltoers under D-7, tractors including rubber-tired type with front and overhead loaders under 2 c.y., seamen pulverizing mixer, welders and maintenance engineers, tireman on power equipment, maintenance engineer (Power Boat) and machines similar to the above

DECISION NO PA75-3087

CLASSIFICATION (Con't)

Class VI - Conveyors (Building), welding machines, heaters, wellpoints, compressors, farm tractors, form line graders, road finishing machines, pumps, power broom (self contained), seed spreader and machines similar to the above

Class VII - Fireman

Class VIII - Oilers and deck hand (personnel boats)

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day providing the employee works the day before and after the holiday.

DECISION NO. PA75-3087

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
TRUCK DRIVERS					
Class I	$ 7.57	.5675	.55	a+b	
Class II	7.67	.5675	.55	a+b	
Class III	7.87	.5675	.55	a+b	

Class I: Warehouseman, Checker, Fork Lift Driver, Stake Body Truck (single axle), 1½ ton and under vehicles

Class II: Truck Driver over 1½ tons, Dump Trucks, Tandem and Batch Trucks, Semi-trailers, Agitator Mixer Trucks, and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)

Class III: Euclid Type, Off-highway Equipment - Back or Belly Dump Trucks and Double - Hitched Equipment Straddle (Ross) Carrier, Low-bed Trailers

FOOTNOTES:

a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the scheduled work days before and after the said holidays.

[FR Doc.75-22667 Filed 8-28-75;8:45 am]

federal register

FRIDAY, AUGUST 29, 1975



PART V:

VARIOUS AGENCIES

■

PRIVACY ACT OF 1974

Regulations

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 22, Amdt. 6; Docket No. 75-26]

PART 503—PUBLIC INFORMATION

Privacy Act Regulations

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552(a), Pub. L. 93-579), the Federal Maritime Commission on July 17, 1975, published in the FEDERAL REGISTER (40 FR 30128) proposed regulations dealing with public information (46 CFR Part 503). These regulations establish procedures for the protection of personal privacy of individuals identified in records maintained by the Commission.

Interested parties were afforded the opportunity to submit comments on the proposed regulations. No comments were received.

Therefore, it is ordered, That pursuant to the Privacy Act of 1974 (5 U.S.C. 552 (a), Pub. L. 93-579), Part 503 of Title 46 CFR, is hereby amended by adding a new Subpart G as set forth below:

Subpart G—Access to Any Record of Identifiable Personal Information

Sec.

503.60 Definitions.
503.61 Conditions of disclosure.
503.62 Accounting of disclosures.
503.63 Request for information.
503.64 Commission procedure on requests for information.
503.65 Request for access to records.
503.66 Amendment of a record.
503.67 Appeals from denial of request for amendment of a record.
503.68 Exemptions.
503.69 Fees.

AUTHORITY: Privacy Act of 1974 (Sec. (f), Pub. L. 93-579, 88 Stat. 1897 (5 U.S.C. 552 (a))).

Subpart G—Access to any record of identifiable personal information

§ 503.60 Definitions.

For the purpose of this subpart:

(a) "Agency" means each authority of the government of the United States as defined in 5 U.S.C. 551(1) and shall include any executive department, military department, government corporation, government controlled corporation or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency.

(b) "Commission" means the Federal Maritime Commission.

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence to whom a record pertains.

(d) "Maintain" includes maintain, collect, use, or disseminate.

(e) "Person" means any person not an individual and shall include, but is not limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(f) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Federal Maritime Commission including but not limited to his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol or other identifying particular assigned to the individual such as a finger or voice print, or a photograph.

(g) "Routine use" means [with respect to the disclosure of a record], the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual but shall not include matter pertaining to the Census as defined in 13 U.S.C. § 8.

(i) "System of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

§ 503.61 Conditions of disclosure.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Commission shall not disclose any record which is contained in a system of records, by any means of communication to any person or other agency who is not an individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Commission may disclose any such record to any person or other agency.

(c) In the absence of a written consent from the individual to whom the record pertains, the Commission may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Commission who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use;

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Commission with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law, provided the head of the agency or instrumentality has made a prior written request to the Assistant Managing Director of the Commission specifying the particular record and the law enforcement activity for which it is sought;

(8) To either House of Congress, and to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress;

(9) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the GAO; or

(10) Under an order of a court of competent jurisdiction.

§ 503.62 Accounting of disclosures.

(a) The Assistant Managing Director shall make an accounting of each disclosure by him of any record contained in a system of records in accordance with 5 U.S.C.A. 552a(c) (1) and (2).

(b) Except for a disclosure made under § 503.61(c)(7) of this subpart the Assistant Managing Director shall make the accounting described in paragraph (a) of this section available to any individual upon written request made in accordance with section 503.63 (b) or (c) of this subpart.

(c) The Assistant Managing Director shall make reasonable efforts to notify an individual when any record which pertains to him is disclosed to any person under compulsory legal process when such process becomes a matter of public record.

§ 503.63 Request for information.

(a) Upon request in person or by mail made in accordance with the provisions of paragraph (b) or (c) of this section, any individual shall be informed whether or not any Commission system of records contains a record pertaining to him.

(b) Any individual requesting such information in person shall present himself at the Office of the Assistant Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 and shall:

(1) Provide information sufficient in the opinion of the Assistant Managing Director to identify the record, e.g. the individual's own name, date of birth, place of birth, etc.;

(2) Provide identification acceptable to the Assistant Managing Director to verify the individual's identity; e.g. driver's license, employee identification card or medicare card;

(3) Complete and sign the appropriate form provided by the Assistant Managing Director.

(c) Any individual requesting such information by mail shall address such request to the Assistant Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 and shall include in such request the following:

(1) Information sufficient in the opinion of the Assistant Managing Director to identify the record, e.g. the individual's own name, date of birth, place of birth, etc.;

(2) A signed notarized statement to verify his identity.

§ 503.64 Commission procedure on requests for information.

Upon request for information made in accordance with § 503.63 of this subpart, the Assistant Managing Director or his delegate shall within a reasonable period of time furnish in writing to the requesting party notice of the existence or nonexistence of any records described in such request.

§ 503.65 Request for access to records.

(a) *General.* Upon request by any individual made in accordance with the procedures set forth in paragraph (b) of this section, such individual shall be granted access to any record pertaining to him which is contained in a Commission system of records. However, nothing in this section shall allow an individual access to any information compiled by the Commission in reasonable anticipation of a civil or criminal action or proceeding.

(b) *Procedures for requests for access to records.* Any individual may request access to a record pertaining to him in person or by mail in accordance with paragraph (b) (1) and (2) of this section.

(1) Any individual making such request in person shall present himself at the Office of the Assistant Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 and shall:

(i) Provide identification acceptable to the Assistant Managing Director to verify the individual's identity, e.g. driver's license, employee identification card, or medicare card; and

(ii) Complete and sign the appropriate form provided by the Assistant Managing Director.

(2) Any individual making a request for access to records by mail shall address such request to the Assistant Managing Director, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 and shall include therein a signed notarized statement to verify his identity.

(3) Any individual requesting access to records under this section in person may be accompanied by a person of his own choosing while reviewing the record requested. If an individual elects to be so accompanied, he shall notify the Assistant Managing Director of such election in his request and shall provide a written statement authorizing disclosure of the record in the presence of the accompanying person. Failure to so notify the Assistant Managing Director in a request for access shall be deemed to be a decision by the individual not to be accompanied.

(c) *Commission determination of requests for access.* (1) Upon request made in accordance with this section, the Assistant Managing Director or his delegate shall:

(i) Determine whether or not such request shall be granted;

(ii) Make such determination and provide notification within a reasonable period of time after receipt of such request;

(iii) Notify the individual that fees for reproducing copies of records will be made in accordance with § 503.69.

(2) If access to a record is denied because such information has been compiled by the Commission in reasonable anticipation of a civil or criminal action or proceeding the Assistant Managing Director shall notify the individual of such determination and his right to judicial appeal under 5 U.S.C.A. 552a(g).

(d) *Manner of providing access.* (1) If access is granted, the individual making such request shall notify the Assistant Managing Director whether the records requested are to be copied and mailed to the individual.

(2) If records are to be made available for personal inspection, the individual shall arrange with the Assistant Managing Director a mutually agreeable time and place for inspection of the record.

(3) Fees for reproducing and mailing copies of records will be made in accordance with § 503.69 of this subpart.

§ 503.66 Amendment of a record.

(a) *General.* Any individual may request amendment of a record pertaining to him according to the procedure in paragraph (b) of this section.

(b) *Procedure to request amendment of a record.* After inspection of a record pertaining to him, an individual may file a request, in person or by mail, with the Assistant Managing Director for amendment of a record. Such request shall specify the particular portions of the record to be amended, the desired amendments and the reasons therefor.

(c) *Commission procedure on request for amendment of a record.* (1) Not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of a request made in accordance with this section to amend a record in whole or in part, the Assistant Managing Director or his delegate shall:

(i) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction; or

(ii) Inform the individual, by certified mail return receipt requested, of refusal to amend the record setting out the reasons therefor, and notify the individual of his right to appeal that determination to the Chairman of the Commission under § 503.67 of this subpart.

(2) The Assistant Managing Director shall inform any person or other agency to whom a record has been disclosed of any correction or notation of dispute made by the Assistant Managing Director with respect to such records in accordance with 5 U.S.C.A. 552a(c)(4) referring to amendment of a record, if an accounting of such disclosure has been made.

§ 503.67 Appeals from denial of request for amendment of a record.

(a) *General.* An individual whose request for amendment of a record pertaining to him is denied, may further request a review of such determination in accordance with paragraph (b) of this section.

(b) *Procedure for appeal.* Not later than 30 days (excluding Saturdays, Sundays and legal public holidays) following receipt of notification of refusal to amend, an individual may file an appeal to amend the record. Such appeal shall:

(1) Be addressed to the Chairman, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573; and

(2) Specify the reasons for which the refusal to amend is challenged.

(c) *Commission procedure on appeal.* (1) Upon appeal from a denial to amend a record, the Chairman of the Commission or the officer designated by the Chairman to act in his absence, shall make a determination whether or not to amend the record and shall notify the individual of that determination by certified mail return receipt requested not later than 30 days (excluding Saturdays, Sundays and legal public holidays) after receipt of such appeal, unless extended pursuant to paragraph (d) of this section.

(2) The Chairman shall also notify the individual of the provisions of 5 U.S.C.A. 552a(g)(1)(A) regarding judicial review of the Chairman's determination.

(3) If on appeal the refusal to amend the record is upheld, the Commission shall permit the individual to file a statement setting forth the reasons for his disagreement with the Commission's determination.

(d) The Chairman or his delegate in his absence may extend up to 30 days the time period prescribed in paragraph (c)(1) of this section within which to make a determination on an appeal from refusal to amend a record for the reason that a fair and equitable review cannot be completed within the prescribed time period.

§ 503.68 Exemptions.

The Chairman of the Commission reserves the right to promulgate rules in accordance with the requirements of 5 U.S.C. 553(b)(1), (2) and (3), (c), and (e) (Administrative Procedure Act—Rulemaking) to exempt any system of records maintained by the Commission in accordance with the provisions of 5 U.S.C.A. 552a(k).

§ 503.69 Fees.

(a) *General.* The following Commission services are available, with respect to requests made under the provisions of this subpart, for which fees will be charged as provided in paragraphs (b) and (c) of this section:

(1) Copying records/documents.

(2) Certification of copies of documents.

(b) *Fees for services.* The fees set forth below provide for documents to be mailed with ordinary first-class postage prepaid. If a copy is to be transmitted by registered certified, air, or special delivery mail, postage therefor will be added to the basic fee. Also, if special handling or packaging is required, costs thereof will be added to the basic fee.

(1) The copying of records and documents will be available at the rate of 30

cents per page (one side), limited to size 8¼" x 14" or smaller.

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $2.00 for each certification.

(c) *Payment of fees and charges.* The fees charged for special services may be paid by check, draft or postal money order, payable to the Federal Maritime Commission.

Effective date. These regulations shall be effective as of September 27, 1975.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant Secetary.

[FR Doc.75-22930 Filed 8-28-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 70a]

PROTECTION OF PRIVACY IN RECORD SYSTEMS

Proposed Rulemaking

Upon the findings: (1) that the privacy of an individual is directly affected by the collection, maintenance, use and dissemination of personal information collected by Federal agencies; (2) that the increasing use of computers and sophisticated information technology, while essential to the efficient operation of the Government, has greatly magnified the potential harm to an individual's privacy; and (3) that an individual's right to due process as well as other legal protections afforded to him by the Constitution are endangered by the misuse of certain information systems, the Congress determined that it was necessary to regulate personal information acquired by Federal agencies. Consequently, it enacted the Privacy Act of 1974, Pub. L. 93-579 (88 Stat. 1896, 5 U.S.C. 552a).

The purpose of the Privacy Act of 1974 (hereinafter referred to as "the Act") is, among other things, to assure that the collection of personal information by Federal agencies is limited to that which is necessary and authorized by law, and that where information is within the possession of an agency, it is maintained and used in a manner which precludes unwarranted intrusions upon an individual's privacy. The Act places the principal responsibility for compliance with its provisions upon Federal agencies. In order to carry out these provisions, section 3(f) of the Act requires each agency that maintains a system of records subject to the Act's requirements to promulgate rules and regulations which establish:

1. Procedures for requesting personal information contained within a system of records;
2. Requirements for identification by an individual who makes such a request;
3. Procedures for the disclosure of a record to an individual upon request; and
4. Procedures for reviewing requests for amendments to records and appeals therefrom.

In accordance with this congressional mandate, it is proposed to amend Title 29, Code of Federal Regulations, by establishing rules and regulations governing the manner by which the requirements of the Privacy Act of 1974 are to be carried out by the Department of Labor. These proposed regulations have been drafted with major reliance on the guidelines published by the Office of Management and Budget in the FEDERAL REGISTER on July 9, 1975 (40 FR 28949). Any persons interested in participating in this rulemaking proceeding may submit written data, views and arguments concerning the proposed rules. Comments should be submitted not later than September 29, 1975 to:

Solicitor of Labor, Attention: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Comments received by the Department will be available for public inspection at the above address.

Therefore, pursuant to section 3(f) of the Privacy Act of 1974 (88 Stat. 1896, 1900, 5 U.S.C. 552a(f)) and 5 U.S.C. 553, it is hereby proposed to amend Title 29, Code of Federal Regulations, by adding a new part, Part 70a, to read as follows:

PART 70a—PROTECTION OF INDIVIDUAL PRIVACY IN RECORDS

Sec.

70a.1 Purpose and scope.
70a.2 Definitions.
70a.3 Conditions of disclosure of information.
70a.4 Required procedure with regard to a request by an individual for a record contained within a system of records.
70a.5 Requirements for identification of individuals making requests.
70a.6 Disclosure of requested information to individuals.
70a.7 Request for correction or amendment to record.
70a.8 Agency review of request for correction or amendment of record.
70a.9 Appeal of initial adverse agency determination.
70a.10 [Reserved]
70a.11 Fees.
70a.12 Penalties.
70a.13 Exemptions.

§ 70a.1 Purpose and scope.

(a) *Purpose.* This Part sets forth the basic criteria which are to be used for implementing the provisions of the Privacy Act of 1974 (Pub. L. 93-579) as it applies to the Department of Labor. The purpose of the Act is to assure that: (1) personal information about an individual collected by any Federal agency is limited to that which is necessary and authorized by law; and (2) where personal information about an individual is within the possession of an agency, it is maintained and used in a manner calculated to preclude unwarranted intrusions upon any individual's privacy. To achieve this end, the Privacy Act requires, among other things, that an "agency" permit an individual to ascertain what information, which is personal to him and to which access is made by the use of some individual identifier, is collected, maintained, used or disseminated by that agency. In addition, it requires Federal agencies: (i) to establish procedures whereby an individual can (A) request a copy, or otherwise have access to such a record, (B) request an accounting of the disclosure of such a record, (C) request that the record be amended, and (D) appeal an initial adverse determination of a request; and (ii) to publish in the FEDERAL REGISTER notice of the existence of all "systems of records" under the control of the agency. In order for the Department to meet its obligations under the Act, it is essential that interested members of the public, and every agency within the Department, understand their respective responsibilities. This part, Part 70a, sets out these responsibilities.

(b) *Scope.* (1) Unless a system of records has been otherwise exempt from provisions of this regulation, as provided in § 70a.13, the procedures set forth in this Part apply whenever a record containing personal information is maintained within a system of records which is under the control of the Department and such records are retrieved by reference to a personal identifier.

(2) Requests for notification, access or amendment to personnel records maintained by the Department which are contained within systems of records of which notice has been given by the Civil Service Commission, are governed by Part 297 of the Commission's regulations (5 CFR Part 297), and internal Department directives established pursuant to the Commission's regulations. Information concerning these procedures may be obtain mission's regulations. Information concerning these procedures may be obtained from the Director, Office of Personnel, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

§ 70a.2 Definitions.

For purposes of this Part:

(a) "Agency" means an agency as that term is defined in 5 U.S.C. 552(e). This definition of "agency" is the same as that used in the Administrative Procedure Act as modified by the 1974 amendments to the Freedom of Information Act (Pub. L. 93-502). It means "each authority of the Government of the United States, whether or not it is within or subject to review by another agency * * *" (5 U.S.C. 551(1)), but it does not include an advisory committee.

(b) The term "individual" means a citizen of the United States (as defined in 8 U.S.C. 1401) or an alien lawfully admitted for permanent residence. This definition is intended to distinguish between the rights which are given to a citizen as an individual under this Act and the rights of proprietorships, businesses, and corporations, which are not intended to be covered by the Act. A distinction can also be made between an individual acting in a personal capacity and an individual acting as an entrepreneur (e.g., as a sole proprietor). Since this definition embraces only the former, a determination must be made as to whether in fact the information is personal in nature, and for what purpose it is being used. Records relating solely to nonresident aliens are excluded from the requirements of this Part. However, where a system of records relates to both citizens and nonresident aliens, those portions of the system which relate to citizens or resident aliens must comply with the provisions set forth in these regulations.

(c) The term "maintain" includes the maintenance, collection, use, or dissemination of records, or any combination of these recordkeeping functions. The term "maintain" also connotes control over, and consequently, responsibility and ac-

countability for a system of records. Effective control of a system of records does not necessarily require physical control of the system (e.g., the Civil Service Commission has control over personnel records not physically within its possession). Furthermore, records on loan from one agency to another may not necessarily be under the control of the latter depending upon the circumstances attendant to, and the conditions of the transfer. Systems of records operated under contract, or in some instances, operated by State or local governments under Federal mandates "by or on behalf of the agency * * * to accomplish an agency function" are, for purposes of this Part, under the control of the agency for which the services are being performed, and consequently subject to the requirements set forth in this Part. The qualifying phrase "to accomplish an agency function" limits the applicability of section 3(m) of the Act to those systems directly related to the performance of Federal agency functions by excluding from its coverage systems which are financed, in whole or in part, with Federal funds, but which are managed by State or local governments for the benefit of State or local governments.

(d) The term "record" means a tangible or documentary record, as opposed to an intangible record, such as information contained in a person's memory. It is any item of information, or any grouping of such items of information, about an individual that includes an identifying particular (i.e., an individual identifier). An "identifying particular" is any element of data (name, number, etc.) or other descriptor (finger print, voice print, photograph) which can be used to identify an individual. A record, by this definition, can be part of another record. Therefore, prohibitions on the disclosure of a record, for example, apply not only to the entire record in the conventional sense (such as a record in a computer system), but also to any item or grouping of items from a record provided that such groupings includes an individual identifier.

(e) The term "system of records" means a group of any records under the control of an agency from which information is retrieved by reference to the name of an individual or by some identifying particular assigned to an individual. A "system of records" for purposes of this Part is a group of records which:

(1) Consists of records as that term is defined in this section,

(2) Are "under the control of" an agency, and

(3) Are retrieved by reference to an individual name or some other personal identifier.

Caution must be exercised in distinguishing "agency records" from those which, although in the physical possession of agency employees and used by them in performing official functions, are not, in fact, agency records. Uncirculated personal notes, papers and records which are retained or discarded at the author's discretion and over which the agency exercises no dominion or control (e.g., personal telephone lists) are not "agency records" for purpose of this Part. The criteria "are retrieved by" implies that groupings of records under the control of an agency are, in fact, accessed by use of a personal identifier, not merely that a capability or potential capability exists for retrieving the information in such a manner. For example, if an agency maintains a recordkeeping system on firms which it regulates and the system contains "records" (i.e., personal information) about officers of the firms incident to its evaluation of the firm's performance, even though such information would clearly constitute record under the control of an agency, it would not be considered part of a system of records for purposes of this Part unless the agency actually retrieves this information by reference to a personal identifier (e.g., name, etc.). Thus, if these hypothetical "records" are never retrieved except by reference to a company identifier or some other nonpersonal indexing scheme (e.g., type of firm), they are not a part of a system of records.

(f) The term "statistical record" means a record contained within a system of records which is maintained for statistical research or reporting purposes only, and not used, in whole or in part, in making any determination about an identifiable individual. For a record to qualify as a "statistical record," it must be maintained within a system of records which is separated from other systems of records where such other systems contain records that are used to assist in making determinations about the rights, benefits, or entitlements of an identifiable individual. The term "identifiable individual" distinguishes determinations about specific individuals, in which case the records in question would not be statistical records, from determinations about aggregates of individuals. An example of the latter would be the application of census data for the apportionment of funds based upon population. Consistent with this definition, records frequently referred to as "research records" which are only used for analytic purposes, qualify as "statistical records" for purposes of this Part, provided such records are not used in making any determination about the rights, benefits or entitlements of an identifiable individual.

(g) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected. One of the primary objectives of the Privacy Act is to restrict the use of information to such purposes. However, the term "routine use" was introduced recognizing that there are practical limitations of restricting the use of information to the explicit and expressed purposes for which it was collected. It is recognized that there are corollary purposes "compatible with the purpose for which the information was collected" that are appropriate and necessary for the efficient conduct of government, and are in the best interest of both the individual and the public. In this regard, the term "routine use" does not restrict the use of records to common and ordinary applications for which such records are generally collected, but, in addition, includes all proper and necessary applications of records without regard to the frequency of such applications. The purpose of the Act is not to prohibit the necessary exchange of information, but is instead to prohibit the gratuitous, ad hoc, dissemination of records for private or otherwise irregular purposes.

(h) "Disclosure officer," "responsible official" and "officer authorized to disclose information from Department records" are the same Department officials referred to in § 70.2(c).

§ 70a.3 Conditions of disclosure of information.

(a) Nothing in this Part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(b) Except as provided in paragraphs (d) through (f) of this section, neither the Department, nor its component units, shall disclose any record which is contained within a system of records subject to the requirements of this Part, to any person or agency other than to the individual who is the subject of the record, unless the disclosure is to such person's parent or guardian as provided in § 70a.5(c) of this Part, or to the representative designated by such individual in accordance with the requirement contained in § 70a.5(b).

(c) If a requester satisfies the requirements set forth in §§ 70a.4 and 70a.5 of this Part, and the record described in paragraph (b) of this section does in fact exist, and is not otherwise exempt from disclosure by any other provision contained in this Part, the record shall be made available to the requester in accordance with § 70a.6.

(d) Upon the notarized written consent of an individual to whom a record described in paragraph (b) of this section pertains, the Department, or any of its component units, may disclose the subject record to the extent that the individual to whom the record pertains has so consented.

(e) (1) In the absence of written consent from the individual to whom a record described in paragraph (b) of this section pertains, the Department may disclose any such record provided such disclosure is:

(i) To those officers and employees of the component unit within the Department that maintains the record, and who have a need for the information in the performance of their duties;

(ii) Required under the Freedom of Information Act (5 U.S.C. 552);

(iii) For a "routine use" as published in the annual notice in the FEDERAL REGISTER;

(iv) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the United States Code;

(v) To a recipient who has provided the Department with adequate advance written assurance that the record will be

used solely as a statistical research or reporting record, and that the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law, provided the head of the agency or instrumentality has made a prior written request to the Department, or a unit component thereof, specifying the particular record and the law enforcement activity for which it is sought;

(viii) To either House of Congress, or, to the extent that a matter is within its jurisdiction, any committee or subcommittee thereof; or to any joint committee of Congress or a subcommittee of any such joint committee;

(ix) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(x) Under an order of a court of competent jurisdiction, in which case the Department shall make reasonable efforts to notify the subject individual of the subpoenaed record when the subpoena of such material becomes a matter of public record; or

(xi) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual (not necessarily the individual to whom the record pertains), if upon such disclosure notification is transmitted to the last known address of the individual to whom the record pertains.

(2) Records shall not be disclosed to a third party simply because such a disclosure is permitted by paragraph (e)(1) of this section. The Department, and the unit components thereof, shall continue to consider all relevant factors before authorizing the disclosure of information, including where appropriate, the likely effect that disclosure would have upon the individual who is the subject of the record.

(f) The Department is required to make available a record to a person or agency, other than the person to whom the record pertains, when a previously disseminated record, of which an accounting is required to be maintained, has been either amended or a requested amendment thereto has been denied, and the requester has submitted a memorandum of disagreement, in which case the record, or the memorandum of disagreement, must be transmitted to such prior recipients in accordance with 5 U.S.C. 552a(d)(4) and § 70a.9(f).

(g) Except as prescribed in paragraphs (b) and (f) of this section, and other provisions of this Part related thereto, the regulations contained in this Part do not require the disclosure of a record to anyone other than the individual to whom the record pertains.

§ 70a.4 Required procedure with regard to a request by an individual for a record contained within a system of records.

(a) (1) Where a system of records under the control of the Department of Labor contain records which are retrieved by reference to an individual identifier, and an individual, without regard to his or her age, seeks to: (i) ascertain whether the Department maintains a record pertaining to that person in such system of records, (ii) ascertain whether, and to whom, the Department has disclosed such a record for which an accounting of disclosure is required to be maintained and made available to that person, (iii) obtain a copy of a record pertaining to that person, or (iv) review or amend a record pertaining to that person, then such person should direct a request to the appropriate Department official as prescribed in § 70.43. However, in lieu of the requirements contained in § 70.35(b), when a person is uncertain as to whom the request should be directed, it should be sent to: Director of Records Management, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(2) Requests made in person shall be presented during the Department's normal working hours. When the request is made by mail, a notation should be made on the envelope and conspicuously on the letter indicating that the communication involves a request under the Privacy Act (i.e., "Request Pursuant to Privacy Act").

(b) Each request shall be in writing. It shall state the nature of the action desired and shall be reasonably detailed to permit identification and location of the record in question. So far as practicable, the request should specify the subject matter of the record, the date or approximate date when made, the place where made, the person or office that made it, and any other pertinent identifying details. The requester should also indicate whether he or she wishes to review the record in person or obtain a copy by mail.

(c) (1) The disclosure officer who is responsible for acting upon a request, shall, upon receipt thereof, have the date and time the request was received immediately inscribed thereon, and within 10 working days thereafter, acknowledge such receipt to the requester. In addition, the acknowledgement shall indicate the time within which it is anticipated that a determination of the request will be made. Such an acknowledgement, however, is not required when the requirements set forth in § 70a.6 can be satisfied within the 10-day period.

(2) If the description contained in the request is insufficient so that a professional employee who is familiar with the subject area of the request cannot locate the record with a reasonable amount of effort, the officer processing the request shall notify the applicant and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist an applicant in the identification and location of the record or records sought.

§ 70a.5 Requirements for identification of individuals making requests.

(a) To avoid disclosure of information to unauthorized individuals, wheer an individual requests personal information about himself or herself, and such information is retrieved from a system of records by means of a personal identifier, and the record(s) requested are excluded from mandatory disclosure under the Freedom of Information Act, the following requirements must be met before the disclosure officer is required to release the relevent information:

(1) When a request is submitted by mail, the signature of the requester shall be notarized;

(2) When a request is made in person, an official photograph accurately depicting the requester, and indicating the requester's name shall be presented to the disclosure officer or his authorized representative, or if an official photograph is not available, a photograph accompanied by a notarization sertifying the name of the individual in the photograph.

(b) When a person requests access to a record about an individual other than himself, or herself, then in addition to meeting the requirements set forth in paragraphs (a)(1) nad (a)(2) of this section, as applicable, the requester must also provide a notarized letter of consent signed by the individual to whom the record pertains which explicitly authorizes the requester to receive the record. However, a notarized letter of consent is not required where the requester is a parent or legal guardian, and such person satisfies the requirements set forth in paragraph (c) of this section.

(c) An individual acting as the parent of a minor or the legal guardian of the individual to whom a record pertains shall establish his or her personal identity in the same manner prescribed in either paragraph (a) (1) or (2) of this section. In addition, such other individual shall establish his or her identity in the representative capacity of parent or legal guardian. In the case of the parent of a minor, the proof of identity shall be a certified or authenticated copy of the minor's birth certificate. In the case of a legal guardian of an individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, the proof of identity shall be a certified or authenticated copy of the court's order. A parent or legal guardian may act only for a living individual, not for a decedent.

(d) The disclosure officer may waive the requirements set forth in paragraphs (a)(1) and (a)(2) of this section when he deems such action to be appropriate, and may substitute in lieu thereof, other reasonable means of identification.

§ 70.6 Disclosure of requested information to individuals.

(a) *Period within which action on request shall be taken.* (1) As soon as possible, and within a period not to exceed 30 working days after receipt of a request made for in accordance with §§ 70a.4 and 70a.5, the officer responsible for acting on the request shall determine that such request is to be granted or denied in whole or in part, and shall thereupon immediately notify the requester of his or her determination and the reasons therefor. The provisions of paragraphs (a) (2), (3), and (4) of this section are applicable when a final determination to grant or deny the request cannot be made within the 30-day period.

(2) (i) When an extension of the 20-day period for action on a request appears to be necessary because of unusual circumstances, the officer responsible for acting on the request shall notify the requester in writing within such 30-day period of the desired extension, the reasons therefor, and the date on which the determination to grant or deny the request is expected to be dispatched. Such an extension is not to exceed 10 working days.

(ii) "Unusual circumstances" shall include circumstances where a search for and collection of requested records from inactive storage, field facilities or other establishments are required, cases where a voluminous amount of data is involved, instances where information on other individuals must be separated or expunged from the particular record, and cases where consultation with other agencies having a substantial interest in the determination of the request is necessary.

(3) If the disclosure officer is unable to make a determination with respect to all or part of a request within the 30-day period specified in paragraph (a) (1) of this section, or such extended period as may be permitted under paragraph (a) (2) of this section, because some or all of the records have not been located or made available for examination and consideration in time to make an informed determination, the officer may, within such period, respond to the request by denying the request at that time, with notification to the requester of the reasons therefor, and of the right to appeal the denial pursuant to § 70a.9. In such an event, the officer shall further advise the requester that the search or examination will be continued and that the denial will be subject to withdrawal, modification, or confirmation by a supplementary determination to be made as soon as processing of the request can be completed. If an appeal is filed from the initial denial, the Solicitor shall act thereon as provided in § 70a.9.

(b) *Procedure for disclosure of information.* (1) When a determination has been made to grant a request, the requested information shall be made available to the individual within the time period prescribed in paragraph (a) of this section. The record shall be made available to the individual in the manner requested, that is, either by forwarding a copy of the information to him or her, or by making it available for review, unless: (i) it is impracticable to provide the requester with a copy of a record, in which case the requester shall be so notified, and, in addition, will be informed of the procedures set forth in paragraph (b) (2) of this section, or (ii) the responsible official has reason to believe that the cost of a copy of a record is considerably more expensive than anticipated by the requester, in which case he or she shall notify the requester of the estimated cost, and ascertain whether the requester still wishes to be provided with a copy of the information.

(2) Where a record is to be reviewed by the requester in person, the disclosure officer shall inform the requester in writing of: (i) the date on which the record will become available for review, the location at which it may be reviewed, and the hours for inspection; (ii) the type of identification that will be required in order for him or her to review the record; (iii) such person's right to have a person of his or her own choosing accompany him or her to review the record, provided that there is furnished to the disclosure officer a written statement signed by the person to whom the record pertains authorizing the presence of such other person while reviewing the record; and (iv) such person's right to have a person other than himself or herself review the record, provided that there is furnished to the disclosure officer a notarized letter signed by the person to whom the record pertains authorizing such person to review the record.

(3) The record shall be made available for review for as long as the disclosure officer deems appropriate, but in no event for less than 30 days.

(4) Inspection of original records shall be made in the presence of the disclosure officer or such officer's designee.

(c) *Denial of request.* Where it has been determined to deny a request in whole or in part, the individual shall be notified in writing of such a determination. Such notification shall specify the reasons therefor, the name and title or position of the person(s) responsible for the denial, and shall advise the requester of the procedure for appealing such an adverse determination to the Solicitor of Labor as specified in § 70a.9.

(d) *Disclosure of medical records.* The Act recognizes the fact that disclosure of certain medical records to an individual, who is the subject of such a record, may have a detrimental effect on that person. Where medical records have been requested, and the requirements of this Part have otherwise been met, the records shall be disclosed in accordance with the provisions of this section unless the responsible official has substantial grounds for believing that disclosure of such records to the individual to whom the records pertain may adversely affect such person, in which case the records may be withheld.

(e) *Computerized records.* Where information is stored within one of the Department's computer systems, and it can only be retrieved by creating a new computer program, or modifying an existing program in a manner in which it would not otherwise be modified, thus producing a record not currently in existence, such a record is not required to be furnished under the Act.

(f) *Alternative Method for transmitting information.* Whenever a record containing personal information about an individual is to be mailed in response to a request under this Part, and the information is of such a nature that the disclosure officer has reasonable grounds for believing that the unauthorized dissemination of such information may be potentially harmful to the subject of the record, then such a record shall be sent "Certified Mail, Return Receipt Requested."

§ 70a.7 Request for correction or amendment to a record.

An individual, without regard to his or her age, may request the correction or amendment of any record pertaining to him or her, which is contained within a system of records subject to the requirements set forth in this Part, by mailing or delivering a written request in conformity with the requirements set forth in §§ 70a.4 and 70a.5. In addition, the request must state the information in the record which the requester believes to be unnecessary, inaccurate, irrelevant, untimely, or incomplete, the nature of the amendment desired, and a concise statement of the reasons therefor. All available supporting documents and materials which substantiate the requester's position should be included with the request.

§ 70a.8 Agency review of request for correction or amendment to a record.

(a) Upon receipt of a request to correct or amend a record, which is contained within a system of records subject to the requirements set forth in this Part, a determination whether to grant the request shall be made by the proper authority charged with the responsibility of acting upon such requests within the time limits prescribed in § 70a.6.

(b) Where it is determined that the request shall be granted: (1) the record shall be amended in accordance with the request within the time limits prescribed in section 70a.6 of this Part, and, in no event, is the record to be disclosed to any party until the amendments are so incorporated; (2) the requester shall be informed that the record has been so amended, and the record shall be made available for his or her review within the time limits prescribed in § 70.6, and (3) all prior recipients of the record, of which an accounting is required to be kept, shall be notified as soon as possible of the amendments made to the record.

(c) Where it is determined that the request is to be denied, in whole or in part, the requester shall be so notified in accordance with § 70a.6(c).

§ 70a.9 Procedures for appeal for initial adverse determination.

(a) *Time within which appeal must be filed.* An applicant whose request has been denied pursuant to either § 70a.6 or

§ 70a.8, may file an appeal within 90 days from the date of the denial to the Solicitor of Labor. The appeal shall state, in writing, the grounds for appeal and shall include any supporting statements or arguments. The appeal shall be addressed to the Solicitor of Labor, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. To expedite the processing of the appeal, each such appeal should clearly indicate on the envelope and on the appeal the following: "Privacy Act: Appeal."

(b) *Receipt by Solicitor of appeal acknowledgement.* Each appeal when received by the Solicitor, shall have the date and time of such receipt inscribed thereon. The Solicitor shall immediately acknowledge in writing the receipt of such appeal and shall indicate to the appellant when a final determination on the appeal may be expected.

(c) *Action on appeal.* (1) Action on an appeal shall be taken promptly subsequent to receipt by the Solicitor, and a determination shall be made within the time limits set forth in paragraph (d) of this section. On appeal, the Solicitor is authorized to determine de novo, whether the denial of appellant's initial request was proper and in accord with the applicable provisions of the statute and the pertinent regulations. In the event that the denial appealed from is one made by reason of the inability of the responsible official to make an informed determination within the specified time limits, the Solicitor's decision shall take into consideration any supplementary determination made by that official.

(2) In the event that a requester seeks review by a court of the denial of a request without first filing an appeal to the Solicitor as provided in this Part, the Solicitor shall, unless otherwise ordered by the court, consider such action as the filing of an appeal and issue a decision thereon in accordance with the provisions of paragraphs (c)(1) and (d) of this section.

(d) *Period within which action on appeal shall be taken.* (1) Within a period not to exceed 30 working days from the date on which an appeal is received, or such extended period as may be authorized pursuant to paragraph (e) of this section, the Solicitor shall issue a decision on the appeal as provided in paragraph (f) of this section.

(2) If a decision on an appeal is not made by the Solicitor within the normal or extended period, as applicable under paragraph (d)(1) of this section, the requester shall be deemed to have exhausted his administrative remedies and may seek relief as provided in 5 U.S.C. 552a(g). Processing of the appeal shall continue however, until a decision is made thereon, irrespective of whether the requester has invoked such judicial relief.

(e) *Extension of period for Solicitor to decide appeal.* The Solicitor may, to the extent necessary for making a proper determination, extend the period for deciding an appeal beyond the normal 30-day limit by giving written notice to the appellant, but in no event shall such an extension be for more than 10 additional working days.

(f) *Procedure upon determination on appeal.* The Solicitor shall issue a decision in writing granting or denying the appeal, in whole or in part.

(1) *Decision to grant request.* (i) When the Solicitor determines that any portion of a prior request, which has been previously denied, should be granted, he shall indicate to the requester the extent to which he has decided to grant the previously denied request, and shall order the responsible official(s) to take the necessary action consistent with his decision.

(ii) If the Solicitor's decision provides for making available information which had been previously withheld, and the Solicitor has within his possession such information, he shall forward a copy of it to the requester together with his decision, unless the requester has indicated that he or she prefers to review the record in person, in which case the Solicitor shall forward the record to the appropriate official who shall make the record available to the requester within the time limits prescribed in paragraph (b)(1)(iii)(A) of this section.

(iii) If the action required by the Solicitor's decision must necessarily be carried out by a responsible official other than the Solicitor, such action shall be carried out within the following time limits:

(A) If the Solicitor's decision requires a record to be made available for review without amendments thereto, such record shall be made available in the manner initially requested, except as provided in §§ 70a.6(b)(1)(i) and (ii), within 10 working days of the Solicitor's decision.

(B) If the Solicitor's action requires the amendment of a record, the requester shall be given an opportunity to review the amended record within 15 working days of the Solicitor's decision, and all previous recipients of the record, for which an accounting is required, shall be immediately informed of the amendments.

(iv) Whenever a record is to be made available to an appellant at the direction of the Solicitor, the responsible agency official shall notify the appellant when the record is available for review.

(2) *Decision to uphold denial.* Where the Solicitor determines that the denial of request, or a portion thereof, should be upheld, the requester shall be notified: (i) of the extent to which the denial has been upheld and the reasons therefor; (ii) of his right to file with the agency in possession of the relevant record, a memorandum setting forth the fact that such person believes the record to be erroneous and the reasons therefor; and (iii) that the decision of the Solicitor constitutes the final action by the Department of Labor for purposes of judicial review, and that the Solicitor's decision may be appealed to the District Court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District Court for the District of Columbia (See 5 U.S.C. 552a(g)).

(3) *Disclosure of record where request to amend has been denied on appeal.* Where a request to amend a record has been denied by the Solicitor, and the requester has filed a memorandum pursuant to paragraph (f)(2)(ii) of this section taking exception to the Solicitor's decision, upon receipt of such memorandum the responsible agency official shall include the memorandum with the relevant record and, in addition, may also include with such record a memorandum indicating that a request to amend the particular record has been denied both by the agency and by the Solicitor, and the reasons therefor.

(i) In addition, previous recipients of a record, where a request to amend has been denied by the Solicitor, and of which an accounting is required by 5 U.S.C. 552a(c), shall be provided with a copy of the requester's memorandum taking exception to the Solicitor's determination, and a copy of the agency memorandum in support of the determination, if such a memorandum has been prepared.

(ii) Any subsequent disclosure of the subject record shall also be accompanied by the requester's excepting memorandum, and the Government's supportive memorandum, if one has been filed.

§ 70a.10 [Reserved]

§ 70a.11 Fees.

(a) *General.* (1) Pursuant to authority granted by the Privacy Act, the payment of standard charges as set forth in paragraph (b) of this section will, except as otherwise provided in this section, be required of the requester to cover the direct costs of duplicating records requested under this Part. No fee shall be assessed to any requester for any cost attributed to the search for and the review of any record.

(2) Circumstances under which copying facilities or services may be made available to a requester without charge, or at a reduced charge, are delineated in paragraph (e) of this section. Where a requester desires the agency to provide such services as certification, authentication, or other special services not required under the Privacy Act, with respect to requested records, fees in addition to those required for copying will be assessed as set forth in § 70.68, and as authorized by the general user-charge statute, section 483a of Title 31, United States Code.

(b) *Copying charges*—(1) *Fee schedule for copying of records.* The fees payable pursuant to this section for obtaining requested copies of records which have been made available under this Part will be computed on the following basis and subject to the following conditions:

(i) *Standard copying fee.* It has been determined that a fee of $.10 per page for the reproduction of a record is a reasonable standard charge to cover direct costs to the Department where the number of pages furnished is not extraordinary. The standard fee is applicable both where the copies are reproduced by the person de-

siring them, using Government-furnished reproduction equipment, such as coin-operated machines, or where, in the absence of availability of such facilities, the copies are reproduced by agency personnel. This standard fee is also applicable to the furnishing of copies of computer printouts as stated in paragraph (c) of this section.

(ii) *Voluminous material.* If the volume of page copy desired by the requester is such that the reproduction charge at the standard page rate would be in excess of $200, the person desiring reproduction may request a special rate quotation from the Office of the Assistant Secretary for Administration and Management.

(iii) *Limit of service.* Not more than 10 copies of any document will be furnished.

(iv) *Manual copying by requester.* The Department shall provide facilities for manual copying, without charge, during normal working hours.

(c) *Computerized records.* (1) Information maintained, in whole or in part, in computerized form which is required to be made available under this Part, shall be made available as follows:

(i) When there is an existing computer printout, the material shall be made available at the per page rate stated in paragraph (b) of this section for each 8½- by 11-inch page.

(ii) When there is no existing printout of information required to be made available under this Part, then a printout shall be created and made available to the requester in accordance wtih paragraph (b) of this section.

(d) *Payment of fees*—(1) *Medium of payment.* Payment of the applicable fees as set forth in paragraph (b) of this section shall be made in cash, by U.S. postal money order, or by check payable to the Secretary of Labor. Postage stamps will not be accepted. Cash should not be sent by mail.

(2) *Advance payment or assurance.* Payment of the known and officially estimated copying fees shall be made or assured to the satisfaction of the disclosure officer prior to the performance of substantial copying services. Where the requester does not know and has no official estimate of the copying costs at the time the request is made, the request should specifically state that whatever costs will be involved pursuant to paragraph (b) of this section will be acceptable, or will be acceptable up to an amount not exceeding a named figure. When it becomes apparent that the duplication cost is going to exceed such named figure, the disclosure office shall notify the requester as required by § 70a.6.

(3) *Adjustment of fees.* Where an estimated fee, paid by the requester in advance, exceeds the fee chargeable under the applicable schedule for the copying services actually performed, the balance will be refunded by the Department. Where the actual fees due for the services are in excess of the estimate, the requester will be required to remit the difference. In cases where the estimated costs required under the fee schedule for responding to a request are such that an advance deposit is deemed necessary, the disclosure officer shall advise the requester of the estimated costs and the need for an advance deposit. In addition, where it appears that the information sought by the requester might be made available at less cost by revision of the request, the disclosure officer shall indicate to the requester that he or she may confer with knowledgeable Department personnel, if he or she so desires, in order to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

(4) *Post-copying costs.* The scheduled fees for furnishing copies of records made available pursuant to the Act cover the costs of furnishing the copies at the place of duplication. Where the volume of page copy, or the method of transmittal requested, is such that transmittal charges incurred by the Department are in excess of $1, then the transmittal costs will be added to the copying fees set forth in paragraph (b) of this section, unless, appropriate stamps or stamped envelopes are furnished with the request, or authorization is given for collection of shipping charges on delivery.

(e) *Waiver or reduction of fees by disclosure officer.* (1) When the disclosure officer granting a request for a record determines that the waiver or reduction of the standard charge would be in the public interest, he or she may make the requested record available at no charge or at a reduced charge, whichever he or she deems to be appropriate.

(2) (i) Where a record is requested for the first time, and in order for the requester to review the record, it is necessary to produce a copy of it, then the disclosure officer shall not assess the applicable fee.

(ii) In addition, where it is determined that a person, because of special circumstances, is unable to pay the fees prescribed in paragraph (b) of this section, and it is clear that the public interest would be served by providing the requested information free of charge, then no fee shall be charged for such information.

(f) *Authentication of copies.* Requirements pertaining to the certification or attestation under seal of copies of records required to be made available under this Part are the same as the requirements for authentication of copies of records under the Freedom of Information Act as set forth in § 70.68.

§ 70a.12 Penalties.

(a) *General.* (1) This section sets forth criminal sanctions for three possible violations of the Act:

(i) Unauthorized disclosure.

(ii) Failure to publish a public notice of a system of records subject to the requirements of this Part, and

(iii) Obtaining access to information under false pretenses.

(2) Paragraphs (a)(1)(i) and (ii) of this section apply to employees of the Department, and pursuant to 5 U.S.C. 552a(m), certain contractor personnel for contracts agreed to on or after September 27, 1975.

(b) *Unauthorized disclosure.* (1) Any officer or employee of the Department, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information, the disclosure of which is prohibited by this Part, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) It is a criminal violation of the Privacy Act if an employee of the Department, knowing that the disclosure of an agency record, as described in paragraph (b)(1) of this section, is prohibited, willfully discloses such a record without the written consent of the individual to whom it pertains, or otherwise discloses the record contrary to the provisions set forth in § 70a.3.

(c) *Failure to give public notice of a system of records.* (1) Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of section 3(e)(4) of the Act shall be guilty of a misdemeanor and fined not more than $5,000.

(2) (i) The Department, and each unit component thereof, is required to give public notice pursuant to section 3(e)(4) of the Act about each system of records it maintains. It is a criminal violation of the Act to willfully maintain a system of records and not publish the prescribed public notice. The exemption provisions set forth in section 70a.13 of this Part only exempt the designated systems of records from certain requirements set forth in this Part, and in the Act, but not from the requirement to publish notice of the existence of such systems of records.

(ii) Since the individual who maintains the system of records may not be the person responsible for publishing notification thereof, it is the former's responsibility to notify such person of any system of records under his or her control for which public notice is required to be given. Similarly, the individual responsible for publishing the notice, once notified of the existence of a system or records, shall inform the public in accordance with paragraph (e)(4) of 5 U.S.C. 552a.

(d) *Obtaining access to information under false pretenses.* Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department of Labor under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

§ 70a.13 Exemptions.

(a) *General exemption*—(1) *General.* Section (j) of 5 U.S.C. 552a permits certain agencies within the Department to promulgate rules in accordance with the requirements of sections 553(b)(1), (2), and (3) (c) and (e) of Title 5, United States Code, to exempt certain systems of records from all the requirements of

the Privacy Act except those set forth in paragraph (a)(3) of this section.

(2) *Systems of records which may be exempt pursuant to the general exemption.* Those systems of records which may be exempt from certain provisions of the Privacy Act by virtue of section (j) of 5 U.S.C. 552a are those systems which:

(i) Are maintained by an agency, or a component thereof, which performs as its principal function any activity pertaining to the enforcement of criminal laws, and

(ii) Contain information compiled for the purpose of: (A) a criminal investigation, including reports of informants and investigators associated with an identifiable individual, or (B) identifying individual criminal offenders and alleged offenders, and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.

(3) *Requirements from which systems are exempt under the general exemption.* Those systems of records which qualify for the general exemption are not subject to any provisions of the Privacy Act, nor any of the provisions set forth in this Part, except for the following:

(i) The conditions of disclosure requirements set forth in paragraph (b) of 5 U.S.C. 552a and § 70a.3;

(ii) The requirements to account for the disclosure of records and maintain an accounting of such disclosures as set forth in paragraphs (c)(1) and (c)(2) of 5 U.S.C. 552a;

(iii) The requirements prescribed in paragraph (e)(4) of 5 U.S.C. 552a to publish annually in the FEDERAL REGISTER notice of the existence and character of systems of records, except that the procedures for: (A) identifying a record, (B) gaining access to it, (C) contesting its accuracy, and (D) identifying the source of a record, need not be included in such notice;

(iv) The obligation set forth in paragraph (e)(6) of 5 U.S.C. 552a to check for the accuracy, relevance, timeliness, and completeness of records before disclosing such records to any person other than an agency, or to the public pursuant to the Freedom of Information Act;

(v) The requirement restricting the maintenance of records pertaining to an individual's exercise of his First Amendment rights (See paragraph (e)(7) of 5 U.S.C. 552a);

(vi) The requirement to establish rules governing the development, maintenance and safeguarding of systems of records as prescribed in paragraphs (e)(9) and (e)(10) of 5 U.S.C. 552a;

(vii) The requirement to give notice of any new use or intended use of the information contained within a system of records prior to publication pursuant to paragraph (e)(4)(D) of 5 U.S.C. 552a (See paragraph (e)(11) of 5 U.S.C. 552a); and

(viii) The criminal penalties set forth in paragraph (i) of 5 U.S.C. 552a.

(4) *Procedure required to exempt system of records under general exemption.* In order to exempt a system of records described in paragraph (a)(2) of this section from all of the provisions of the Privacy Act, excluding those provisions set forth in paragraph (a)(3) of this section, a notice must be published in the FEDERAL REGISTER in accordance with the rulemaking provisions set forth in paragraph (a)(1) of this section. Such notice shall include at least the following:

(i) The name of the system of records (i.e., the same name used in the annual notice published pursuant to paragraph (e)(4) of 5 U.S.C. 552a), and

(ii) The specific provisions of the Act, and the regulations, from which it is proposed to exempt the system, and the reasons therefor.

(b) *Special exemptions*—(1) *General.* The Department, or its component units, may promulgate rules in accordance with sections 553(b)(1), (2) and (3)(c) and (e) of Title 5, United States Code, to exempt those systems of records described in paragraph (b)(2) of this section from the requirements of the Privacy Act, and the regulations of this Part, set forth in paragraph (b)(3) of this section.

(2) *Systems of records which may be exempt under special exemptions.* The following systems of records may be exempt from those provisions of the Privacy Act, and the corresponding provisions of this Part, set forth in paragraph (b)(3) of this section.

(i) *Investigatory material compiled for law enforcement purposes.* (a) Systems of records containing solely investigatory material compiled for law enforcement purposes, other than systems within the scope of paragraph (a)(2) of this section, may be exempt to the extent indicated in paragraph (b)(1) of this section. However, if any individual is denied any right, privilege, or benefit, that he would otherwise be entitled to by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(B) The phrase "investigatory material compiled for law enforcement purposes" is similar to the phrase used in exemption (b)(7) of the Freedom of Information Act. In determining whether a system of records qualifies for this exemption, the case law under the Freedom of Information Act which has interpreted the terms "investigatory", "compiled" and "law enforcement purposes" should be used as guidelines for properly categorizing the system of records.

(C)(1) The phrase "to the extent that the disclosure of such material would reveal the identity of a source * * *" is particularly important. If a record can be disclosed in such a way as to conceal its source, a promise of confidentiality to the source is not sufficient grounds for withholding such a record. However, it is recognized that in certain cases the contents of records may be such that the identity of the source would be revealed even if the name of the source or other identifying particulars were removed (e.g., where a record contains information that could only have been furnished by one individual known to the subject). Only in those cases may the substance of the record be withheld to protect the identity of a source and then only to the extent necessary to do so. It is also recognized that in some instances it may be very difficult to determine whether the content of a record would, in and of itself, reveal its source. In light of the intent underlying this exemption, when any reasonable doubt exists as to whether the disclosure of a record, or a portion thereof, would reveal the identity of a confidential source, then such record, or the applicable portions thereof, may be withheld.

(2) In no instance is paragraph (b)(2)(i)(C)(1) of this section to be applied in a manner which deprives an individual from learning of the existence of information maintained in a record about him, even though the information may have been received from a "confidential source". The fact of the record's existence and, to the maximum extent feasible, a general characterization of that record must be made known to the individual in every case. Furthermore, this section in no way precludes an individual from ascertaining the substance and source of confidential information, should that information be used to deny him a promotion in a Government job, access to classified information, or some other right, benefit or privilege for which he is entitled to bring legal action, when the Government chooses to base any part of its legal case on that information.

(ii) *Records maintained to provide protective services.* Systems of records maintained in connection with providing protective services to the President of the United States, or to other individuals pursuant to section 3056 of Title 18, United States Code, may be exempt as indicated in paragraph (b)(1) of this section. This exemption pertains to systems, the compilation of which are necessary for assuring the safety of individuals protected pursuant to 18 U.S.C. 3056, but are not within the scope of the law enforcement records exemption set forth in paragraph (b)(2)(i) of this section.

(iii) *Statistical records.* Systems of records consisting of statistical records which are required by statute to be maintained and used solely for statistical research or reporting purposes, and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 18, United States Code, may be exempt as indicated in paragraph (b)(1) of this section. The language, "required by statute to be maintained * * * solely", suggests that systems of records which qualify for this exemption are those composed exclusively of records,

that by statute, are prohibited from being used in any manner associated with the making of a determination about an individual to whom a particular record pertains, not merely that the agency does not use the information for such purposes.

(iv) *Investigatory material compiled for determining suitability for Federal employment.* (A) Systems of records containing only investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information may be exempt as indicated in paragraph (b)(1) of this section, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(B) Paragraph (b)(2)(iv)(A) of this section permits, among other things, the exemption of systems of records from the individual access provisions of the Act, and the corresponding provisions of this Part, §§ 70a.4 through 70a.9, when disclosure of the records contained therein would cause the identity of a confidential source to be revealed. In order to employ this exemption, however, the following conditions must exist:

(*1*) The material must be maintained only for purposes of determining an individual's qualifications, eligibility or suitability for employment in the Federal civilian service, or on a Federal contract, or for access to classified material. By implication, employment would include appointments to Federal advisory committees or to membership agencies, whether or not salaried;

(2) The material must be relevant and necessary for making a judicious determination as to qualifications, eligibility or suitability of an individual for a particular position, and the information must be of such a nature that it can only be obtained by providing assurance to the source that his or her identity will not be revealed to the subject of the record (e.g., for "critically sensitive positions"); and

(3) The contents of the record, even with the removal of individual identifiers, would reveal the identity of the source.

(C) Regulations issued by the Civil Service Commission establishing procedures for when a pledge of confidentiality is to be made in order to obtain the information described in paragraph (b)(2)(iv)(A) of this section shall be complied with before this exemption is to be employed.

(D) The compilation of investigatory material with regard to Federal contracts pertains not only to investigatory material collected about individuals being considered for employment on an existing Federal contract, but also to investigatory material compiled to evaluate the capabilities of firms competing for Federal contracts.

(c) *Requirements from which systems of records may be exempt under special exemptions.* A system of records which meets the requirements of paragraph (b)(2) of this section need not comply with the following provisions of the Privacy Act and the corresponding requirements set forth in this Part:

(1) The requirement to make an accounting of a record available to the individual to whom it pertains at his or her request. (See paragraph (c)(3) of 5 U.S.C. 552a);

(2) The requirements for access to records as set forth in paragraph (d) of 5 U.S.C. 552a and §§ 70a.3 through 70a.9;

(3) The provisions of paragraph (e)(1) of 5 U.S.C. 552a which restricts the contents of records to only such information about an individual as is relevant and necessary to accomplish the purpose of the agency; and

(4) The provisions of paragraphs (e)(4) (G), (H) and (I) of 5 U.S.C. 552a, which require the annual notice of system of records published in the FEDERAL REGISTER to set forth:

(i) The procedures whereby an individual can be notified at his request:

(A) If a system of records contains a record pertaining to him, and

(B) How that person can gain access to any record pertaining to him contained in a system of records, and how he can contest its contents; and

(ii) The categories of sources of records in the system.

(d) *Procedure required to exempt a system of records under special exemptions.* In order to exempt a system of records described in paragraph (b)(2) of this section from the provisions of the Privacy Act set forth in paragraph (b)(3) of this section, and the corresponding provisions of this Part, notice of intention to exempt must be published in the FEDERAL REGISTER, and such notice shall meet the requirements prescribed in paragraph (a)(4) of this section.

(e) *Segregation of systems of records.* Systems of records which may be exempt under paragraphs (a) or (b) of this section shall, to the extent practicable: (1) be separated from systems of records which are not so exempt, and (2) when it is practicable to exempt only a portion of a system of records, rather than the entire system, then only such portion shall be exempted.

Inflationary impact. The Department has concluded the inflationary impact associated with these proposed regulations is inconsequential.

Signed at Washington, D.C. this 25th day of August 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-22881 Filed 8-28-75;8:45 am]

BOARD FOR INTERNATIONAL BROADCASTING

[1 CFR Part 415]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

The following Proposed Regulations, drafted in accordance with Section (f) of the Privacy Act of 1974, are hereby offered for public comment. Interested parties have until September 21, 1975, to submit comments, which should be addressed to The Executive Director, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street NW., Washington, D.C. 20005.

Signed this 21st day of August 1975, by

DAVID M. ABSHIRE,
Chairman.

It is proposed to add the following Part 415 to Title 1 of the CFR:

PART 415—PRIVACY ACT IMPLEMENTATION

Sec.

415.1 Purpose and scope.
415.2 Definitions.
415.3 Procedures for requests pertaining to individual records in a record system.
415.4 Times, places, and requirements for the identification of the individual making a request.
415.5 Disclosure of requested information to the individual.
415.6 Request for correction or amendment to the record.
415.7 Agency review of request for correction or amendment of the record.
415.8 Appeal of an initial adverse agenby determination on correction or amendment of the record.
415.9 Disclosure of record to a person other than the individual to whom the record pertains.
415.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 415.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Board for International Broadcasting (hereafter known as the Board) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 415.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Board, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Board from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 415.3 Procedures for requests pertaining to individual records in a record system.

An individual shall submit a request to the Special Assistant to the Executive Director of the Board to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a request to the Special Assistant to the Executive Director of the Board which states the individual's desire to review his or her record.

§ 415.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Special Assistant to the Executive Director of the Board pursuant to § 415.3 shall present the request at the Board offices, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5:30 p.m. The individual submitting the request should present himself or herself at the Board's offices with a form of identification which will permit the Board to verify that the individual is the same individual as contained in the record requested.

§ 415.5 Disclosure of requested information to the individual.

Upon verification of identity the Board shall disclose to the individual the information contained in the record which pertains to that individual.

§ 415.6 Request for correction or amendment to the record.

The individual should submit a request to the Special Assistant to the Executive Director of the Board which states the individual's desire to correct or to amend his or her record. This request is to be made in accord with the provisions of § 415.4.

§ 415.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of the request to correct or to amend the record, the Special Assistant to the Executive Director of the Board will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Board for the individual to request a review of that refusal.

§ 415.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the Special Assistant to the Executive Director of the Board to correct or to amend his or her record may submit a request for a review of such refusal to the Executive Director of the Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, NW., Washington, D.C. 20005. The Executive Director will, not later than thirty working days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Executive Director extends such thirty day period. If, after his or her review, the Executive Director also refuses to correct or to amend the record in accordance with the request, the individual may file with the Board a concise statement setting forth the reasons for his or her disagreement with the refusal of the Board and may seek judicial review of the Executive Director's determination under 5 U.S.C. 552a(g)(1)(A).

§ 415.9 Disclosure of record to a person other than the individual to whom the record pertains.

The Board will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure has been listed as a "routine use" in the Board's notices of its systems of records.

§ 415.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for review of the record, in advance of receipt of the pages.

BOARD FOR INTERNATIONAL BORADCASTING

PRIVACY ACT OF 1974

Proposed Notices of Record Systems

The following Notices of Record Systems were drafted as prescribed by section e(4) of the Privacy Act of 1974, and the routine uses thereof are hereby offered for pubic comment. These three (3) Record Systems are the only ones in our inventory period. Interested parties have until September 11, 1975, to submit comments, which should be addressed to the Special Assistant to the Executive Director, Board for International Broadcasting, 1030 Fifteenth Street, N.W., Suite 430, Washington, D.C. 20005.

Signed this 11th day of August, 1975.

David M. Abshire
Chairman

BIB—1

System name: GENERAL FINANCIAL RECORDS—BIB

System location: GENERAL SERVICES ADMINISTRATION, CENTRAL OFFICE; COPIES HELD BY THE BOARD (GSA HOLDS RECORDS FOR THE BOARD UNDER CONTRACT).

Categories of individuals covered by the system: BOARD MEMBERS, STAFF AND CONSULTANTS, PAST AND PRESENT.

Categories of records in the system: SF-1038 APPLICATION AND ACCOUNT FOR ADVANCE OF FUNDS; VENDOR REGISTER AND VENDOR PAYMENT TAPE.

Authority for maintenance of the system: 31 U.S.C., GENERALLY; PUBLIC LAW 93-129, OCTOBER 19, 1973

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: SEE APPENDIX. RECORDS ARE ALSO RELEASED TO GAO FOR AUDITS; TO THE IRS FOR INVESTIGATION; AND TO PRIVATE ATTORNEYS, PURSUANT TO A POWER OF ATTORNEY.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the sytem:

Storage: PAPER AND TAPE.

Retrievability: MANUAL AND AUTOMATED BY NAME.

Safeguards: STORED IN GUARDED BUILDING; RELEASED ONLY TO AUTHORIZED PERSONNEL.

Retention and disposal: DISPOSITION OF RECORDS SHALL BE IN ACCORDANCE WITH THE HB GSA RECORDS MAINTENANCE AND DISPOSITION SYSTEM (OAD P 1820.2).

System manager(s) and address: SPECIAL ASSISTANT TO THE EXECUTIVE DIRECTOR, BOARD FOR INTERNATIONAL BROADCASTING, SUITE 430, 1030 FIFTEENTH STREET, N. W., WASHINGTON, D. C. 20005.

Notification procedure: CONTACT SYSTEM MANAGER LISTED ABOVE.

Record access procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Contesting record procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Record source categories: THE SUBJECT INDIVIDUAL; THE BOARD.

BIB—2

System name: PAYROLL RECORDS-BIB

System location: GENERAL SERVICES ADMINISTRATION; REGION THREE OFFICE; COPIES HELD BY THE BOARD (GSA HOLDS RECORDS FOR BOARD UNDER CONTRACT).

Categories of individuals covered by the system: BOARD MEMBERS, STAFF AND CONSULTANTS, PAST AND PRESENT.

Categories of records in the system: VARIED PAYROLL RECORDS, INCLUDING, AMONG OTHER DOCUMENTS, TIME AND ATTENDANCE CARDS; PAYMENT VOUCHERS; COMPREHENSIVE LISTING OF EMPLOYEES; HEALTH BENEFITS RECORDS; REQUESTS FOR DEDUCTIONS; TAX FORMS; W2 FORMS; OVERTIME REQUESTS; LEAVE DATA; RETIREMENT RECORDS.

Authority for maintenance of the system: 31 U.S.C., GENERALLY; PUBLIC LAW 93-129, OCTOBER 19, 1973

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: SEE APPENDIX. RECORDS ALSO ARE RELEASED TO GAO FOR AUDITS; TO THE IRS FOR INVESTIGATION; AND TO PRIVATE ATTORNEYS, PURSUANT TO A POWER OF ATTORNEY.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the sytem:

Storage: PAPER AND TAPE.

Retrievability: SOCIAL SECURITY NUMBER.

Safeguards: STORED IN GUARDED BUILDING; RELEASED ONLY TO AUTHORIZED PERSONNEL.

Retention and disposal: DISPOSITION OF RECORDS SHALL BE IN ACCORDANCE WITH THE HB GSA RECORDS MAINTENANCE AND DISPOSITION SYSTEM (OAD P 1820.2).

System manager(s) and address: SPECIAL ASSISTANT TO THE EXECUTIVE DIRECTOR, BOARD FOR INTERNATIONAL BROADCASTING, SUITE 430, 1030 FIFTEENTH STREET, N.W., WASHINGTON, D. C. 20005.

Notification procedure: CONTACT THE SYSTEM MANAGER LISTED ABOVE.

Record access procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Contesting record procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Record source categories: THE SUBJECT INDIVIDUAL; THE BOARD.

BIB—3

System name: GENERAL PERSONNEL FILES-BIB

System location: GENERAL SERVICES ADMINISTRATION, CENTRAL OFFICE; COPIES HELD BY THE BOARD (GSA HOLDS RECORDS FOR THE BOARD UNDER CONTRACT).

Categories of individuals covered by the system: BOARD MEMBERS, STAFF AND CONSULTANTS, PAST AND PRESENT.

Categories of records in the system: SF-171 PERSONNEL QUALIFICATIONS STATEMENTS, PERSONNEL ACTION REQUESTS AND NOTIFICATIONS, OATHS OF OFFICE, CONSULTANT AND/OR EXPERT CERTIFICATIONS, DELEGATIONS OF AUTHORITY, BACKGROUND INFORMATION FOR SECURITY CLEARANCES (NON-SENSITIVE AND CRITICAL-SENSITIVE), STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS, TRAINING MATERIALS, CORRESPONDENCE WITH THE BOARD.

Authority for maintenance of the system: 31 U.S.C., GENERALLY; PUBLIC LAW 93-129, OCTOBER 19, 1973

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: SEE APPENDIX. RECORDS ARE ALSO RELEASED TO GAO FOR AUDITS; TO THE IRS FOR INVESTIGATION; AND TO PRIVATE ATTORNEYS, PURSUANT TO A POWER OF ATTORNEY.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the sytem:

Storage: PAPER AND TAPE.

Retrievability: MANUAL AND AUTOMATED BY NAME.

Safeguards: STORED IN GUARDED BUILDING; RELEASED ONLY TO AUTHORIZED PERSONNEL.

Retention and disposal: DISPOSITION OF RECORDS SHALL BE IN ACCORDANCE WITH THE HB GSA RECORDS MAINTENANCE AND DISPOSITION SYSTEM (OAD P 1820.2).

System manager(s) and address: SPECIAL ASSISTANT TO THE EXECUTIVE DIRECTOR, BOARD FOR INTERNATIONAL BROADCASTING, SUITE 430, 1030 FIFTEENTH STREET N. W., WASHINGTON, D. C. 20005.

Notification procedure: CONTACT THE SYSTEM MANAGER LISTED ABOVE.

Record access procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Contesting record procedures: SEE BOARD ACCESS REGULATIONS IN TITLE I CFR IV PART 415.

Record source categories: THE SUBJECT INDIVIDUAL; THE BOARD.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: APPENDIX—BIB

IN THE EVENT THAT A SYSTEM OF RECORDS MAINTAINED BY THIS AGENCY TO CARRY OUT ITS FUNCTIONS INDICATES A VIOLATION OR POTENTIAL VIOLATION OF LAW, WHETHER CIVIL, CRIMINAL OR REGULATORY IN NATURE, AND WHETHER ARISING BY GENERAL STATUTE OR PARTICULAR PROGRAM STATUTE, OR BY REGULATION, RULE OR ORDER ISSUED PURSUANT THERETO, THE RELEVANT RECORDS IN THE SYSTEM OF RECORDS MAY BE REFERRED, AS A ROUTINE USE, TO THE APPROPRIATE AGENCY, WHETHER FEDERAL, STATE, LOCAL OR FOREIGN, CHARGED WITH THE RESPONSIBILITY OF INVESTIGATING OR PROSECUTING SUCH VIOLATIONS OR CHARGED WITH ENFORCING OR IMPLEMENTING THE STATUTE, OR RULE, REGULATION OR ORDER ISSUED PURSUANT THERETO.

A RECORD FROM THIS SYSTEM OF RECORDS MAY BE DISCLOSED AS A "ROUTINE USE" TO A FEDERAL, STATE OR LOCAL AGENCY MAINTAINING CIVIL, CRIMINAL OR OTHER RELEVANT ENFORCEMENT INFORMATION OR OTHER PERTINENT INFORMATION, SUCH AS CURRENT LICENSES, IF NECESSARY TO OBTAIN INFORMATION RELEVANT TO AN AGENCY DECISION CONCERNING THE HIRING OR RETENTION OF AN EMPLOYEE, THE ISSUANCE OF A SECURITY CLEARANCE, THE LETTING OF A CONTRACT OR THE ISSUANCE OF A LICENSE, GRANT OR OTHER BENEFIT.

A RECORD FROM THIS SYSTEM OF RECORDS MAY BE DISCLOSED TO A FEDERAL AGENCY, IN RESPONSE TO ITS REQUEST, IN CONNECTION WITH THE HIRING OR RETENTION OF AN EMPLOYEE, THE ISSUANCE OF A SECURITY CLEARANCE, THE REPORTING OF AN INVESTIGATION OF AN EMPLOYEE, THE LETTING OF A CONTRACT, OR THE ISSUANCE OF A LICENSE, GRANT OR OTHER BENEFIT BY THE REQUESTING AGENCY, TO THE EXTENT THAT THE INFORMATION IS RELEVANT AND NECESSARY TO THE REQUESTING AGENCY'S DECISION IN THE MATTER.

A RECORD FROM THIS SYSTEM OF RECORDS MAY BE DISCLOSED TO AN AUTHORIZED APPEAL GRIEVANCE EXAMINER, FORMAL COMPLAINTS EXAMINER, EQUAL EMPLOYMENT OPPORTUNITY INVESTIGATOR, ARBITRATOR OR OTHER DULY AUTHORIZED OFFICIAL ENGAGED IN INVESTIGATION OR SETTLEMENT OR A GRIEVANCE, COMPLAINT, OR APPEAL FILED BY AN EMPLOYEE. A RECORD FROM THIS SYSTEM OF RECORDS MAY BE DISCLOSED TO THE UNITED STATES CIVIL SERVICE COMMISSION IN ACCORDANCE WITH THE AGENCY'S RESPONSIBILITY FOR EVALUATION AND OVERSIGHT OF FEDERAL PERSONNEL MANAGEMENT.

A RECORD FROM THIS SYSTEM OF RECORDS MAY BE DISCLOSED TO OFFICERS AND EMPLOYEES OF A FEDERAL AGENCY FOR PURPOSES OF AUDIT.

THE INFORMATION CONTAINED IN THIS SYSTEM OF RECORDS WILL BE DISCLOSED TO THE OFFICE OF MANAGEMENT AND BUDGET IN CONNECTION WITH THE REVIEW OF PRIVATE RELIEF LEGISLATION AS SET FORTH IN OMB CIRCULAR NO. A-19 AT ANY STAGE OF THE LEGISLATIVE COORDINATION AND CLEARANCE PROCESS AS SET FORTH IN THAT CIRCULAR.

[FR Doc.75-22837 Filed 8-28-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[19 CFR Part 201]

SAFEGUARDING INDIVIDUAL PRIVACY

Proposed Rule Making

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, and to implement the provisions of that act, the Commission proposes to amend Title 19, Part 201, of the Code of Federal Regulations by adding a new Subpart D.

Written comments concerning these proposed regulations are invited from interested persons. Comments may be presented in writing to the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. All comments received not later than September 22, 1975, will be considered.

These amendments to Title 19, Part 201 of the Code of Federal Regulations add a new subpart D thereto. The purpose of these amendments is to implement the Privacy Act of 1974, 5 U.S.C. 552a, and they are made pursuant thereto.

It is proposed to make the regulations adopted effective on September 27, 1975, the effective date of the Privacy Act, 5 U.S.C. 552a. The proposed regulations are set forth intentative form below:

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

Sec.

201.22 Purpose and Scope.
201.23 Definitions.
201.24 Procedures for requests pertaining to individual records in a records system.
201.25 Times, places, and requirements for identification of individuals making requests.
201.26 Disclosure of requested information to individuals.
201.27 Special Procedures: Medical records.
201.28 Request for correction or amendment of record.
201.29 Commission review of request for correction or amendment to record.
201.30 Commission disclosure of record to person other than the individual to whom it pertains.
201.31 Fees.
201.32 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a.

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

§ 201.22 Purpose and scope.

The purpose of these regulations is to provide certain safeguards for an individual against an invasion of personal privacy by the United States International Trade Commission. These regulations are promulgated pursuant to the requirements for all Federal Agencies contained in 5 U.S.C. 552a (f).

§ 201.23 Definitions.

For the purpose of these regulations,

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use, or disseminate;

(c) The term "record" means any item, collection, or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual;

(e) The term "Director of Personnel" refers to the Director, Office of Personnel and Management Systems, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, or his or her designee.

§ 201.24 Procedures for requests pertaining to individual records in a records system.

(a) A request by an individual to gain access to his or her record or to any information pertaining to him or her which is contained in the systems of records maintained by the Commission shall be addressed to the Director of Personnel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and shall indicate clearly both on the envelope and in the letter that it is a Privacy Act request.

(b) In order to facilitate location of requested records, the request of the individual shall name the systems of records maintained by the Commission which he or she believes contain records pertaining to him or her, or shall reasonably describe the requested record.

(c) The Director of Personnel shall ascertain whether the systems of records maintained by the Commission contain records pertaining to the individual. Thereupon the Director of Personnel shall: (1) notify the individual whether or not the requested record is contained in any system of records maintained by the Commission; and (2) notify the individual of the procedures as prescribed in §§ 201.25 and 201.26 by which the individual may gain access to those records maintained by the Commission which pertain to him or her.

§ 201.25 Times, places, and requirements for identification of individuals making requests.

(a) It shall be the responsibility of the individual requester to arrange an appointment with the Director of Personnel for the purpose of inspecting individual records. The time of inspection shall be during the regular office hours of the Commission, 8:45 a.m. to 5:15 p.m., Monday through Friday. The time arranged should be mutually convenient to the requester and to the Commission.

(b) The place where an individual may gain access to records maintained by the Commission which pertain to him or her shall be at the United States International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436. The Director of Personnel shall inform the individual requester of the specific room wherein inspection will take place.

(c) An individual who requests to gain access to those records maintained by the Commission which pertain to him or her shall not be granted access to those records without first presenting adequate identification to the Director of Personnel. Adequate identification includes, but is not limited to, a government identification card, a driver's license, medicare card, a birth certificate, or a passport.

(d) Where the nature of the record or system of records permits and where the individual cannot view the records pertaining to him in person, the Director of Personnel may dispense with the requisites of §§ 201.25(a) and 201.25(b) and provide the individual with a copy of the record by certified mail.

§ 201.26 Disclosure of requested information to individuals.

(a) Assuming that the individual requester has met the adequate identification criterion of § 201.25(c), the Director of Personnel shall permit the individual to review the pertinent records and to have a copy made of all or any portion of them. Where specific exemptions within the purview of § 201.32(c) would render such records or portions thereof incomprehensible, the Director of Personnel shall furnish an abstract in addition to an actual copy.

(b) The individual has the right to have a person of his or her own choosing accompany him or her to review his or her records. The Director of Personnel shall permit a person of the individual requester's choosing to accompany the individual during inspection.

(c) When the individual requests the Director of Personnel to permit a person of the individual's choosing to accompany him or her during the inspection of his or her records, the Director of Personnel shall require the individual requester to furnish a written statement authorizing discussion of the records in the accompanying person's presence.

(d) The Director of Personnel shall take all necessary steps to insure that individual privacy is protected while the individual requester is inspecting his or her records or while those records are being discussed. Only the Director of Personnel shall accompany the individual as representative of the Commission during the inspection of the individual's records. The Director of Personnel shall be authorized to discuss the pertinent records with the individual.

§ 201.27 Special procedures: Medical records.

(a) While an individual has an unqualified right of access to the records in systems of records maintained by the Commission which pertain to him or her, medical and psychological records merit special treatment because of the possibility that disclosure will have an adverse physical or psychological effect upon the requesting individual. Accordingly, therefore, in those instances where an individual is requesting the medical and/or psychological records which pertain to him or her, he or she shall, in his or her Privacy Act request to the Director of Personnel as called for in § 201.24

(a), specify a physician to whom the medical and/or psychological records may be released.

(b) It shall be the responsibility of the individual requesting medical or psychological records to specify a physician to whom the requested records may be released. If an individual refuses to name a physician and insists on inspecting his or her medical or psychological records in the absence of a doctor's discussion and advice, the individual shall so state in his Privacy Act request to the Director of Personnel as called for in § 201.24(a) and the Director of Personnel shall provide access to or transmit such records directly to the individual.

§ 201.28 Request for correction or amendment of record.

(a) If, upon viewing his or her records, the individual disagrees with a portion thereof or feels sections thereof to be erroneous, the individual may request amendment(s) of the records pertaining to him or her. The individual should request such an amendment in writing. The request for amendment of records shall be addressed to the Director of Personnel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act request for amendment of records.

(b) Not later than 10 days (Saturdays, Sundays and Federal legal public holidays excluded) after the date of receipt of a Privacy Act request for amendment of records, the Director of Personnel shall acknowledge such receipt in writing. Thereupon the Director of Personnel shall promptly either: (1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely, or complete; or (2) inform the individual of the Director of Personnel's refusal to amend the record in accordance with the individual's request and give the reasons for the refusal. In cases where the Director of Personnel has refused to amend in accordance with an individual's request, he or she also shall advise the individual of the procedures under § 201.29 for the individual to request a review of that refusal by the full Commission or by an officer designated by the Commission.

§ 201.29 Commission review of request for correction or amendment to record.

(a) The individual who disagrees with the refusal of the Director of Personnel to amend the record may request a review of the refusal by the Commission. All requests for review of refusals to amend records should be addressed to the Chairman, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act review request.

(b) Not later than 30 days (Saturdays, Sundays, and Federal legal public holidays excluded) from the date on which the Commission receives a request for review of the Director of Personnel's refusal to amend the record, the Commission shall complete such a review and make a final determination thereof unless, for good cause shown, the Commission extends the 30-day period.

(c) After the individual's request to amend his or her records has been reviewed by the Commission, if the Commission agrees with the Director of Personnel's refusal to amend the record in accordance with the individual's request, the Commission shall: (1) Notify the individual in writing of the Commission's decision; (2) advise the individual that he or she has the right to file a concise statement of disagreement with the Commission which sets forth his or her reasons for disagreement with the refusal of the Commission to amend the records; and (3) notify the individual of his or her legal right to judicial review of the Commission's final determination.

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, the Director of Personnel shall clearly note any portion of the record which is disputed and shall provide copies of the statement and, if the Commission deems it appropriate, copies of a concise statement of the reasons of the Commission for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

§ 201.30 Commission disclosure of record to person other than the individual to whom it pertains.

(a) Except as is permitted under 5 U.S.C. 552a(b)(1)–(b)(11), it is the policy of the Commission not to disclose any record which is contained in any system of records maintained by the Commission to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

(b) Except for disclosures to those officers and employees of the Commission who have a need for the record in the performance of their duties and any disclosure required by 5 U.S.C. 552, the Director of Personnel shall keep an accurate accounting of: (1) The date, nature, and purpose of each disclosure of a record to any person or to another agency under subsection (a) of this section; and (2) the name or address of the person or agency to whom the disclosure is made.

(c) The Director of Personnel shall retain the accounting required by § 201.30 (b) for at least five years or the life of the record, whichever is longer, after such disclosure.

(d) Except for disclosures made to other agencies for civil or criminal law enforcement purposes pursuant to 5 U.S.C. 552a(b)(7), the Director of Personnel shall make any accounting made under § 201.30(b) available to the individual named in the record at the individual's request.

(e) Where the Commission has provided any person or other agency with an individual record and such accounting as required by § 201.30(b) has been made, the Director of Personnel shall inform all such persons or other agencies of any correction, amendment, or notation of dispute concerning said record.

§ 201.31 Fees.

(a) The Commission shall not charge any fee for the cost of searching for and reviewing an individual's records.

(b) Reproduction, duplication or copying of records by the Commission shall be at the rate of 10 cents per page. There shall be no charge, however, when the total amount does not exceed 50 cents.

§ 201.32 Specific exemptions.

(a) A system of records or a record which is specifically required by Executive order to be kept secret in the interest of national defense or foreign policy, pursuant to 5 U.S.C. 552(b)(1), shall be exempt from this subpart and from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of Section 3 of the Privacy Act.

(b) Systems of records required by statute to be maintained and used solely as statistical records shall be exempt from this subpart and shall be exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of Section 3 of the Privacy Act.

(c) Personnel investigations records in the custody of the Security Officer of the Commission, which are compiled solely for the purpose of determining suitability, eligibility, or qualifications for Commission employment or access to classified information shall be exempt from this subpart and from subsections (c)(3), (d), (e)(4)(G), (H), and (I) and (f) of section 3 of the Privacy Act, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to government investigators under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

By order of the Commission.

Issued: August 22, 1975.

KENNETH R. MASON,
Secretary.

[FR Doc.75-22758 Filed 8-28-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

[45 CFR Part 1115]

PRIVACY ACT REGULATIONS

Proposed Regulations

The proposed addition implements 5 U.S.C. 552a(f) by setting forth rules and procedures for notification of the existence of records, obtaining copies of records and correction of records under the Privacy Act of 1974.

Interested persons are invited to submit written comments on these proposed regulations to the Chairman, National Endowment for the Arts, Attn: Office of General Counsel (Privacy Act), 2401 E Street, NW., Washington, D.C. 20506 by September 1, 1975 or to the Chairman, National Endowment for the Humanities, Attn: Office of General Counsel (Privacy Act), 806 15th Street, NW., Washington, D.C. 20506, by September 1, 1975.

Proposed § 1115.7 exercises the Foundation's right to exempt certain investigatory materials from disclosure. The Foundation is claiming an exemption under 5 U.S.C. 552a(k)(5) with respect to the identity of person's supplying references for applicants for various types of Foundation fellowships or grants. Fellowships and grants are considered to fall within the class of activities described in 5 U.S.C. 552a(k)(5), and it is considered imperative that reference reports compiled solely for determining suitability, eligibility or qualifications of applicants be provided on a confidential basis. In practice, the exercise of this exemption will often require the withholding of the actual reference and evaluation reports since the comments will in many cases reflect the identity of the reference. Confidentiality is needed to ensure that references are given, and evaluations are made, with complete candor.

The Foundation is also claiming an exemption with respect to the identity of references of persons seeking employment with the Foundation. The reasons for this are substantially the same as maintaining fellowship and grant references in confidence—the need for candor in response.

It is proposed that Chapter XI of Title 45 of the Code of Federal Regulations be amended as follows:

1. The table of parts is proposed to be revised to add the following entry: "Part 1115 Privacy Act Regulations".

2. Part 1115 is proposed to be added to read as follows:

PART 1115—PRIVACY ACT REGULATIONS

Sec.

1115.1 Purpose and scope.
1115.2 Definitions.
1115.3 Procedures for notification of existence of records pertaining to individuals.
1115.4 Procedures for requests for access to or disclosure of records pertaining to individuals.
1115.5 Correction of records.
1115.6 Disclosure of records to agencies or persons other than the individual to whom the record pertains.
1115.7 Exemptions.

AUTHORITY: 5 U.S.C. 552a(f).

§ 1115.1 Purpose and scope.

This part sets forth the National Foundation on the Arts and the Humanities' procedures under the Privacy Act of 1974 as required by 5 U.S.C. 552a(f). Internal guidance for Foundation staff and other regulations implementing the Privacy Act are contained or will be contained in Foundation circulars.

§ 1115.2 Definitions.

For purposes of this Part:

(a) "Foundation" means the National Foundation on the Arts and the Humanities.

(b) "Act" means the Privacy Act of 1974 (Pub. L. 93–579).

(c) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(d) "Maintain", used with reference to a record means to collect, to use, to disseminate, to have control over and responsibility for such record.

(e) "Record" means any item, collection or grouping of information about an individual that is maintained by the Foundation and that is retrievable by his or her name or an identifying particular, such as a number, symbol, fingerprint, or photograph of the individual. Information maintained by the Foundation includes, but is not limited to, education, financial transactions, medical history, employment history and criminal history.

(f) "Routine use" means, with respect to the disclosure of a record, the use of such a record for a purpose which is compatible with the purpose for which it was collected. The routine uses of record systems maintained by the Foundation were established pursuant to notice in the FEDERAL REGISTER.

(g) "System of records" means a group of any records under the control of the Foundation from which information about an individual is retrievable by his or her name or by some identifying particular.

§ 1115.3 Procedures for notification of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the National Foundation on the Arts and the Humanities are listed annually in the FEDERAL REGISTER as required by that Act. Any person who wishes to know whether a system of records contains a record pertaining to him may appear in person at the National Endowment for the Arts, Room 1338, 2401 E Street NW., Washington, D.C. 20506 or the National Endowment for the Humanities, Room 1000, 806 15th Street NW., Washington, D.C. 20506, on work days between the hours of 9:00 a.m. and 5:30 p.m. or by writing to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506. It is recommended that requests be made in writing, since in many cases it will take several days to ascertain whether a record exists.

(b) Requests for notification of the existence of a record should specifically identify the system of records involved and should state, if the requestor is other than the individual to whom the record pertains, the relationship of the requestor to that individual. (Note that requests will not be honored by the Foundation pursuant to the Privacy Act unless made (1) by the individual to whom the record pertains, (2) by such individual's parent if the individual is a minor, or (3) by such individual's legal guardian if the individual has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction).

(c) The Foundation will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or from the time any required identification is established, whichever is later.

§ 1115.4 Procedures for requests for access to or disclosure of records pertaining to an individual.

(a) Any person may request review of records pertaining to him by appearing at the National Endowment for the Arts, Room 1338, 2401 E Street, NW., Washington, D.C. 20506, or the National Endowment for the Humanities, Room 1000, 806 15th Street, NW., Washington, D.C. 20506 on work days between the hours of 9:00 a.m. and 5:30 p.m. or by writing to the Office of the General Counsel, National Endowment for the Arts, or National Endowment for the Humanities, Washington, D.C. 20506. (See paragraphs (b) and (c) of this section for identification requirements.) The request should specifically identify the systems or records involved. The Foundation will strive either to make the record available within 15 working days of the request or to inform the requestor of the need for additional identification or the tendering of fees (as specified in paragraph (d) of this section) within 15 working days.

(b) In the case of persons making requests by appearing at the Foundation, the amount of personal identification required will of necessity vary with the sensitivity of the record involved. Except as indicated below, reasonable identification such as employment identification cards, drivers licenses, and credit cards will normally be accepted as sufficient evidence of identity in the absence of any indications to the contrary. Records in the following systems of records, however, are considered to contain relatively sensitive and/or detailed personal information—

GRANT APPLICATIONS—NEA.
GRANT APPLICATIONS—NEH.
GRANTS TO INDIVIDUALS—NEA.
GRANTS TO INDIVIDUALS AND INSTITUTIONS—NEH.
EQUAL EMPLOYMENT OPPORTUNITY CASE FILE—NFAH NEA/NEH.
EMPLOYEE PAYROLL—NFAH.
PERSONNEL RECORDS—NFAH.

Accordingly, with respect to requests for records in these systems the Foundation reserves the rights to require sufficient identification to identify positively the individual making the request. This might involve independent verification by the Foundation as by phone calls to determine whether an individual has made a request, personal identification by Foundation employees who know the individual, or such other means as are considered appropriate under the circumstances.

(c) A written request will be honored only if it contains the following certification before a duly commissioned notary public of any state or territory (or similar official if the request is made outside the United States):

I, _____, do hereby
(Printed name)
certify that I am the individual about whom the record requested in this letter pertains or that I am within the class of persons authorized to act on his behalf in accordance with 5 U.S.C. 552a(h).

_____
Signature

_____
Date

In the County of _____
State of _____. On this
_____ day of _____
(Name of individual)
who is personally known to me, did appear before me and sign the above certificate.

_____
Signature

_____
Date

(s) My Commission expires _____

However, where the record requested is contained in any of the systems of records listed in paragraph (b) of this section, the Foundation reserves the right to require additional identification and/or to independently verify to its satisfaction, the identity of the requestor.

(d) Charges for copies of records will be at the rate of $0.10 per photography of each page. Where records are not susceptible to photo-copying, e.g., punch cards, magnetic tapes or oversize materials, the amount charged will be actual cost as determined on a case-by-case basis. Only one copy of each record requested will be supplied. No charge will be made unless the charge as computed above would exceed $3.00 for each request or related series of requests. If a fee in excess of $25.00 would be required, the requestor shall be notified and the fee must be tendered before the records will be copied.

§ 1115.5 Correction of records.

(a) Any individual is entitled to request amendments of records pertaining to him pursuant to 5 U.S.C. 552 a(d)(2). Such a request shall be made in writing and addressed to the Office of the General Counsel, National Endowment for the Arts or National Endowment for the Humanities, Washington, D.C. 20506.

(b) The request should specify the record and systems of records involved, and should specify the exact correction desired and state that the request is made pursuant to the Privacy Act. An edited copy of the record showing the desired correction is desirable. Within 10 working days of the receipt of a properly addressed request (or within 10 working days of the time the General Counsel, National Endowment for the Arts or the General Counsel, National Endowment for the Humanities becomes aware that a particular communication not addressed as prescribed above is a request for correction of a record under the Privacy Act), the General Counsel's office shall acknowledge receipt of the request.

(c) The General Counsel's office upon receipt of such a request shall promptly confer with the office within the Foundation responsible for the record. In the event it is felt that correction is not warranted in whole or in part, the matter shall be brought to the attention of the Deputy Chairman of the Endowment involved. If, after review by the Deputy Chairman of the involved Endowment and discussion with the request or, if deemed helpful, it is determined that correction as requested is not warranted, a letter shall be sent by the Deputy Chairman's office to the requestor denying his request and/or explaining what correction might be made if agreeable to the requestor. This letter shall set forth the reasons for the refusal to honor the request for correction. It shall also inform him of his right to appeal this decision and include a description of the appeals procedure set forth in paragraph (d) of this section.

(d) An appeal may be taken from an adverse determination under paragraph (c) of this section to the Assistant Chairman/Management, National Endowment for the Arts or the Chairman, National Endowment for the Humanities. Such appeal must be made in writing and should clearly indicate that it is an appeal. The basis for the appeal should be included, and it should be mailed to the same address as listed in paragraph (a) of this section. A hearing at the Foundation may be requested. Such hearing will be informal, and shall be before the Assistant Chairman/Management, National Endowment for the Arts, the Chairman, National Endowment for the Humanities, or an appointed designee. If no hearing is requested, the request for appeal should include the basis for the appeal. Where no hearing is requested the Assistant Chairman or Chairman before whom the appeal is taken shall render his decision within thirty working days after receipt of the written appeal at the Foundation, unless the Assistant Chairman or Chairman before whom the appeal is taken, for good cause shown, extends the 30-day period and the appellant is advised in writing of such extension. If a hearing is requested, the Foundation will attempt to contact the appellant within five working days and arrange a suitable time for the hearing. In such cases the decision of the Assistant Chairman or Chairman shall be made within 30 working days after the hearing unless the time is extended and the appellant is advised in writing of such extension.

(e) The final decision of the Assistant Chairman or Chairman in an appeal shall be in writing, and, if adverse to the appellant, set forth the reasons for the refusal to amend the record and advise him of this right to appeal the decision under 5 U.S.C. 552a(g)(1)(A). The individual shall also be notified that he has the right to file with the Foundation a concise statement setting forth the reasons for his disagreement with the refusal of the Foundation to amend his record.

§ 1115.6 Disclosure of records to agencies or persons other than the individual to whom the record pertains.

Records subject to the Privacy Act that are requested by any person other than the individual to whom they pertain will not be made available except under the following circumstances:

(a) Records required to be made available by the Freedom of Information Act will be released in response to a request formulated in accordance with Foundation regulations found at 45 CFR Part 1100.

(b) Records not required by the Freedom of Information Act to be released may be released, at the discretion of the Foundation, if the written consent of the individual to whom they pertain has been obtained or if such release would be authorized under 5 U.S.C. 552a(b)(1) or (3)–(11).

§ 1115.7 Exemptions.

(a) *Fellowships and grants.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of section 552 a(d) any materials which would disclose the identity of references for fellowship or grant applicants contained in any of the Foundation's systems of records.

(b) *Applicants for employment.* Pursuant to 5 U.S.C. 552a(k)(5), the Foundation hereby exempts from the application of 5 U.S.C. 552a(d) any materials which would disclose the identity of references of applicants for employment at the Foundation contained in the system of records entitled "Official Personnel Folders".

ROBERT KINGSTON,
Deputy Chairman, National Endowment for the Humanities.

LIVINGSTON BIDDLE,
Acting Chairman, National Endowment for the Arts.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PRIVACY ACT OF 1974

Notice of Existence and Character of Systems of Records

The Privacy Act of 1974, Pub. L. 93-579, an Act to provide certain safeguards for an individual against invasion of personal privacy, amends Title 5, United States Code, by adding after section 552 a new section 552a, effective September 27, 1975. 5 U.S.C. 552a(e)(4) requires that each agency publish at least annually a notice of the existence and character of each "system of records," as that term is defined in 5. U.S.C. 552a(a)(5), which it maintains, such notice to contain, inter alia, a description of each routing use of the records contained in the system. 5 U.S.C. 552a(e)(11) requires that each agency, at least 30 days prior to publication of a routine use description, publish notice of any new use or intended use of information in the system.

Pursuant to these provisions, the Chairman, National Endowment for the Arts, and Chairman, National Endowment for the Humanities, submit the following notices of the existence and character of systems of records maintained by the National Foundation on the Arts and the Humanities. Interested persons are invited to submit written comments on the notices in general and written data, views or arguments concerning the routine use portions of the notices. Comments, data views and arguments received on or before September 15, 1975, will be considered prior to final publication of the notices.

Livingston Biddle
Acting Chairman,

National Endowment for the Arts

Robert Kingston
Deputy Chairman

National Endowment for the Humanities

ALPHABETICAL LIST OF SYSTEMS NAMES

CONSULTANTS—NFAH—1
CONTRACTS—NFAH—2
EMPLOYEE PAYROLL AND LEAVE AND ATTENDANCE RECORDS AND
FILES—NFAH—3
EQUAL EMPLOYMENT OPPORTUNITY CASE FILE—NFAH 4
GRANT APPLICATIONS—NFAH/NEA—5
GRANT APPLICATIONS—NFAH/NEH—6
GRANTS TO INDIVIDUALS—NFAH/NEA—7
GRANTS TO INDIVIDUALS AND INSTITUTIONS—NFAH/NEH—8
PERSONNEL RECORDS—NFAH—9

NFAH—1

System name: Consultants—NFAH—1.

System location: NEA—2401 E St. NW, Washington, D.C. 20506.

System location: NEH—806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Past and present members of the National Council on the Arts, the National Council on the Humanities, Advisory Panels to the Arts Endowment and Advisory Panels to the Humanities Endowment.

Categories of records in the system: Contains name, address and telephone number of individual. Contains compensation claims, travel dairies, notification of personnel actions, correspondence. May contain curriculum vitae and press clippings.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation consultants and their activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in lockable drawers or file cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Director, Program Offices—NEA/NEH, Director, Program Information—NEA, Director, Public Information—NEH, Director, Planning—NEA, Secretary to the National Council on the Arts—NEA, Office of the General Counsel—NEH.

NEA—2401 E St. NW, Washington, D.C. 20506.
NEH—806 15th St. NW, Washington, D.C. 20506

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom record is maintained, newspapers and journals, Foundation employees.

NFAH—2

System name: Contracts—NFAH—2

System location: NEA—Office of General Counsel, Room 1338, 2401 E St. NW, Washington, D.C. 20506.

System location: NEH—Office of the General Counsel, Room 1000, 806 15th St. NW, Washington, D. C. 20506.

Categories of individuals covered by the system: Individuals who have entered into contracts with the Foundation.

Categories of records in the system: Contains contract, including name and address of contractor, specific and general contract provisions, contract amendments, correspondence, relevant back-up material.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Accounting Office audits, general Congressional oversight.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 12 inch by 10 inch folders.

Retrievability: Indexed by name and number

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Retained indefinitely.

System manager(s) and address: General Counsel—NEA, Room 1338, 2401 E St. NW, Washington, D. C. 20506. General Counsel—NEH, Room 1000, 806 15th St. NW, Washington, D. C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in contract development, administration, and execution.

NFAH—3

System name: Employee payroll and leave and attendance records and files—NFAH—3

System location: Finance Office, NFAH, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation Employees.

Categories of records in the system: Recds consist of manual files containing payroll- related information for Foundation employees. Payroll and leave and attendance records and information includes many records or information also maintained in employee's official personnel folder and related files maintained in accordance with Civil Service Commission regulations and of which notice has been given by the Commission in its notice of Government-wide systems of personnel records. Payroll and related information consists of various forms which disclose on a biweekly, year-to-date, and in some cases an annual basis, payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances; tax and retirement deductions; life insurance and health insurance deductions; savings allotments; savings bond and charity deductions; mailing addresses and home addresses.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951

et seq.), Federal Personnel Manual and Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to prepare payroll and to meet Government payroll record-keeping and reporting requirements, and for retrieving and supplying payroll and leave information as required for agency needs. Civil Service Commission Notice of Government-wide Systems of Personnel Records: "C.S.C.—General Personnel Records (Official Personnel folder and records related thereto)."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Time and attendance files maintained on 8 inch by 5 inch cards included with other information maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: Records maintained for three years or until audited by the General Accounting Office.

System manager(s) and address: Finance Manager, Room 807, Shoreham Building, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH—4

System name: Equal Employment Opportunity Case File—NFAH—4.

System location: Room 812, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees and job applicants.

Categories of records in the system: Contains transcripts, documentation concerning pre-complaint counseling activities, documentation concerning filing of complaint, written records of terms of adjustment and disposition of complaint.

Authority for maintenance of the system: Title 5 CFR Chapter I, Part 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Implementation of Foundation program for equal opportunity in employment and personnel operations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrievable by name.

Safeguards: Maintained in lockable filing cabinets.

Retention and disposal: Retained indefinitely.

System manager(s) and address: Equal Employment Opportunity Officer, Room 812, 806 15th St. NW, Washington, D. C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Foundation employees involved in the claim or proceeding.

NFAH/NEA—5.

System name: Grant Applications—NFAH/NEA—5.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals applying to the National Endowment for the Arts for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Administration of grant review process; statistical research; Congressional oversight and analysis of trends.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in a lockable file cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

NFAH/NEH—6.

System name: Grant Applications—NFAH/NEH—6.

System location: 806 15th St. NW, Washington, D. C. 20506.

Categories of individuals covered by the system: Individuals and institutions applying to the National Endowment for the Humanities for financial assistance.

Categories of records in the system: Grant application, sample of work where appropriate.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General administration of grant review process; statistical research; Congressional oversight and analysis of trends.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 9 inch by 12 inch folders.

Retrievability: Indexed by name of applicant.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual and institution on whom the record is maintained.

NFAH/NEA—7.

System name: Grants to Individuals NFAH/NEA—7.

System location: 2401 E St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Individuals receiving grant awards (fellowships) from the National Endowment for the Arts.

Categories of records in the system: Grant application, including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General administration of grant review and award process; statistical research; Congressional oversight and analysis of trends.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name and number.

Safeguards: Records are maintained in lockable filing cabinets.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer, Room 1101, 2401 E St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH/NEH—8

System name: Grants to Individuals and Institutions—8

System location: 806 15th St. NW, Washington, D. C. 20506.

Categories of individuals covered by the system: Individuals and institutions receiving grant awards from the National Endowment for the Humanities.

Categories of records in the system: Grant application including sample of work where appropriate, award notification letter, grant award acceptance agreement, payment schedule, relevant correspondence, final report.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Administrative processing, general statistical research, Congressional analysis of trends.

Information concerning grantees, principal investigator's location of grantee, title of grant, field of study, type of grantee, special characteristics, length of award, application date, date of recommendation, grant number, division and program element, amount and brief description of purpose of award is routinely forwarded to the Smithsonian Science Information Exchange (SSIE) and the Foreign Area Research Unit (FARU) in the Intelligence and Research Office of the Department of State.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Indexed by name of individual, name of institution, and number.

Safeguards: Records are maintained in a lockable filing cabinet.

Retention and disposal: After receipt of final reports, retired to National Archives. Retained in National Archives for three years. Then shipped to St. Louis, Mo.

System manager(s) and address: Grants Officer—NEH, Room 522, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual on whom the record is maintained. Employees involved in administration of the grant.

NFAH—9.

System name: Personnel Records—NFAH—9.

System location: Room 410, 806 15th St. NW, Washington, D.C. 20506.

Categories of individuals covered by the system: Foundation employees.

Categories of records in the system: Contains copies of official personnel records, payroll information, time and attendance records, consultants' employment files.

Authority for maintenance of the system: National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of Foundation Employees and their personnel records. Used for internal reporting; also referred to any appropriate agency, private organization or official in the course of an employment or security clearance investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in 9 inch by 12 inch folders.

Retrievability: Retrieved by name.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Retained during course of employment and for one month subsequent to termination thereof; thereafter sent to St. Louis, Mo.

System manager(s) and address: Personnel Officer, Room 410, 806 15th St. NW, Washington, D.C. 20506.

Notification procedure: See Title 45 CFR Part 1115.

Record access procedures: Same as above.

Record source categories: Individual to whom the record pertains. Foundation employees.

[FR Doc.75-22879 Filed 8-28-75;8:45 am]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2400]

PRIVACY ACT

Proposed Regulations

Proposed regulations of the Occupational Safety and Health Review Commission implementing the Privacy Act of 1974, 5 U.S.C. 552a, are published herewith for comment.

Interested persons may comment in writing, upon these proposed regulations by submitting written data, views and arguments, to the Chief Administrative Law Judge, OSAHRC, 1825 K Street, NW., Washington, D.C. 20006 not later than September 26, 1975.

The proposed regulations are set forth below.

Dated: August 25, 1975.

FRANK R. BARNAKO,
Chairman.

PART 2400—PRIVACY ACT

Sec.

2400.1 Purpose and scope.
2400.2 Description of agency.
2400.3 Delegation of authority.
2400.4 Collection and disclosure of personal information.
2400.5 Notification.
2400.6 Procedures for requesting inspection and copying.
2400.7 Procedures for requesting amendment.
2400.8 Schedule of Fees.
2400.9 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 2400.1 Purpose and scope.

The purpose of the provisions of this Part is to provide procedures to implement the Privacy Act of 1974 (5 U.S.C. 552a). The following provisions are applicable only to such items of information as relate to the agency or are within its custody. The Commission's custody encompasses all information which is kept by an agent by contract with the agency. They are not applicable to the rights of parties appearing in adversary proceedings before the Commission to obtain discovery from an adverse party. Such matters are governed by the Commission's Rules of Procedure which are published at 29 CFR 2200.1 et seq. This part is intended to protect individual privacy, and affects all personal information collection and usage activity of the agency.

§ 2400.2 Description of agency.

The Occupational Safety and Health Review Commission (OSAHRC) adjudicates contested enforcement actions under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651–677). Decisions of the Commission on such actions are issued only after the parties to the case are afforded an opportunity for a hearing in accordance with section 554 of Title 5, United States Code. All such hearings are conducted by an OSAHRC Administrative Law Judge at a place convenient to the parties and are open to the public.

§ 2400.3 Delegation of authority.

(a) The Chief Administrative Law Judge will insure agency-wide compliance to this policy.

(b) Custodians are responsible for adherence to this part within their respective units and in particular for their collection, use and disclosure of personal information, and for affording individuals the right to inspect, obtain copies of and correct records concerning them. They are responsible for reporting the existence of personal records systems, changes to the contents of those systems and changes of routine use to the Chief Administrative Law Judge, and also for establishing the relevancy of information within those systems.

§ 2400.4 Collection and disclosure of personal information.

(a) The following rules govern the collection of personal information throughout OSAHRC operations:

(1) The OSAHRC will:

(i) Solicit, collect and maintain only such personal information as is relevant and necessary to accomplish a purpose required by statute or Executive Order,

(ii) Collect information, to the greatest extent practicable, directly from the subject individual when such information may result in adverse determinations about an individual's rights, benefits or privileges.

(iii) Inform any individual requested to disclose personal information whether that disclosure is mandatory or voluntary, by what authority it is solicited, the principal purposes for which it is intended to be used, the routine uses which may be made of it and any penalties or consequences, which are known to the OSAHRC, which will result for the individual from such non-disclosure.

(2) OSAHRC will not discriminate against any individual who fails to provide personal information unless that information is required or necessary for the conduct of the system or program in which the individual desires to participate. See § 2400.4(a)(1)(i).

(3) No information will be collected or maintained which describes how individuals exercise rights guaranteed by the First Amendment unless the Chairman specifically determines that such information is relevant and necessary to carry out a statutory purpose of the OSAHRC, and the collection is expressly authorized by statute, or by the individual about whom the record is maintained.

(4) OSAHRC will not require disclosure of any individual's Social Security account number or deny a right, privilege or benefit because of the individual's refusal to disclose the number unless disclosure is required by Federal law.

(b) Disclosures. (1) Limitations. OSAHRC will not disseminate personal information unless reasonable efforts have been made to assure that the information is accurate, complete, timely and relevant and

(i) The individual to whom the record pertains has requested in writing that the information be disseminated, or

(ii) It has obtained the prior written consent of the individual to whom the record pertains, or

(iii) The dissemination is in accordance with paragraph (b)(2) of this section.

(2) Dissemination of personal information may be made:

(i) To a person pursuant to a requirement of the Freedom of Information Act (5 U.S.C. 552);

(ii) To those officers and employees of OSAHRC who have a need for such information in the performance of their duties;

(iii) For a routine use as contained in the system notices published in the FEDERAL REGISTER;

(iv) To a recipient who has provided adequate advance written assurance that the information will be used solely as a statistical reporting or research record, and to whom the information is transferred in a form that is not individually identifiable;

(v) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, U.S. Code;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual, if upon such disclosure notification is transmitted to the last known address of such individual;

(viii) To a federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if such activity is authorized by law and if the head of the agency or instrumentality has made a written request to the OSAHRC specifying the particular portion of the record desired and the law enforcement activity for which the record is sought;

(ix) To either House of Congress or its committees or subcommittees to the extent of matter within their jurisdiction;

(x) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(xi) Pursuant to the order of a court of competent jurisdiction.

(3) Employee Credit References. A credit bureau or commercial firm from which an employee is seeking credit may be given the following information upon written request of the employee applicant: length of service, job title, and salary range for the employee's grade (but not exact salary).

(4) Employee Job References. Prospective employers of an OSAHRC employee or a former OSAHRC employee may be furnished with the information in § 2400.4(b)(3) above, in addition to the date and reason for separation if ap-

plicable, upon the written request of the employee or former employee.

(c) Correction Disclosure. Any person or other agency to which a personal record has been or is to be disclosed shall be informed of any corrections or be provided copies of statements of dispute, and notations specifying the portions of the record relating thereto affecting the accuracy, timeliness or relevance of that personal record.

(d) Record of Disclosure. (1) An accurate accounting of each disclosure will be kept in all instances except those in which disclosure is made to OSAHRC employees in the performance of their duties or is required by the Freedom of Information Act (5 U.S.C. 552), in conformance with section 552a(c) of the Privacy Act.

(2) The accounting will be maintained for at least five (5) years or the life of the record, whichever is longer.

(3) The accounting will be made available to the individual named in the record upon inquiry, except for disclosures made pursuant to provision .4(b)(2)(viii) above relating to law enforcement activities.

§ 2400.5 Notification.

(a) *Notification of systems.* The following procedures permit individuals to determine the types of personal records systems maintained by OSAHRC.

(1) Upon written request, OSAHRC will notify any individual whether a specific system named by him contains a record pertaining to him. See § 2400.6 for suggested form of request.

(2) OSAHRC will publish annually in the FEDERAL REGISTER a notice of existence and character of all personal systems of records. This notice will contain the following information:

(i) Name and location of the system,

(ii) Nature and purposes of the system,

(iii) Categories of individuals on whom personal information is maintained and categories of personal information generally maintained in the system,

(iv) Confidentiality requirements and the extent to which access controls apply to such information,

(v) OSAHRC policies and standards regarding the safeguarding and disclosure of information, information storage, duration of retention of information, and elimination of such information from the system,

(vi) Routine uses made by OSAHRC of the personal information contained in the system, including the categories of users and the purpose of the use,

(vii) Title and official address of the custodian,

(viii) Procedures by which an individual can be informed if a system contains personal information pertaining to himself, gain access to such information, and contest the accuracy, completeness, timeliness, relevance and necessity for retention of the information,

(ix) Categories of sources of such personal information,

(x) System status—either developmental or operational.

(b) *Notification of Disclosure.* OSAHRC shall make reasonable efforts to serve notice on an individual before any personal information is made available to any person under compulsory legal process when such process becomes a matter of public record. (Also see § 2400.4(b)(1)(ii) and (2)(vii).)

(c) *Notification of Amendment.* (See § 2440.7 relating to amendment of records upon request.)

(d) *Notification of New Use.* Any newly intended use of personal information maintained by OSAHRC will be published in the Federal Register thirty (30) days before such use becomes operational. Public views may then be submitted to the Chief Administrative Law Judge.

(e) *Notification of Exemptions.* OSAHRC will publish in the FEDERAL REGISTER its intent to exempt any system of records and shall specify the nature and purpose of that system.

§ 2400.6 Procedures for requesting inspection and copying.

The purpose of this section is to provide procedures by which an individual may have access to personal information within a comprehensive format.

(a) *Submission of Requests for Access*—(1) *Manner.* Inquiries regarding the contents of records systems or access to personal information should be in writing and addressed to the Chief Administrative Law Judge, OSAHRC, 1825 K Street, N.W., Washington, D.C. 20006. Any inquiry concerning a specific system of records should provide OSAHRC with the name of system and category of individual making the request, if more than one category is involved in the system and the information contained under "Notification" for that system as published in the FEDERAL REGISTER. If the information supplied is insufficient to locate or identify the record, the requester will be notified promptly and, if necessary, informed of additional information required.

(2) *Period for response.* Upon receipt of an inquiry the Chief Administrative Law Judge will respond promptly to the request and no later than 10 days from receipt of such inquiry.

(3) *When compliance is possible.* The Chief Administrative Law Judge shall inform the requester of the availability of the record and shall set a reasonable time and place convenient to both, for inspection and/or copying of the record.

(i) *Identification of Requester.* The requester must present personal identification sufficient to satisfy the Chief Administrative Law Judge as to his identity prior to record review. Examples of sufficient identification are a valid driver's license, medicare card, or employee identification cards.

(ii) *Responsibilities of Requester.* The requester shall assume the following responsibility regarding the review of official records:

(A) Requester must agree not to leave OSAHRC premises with official records unless specifically given a copy for that purpose by the Chief Administrative Law Judge or his representative.

(B) Requester must sign a statement indicating he has reviewed a specific record(s) or category of record.

(C) Requester may be accompanied by a person he chooses to aid in the inspection of information; however, he must furnish OSAHRC with written authorization for such review in that person's presence.

(4) *Special Rules For Medical Records.* Medical records shall be disclosed to the requester to whom they pertain unless, in the judgment of the Chief Administrative Law Judge, access to such record could have an adverse effect upon such individual. When the Chief Administrative Law Judge, in consultation with a medical doctor, determines that the disclosure of medical information could have an adverse effect upon the individual to whom it pertains, the Chief Administrative Law Judge will transmit such information to a medical doctor named by the requesting individual.

(b) *Response When Compliance Is Not Possible.* A reply denying a written request to review a record shall be in writing signed by the Chief Administrative Law Judge or other appropriate official and shall be made only if such a record does not exist or does not contain personal information relating to the requester, or is exempt. This reply shall include a statement regarding the determining factors of denial, and the right to obtain judicial review in a district court of the United States.

§ 2400.7 Procedures for requesting amendment.

(a) *Submission of Requests for Amendment.* Upon review of an individual's personal record, that individual may submit a request to amend such record. This request will be submitted in writing to the Chief Administrative Law Judge and will include a statement of the amendment requested and the reasons therefor, which normally will relate to such characteristics as relevance, accuracy, timeliness or completeness.

(b) *Action to be Taken by the Chief Administrative Law Judge.* Upon receiving an amendmnt request, he shall promptly:

(1) Acknowledge in writing within ten (10) working days the receipt of the request.

(2) Make such inquiry as is necessary to determine whether the amendment is appropriate, and

(3) Correct or eliminate any information that is found to be incomplete, inaccurate, not relevant to a statutory purpose of OSAHRC, or not timely and notify the requester when this action is complete, or

(4) Not later than thirty (30) working days after receipt of a request to amend, notify the requester of a determination not to amend and of the individual's right to appeal.

(c) *Appeal Procedure.* (1) If a request to inspect, copy or amend a record is denied, in whole or in part, or if no determination is made within the period prescribed by this part, the requester may appeal to the Chairman, OSAHRC,

1825 K Street, NW., Washington, D.C. 20006.

(2) The requester should submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Chief Administrative Law Judge to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSAHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and of any other related correspondence.

(3) The Chairman shall make his final determination not later than thirty (30) days from the date of the request, unless he extends the time for good cause to be shown by him. Any record found on appeal to be not complete, accurate, relevant, or timely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(4) The decision of the Chairman constitutes the final decision of OSAHRC on the right of the requester to inspect, copy, change or update a record. The decision on the appeal shall be in writing and, in the event of a denial, shall set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court. An indexed file of the decisions on agency appeal shall be maintained by the Chief Administrative Law Judge.

(d) *Submission of Statement of Disagreement.* If the final decision does not satisfy the requester, any statement of reasonable length, provided by that individual, setting forth a position regarding the disputed information, will be accepted and included in the relevant personal record.

(e) *Availability of Assistance in Exercising Rights.* The Chief Administrative Law Judge is available to provide an individual with assistance in exercising rights pursuant this part.

§ 2400.8 Schedule of fees.

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit reproduction of records to concerned individuals while substantially covering the direct costs incurred by OSAHRC.

(b) *Reproduction.* (1) For reproducing any paper or micrographic record or publication, the fee is $.10 per page. No charge will be made if the total fees authorized by this Part in compliance with a request or series of related requests is less than $3.00.

(2) OSAHRC will not normally furnish more than one copy of any record.

(c) *Limitations.* No fee will be charged to any individual for the process of retrieving, or amending records.

§ 2400.9 Exemptions.

(a) Subsections 552a (j) and (k) of Title 5, U.S. Code, empower the Chairman to exempt systems of records meeting certain criteria from various other subsections of section 552a. With respect to systems of records so exempted, nothing in this part shall require compliance with any provisions hereof implementing any subsections of section 552a from which those systems may properly be and have been exempted.

(b) [Reserved for specific exemptions.]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

PRIVACY ACT OF 1974

Notice of Systems of Records and Routine Uses

Pursuant to Privacy Act of 1974 (5 U.S.C. section 552a, P.L. 93-579), the U.S. Occupational Safety and Health Review Commission hereby publishes its system of records and their respective routine uses for public comment pursuant to the provision of section (e)(4) of the Privacy Act of 1974. Those interested parties wishing to submit written data, views or arguments on the routine uses of these systems of records should send such comments to the Chief Administrative Law Judge, Occupational Safety and Health Review Commission, 1825 K Street NW., Washington, D.C. 20006, not later than September 28, 1975.

Dated: August 25, 1975

Frank R. Barnako
Chairman

OSAHRC—1

System name: Travel records—OSAHRC

System location: Office of Chief Judge, OSAHRC, 1825 K Street, NW., Washington, D.C. 20006

Categories of individuals covered by the system: Names of persons who use OSAHRC funds for travel

Categories of records in the system: This system of records shows all places to which travel was accomplished and the costs of such travel including subsistence costs.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used for budgetary purposes within the agency and for reporting to Members of Congress and other agencies when appropriate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in folders.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of such records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained indefinitely.

System manager(s) and address:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Individuals interested in inquiring about their records should notify the System Manager.

Record access procedures: Individuals who wish to gain access to their records should notify in writing, including their name, the System Manager.

Contesting record procedures: Individuals who wish to contest their records should notify in writing, including their name, the System Manager.

Record source categories: Information in this system of records comes from the individual to whom it applies.

OSAHRC—2

System name: Mailing lists for news releases, speeches, reports-OSAHRC

System location: Office of Information and Publications, 1825 K Street, NW., Washington, D.C. 20006

Categories of individuals covered by the system: This system contains the names of all persons who routinely are sent information on OSAHRC.

Categories of records in the system: This system contains information relating to the individual's address, business affiliation, and the information he desires to receive.

Authority for maintenance of the system: Title 5, U.S. Code Sec. 3301; 29 C.F.R. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in these records are used to mail information relating to case dispositions, speeches, and statistical reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored on mag tape and on labels.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are maintained indefinitely unless the individual requests that it be disposed and then it is disposed immediately.

System manager(s) and address:

Director of Information
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the System Manager.

Record access procedures: Same as above

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or was derived from private source directories.

OSAHRC—3

System name: Commission members case processing-OSAHRC

System location: Office of Management Information Systems, 1825 K Street, NW., Washington, D.C. 20006

Categories of individuals covered by the system: Commission members formerly or currently employed by OSAHRC who call cases for review and/or issue decisions

Categories of records in the system: This system contains names of Commission members and the docket numbers of cases they have called for review. It also shows the respondent's name; the hearing site; the date of receipt of the case, assignment to the judge, decision filing; date case called for review and final order date.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the status of a case or the number of cases a member has disposed of or his holding in a case.

b. To respond to a public request for information regarding the status of a case or a listing of cases reviewed or disposed of by a member or a member's holding in a case.

c. As a data source to make management decisions as to case processing activities.

d. For statistical and budgetary purposes to measure member activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by name, docket number, date case called for review and final order date.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge

OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or is derived from information he supplied.

OSAHRC—4

System name: Administrative Law Judge case processing—OSAHRC

System location: Office of Management Information Systems, 1825 K Street, NW., Washington, D.C. 20006

Categories of individuals covered by the system: Administrative law judges formerly or currently employed by OSAHRC who are assigned to hear and decide cases

Categories of records in the system: This system contains names of judges and the docket numbers of cases assigned to them. It also shows the respondent's name; the hearing site; the date of assignment to the judge, the date of hearing, date of possible settlement; date of receipt of transcript and number of pages; date of receipt of briefs and number of days pending before the judge.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the status of a case or the number of cases a judge has disposed.

b. To respond to a public request for information regarding the status of a case or a listing of cases assigned or disposed of by a judge.

c. As a data source to make management decisions as to case processing activities.

d. For statistical purposes and budget preparation to measure judge activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by judge name, docket number, etc.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system either comes from the individual to whom it applies or is derived from information he supplied.

OSAHRC—5

System name: Administrative Law Judge case assignments-OSAHRC

System location: Office of Management Information Systems, 1825 K Street, NW., Washington, D.C. 20006

Categories of individuals covered by the system: Administrative law judges formerly or currently employed by OSAHRC who are assigned to hear and decide cases

Categories of records in the system: This system contains names of judges, their mailing addresses and business telephone numbers. It can also show the dates of entry on duty with the agency and dates of transfer, termination or retirement. Also, it can show the number of cases currently assigned, the judge's pending caseload and the number of cases pending more than 180 days.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information may be used:

a. To respond to a request from a Member of Congress as to the number of cases assigned to a judge currently or to the assignments by regional office city.

b. To respond to a public request for information regarding the number of cases in the hands of a judge or in a regional office city.

c. As a data source to make management decisions as to case assignments to judges.

d. To issue notices and correspondence regarding judge assignments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on magnetic disk and in binders.

Retrievability: Records are indexed by name, date of assignment and regional office, dates of reporting for duty to the agency or regional office.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: These records are retained permanently.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system comes from the Executive Secretary and the case assignment clerk.

OSAHRC—6

System name: Applications for employment—OSAHRC

System location: Personnel Office, 1825 K Street, N.W., Washington, D.C. 20006

Categories of individuals covered by the system: All those desiring employment with OSAHRC who have sent in a Form 171 or resume

Categories of records in the system: This system contains information relating to birth date, veteran preference, tenure, past and present salaries, grades and position titles, awards and other infor-

mation relating to the status of the individual, education and test scores.

Authority for maintenance of the system: Title 5, U.S. Code Sec. 3301, Sec. 1302

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used to refer applications to those sections within the agency having position vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in folders.

Retrievability: These records are indexed by the names of the applicants.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained up to one year and then are destroyed.

System manager(s) and address:

Personnel Officer
OSAHRC
1825 K Street, N.W.
Washington, D.C. 20006

Notification procedure: Inquiries should be directed to

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures: Individuals who wish to gain access to their record should request in writing, including their name, to

Personnel Officer
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures: Individuals who wish to contest their records should direct such a request, in writing, including their name, to

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system comes from the individual to whom it applies.

OSAHRC—7

System name: Parties, correspondence records—OSAHRC

System location: Office of Management Information Systems, 1825 K Street, N.W., Washington, D.C. 20006

Categories of individuals covered by the system: This system includes names of representatives of respondent, DOL Solicitor's Office and/or union or employee representatives involved in OSAHRC cases.

Categories of records in the system: This system of records contains the addresses and affiliation of all parties to OSAHRC cases. Also, titles of representatives and party type are maintained.

Authority for maintenance of the system: 29 U.S.C. 651 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This system of records is used to issue notices and correspondence to parties in OSAHRC cases.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on magnetic disk and in folders.

Retrievability: These records are indexed by the docket number of the case proceeding. Retrieval can be by name of the individual on whom they are maintained, by state, zip code, by title and by party type.

Safeguards: Access to and use of such records are limited to those persons whose official duties require such access.

Retention and disposal: The records are maintained on magnetic disk indefinitely, eventually being transferred to magnetic tape. They are retained in folders for 6 months following the final disposition in a case and then transferred to the Federal Records Center, St. Louis, Missouri. They are destroyed by the Federal Records Center when the records are 5 years old.

System manager(s) and address:

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Notification procedure: Individuals interested in inquiring about their records should do so in writing, including their name to the

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record access procedures: Individuals who wish to gain access to their records should contact in writing, including their name, the

Director of Management
Information Systems
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Contesting record procedures: Individuals wishing to contest their records should do so by directing the request, in writing, including their name, to the:

Chief Judge
OSAHRC
1825 K Street, NW.
Washington, D.C. 20006

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied.

[FR Doc.75-22884 Filed 8-28-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 102]

PRIVACY ACT OF 1974

Proposed Regulations

Notice is hereby given that the Small Business Administration (SBA) proposes to implement the provisions of Sections 2 and 3 of Pub. L. 93-579 (88 Stat. 1896) by adding a new subpart B to part 102 of Title 13, Code of Federal Regulations. Section 3 amends Title 5, United States Code, by adding a Section 552a. Subpart B provides the safeguards for an individual against invasion of personal privacy by preventing the misuse of Federal records and giving individuals access to records concerning them and the right to correct such records under certain conditions. The new subpart B series will thus complement and supplement the 102 series subpart A controlling the disclosure of information in the files, documents and records of the Small Business Administration. The existing §§ 102.1 through 102.7 shall be redesignated as subpart A. Interested persons are invited to submit comments, suggestions, or objections regarding the proposal to the Administrator of the Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416. All relevant material received on or before September 29, 1975 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:30 a.m. and 5 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 in the office of the Chairperson, Privacy Act Task Force, Room 1028. Such visitors to any field office will be informed that the records are available for inspection only in the Central Office and furnished the address and the above room number. Notice is given that it is proposed to make these regulations effective September 27, 1975, the effective date of Section 3, Pub. L. 93-579.

It is proposed to add a new centerhead designating the present part 102 as subpart A 102—Disclosure of Information and it is proposed to add a new centerhead, and subpart B, §§ 102.20 through 102.36 to read as follows. Table of contents entries are also added.

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AUTHORITY: Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a)).

Subpart B—Privacy Act of 1974

§ 102.20 Purpose, policy and scope.

This part establishes policy and procedures of the Small Business Administration (SBA) safeguarding an individual against an invasion of personal privacy. Except as otherwise provided by law or regulation issued pursuant thereto SBA officials and employees will:

(1) Permit an individual to determine what records pertaining to him or her are collected, maintained, used, or disseminated by the SBA;

(2) Permit an individual to prevent records pertaining to him on her, obtained by SBA for a particular purpose from being used or made available for another purpose without his or her consent;

(3) Permit an individual to gain access to information pertaining to him or her in the SBA records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) Collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information; and

(5) Permit exemptions from the requirements with respect to records provided in 5 U.S.C. 552a (Privacy Act of 1974) only where an important public policy need for such exemption has been determined by specific statutory authority.

§ 102.21 Definitions.

As used in this subpart:

(1) "Agency" means the Small Business Administration (SBA) and includes all of its offices wherever located;

(2) "Employee" means any officer or employee of the Small Business Administration, regardless of his or her grade, status, or place of employment;

(3) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. This term shall not encompass entrepreneurial enterprises (e.g., sole proprietors, partnerships, corporations, or other forms of business entities);

(4) "Maintain" includes maintain, collect, use, or disseminate;

(5) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Small Business Administration, including, but not limited to, education, financial transactions, medical history, and and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(6) "System of records" means a group of any records under the control of Small Business Administration from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(7) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual; and

(8) "Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 102.22 Officials responsible for Privacy Act of 1974.

(a) "Program Official" is the Agency official in every field office and major program area responsible for the system or systems of records in his area. Responsibilities of this position include:

(1) Responding to requests for information from individuals and other sources received from Systems Managers.

(2) Discussing records with individuals.

(3) Amending records in cases where amended information is not controversial and does not involve policy decision making.

(4) Informing individuals of any reproduction fees to be charged.

(5) Maintaining appropriate record-keeping.

(6) Reviewing records for relevance, timeliness, completeness, and accuracy.

(7) Providing Systems Managers with material for required reports and for publication of rules and notices in the FEDERAL REGISTER.

(b) "Systems Manager" is the Agency employee in each office responsible for implementing and overseeing this regulation and 5 U.S.C. 552a in his or her office. Responsibilities of this position include:

(1) Acting as initial contact person to individuals seeking access or amendment of their records.

(2) Preparing and forwarding access and amendment forms to the appropriate Program Official.

(3) Discussing with the Program Officials requests for which access or amendment will not be allowed, and making initial Agency decisions on access and amendment.

(4) Collecting information from the Program Official and compiling information required for reports and for publication of rules and notices in the FEDERAL REGISTER.

(5) Implementing and administering the records management program within his area of jurisdiction, including training of personnel, keeping required statistical records and making necessary reports.

(d) "Privacy Act Officer" is the Agency official with delegated responsibility for overseeing and implementing 5 U.S.C. 552a and subpart B of part 102 of SBA regulations. Responsibilities of this position include:

(1) Developing training programs for agency personnel in the provisions of the Act and the proposed records management procedures for implementation.

(2) Developing materials such as forms, reporting formats, and directives for implementing the Act.

(3) Preparing reports to the Congress, OMB, and the President, and preparing rules and notices for publication in the FEDERAL REGISTER.

(4) Approving extensions of review periods.

(5) Monitoring the relevance, accuracy, and completeness of records contained in systems of records.

(6) Reviewing appeals referred by Systems Managers concerning requests for amendment and access to records.

(7) Making final Agency decisions on requests for amendment and access to records.

DISCLOSURES

§ 102.23 General conditions of disclosure.

The Agency shall not disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless such disclosure is:

(a) To those employees of the Agency who have a need for the record in the performance of their duties;

(b) Required under 5 U.S.C. 552 (Freedom of Information Act);

(c) For a routine use of the record compatible with the purpose for which it was collected;

(d) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to Title 13, United States Code;

(e) To a recipient who has provided the Agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the U.S. Government, or for evaluation by the Administrator of General Services or his or her designee to determine whether the record has such value;

(g) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Privacy Act Officer specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(j) To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction.

§ 102.24 Information compiled for civil action.

Nothing in these regulations shall allow an individual access to any information compiled by the Agency in reasonable anticipation of a civil action or proceeding. In the event that there should be a question as to whether information should be disclosed pursuant to this section, an opinion shall be obtained from Agency counsel.

§ 102.25 Disclosure of record to person other than the individual to whom it pertains.

(a) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to § 102.23(b) of this subpart, the Program Official responsible for the Agency system of records shall make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for Agency purposes.

(b) The Program Official shall make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a public record. When a record is disclosed under compulsory legal process, the Program Official may ask legal counsel for a determination as to whether the issuance of the order is a matter of public record and if counsel so determines, then the Program Official shall notify the individual by mail at his or her last known address. If counsel determines the matter is not of public record, he should request to be advised as to when it becomes public and inform the Program Official so that he may mail the notice at the appropriate time.

§ 102.26 Accounting of disclosures.

(a) With respect to each system of records under Agency control, the Agency will (except for disclosure made under § 102.23 (a) or (b) of this subpart) keep an accurate accounting.

(b) The Program Official shall account for disclosures in the manner defined by Agency guidelines in respect to each system of records under his or her control as follows:

(1) For each disclosure of a record to any person or to another agency made under § 102.23 of this subpart, maintain information consisting of the date, nature, and purpose of each disclosure of a record, and the name and address of the person or agency to whom the disclosure is made;

(2) Retain the accounting at least 5 years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) Except for disclosures made under § 102.23(g) of this subpart make the accounting under paragraph (a) of this section available to the individual named in the record at his or her request; and

(4) Inform any person or other agency about any correction or notation of dispute made by the Agency in accordance with § 102.30(e) of this subpart of any record that has been disclosed to the person or agency, if an accounting of the disclosure was made.

(c) An annual report will be prepared by the Privacy Officer disclosing all of the above and a copy of this report will be available for inspection in every Agency field office and the Central Office.

ACCESS AND AMENDMENT

§ 102.27 Requests by individuals to gain access to records.

(a) Any individual upon request may gain access to his or her record or to any information pertaining to him or her which is contained in any system of records maintained by the Agency, except as otherwise provided by law or regulation. Upon request, a person of his or her own choosing will be permitted to accompany him or her, to review the record and have a copy made of all or any portion thereof in a form comprehensible to the individual. The Agency will require, however, a written statement from the individual authorizing discussion of that individual's record in the accompanying person's presence.

(b) The request for access must contain a reasonable description of the Agency system or systems of records sought. The request should be made to the Systems Manager concerned or, if this is not known, to the Privacy Act Officer, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, who will direct the request to the proper Agency official, or if this cannot be ascertained, inform the individual to make the request more specific.

(c) All such requests for information may be made in writing or on forms which shall be available in all SBA offices and provided free of charge for such purpose. The Systems Manager, after reviewing the request for information may also request such other identification of the individual as is consistent with the purpose of this regulation. If he is unable to identify the individual or the record from the information submitted, he may require such additional information as

he deems necessary for this purpose. Requests will be honored only after showing, satisfactory to the Systems Manager, that the individual or his representative have proper authorization.

(d) The Systems Managers in the offices or programs involved will notify the individual requesting disclosure of his or her record or information pertaining to him or her of the time, place and conditions under which the Agency will comply to the extent permitted by law and regulation.

(e) Upon receipt of a request for access to a record the Systems Manager shall promptly, but in any case within ten (10) days (excluding Saturdays, Sundays, and legal public holidays) after date of receipt of the request, notify the individual in writing that the request has been granted or denied. In the event of denial the decision should state the concise reasons for such denial and inform the individual of the name and address of the Privacy Act Officer to whom he or she may address an appeal of this initial Agency decision.

§ 102.28 Appeal to Privacy Act Officer.

(a) Any individual who disagrees with the initial Agency decision to deny access to his or her record may request a review of such refusal by addressing his or her written request to the Privacy Act Officer. All such requests for appeal should be submitted within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure to make a determination. Requests should specify the reasons for said review and shall be accompanied by affidavits, statements or such other supporting material as the individual feels necessary to justify his or her appeal.

(b) The Privacy Act Officer shall consider the decision of the Systems Manager together with the material submitted by the requesting individual. The Privacy Act Officer may also examine any other materials which he or she may consider relevant. He or she may call upon the Office of General Counsel for a legal opinion and any other Agency or program official who might have specialized knowledge in the pertinent area. In conducting the appeal, the Privacy Act Officer should follow the criteria for access to records specified in 5 U.S.C. 552a and SBA regulations.

(c) The Privacy Act Officer shall, not later than thirty (30) days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final Agency determination unless, for good cause shown, the Privacy Act Officer extends such thirty (30) day period.

(d) In the event that the Privacy Act Officer extends the period he or she shall inform the individual of the extension and notify the individual of the date on which he or she can expect a decision. If, after his or her review, the Privacy Act Officer also refuses to grant access to the record, he or she shall notify the individual of the reason for denial and the provisions for judicial review of the Agency determination.

§ 102.29 Requests for correction or amendment to record.

(a) Any individual may request the Agency to amend a record pertaining to him or her.

(b) All requests by an individual to amend a record shall be made in writing, to the Systems Manager, with supporting documentation as may be necessary, and preferably on forms provided by the Agency. The Systems Manager shall not later than ten (10) days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request to amend a record, acknowledge in writing such receipt. The Systems Manager shall promptly:

(1) Make any correction of any portion thereof which the individual believes is not accurate, relevant, timely or complete; or

(2) Inform the individual of the Agency's initial refusal to amend the record in accordance with the request, the reason for the refusal and the name and address of the Privacy Act Officer to whom the individual may appeal the decision.

(c) Systems Managers shall, upon request by individuals seeking to have a record pertaining to them amended, give advice as to the procedures to be followed hereunder.

§ 102.30 Appeal of initial Agency determination on correction or amendment of a record.

(a) Any individual who disagrees with the refusal of the Systems Manager to amend his or her record may request a review of such refusal by addressing his or her written request to the Privacy Act Officer. All such requests for appeal should be submitted within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure to make a determination. Requests should specify the reasons for said review and shall be accompanied by affidavits, statements or such other supporting material as the individual feels necessary to justify his or her appeal.

(b) The Privacy Act Officer shall consider the initial decision of the Systems Manager and the material submitted by the requesting individual, together with any and all other materials which he or she may consider relevant. He or she may call upon the Office of General Counsel for a legal opinion and any other Agency or program official who might have specialized knowledge in the pertinent area, to aid in the decision. In conducting the appeal, the Privacy Act Officer shall use the criteria of accuracy, relevance, timeliness, and completeness of the record. The Privacy Act Officer may, at his or her option, seek such additional information as is deemed necessary to satisfy those criteria, i.e., to establish that the record contains only that information which is necessary, accurate, and complete to assure fairness in any determination which may be made about the individual on the basis of the record. With respect to requests to delete information contained in an Agency file, the Privacy Act Officer should follow the same criteria as above, namely, that the information in the file must be only that which is relevant and necessary to accomplish the purpose of the Agency required to be accomplished by law or regulation.

(c) The Privacy Act Officer shall, not later than thirty (30) days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final Agency determination unless, for good cause shown, the Privacy Act Officer extends such thirty (30) day period. The Privacy Act Officer should not extend the time hereunder unless "unusual circumstances" are found to exist.

(d) In the event that the Privacy Act Officer extends the period, he or she shall inform the individual of the extension and notify him or her of the date on which a decision can be expected. If, after his or her review, the Privacy Act Officer also refuses to amend the record in accordance with the request, he or she shall permit the individual to file with the Agency a concise statement setting forth the reasons for his or her disagreement with the refusal of the Agency, and notify the individual of the provisions for judicial review of the Agency determination.

(e) In any subsequent disclosure, containing information about which an individual has filed a statement of disagreement with an Agency refusal to amend a record, the Agency shall clearly note any portion of the record which is disputed and provide copies of the statement of disagreement and, if the Privacy Act Officer deems it appropriate, copies of a concise statement of the reasons of the Agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

MISCELLANEOUS

§ 102.31 Maintenance of records of SBA.

(a) The Privacy Act Officer shall be responsible to see that the Agency:

(1) Maintains in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Agency required to be accomplished by statute or by Executive Order of the President;

(2) Collects information to the greatest extent practicable directly from the subject-individual when the information may result in adverse determinations about an individual's rights, benefits and privileges under Federal programs;

(3) Informs each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual;

(i) The authority (whether granted by statute, or by Executive Order of the President) which authorizes the solicitation of the information and whether dis-

closure of such information is mandatory or voluntary;

(ii) The principal purpose or purposes for which the information is intended to be used;

(iii) The routine uses which may be made of the information, as published pursuant to 5 U.S.C. 552a; and

(iv) The effects on him or her, if any, of not providing all or any part of the requested information;

(4) Publishes in the FEDERAL REGISTER at least annually a notice of the existence and character of the system of records, which notice shall include:

(i) The name and location of the system;

(ii) The categories of individuals on whom records are maintained in the system;

(iii) The categories of records maintained in the system;

(iv) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(v) The policies and practices of the Agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(vi) The title and business address of the Agency official who is responsible for the system of records;

(vii) The Agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(viii) The Agency procedures whereby an individual can be notified at his request how he or she can gain access to any record pertaining to him or her contained in the system of records, and how he or she can contest its content; and

(ix) The categories of sources of records in the system.

(b) The Privacy Act Officer shall, in addition to his other duties hereunder:

(1) Establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and procedures adopted pursuant to this subpart and the penalties for noncompliance;

(2) Establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

(3) At least thirty (30) days prior to publication of information under paragraph (a)(4) of this section publish in the FEDERAL REGISTER notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the Agency; and

(4) Maintain all records which are used by the Agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual.

(c) The Systems Managers shall be responsible for seeing that their office maintains no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and freedom of assembly and to petition.

§ 102.32 Other provisions.

(a) *Personnel Records.* All Agency personnel records and files, as prescribed by the Civil Service Commission, shall be maintained in such a way that the privacy of all individuals concerned is protected in accordance with regulations of the Civil Service Commission (5 C.F.R. Parts 293 and 297).

(b) *Systems Operated by Contract.* In the event that the Agency shall provide by a contract for the operation by or on behalf of the Agency of a system of records to accomplish an Agency function, the Agency shall, consistent with its authority, cause the requirements of this subpart to be applied to such system. Any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this regulation, shall be considered to be an employee of the Agency for the purposes of this regulation.

(c) *Mailing Lists.* The Agency will not sell or rent an individual's name or address. This provision shall not be construed to require the withholding of names or addresses otherwise permitted to be made public.

(d) *Changes in Systems.* The Agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(e) *Social Security Numbers.* The Agency shall not, henceforth, require any individual to disclose his or her social security account number and shall not deny to any individual any right, benefit, or privilege provided by law because of his or her refusal to so disclose. Any Agency request for an individual to disclose his or her social security account number shall inform that individual that disclosure is voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

(f) *Disclosure to Representative.* Upon request, personnel records of an employee or former employee, shall be disclosed to the individual to whom the record pertains and under whose individual name and/or identifier they are filed. A person of his or her own choosing may accompany the individual when the record is disclosed, or the record may be released to the individual's representative who has the notarized written consent of the employee or former employee. Any disclosure of original records must be made in the presence of a representative of the Agency having physical custody of the records. (See 5 CFR 297.111 (a)).

(g) *Representatives of Minors and Incompetents.* For the purpose of subpart B of Part 102, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(h) *Medical Records.* Medical records shall be disclosed to the individual to whom they pertain unless, in the judgment of the Privacy Act Officer, access to such record could have an adverse effect upon such individual. The Agency may, however, transmit such information to a medical doctor named by the requesting individual. In regard to medical records in personnel files, see also 5 CFR 297.111(a)(1).

§ 102.33 Fees.

(a) The Agency shall charge no fee for providing the first copy of a record or any portion thereof to an individual requesting disclosure of information filed in his or her personnel records. (5 CFR 297.115).

(b) For all other copies of records made pursuant to this regulation, the Agency will not charge for the cost of any search for and review of the record and when the Agency makes a copy of a record as a necessary part of its process of making the record available for review, but may charge for all other reproduction at ten cents per page.

(c) Fees will be waived when less than $5.

§ 102.34 General exemptions.

No Agency records system or systems as such are exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) except as may be designated by rules promulgated by the Administrator of the Small Business Administration and published in the FEDERAL REGISTER as required.

§ 102.35 Specific exemptions.

The following systems of records are partially exempt under 5 U.S.C. 552a(k) and these regulations:

(a) Statistical personnel records that are used only to generate aggregate data or for other evaluative or analytical purposes and which are not used to make decisions on the rights, benefits, or entitlements of individuals. (5 CFR 297.116 (b))

(b) Investigatory material maintained solely for the purposes of determining an individual's qualifications, eligibility, or suitability for employment in the Federal civilian service, Federal contracts, or access to classified information, but only to the extent that disclosure of

such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(c) Investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2): provided, however, that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

§ 102.36 Judicial review.

Any individual may bring a civil action against the Agency in a district court of the United States as provided by 5 U.S.C. 552a(g)(1) whenever the Small Business Administration:

(a) Makes a final determination under § 102.30 not to amend an individual's record in accordance with his or her request, or fails to make such review in conformity with that section;

(b) Makes a final determination under § 102.27 to refuse a request to gain access to a record;

(c) Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(d) Fails to comply under any other provision of 5 U.S.C. 552a or any Agency rule or regulation promulgated thereunder, in such a way as to have an adverse effect on an individual.

Dated: August 25, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-22996 Filed 8-28-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

PRIVACY ACT OF 1974

Notice of Systems of Records

By the Commission:

1. For purposes of implementing the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. 552(a), the Federal Communications Commission is issuing notices of the existence and character of various systems which it maintains and which contain information about individuals.

2. Interested persons are invited to submit comments on the "routine uses" of the systems of records on or before September 19, 1975.

3. Authority for the proposed Notices of Systems of Records is contained in Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and in the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. 552(e) (4) and (11).

4. An original and 14 copies of all comments shall be furnished the Commission. Comments will be available for inspection in the Commission's Broadcast and Dockets Reference Room. All relevant and timely comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into account other relevant information before it in addition to the specific comments invited by this Notice.

Vincent J. Mullins,
Secretary.

Federal Register Notice

FEDERAL COMMUNICATIONS COMMISSION SYSTEM OF RECORDS

BROADCAST BUREAU (FCC/BCB)
- Broadcast Station Ownership Interest File-FCC/BCB-1
- Complaints Against Broadcast Stations, Licensees, Officers, Employees-FCC/BCB-2
- Employee Activity Report-FCC/BCB-3
- Employee Records-FCC/BCB-4

CABLE TELEVISION BUREAU (FCC/CTB)
- Applicant for Position-FCC/CTB-1
- Employee Activity Report-FCC/CTB-2
- Employee Records-FCC/CTB-3
- Staff Travel Records-FCC/CTB-4

COMMISSIONERS (FCC/COMM)
- Applicant for Position-FCC/COMM-1
- Employee Records-FCC/COMM-2

COMMON CARRIER BUREAU (FCC/CCB)
- Alphabetical Complaint and Inquiry File-FCC/CCB-1
- Applicant for Position-FCC/CCB-2
- AT&T Witness File-FCC/CCB-3
- Contracts for Personal Services-FCC/CCB-4
- Correspondence Associated with Docketed Matters-FCC/CCB-5
- Employee Records-FCC/CCB-6
- Employment Discrimination Complaints Against Common Carriers-FCC/CCB-7
- Public Land Mobile Radio Operators File-FCC/CCB-8
- Staff Travel Records-FCC/CCB-9

FIELD OPERATIONS BUREAU (FCC/FOB)
- Employee Records-FCC/FOB-1
- Radio Operator Records-FCC/FOB-2
- Violators File (records kept on individuals subject to FCC Field enforcement actions)-FCC/FOB-3

OFFICE OF ADMINISTRATIVE LAW JUDGES (FCC/OALJ)
- Employee Activity Report-FCC/OALJ-1
- Employee Records-FCC/OALJ-2
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OFFICE OF CHIEF ENGINEER (FCC/OCE)
- Employee Activity Report-FCC/OCE-1
- Employee Records-FCC/OCE-2
- Experimental Radio Station Licensee Files-FCC/OCE-3

OFFICE OF EXECUTIVE DIRECTOR (FCC/OED)
- Activity Reporting System-FCC/OED-1
- Alcoholism and Drug Abuse Case Files-FCC/OED-2
- Docket History Cards-FCC/OED-3
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- Financial Disclosures by Employees-FCC/OED-5
- Index of Commission Agenda Items-FCC/OED-6
- National Industry Advisory Committee (NIAC) Membership-FCC/OED-7
- Personnel Investigations of Employees-FCC/OED-8
- Personnel Investigations of Members of Advisory Committee (Maritime Communications Subcommittee, National Advisory Committee)-FCC/OED-9
- Project Management of the Data Automation Division-FCC/OED-10
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OFFICE OF GENERAL COUNSEL (FCC/OGC)
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- Alleged Violators File (Ex parte Rules)-FCC/OGC-2
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- Conflicts of Interest by Commission Employees and Prospective Employees-FCC/OGC-7
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- Parties Involved in Current Litigation Before Federal Courts-FCC/OGC-13
- Parties with Pending Civil Cases Before Any District Court that Affect the Commission-FCC/OGC-14
- Private or Civil Injury Claimants-FCC/OGC-15
- Recess and Interim Appointments of Employees-FCC/OGC-16
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OFFICE OF OPINIONS AND REVIEW (FCC/OOR)
- Employee Records-FCC/OOR-1

OFFICE OF PLANS AND POLICY (FCC/OPP)
- Employee Records-FCC/OPP-1

REVIEW BOARD (FCC/RB)
- Employee Records-FCC/RB-1

SAFETY AND SPECIAL RADIO SERVICES BUREAU (FCC/SSRSB)
- Amateur and Citizens License Fees, Refunded or Uncollected-FCC/SSRSB-1
- Application and License File-FCC/SSRSB-2
- Conditional Amateur Licensees-FCC/SSRSB-3
- Current Projects File (Applications that may not comply with rules; Licensees whose systems may not comply with rules)-FCC/SSRSB-4
- Employee Activity Report-FCC/SSRSB-5
- Employee Records-FCC/SSRSB-6
- Employee Travel Records-FCC/SSRSB-7
- Licensees or Unlicensed Persons Operating Radio Equipment Improperly-FCC/SSRSB-8

FCC/BCB—1

System name: Broadcast Station Ownership Interest File—FCC/BCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Owners of all licensed broadcast stations and officers, directors, and stockholders of corporate owners.

Categories of records in the system: Forms 323 and 323E Ownership Reports which identify who has ownership interests and the extent of such interests.

Authority for maintenance of the system: Section 308, 309, 310 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff attorneys to determine other broadcast interests, if any, of broadcast applicants; used as a cross check against new ownership reports to see whether any improper transfers of interest have taken place. If the records indicate a possible violation of law, they may be referred to the appropriate agency charged with the responsibility of prosecuting the violation and enforcing the statute or rule.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, index cards, magnetic tape.

Retrievability: By call letters of broadcast stations, by names of owners.

Safeguards: Available to public during business hours.

Retention and disposal: Records are retained approximately 7 years and are then sent to Archives.

System manager(s) and address: Chief, Broadcast Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Licensees.

FCC/BCB—2

System name: Complaints against Broadcast Stations, Licensees, Officers, employees—FCC/BCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individual broadcast licensees, partners, owners; directors and officers of corporate licensees; employees of broadcast stations.

Categories of records in the system: Complaints filed by the public. Commission responses to such correspondence.

Authority for maintenance of the system: Section 303(m), Section 403 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff attorneys in the Broadcast Bureau to make a determination as to the seriousness of the complaint; to decide whether any cause exists, based on a complaint filed, for investigation or delaying a renewal, transfer, or assignment request. If the records indicate a possible violation of law, they may be referred to the appropriate agency charged with the responsibility of prosecuting the violation and enforcing the applicable statute or rule.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: By broadcast station call letters.

Safeguards: Access controlled by staff during business hours; locked room at other times.

Retention and disposal: Retained for at least three years and then sent to Archives.

System manager(s) and address: Chief, Broadcast Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Informants.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(4)(G), (H) and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission's Rules because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to section 552(k)(2) of the Act.

FCC/BCB—3

System name: Employee Activity Report—FCC/BCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Broadcast Bureau, professional and non-professional.

Categories of records in the system: Summaries of the total number of hours devoted to specific areas of work, number of hours absent, number of hours on business.

Authority for maintenance of the system: Sections 4 and 5 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To record the total number of hours put forth in a specific category of work; and to document how an individual uses his work time during a two-week period.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by division and then by employee name and reporting period.

Safeguards: Records are kept in file cabinets in offices which are secured at the end of each business day.

Retention and disposal: Division records are kept for 1 year, then they are transferred to Budget Office; individual records are kept 6 months and are then destroyed.

System manager(s) and address: Chief, Broadcast Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual employee who is the subject of the record.

FCC/BCB—4

System name: Employee Records—FCC/BCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Broadcast Bureau, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birthdate, service computation date, emergency telephone number; memoranda in support of promotions or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendations for awards; internal classification and management records.

Authority for maintenance of the system: 5 U.S. Code, Section 631, Section 200k, Section 2061, Section 2121, Section 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the Office of Bureau Chief—to provide personal data and career history; to support requests for personnel actions: e.g., appointment, separation, promotion, and annual performance rating; to determine employee productivity; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and quality awards and to justify disapproval of same, to define and improve bureau and division organization.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card files.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are stored in unlocked cabinets and secured in office after business hours.

Retention and disposal: Records in this system are retained until the administrative need for them is completed, then destroyed. Time and attendance records are maintained for a minimum of 2 years, then thrown out.

System manager(s) and address: Chief, Broadcast Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employees, supervisors, and other bureau personnel.

FCC/CTB—1

System name: Applicant Position—FCC/CTB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Applicants for professional and non-professional positions.

Categories of records in the system: Personal data, education, past experience, interest in Communications work.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by administrative personnel to determine the qualifications and suitability of job applicants for future vacancies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder.

Retrievability: Records are first retrieved by the type of desired employment, e.g., legal, engineering, clerical, etc., then by applicant's name.*

Safeguards: Records are maintained in locked file cabinets in office of Bureau Administrative Officer which is locked at the end of each business day.

Retention and disposal: Records are retained until the administrative need is completed, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Cable Television Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above. *Individuals seeking access to records in this system should specify the type of position requested: e.g., legal, engineering, clerical.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Interviewers in Cable Television Bureau.

FCC/CTB—2

System name: Employee Activity Report—FCC/CTB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Cable Television Bureau, professional and non-professional.

Categories of records in the system: The total number of hours devoted to specific areas of work, number of hours absent, number of hours on business.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Summary report sent to Budget Office for their use in computing manpower hours; to report to the Commission total number of hours put forth in a specific category of work; individual reports to document how an employee uses his work time during a two-week period.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Individual activity records are retrieved by employee name and by reporting period. Summary activity reports by name of Division and by reporting period.

Safeguards: Records are kept in locked file cabinets in the office of Bureau and Division Chiefs which are secured at the close of each business day.

Retention and disposal: Records are kept a minimum of two years, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Cable Television Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/CTB—3

System name: Employee Records—FCC/CTB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Cable Television Bureau, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; letters of reference written on behalf of employees, or concerning them; memoranda in support of promotions or ingrade increases, or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports including special working hours; training records; recommendations for awards.

Authority for maintenance of the system: 5 U.S. Code, Section 631, Section 2001, Section 2061, Section 2121, Section 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the Office of Bureau Chief—to provide personal data and career history; to support requests for personnel action: e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine productivity in a variety of job assignment categories; to provide models for writing letters of reference; to determine the days and hours during which annual or sick leave is taken; to document a work schedule that differs from normal duty hours; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of same; to designate representatives for specified program activities.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders or card files.

Retrievability: Some records are retrievable by name, some records are also retrievable by the date employee is eligible for promotion or within grade increase.

Safeguards: Records are maintained in locked file cabinets and/or desk drawers, all Bureau Offices are locked at the close of each business day.

Retention and disposal: Most records in this system are retained until the administrative need is completed, then destroyed by tearing into pieces; certain performance records are retained temporarily at the Bureau, then forwarded to the Personnel Office; time and attendance records are maintained at the Bureau for a minimum of 2 years, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Cable Television Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee Supervisors, other bureau personnel.

FCC/CTB—4

System name: Staff Travel Records—FCC/CTB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Staff members who have taken trips for the Bureau.

Categories of records in the system: Name of traveler, date of trip, where, and for what purpose.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by Administrative personnel as an up-to-date list of those who have represented the Bureau at Conferences and meetings thereby making it easier to distribute future trips on the basis of experience and subject matter expertise among staff members.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by employee name.

Safeguards: Travel report is kept in the locked desk drawer of the Bureau Chief, the Bureau Chief's office is secured at the end of each business day.

Retention and disposal: The length of retention has not been determined yet.

System manager(s) and address: Chief, Cable Television Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information for the report is gathered from the Bureau's secretaries who keep all travel information for their particular Division or Branch.

FCC/COMM—1

System name: Applicant for Position—FCC/COMM

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Applicants for positions with the staff of a Commissioner.

Categories of records in the system: Resume, personal references, Form 171 (personal qualifications statement).

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records used to select qualified applicants for positions with the staff of a Commissioner.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by subject matter.

Safeguards: Records are maintained in cabinets which are secured after working hours.

Retention and disposal: Records are retained indefinitely and when disposed of, are destroyed by shredding.

System manager(s) and address: Office of the Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Applicant; Personal References.

FCC/COMM—2

System name: Employee Records—FCC/COMM

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of a Commissioner's Office, professional and non-professional.

Categories of records in the system: Personal data, time and attendance, job descriptions.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are maintained for job description purposes and sometimes for the tabulation of sick and annual leave.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by subject matter.

Safeguards: Records are maintained in cabinets and secured after working hours.

Retention and disposal: Records are retained indefinitely and, when disposed of, are destroyed by shredding.

System manager(s) and address: Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee; Personnel Division.

FCC/CCB—1

System name: Alphabetical Complaint and Inquiry File—FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individuals who have made complaints or inquiries.

Categories of records in the system: Complaints and related supporting information, company replies to complaints, letters of inquiry and Commission letters regarding such complaints and inquiries.

Authority for maintenance of the system: Section 208 of the Communications Act; FCC Rules Section 1.711 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used for handling individual letters of inquiry and complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets.

Retrievability: Records are retrieved by individual name.

Safeguards: Stored in unlocked files and secured in office after hours.

Retention and disposal: The records are retained in the Commission's offices for five years and then retired to the Federal Records Center.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Complaints and subject carriers.

FCC/CCB—2

System name: Applicant for position-FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Applicants who seek permanent positions with the Bureau.

Categories of records in the system: Resumes, federal personnel Forms 171, writing samples, etc.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by administrative and supervisor personnel to determine the qualifications and suitability of job applicants for positions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrievable by applicant's name.

Safeguards: Records are kept in file cabinets in offices that are locked at the close of each business day.

Retention and disposal: Records are maintained as long as administratively useful and then destroyed by tearing.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Previous employers, personal and business references.

FCC/CCB—3

System name: AT&T Witness file—FCC/CCB

System location: 1229 20th Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Persons chosen by the Bell system for particular expertise in various aspects of telecommunication whose testimony is presented at the current AT&T rate hearing.

Categories of records in the system: Printed or typed testimony; resume's; attorney notes, internal memoranda, and correspondence; witness background information, e.g., papers written, career history.

Authority for maintenance of the system: Section 403 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by members of the AT&T Task Force to prepare cross-examination materials and, in general, to keep up to date with the current rate proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Material is retrieved by name of witness, by date testimony was offered into evidence.

Safeguards: Material is kept in filing cabinets or desk drawers in offices which are secured at the end of each working day. The AT&T Task Force is a small staff and only they have cause to access the information contained in the system. Therefore, unauthorized examination of the material would be readily detected.

Retention and disposal: The system will be retained until the close of the AT&T rate proceedings, then transferred to the National Archives.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: AT&T Task Force.

FCC/CCB—4

System name: Contracts for Personal Services—FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554; 1229 20th Street, N.W., Washington, D.C. 20554*.

Categories of individuals covered by the system: Professional people who bid or are recommended as experts, and whose services are requested for a specific study or case.

Categories of records in the system: Background histories, resumes of previous services provided the Commission, work contracts, salary requests, internal memoranda.

Authority for maintenance of the system: Section 4(g) of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record is used by administrative personnel and the AT&T Task Force staff to secure qualified persons to serve as expert witnesses or as consultants.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Information in this system is retrieved by name.*

Safeguards: Records are kept in file cabinets in the bureau administration office and in the offices of the AT&T Task Force. These offices are locked at the close of each business day.

Retention and disposal: These records are retained until their administrative need has ended, then destroyed.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: FCC procurement office, previous employers, college or university officials. *In order to expedite the processing of requests for notification, those individuals who have served as expert witnesses at the request of the AT&T Task Force should communicate this fact in the request.

FCC/CCB—5

System name: Correspondence Associated with Docketed Matters—FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individuals with whom the bureau.s trial staff corresponds while the docket remains active.

Categories of records in the system: All correspondence to and from individuals concerning a specific docketed matter, e.g., information requests, intercounsel correspondence, correspondence to gather information for use in hearing proceedings.

Authority for maintenance of the system: Section 403 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Trial Staff for reference during the course of the proceeding. The records may be referred, as a routine use, to the appropriate agency charged with the responsibility of implementing or enforcing applicable statutes or rules or charged with investigating some aspect of a docketed matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are first retrieved by docket or file number, then by individual name.*

Safeguards: Stored in unlocked files and secured in office after working hours.

Retention and disposal: The records are maintained until the Docket is closed. The records are then turned over to Dockets Office which retains them indefinitely.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: *Individuals seeking access to records in this system should associate a docket or file number with the request.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: None.

FCC/CCB—6

System name: Employee Records—FCCCCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Common Carrier Bureau.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, life insurance and retirement coverage, telephone number; recommendations and memoranda in support of promotions, ingrade increases and awards including recommendations for outstanding or unsatisfactory performance rating; requests and notices of personnel actions; job descriptions; performance evaluations; supervisor's complaints; discrimination complaints and other employee-filed grievances; nominations for employee training courses; time and attendance reports including special working hours.

Authority for maintenance of the system: 5 U.S. Code, Section 631, Section 1101, Section 2001, Section 2061.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel office of Bureau chief—to provide personal data and career history; to support requests for personnel action, e.g., appointment, separation, promotion, and annual performance rating; to provide a ready reference for employee job descriptions, award nominations, and training recommendations; to determine the days and hours during which annual or sick leave is taken, to keep track of paid overtime being worked in the Bureau, and to document work schedules that differ from normal duty hours.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders or card files.

Retrievability: All records are retrievable by name, some records are retrieved by the date employee is eligible for promotion or within grade increases or by course title (in the case of training records).*

Safeguards: Records are maintained in file cabinets or desk drawers, all Bureau offices are locked at the close of each business day.

Retention and disposal: Most records in this system are retained until the administrative need is completed, then destroyed by tearing; performance ratings and time and attendance reports are retained for one year, then destroyed; records of personnel actions are retained for three years, then destroyed by tearing.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: (Same as in above record systems.) *Individuals seeking access to records having to do with nominations for training should identify the specific training courses of interest by title and year of offering.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, personnel office, payroll office.

FCC/CCB—7

System name: Employment Discrimination Complaints Against Common Carriers—FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All individuals who send complaint letters to the FCC concerning alleged employment discrimination by common carriers.

Categories of records in the system: Complaint letters, responses of the Bureau, any materials gathered in investigating the complaints, and correspondence to other governmental agencies regarding complaints.

Authority for maintenance of the system: Section 403 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by EEO counsel, members of the Hearing and Legal Division staff to investigate the complaint, to refer the complaint to the subject company, and to take part in the resolution of the matter. The record system may also be referred as routine to the appropriate agency charged with the responsibility of investigating or prosecuting a possible violation of law or charged with enforcing the applicable statutes or rules.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: All records are retrieved by complainant's name.

Safeguards: Records are maintained in file cabinets in offices that are locked at the close of each business day.

Retention and disposal: Indefinitely.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Common Carrier officials.

FCC/CCB—8

System name: Public Land Mobile Radio Operators File—FCC/CCB

System location: 2025 M Street, N.W., Washington, D.C. 20554; 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Users of mobile units and applicants for service in the Public Land Mobile Radio Service.

Categories of records in the system: Applications for land mobile radio licenses, copies of licenses; a computerized list of licensees by name and by call sign.

Authority for maintenance of the system: Section 307 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Mobile Service Division staff to grant, dismiss or revoke applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders (computer printout).

Retrievability: Records are retrieved by licensee name.

Safeguards: None, records are open to public inspection.

Retention and disposal: Records are maintained on open shelves for as long as the station is in existence. Files are held for one year after service is terminated, then destroyed by shredding.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals making applications.

FCC/CCB—9

System name: Staff Travel Records—FCC/CCB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All Common Carrier Bureau personnel authorized to travel on government business.

Categories of records in the system: Name of traveler, number of days travel time authorized, departure date, destination, purpose for travel, mode of travel, cost of travel, and any other information pertinent to the trip.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record is used by Administrative personnel to authorize official travel by Bureau personnel and to document monies spent from travel budget.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder.

Retrievability: Records are retrieved by employee name.

Safeguards: Records are kept in a filing cabinet in the Bureau administrative office which is secured at the close of each business day.

Retention and disposal: Records are kept on file for a period of two years, then destroyed by tearing.

System manager(s) and address: Chief, Common Carrier Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Authorizing supervisor.

FCC/FOB—1

System name: Employee Records—FCC/FOB

System location: Primary: 1919 M Street, N.W., Washington, D.C. 20554. Secondary: various field facilities (for addresses see Appendix I).

Categories of individuals covered by the system: Employees and former employees of the Field Operations Bureau.

Categories of records in the system: Performance appraisals and reviews, recommendations for awards, time and attendance reports, position descriptions, training records.

Authority for maintenance of the system: 5 U.S. Code, Section 2001, Section 2061, Section 2121, Section 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the Office of Bureau Chief and in the various field installations—to provide personal data and career history; to support requests for personnel action, e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and high quality awards and to justify approval or disapproval of such recommendations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: All records in this system are retrievable by employee name.

Safeguards: All records are kept in file cabinets, in Bureau offices that are secured at the end of each business day.

Retention and disposal: Records are retained in accordance with the FCC records control system, destruction occurs one year after the departure of the employee.

System manager(s) and address: Chief, Field Operations Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Supervisors.

FCC/FOB—2

System name: Radio Operator Records—FCC/FOB

System location: Primary: 1919 M Street, N.W., Washington, D.C. 20554. Secondary: various field facilities (for addresses see Appendix A).

Categories of individuals covered by the system: Individuals who have applied for radio operator licenses.

Categories of records in the system: Applications for radio operator licenses, examination papers, records of documents issued, correspondence, etc.

Authority for maintenance of the system: Geneva Radio Regulations; 47 U.S. Code, Section 303(l), and (m), 318.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in connection with the administration of the Commission's radio operator program including examinations, applications, and determinations of license applicant qualifications. Limited file material concerning licensed radio operators is forwarded to the Office of Executive Director for inclusion of the material in the agency's central computer facility. If the records maintained indicate a possible violation of law, they may be referred, as routine, to the General Counsel and to the appropriate agency charged with the responsibility of investigating or prosecuting such violation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, microfilm (applicants' names only).

Retrievability: All records in this system are retrievable by applicant name.

Safeguards: All records are kept in file cabinets, in offices that are secured at the close of each business day.

Retention and disposal: Applications are retained for a period of six years, transferred to the Federal Records Center for an additional five years, then destroyed. (Exception: Restricted Permits are issued for "life" and those applications are therefore retained indefinitely.)

System manager(s) and address: Chief, Field Operations Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: FOB field employees engaged in radio operator application processing.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to Section (k)(2) of the Act.

FCC/FOB—3

System name: Violators File (records kept on individuals who have been subjects of FCC field enforcement actions)—FCC/FOB

System location: Primary: 1919 M Street, N.W., Washington, D.C. 20554. Secondary: various field facilities (for addresses see Appendix A).

Categories of individuals covered by the system: Individuals who have been subjects of FCC Field enforcement actions (monitoring, inspection, investigation) for violations of radio law, FCC Rules and Regulations, or International Radio Treaties.

Categories of records in the system: Inspection reports, complaints, monitoring reports, investigative cases, referral memos, correspondence, discrepancy notifications, warning notices, etc.

Authority for maintenance of the system: 47 U.S. Code, Sections 1, 2, 4, 301, 312, 315, 318, 386, 401, 404, 501, 502, 510.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in connection with the Commission's field enforcement programs to determine levels of compliance among radio users; to issue marine certificates of compliance; to prepare requests for sanction action. Where sanctions are requested, file material is forwarded to appropriate offices within the Commission. If the records indicate a possible violation of law, they may be referred, as a routine use, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing the applicable statutes or rules.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: All records in this system are retrievable by name and by FCC issued call sign.

Safeguards: All records are kept in file cabinets, in offices which are secured at the close of each business day.

Retention and disposal: All violation notices are maintained for a period of four years, then destroyed (classified material is destroyed by burning or shredding).

System manager(s) and address: Chief, Field Operations Bureau, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission's Rules because such parts are maintained as a protective service for individuals described in Section 3056 of Title 18, and because they are necessary for Commission employees to perform their duties, pursuant to sections (k)(1), (2) and (3) of the Act.

FCC/OALJ—1

System name: Employee Activity Report—FCC/OALJ

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Office of Administrative Law Judges, professional and non-professional.

Categories of records in the system: Summaries of the total number of hours devoted to specific areas of work, number of hours absent, number of hours on business.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Budget Office uses the report to compute manpower hours, the Commission uses it to record the total number of hours put forth in a specific category of work; the office uses it to document how an individual used his work time during a two-week period.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by employee name and reporting period.

Safeguards: Records are kept in a locked file cabinet in an office which is secured at the end of each business day.

Retention and disposal: Records are kept for three years, then destroyed.

System manager(s) and address: Office of Administrative Law Judges, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the records are maintained.

FCC/OALJ—2

System name: Employee Records—FCC/OALJ

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Office of Administrative Law Judges, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; memoranda in support of promotion or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendations for awards.

Authority for maintenance of the system: 5 U.S. Code, Section 631, Section 2001, Section 2061, Section 2121, Section 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and certain administrative personnel to provide personal data and career history; to support requests for personnel actions: e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine employee productivity; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of same.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, Kardix, Time and Attendance cards.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are maintained in locked file cabinets in offices that are secured at the close of each business day.

Retention and disposal: Records are retained for a period of one year after an individual leaves the Commission's employ, then destroyed. Time and attendance records are retained for two years, then destroyed.

System manager(s) and address: Office of Administrative Law Judges, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, other personnel.

FCC/OALJ—3

System name: Staff Travel Records—FCC/OALJ

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Office staff authorized to travel on government business.

Categories of records in the system: Traveler's name, number of days travel time authorized, departure date, destination, purpose for travel, mode of travel, cost of travel, and any other information pertinent to the trip.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by administrative personnel to authorize official travel by office personnel and to document monies spent from travel budget.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folder.

Retrievability: Records are retrieved by traveler's name.

Safeguards: Records are maintained in a locked file cabinet in an office which is secured at the close of each business day.

Retention and disposal: Records are kept on file for a period of three years, then destroyed.

System manager(s) and address: Office of Administrative Law Judges, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/OCE—1

System name: Employee Activity Report—FCC/OCE

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Office of Chief Engineer, professional and non-professional.

Categories of records in the system: Summaries of the total number of hours devoted to specific areas of work, number of hours on business.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Budget Office uses the report to compute manpower hours; the Commission uses it to record the total number of hours put forth in a specific category of work; the Office uses it to document how an employee uses his work time during a two-week period.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by employee name and reporting period.

Safeguards: Records are kept in a locked file cabinet in an office which is secured at the end of each business day.

Retention and disposal: Records are kept for three years, then destroyed.

System manager(s) and address: Office of Chief Engineer, Room 714, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/OCE—2

System name: Employee Records—FCC/OCE

System location: 2025 M Street, N.W., Washington, D.C. 20554. Regional Office, 1550 Northwest Highway, Parkridge, Ill. 60068.

Categories of individuals covered by the system: All employees and former employees of the Office of Chief Engineer, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; memoranda in support of promouon or in-grade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendations for awards.

Authority for maintenance of the system: 5 U.S. Code, Section 631, Section 2001, Section 2121, Section 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and certain administrative personnel to provide personal data and career history; to support requests for personnel action: e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine employee productivity; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of same.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are maintained in locked file cabinets in offices that are secured at the close of each business day.

Retention and disposal: Records are retained for a period of one year after an individual leaves the Commission's employ, then destroyed. Time and attendance reports are retained for two years, then destroyed.

System manager(s) and address: Office of Chief Engineer, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, other office personnel.

FCC/OCE—3

System name: Experimental Radio Station Licensee File—FCC/OCE

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Experimental Radio Station License holders.

Categories of records in the system: Technical and administrative information regarding the operation, location of the experimental operation and the equipment to be used.

Authority for maintenance of the system: Sections 301, 303 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff engineers and application examiners to determine if a license applicant is qualified and if the experimental station's technical operation is in the public interest.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Information is retrieved by applicant or licensee name, then by call sign.

Safeguards: Records are maintained in locked file cabinets in offices that are secured at the close of each business day.

Retention and disposal: Records are retained for a period of 2 years after the expiration of the license, then sent to the National Archives.

System manager(s) and address: Office of Chief Engineer, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/OED—1

System name: Activity Reporting System—FCC/OED

System location: 1919 M Street, N.W.; 2025 M Street, N.W.; and 1229 20th Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees whose bureau or office is a participant in the system.

Categories of records in the system: Individual activity reporting forms containing a person's name, social security number, organization code, activity code and number of hours spent working on the reported activity during a semimonthly reporting period. Monthly reporting forms listing total Bureau/Office output of selected production measures.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Bureau and Office management personnel use data to measure time expended on various programs, services or activities and productivity at Divisional or Bureau level. Financial Management Division used data to develop future budget estimates.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 inches by 8 inches and 8 inches by 10 inches original forms are stored in file cabinets by reporting period and organizational unit. Data is also contained on magnetic tapes stored in computer room, also denoted by reporting period.

Retrievability: Forms and tapes are maintained by semimonthly or monthly reporting period to facilitate aggregation for monthly report. Error listings from the computer are indexed by social security number to facilitate correction on an individual basis. Data is not retrieved for an individual, only for various organizational levels and program, service or activity codes. Forms will be filed in each participating bureau to facilitate location for correction purposes only.

Safeguards: Records are maintained in file cabinets in an office that is locked at the end of each business day. Access to tapes is controlled by computer room personnel.

Retention and disposal: Original forms are retained for three months and then destroyed by tearing into pieces. The only purpose in maintaining the original input document for three months before destruction is to facilitate correction of error listings. Tapes are retained for up to two years.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual Activity Reports of employees participating in the system. Monthly Output Measures Reports from Bureau/Office management personnel.

FCC/OED—2

System name: Alcoholism and Drug Abuse Case Files—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: FCC employees who seek guidance and counseling through the agency Alcoholism and Drug Abuse Program.

Categories of records in the system: Personal history as it relates to the employee's problem. Records on employees referred for counseling.

Authority for maintenance of the system: FPM 792.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Reference material for the use of the Program Administrator and Counselors.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored in locked metal cabinets in the Program Administrator's Office.

Retrievability: Records are filed and retrieved by name of employee.

Safeguards: Records are maintained in an office that is locked when not occupied by the Program Administrator. They are maintained in strict confidence and are accorded the same security and accessibility restrictions provided for medical records.

Retention and disposal: Records are kept indefinitely or until the employee leaves the FCC, at which time they are destroyed by tearing into pieces.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee, employee's supervisor, and counselors.

FCC/OED—3

System name: Docket History Cards—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Licensees whose applications have been designated for hearing and Petitioners who request an amendment of Commission's Rules.

Categories of records in the system: Docket History cards and cross-reference cards.

Authority for maintenance of the system: Section 0.45e of the Commission's Rules.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Commission employees and general public use records to locate pleadings that have been filed, pertinent dates, and Commission actions that are filed in the public reference room.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 inches by 8 inches history card file cabinets; 3 inches by 5 inches alphabetic card file cabinets.

Retrievability: History cards are maintained by numerical docket numbers; and cross-reference cards are maintained alphabetically. Cross-reference cards contain the name of an individual and the docket number thus permitting access to the docket history card.

Safeguards: Public access is controlled by Commission employees who provide necessary reference services.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is secured from pleadings and actions taken by Commission officials.

FCC/OED—4

System name: Employee Relations Case File—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: FCC employee.

Categories of records in the system: Correspondence of an employee relations nature including debt complaints and supervisory generated warnings or other forms of admonishment regarding disciplinary matters.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Employee Relations Officer for reference and the development of an effective employee relations program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folder.

Retrievability: Records are filed alphabetically and retrieved by name of employee.

Safeguards: Records are maintained in a file located in the office of the Employee Relations Officer, Personnel Division. The office is locked at the end of each business day.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Supervisors, employees, private citizens.

FCC/OED—5

System name: Financial Disclosures by Employees—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All Commission regular and special employees.

Categories of records in the system: Confidential Statements of Employment and Financial Interests required to be filed by all Commission regular and special employees (Section 19.735-403, FCC Rules and Regulations) initially upon employment, and supplementarily each year thereafter. Correspondence with the employee, the General Counsel, or research documents concerning any holdings requiring clarification as to their compatibility with Government employment.

Authority for maintenance of the system: Executive Order 11222; Chapter 735, Federal Personnel Manual (Section 1-5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is reviewed by designated employees to establish proper compliance with the Executive Order and FCC Rules and Regulations. The General Accounting Office may require access to these records. As determined for good cause shown, referral may be made to the Civil Service Commission and to the Department of Justice.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed and retrieved by name of employee.

Safeguards: Records are held in confidence in an access-controlled and alarmed area, with access restricted to reviewing officials (Section 19.735-405, FCC Rules and Regulations) and processing personnel of the Security Office. Access by other Commission officials is limited to those who are required to provide a legal opinion or interpretation.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The records may contain data extracted from financial publications or obtained directly from companies or corporations whose stock is held by the employee. Submitting employee.

FCC/OED—6

System name: Index of Commission Agenda Items—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: When an agenda item pertains to an individual, an index card is made out in the name of that person.

Categories of records in the system: Index cards contain name of individual, agenda item number(s), dates, minute numbers and a digest of action taken by the Commission on the subject matter.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used by employees to determine when a particular matter was considered by the Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 5 inches by 8 inches card file cabinets.

Retrievability: Index cards are filed alphabetically. When the name of an individual is mentioned in a Commission Agenda item, it is filed alphabetically and is accessible.

Safeguards: Information in these records is available to the public. Commission employees, however, maintain control over access and provide necessary reference service. Records are maintained in file cabinets in an office that is locked at the end of each business day.

Retention and disposal: Records are retained indefinitely.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is secured from Commission Agendas, Notations and Minutes by Commission employees.

FCC/OED—7

System name: National Industry Advisory Committee (NIAC) Membership—FCC/OED

System location: 1229 20th Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Members of the National Industry Advisory Committee and its Subcommittees.

Categories of records in the system: Information showing individual name, business address, business and home telephone numbers, title and occupation.

Authority for maintenance of the system: Public Law 92-463, October 6, 1972, Federal Advisory Committee Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to distribute information to members of the committee, convene meetings, and conduct general committee business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed and retrieved by name of committee members.

Safeguards: Records are maintained on a division level in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: Records are retained indefinitely while individual is a member of the committee; when member resigns or retires from business, individual file material is destroyed.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Committee member.

FCC/OED—8

System name: Personnel Investigations of Employees—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All Commission regular and special employees.

Categories of records in the system: Reports of investigations conducted pursuant to Executive Order 10450 by the U.S. Civil Service Commission, FBI, or other authorized government agency; results of National Agency Check and Inquiries (NACI); suitability information as defined in Chapter 731, Federal Personnel Manual; results of investigations conducted pursuant to Section 19.735-107, FCC Rules and Regulations (Employee Responsibilities and Conduct), and the results of inquiries conducted in the administration of the FCC's Merit System. Certificates of Clearance issued for the individual's access to classified information. Card Index.

Authority for maintenance of the system: Executive Order 10450. 18 U.S.C. 203, 205, 208, and 209.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used to establish qualification for government employment and to determine whether employee should be permitted access to classified information. As necessary, referral is made to law enforcement authorities for investigation and possible criminal prosecution, or to the Civil Service Commission in the case of suitability matters under its jurisidction. Referral may be made to the following agencies when there is need for the granting of access to classified information in their custody or to briefings including classified matters: Defense Communications Agency, Interagency Communications System, Department of State, Secret Service, Central Intelligence Agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card index.

Retrievability: Records are filed and retrieved by name of employee.

Safeguards: Records are maintained within a secure, access-controlled area, and stored in approved security containers. Access is limited to cleared Security Office personnel and to Commission officials on a "need to know" basis when required to take decisional action on the records.

Retention and disposal: Records are retained during employment; records are returned to investigating agencies after employment terminates.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Previous employers; listed and developed character and credit references; neighbors; educational institutions; law enforcement agencies; birth records; fellow employees.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission's Rules because such parts contain investigatory material pursuant to sections 3(k)(2) and 3(k)(5) of the Act as applicable.

FCC/OED—9

System name: Personnel Investigations of Members of Advisory Committee. (Maritime Communications Subcommittee, National Industry Advisory Committee)—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Members of the Maritime Communications Subcommittee of the FCC National Industry Advisory Committee (NIAC).

Categories of records in the system: Reports of investigations conducted pursuant to Executive Order 10450 by the U.S. Civil Service Commission, FBI, or other authorized government agency; results of National Agency Checks and Inquiries (NACI).

Authority for maintenance of the system: Executive Order 10450.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is reviewed by designated employees to determine an individual's qualifications for access to classified information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed and retrieved by name of individual.

Safeguards: Records are maintained within a secure, access-controlled area, and stored in approved security containers. Access is limited to cleared Security Office personnel and to Commission officials on a "need to know" basis when required to take decisional action on the records.

Retention and disposal: Records are retained as long as the individual is a member of the committee; when no longer connected with the committee, the records are returned to the issuing agency.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Previous employers; listed and developed character and credit references ; neighbors; educational institutions; law enforcement agencies; birth records; fellow employees.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act because they embody investigatory material pursuant to sections 3(k)(2) and 3(k)(5) of the Act as applicable.

FCC/OED—10

System name: Project Management of the Data Automation Division—FCC/OED

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All Data Automation Division employees.

Categories of records in the system: A description of tasks performed by Division employees, coded and filed in a Task File. A description of individuals assigned to the Division by pay rate, number of normal work hours, job classification, and supervisor, coded and filed in a Resource File.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is used by Division supervisory employees to monitor expenditure of hours and dollars by employees on various tasks and projects, and to plan scheduling of employees on projects.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Permanent disk and magnetic; punched card input data is retained for backup.

Retrievability: Computer print-outs are prepared as needed and are distributed within the Division.

Safeguards: Access to data is limited to division employees and is controlled by a project management system coordinator; all information is retained within the division.

Retention and disposal: Computer print-outs are destroyed when no longer needed. Other information is retained indefinitely.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained from Division supervisors and individuals to whom the information pertains.

FCC/OED—11

System name: State and Operational Areas Emergency Communications Committees—FCC/OED

System location: 1229 20th Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Chairmen and Vice Chairmen of State and Operational Area Emergency Communications Committees.

Categories of records in the system: Information showing individual name, business address, business telephone number and title.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to forward appropriate information to State Committee members, each broadcast station in the State and to Federal, State and local government officials for Emergency Communications planning.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed by state and by name of committee member within the state.

Safeguards: Records are maintained on a division level in file cabinets which are locked at the end of each business day.

Retention and disposal: Records are retained indefinitely while the individual is a member of the committee; when member resigns, individual file material is destroyed.

System manager(s) and address: Executive Director, Office of Executive Director, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above. Name of state must be provided with any request for information.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Committee member.

FCC/OGC—1

System name: Alien Rights under Section 310 of the Communications Act—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individuals who inquire about the right of Aliens to hold amateur radio licenses, and aliens who seek Commission approval to become corporate officers of companies licensed by the Commission.

Categories of records in the system: Correspondence, memoranda, agenda items, public notices, news releases.

Authority for maintenance of the system: Section 310, Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records in this system are used by staff attorneys in the Office of General Counsel as a repository for Commission policy statements concerning Section 310 matters. The staff responds to letters of inquiries, and determines whether waivers of Section 310 provisions are warranted based on information contained in this record system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Information filed by the name of the person making the inquiry or request.

Safeguards: Records are maintained in unlocked file cabinets in an office that is secured at the close of each business day.

Retention and disposal: At present, records are maintained permenently. When file becomes too bulky to maintain on a permanent basis it will be broken and files other than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/OGC—2

System name: Alleged Violators File (Ex Parte Rules)—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individuals alleged to have violated the Commission's ex parte rules.

Categories of records in the system: Complaint letters, memoranda, briefs, Commission decisions recommending action, and news releases.

Authority for maintenance of the system: Section 4(i) of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record information is used by staff attorney to make a determination whether, in fact, a violation of the ex parte rules has occurred. The records may be referred to the appropriate agency charged with the responsibility of prosecuting such violation or enforcing the applicable statute or rule.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are maintained by the name of the party accused of an ex parte violation.

Safeguards: Records are maintained in unlocked file cabinets in an office that is secured at the end of each business day. Since only one or two office persons have need to routinely access this system, unauthorized examinations would be easily detected.

Retention and disposal: At the present time the records in this system are maintained permanently. However, when the file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Complainants, Security Officer, Bureau Chiefs.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(l), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission's Rules because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to subsection (k)(2) of the Act.

FCC/OGC—3

System name: Alleged Violators File (United States District Court Enforcement Action)—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any person allegedly violating Communications Act, certain specified Federal statutes, treaties, FCC Rules, and FCC Orders. For example: licensees in citizens band or amateur service; unlicensed individuals in citizens band or amateur service; individual owners of broadcast stations (1 person corporation); officers, employees of broadcast stations, cable systems.

Categories of records in the system: Enforcement of Cease and Desist Order; Enforcement of Revocation Order; Enforcement of Administrative Subpoena; Enforcement of Forfeiture Order; Injunction; Criminal Prosecution.

Authority for maintenance of the system: Sections 301, 401(a), 401(b), 409(b), 504 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used internally to decide whether further administrative or judicial enforcement is necessary. Record information may be transmitted to the Department of Justice if judicial action is necessary.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by name.

Safeguards: Records are maintained in steel cabinets and secured after working hours.

Retention and disposal: Left to discretion of division staff when to retire files to Archives or when to destroy them.

System manager(s) and address: General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: The information comes from inspections of stations and monitoring by FCC Field Office staff and from third party complainants such as competitors, former employees, and neighbors.

Systems exempted from certain provisions of the act: Parts of this system of records are exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) fo the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission.s Rules because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to subsection (k)(2) of the Act.

FCC/OGC—4

System name: Attorney Applicants File—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Third year law students and attorneys seeking employment with the Commission.

Categories of records in the system: Law School transcripts, resumes; standard Form 171; interviewer's or Attorney Rating Board report.

Authority for maintenance of the system: 5 U.S.C. 631, 2001, 2061, 2021, 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by recruiting staff in connection with the Commission's attorney hiring process: e.g., as a source of information for use during personal interviews; as a means to evaluate attorney applicants who interview with Commission recruiters or appear before the Board. Information contained in file is occasionally circulated to individual offices or bureaus in order to fill an attorney vacancy. This system of records may also be disclosed to the appropriate agency maintaining enforcement or pertinent information if necessary to obtain information relevant to the hiring of an attorney in a sensitive position only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, 3 inches by 5 inches and 5 inches by 8 inches card files.

Retrievability: Information is maintained by applicant's name.

Safeguards: Information is kept in locked file cabinets in Commission offices that are secured at the close of each business day.

Retention and disposal: Information in the file is retained for a period of one year. Records are retained for longer than one year if the applicant up-dates the records or conveys a continued interest in Commission employment.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Applicant; interviewer; Attorney Rating Board.

FCC/OGC—5

System name: Attorney Misconduct Files—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any attorney who appears in a representative capacity before the FCC and who is being charged with attorney misconduct.

Categories of records in the system: Correspondence, briefs, related Commission agenda items, ABA recommendations, investigative findings, complaints of attorney misconduct, memoranda.

Authority for maintenance of the system: 5 U.S. Code Section 500(d)(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record information is used by staff attorneys to prosecute a case for attorney misconduct before the administrative law judge and the Commission. Record

information may be referred, as a routine use, to the appropriate agency charged with the responsibility of enforcing any Commission penalties imposed.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by the name of the attorney charged with misconduct.

Safeguards: Records are kept in file cabinets in offices that are secured at the end of each business day. Since only one or two staff persons routinely access this record system, unauthorized examination during business hours would be easily detected.

Retention and disposal: At present, records are maintained permanently. When file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives, destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Same as above.

Systems exempted from certain provisions of the act: This system of records is exempt from Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from Sections 0.554-0.557 of the Commission's Rules because it is maintained for law enforcement purposes pursuant to subsection (k)(2) of the Act.

FCC/OGC—6

System name: Communications Interception-Section 605—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Anyone against whom a complaint is registered.

Categories of records in the system: Correspondence, FBI reports, DOJ rulings and interpretations.

Authority for maintenance of the system: Section 605 of the Communications Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Attorneys use for reference purposes when assigned a similar case.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: The records are chronologically indexed.

Safeguards: Records are maintained within steel file cabinets without locks. The office is locked at 4:30 each night.

Retention and disposal: Records date from 1953 to present. No records have been destroyed.

System manager(s) and address: General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual complaints, FBI Investigation Reports.

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 552(a), and from sections 0.554-0.557 of the Commission's Rules because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to subsection (k)(2) of the Act.

FCC/OGC—7

System name: Conflicts of Interest by Commission Employees and Prospective Employees—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Commission employees and prospective Commission employees.

Categories of records in the system: Copies of individual's financial statements, memoranda regarding specific assets, correspondence with employee or prospective employee, notes, research reports.

Authority for maintenance of the system: Section 4(b) of the Communications Act of 1934, as amended; 18 U.S. Code Sections 205 and 208.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record information is used by General Counsel attorneys to determine whether a potential conflict of interest situation exists among Commission employees and prospective employees, and whether the subject interest is sufficiently substantial so as to affect job performance. Record information may also be used for reference in similar cases.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by name of the individual with the potential conflict of interest.

Safeguards: Records are kept in unlocked file cabinets in an office that is secured at the close of each business day.

Retention and disposal: At the present time the records in this system are maintained permanently. However, when the file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Brokers are occasionally contacted for information regarding over-the-counter stocks.

FCC/OGC—8

System name: Contracts For Personal Services—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individuals with specialized skills who bid or are recruited to serve as consultants or experts.

Categories of records in the system: Recommendations to grant/deny a proposed contractual agreement; copies of contracts, agreements; memoranda, letters; news releases, pamphlets, booklets.

Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, 40 U.S. Code Section 471; Section 4(g) of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by personnel of the office of General Counsel: to review proposed contracts for legality; to determine whether a contractor had been hired previously by Commission; occasionally to advise and act on certain breaches of contract.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are maintained by the name of the individual making the bid or recruited for the contract.

Safeguards: Records are kept in unlocked file cabinets in an office that is secured at the end of each business day. Since only one or two of the staff routinely access this system, unauthorized examination would be easily detected.

Retention and disposal: At the present time records are maintained permenently. When file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: None.

FCC/OGC—9

System name: Convicted Felon Licensees and Suspensions—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Individual licensees and former licensees who have been suspended.

Categories of records in the system: Memoranda, News Releases, Public Notices, Letters, FOB Material.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: General Counsel Attorneys use the record system for information purposes when working on Commission related assignments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: The records are accessible by name.

Safeguards: Records are maintained in unlocked steel file cabinets and secured in the office after working hours.

Retention and disposal: The records are permanently retained.

System manager(s) and address: General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: FOB Investigative Case Report and other materials; Public Notices; News Releases.

FCC/OGC—10

System name: Employee Claims For Reimbursement—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any Commission employee who files a reimbursement claim for injury to personal property.

Categories of records in the system: Tort claims voucher of damage or injury, voucher for payment, repair receipts, agenda items, documenting FOB reports, memoranda, and correspondence.

Authority for maintenance of the system: Military Personnel and Civilian Employees Claim Act of 1964, 31 U.S.C. Section 240 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Staff attorneys review claims for completeness and recommend either the grant or denial of the claim based on information collected in the system. This recommendation is reviewed by the Executive Director's office and the Finance Branch before a final determination is made.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by the individuals name making the claim.

Safeguards: Records are kept in an unlocked file cabinet in an office that is secured at the close of each business day.

Retention and disposal: At present, records are maintained permanently. When file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Supervisors reports, witness reports.

FCC/OGC—11

System name: Employee Complaint Adjudication—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any Commission employee who is the subject of a complaint investigation involving internal personnel actions or activities, i.e., discrimination, grievance, political activity, separation or adverse action.

Categories of records in the system: Records in this system involve internal personnel disputes that have reached the hearing stage, and may include correspondence, memoranda, transcripts of hearings, brief, investigative reports, decisions of hearing examiners and Commissioners.

Authority for maintenance of the system: 5 U.S. Code Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by staff attorneys in the General Counsel's office in pre-hearing settlement negotiations with opposing parties; records are also used in preparation for the actual hearing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by the name of the subject individual in the investigation.

Safeguards: Records are maintained in unlocked file cabinets in an office that is secured at the end of each business day.

Retention and disposal: At present, records are maintained permanently. When file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, Room 614, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Co-workers, other supervisors, classification experts, other persons involved in the case.

FCC/OGC—12

System name: Employee Records—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Office of General Counsel, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, telephone number; copies of letters of commendation; memoranda in support of promotion or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; job descriptions; training records.

Authority for maintenance of the system: 5 U.S. Code Sections 631, 2001, 2061, 2021, and 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the Office of General Counsel: to provide personal and emergency data and career history; to support requests for personnel action, e.g., appointment, separation, promotion, and annual performance rating; to log and document recommendations for training courses, incentive and high quality awards, and to justify disapproval of such recommendations; to determine the days and hours during which annual or sick leave is taken.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, 5 inch by 8 inch card box.

Retrievability: Information is retrieved by employee name.

Safeguards: Records are maintained in file cabinets in offices that are secured at the close of each business day.

Retention and disposal: Most records in this system are maintained while the individual is employed with the Commission and destroyed 2 years after the employee's departure. Some information is kept for 5 years then destroyed.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, personnel office, payroll office.

FCC/OGC—13

System name: Parties Involved in Current Litigation Before Federal Courts—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any person who is a captioned party of record in an appeal from or petition for review of a Commission action, or other court filing.

Categories of records in the system: Litigation Division docket files (duplicate files of those filed with the Court and other parties).

Authority for maintenance of the system: Section 402 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Case preparation and reference.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Indexed by case name.

Safeguards: Records are filed in the Litigation office and secured after working hours.

Retention and disposal: Files are retired when case finally closed.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: U.S. Circuit Courts of Appeals and parties to proceedings.

FCC/OGC—14

System name: Parties With Pending Civil Cases Before Any District Court That Affect the Commission—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any individual who has a miscellaneous case before any District Court that involves the Commission.

Categories of records in the system: Letters, Memoranda, Briefs, Bankruptcy papers.

Authority for maintenance of the system: Section 402 of the Communications Act of 1934, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record information is used by Commission attorneys to update information or furnish additional data for the Government Agency handling the case.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are maintained by the individual's name filing the claim.

Safeguards: Records are maintained in unlocked file cabinets in an office that is secured at the end of each business day.

Retention and disposal: The records are maintained for three years and then sent to the National Archives. The General Counsel recommends to the Record Center that these files be retained for three years before disposal.

System manager(s) and address: Office of the General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Justice Dept., U.S. Attorneys, Other Federa' Agencies.

FCC/OGC—15

System name: Private or Civil Injury Claimants—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Any individual who files a tort claim against the Commission or commits a tort against a Commission employee.

Categories of records in the system: Accidents reports, tort claim vouchers, correspondence, memoranda, medical and payment receipts, repair and payment receipts, pictures.

Authority for maintenance of the system: Federal Tort Claims Act, 28 U.S.C. Section 2672.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record information is used by attorneys in the Office of General Counsel to determine whether a tort claim filed against the Commission should be paid and for reference when assigned a similar case. If it is determined that the claim should not be paid or in cases when, pursuant to the limitations set out in 28 U.S.C. Section 2672, the Commission cannot make the final determination whether or not to pay a claim, the record is routinely transferred to the appropriate agency charged with the responsibility of disposition.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by the name of the individual who filed the claim.

Safeguards: Records are kept in an unlocked file cabinet in an office that is locked at the end of each business day. Since only one or two office persons routinely access this system, unauthorized examination during business hours would be easily detected.

Retention and disposal: Records are maintained for up to 3 years, then sent to National Archives; they are destroyed 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Witnesses, General Counsel, Executive Director.

FCC/OGC—16

System name: Recess and Interim Appointments of Employees—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Commissioners and other employees who have been considered for short term or long term appointments.

Categories of records in the system: Memoranda, letters.

Authority for maintenance of the system: Sections 4(f)(1) and (2) and (g) of the Communications Act of 1934, as amended; 5 U.S. Code Section 56.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by General Counsel Attorneys and the Chairman's office for reference purposes when working on a similar case.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by employee name.

Safeguards: Records are kept in file cabinets in offices that are secured at the end of each business day.

Retention and disposal: At present, records are maintained permanently. After the file becomes too bulky to maintain on a permanent basis, it will be broken and files older than 3 years will be sent to National Archives. Destruction will occur 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FCC/OGC—17

System name: Witness Appearance Request File—FCC/OGC

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Commission employees requested to appear as witnesses and to testify on Commission matters or to testify on knowledge obtained through Commission work.

Categories of records in the system: Witness subpoenas, orders, other demands, memoranda; investigative reports; official notices of violations; copies of licenses.

Authority for maintenance of the system: Section 409 of the Communications Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Record Information is used by staff attorneys to determine whether or not to grant a request for appearance and to determine when an employee.s appearance is repeatedly requested.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are maintained by the name of employee requested to appear.

Safeguards: Records are kept in unlocked file cabinets in an office that is secured at the end of each business day. Certain members of the secretarial staff are always present in this office; thus, unauthorized examination of records would be easily detected.

Retention and disposal: At present, records are maintained permanently. When file becomes too bulky to maintain on a permanent basis, it will be broken and information older than 3 years sent to National Archives. Destruction shall take place 3 years later.

System manager(s) and address: Office of General Counsel, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Party requesting appearance, e.g., U.S. Attorneys, private law firms.

FCC/OOR—1

System name: Employee Records—FCC/OOR

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Office of Opinion and Review, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; memoranda in support of promotions or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendations for awards.

Authority for maintenance of the system: U.S. Code Sections 631, 2001, 2061, 2121, and 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the office of Chief: to provide personal data and career history; to support requests for personnel actions, e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of same.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card files.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are kept in a locked file cabinet in the office of the chief which is locked at the close of each business day.

Retention and disposal: Records in this system are retained until the administrative need for them is completed, then destroyed. Time and attendance records are maintained for a minimum of 2 years, then destroyed.

System manager(s) and address: Chief, Office of Opinions and Review, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, other office employees.

FCC/OPP—1

System name: Employee Records—FCC/OPP

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Office of Plans and Policy, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; memoranda in support of promotions or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendation for awards.

Authority for maintenance of the system: 5 U.S. Code Sections 631, 2001, 2061, 2121, and 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the office chief and certain administrative personnel: to provide personal data and career history; to support requests for personnel actions, e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of same.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card file.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are maintained in a locked file cabinet in the Office of Plans and Policy in an office which is locked at the end of each business day.

Retention and disposal: Records in this system are retained until the administrative need for them is completed, then destroyed. Time and attendance records are maintained for a minimum of 2 years, then destroyed.

System manager(s) and address: Chief, Office of Plans and Policy, 1919 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, other office employees.

FCC/RB—1

System name: Employee Records—FCC/RB

System location: 1919 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Review Board, professional and non-professional.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, emergency telephone number; memoranda in support of promotions or ingrade increases or for documentation of adverse actions; performance evaluations of various kinds; time and attendance reports; training records; recommendations for awards.

Authority for maintenance of the system: 5 U.S. Code Sections 631, 2001, 2061, 2121, and 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Chairman, Review Board and certain administrative personnel: to provide personal data and career history; to support requests for personnel actions, e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine employee productivity; to determine the days and hours during which annual or sick leave is taken; to log and document recommendations for training courses, incentive and hi quality awards and to justify disapproval of the same.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders, card files.

Retrievability: All records are retrievable by employee name.

Safeguards: Records are kept in a locked storage cabinet in the Office of the Review Board. The Chairman of the Review Board, the Chief for Law and the administrative assistant are the only ones who routinely access this system. Thus, unauthorized examination would be easily detected.

Retention and disposal: Records in this system are retained until the administrative need for them is completed, then destroyed by tearing into pieces.

System manager(s) and address: Chairman of the Review Board, 1919 M Street, N.W. Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors, other office employees.

FCC/SSRSB—1

System name: Amateur and Citizen License Fees, Refunded or Uncollected—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Applicant who was issued a refund by Gettysburg Field Office or Washington, D.C. Office. Applicant whose check was returned by bank for such things as: insufficient funds, account closed, payment stopped, etc.

Categories of records in the system: Information substantiating a refund issued to applicant; or information indicating remittance was returned by bank as unnegotiable.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by administrative personnel as reference material.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed and retrieved by name of applicant involved in the transaction.

Safeguards: Records are maintained on a division level in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: Records are retained for two years, then forwarded to Federal Records Center.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: For refunds information is initiated and supplied by applicant and by bureau employees. For uncollected fees, information is furnished by banks; Fee Unit, Financial Management Division, or Washington Processing Section of the Amateur and Citizens Division act as collectors.

FCC/SSRSB—2

System name: Application and License File—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Radio service applicants and licensees under Parts 81, 87, 89, 91, 93, 95, and 99 of the Commissions Rules.

Categories of records in the system: Applications, licenses, and correspondence maintained by various radio categories: Aeronautical and Fixed Group, Aircraft Group, Alaskan Group, Amateur, Automobile Emergency, Aviation Auxiliary Group, Aviation Radio Navigation Land, Business, Citizens Class A, Citizens Class C and D, Civil Air Patrol, Coastal Group, Disaster, Fire, Forest Products, Forestry Conservation, Highway Maintenance, Industrial Radio Location, Interurban Passenger (Motor Carrier), Interurban Property (Motor Carrier), Local Government, Manufacturers, Marine Auxiliary Group, Marine Radar Land, Motion Picture, Operational Fixed Microwave, Petroleum, Police, Power, Radio Amateur Civil Emergency Service (R.A.C.E.S.), Railroad, Relay Press, Ship Group, Special Emergency, Special Industrial, State Guard, Taxicab, Telephone Maintenance, Urban Passenger (Motor Carrier), Urban Property (Motor Carrier).

Authority for maintenance of the system: Sections 301, 303 of the Communications Act of 1934, and amendments.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used to administer the Commission's programs relating to radio categories listed above including licensing, enforcement, rulemaking, and other actions requiring record information; to evaluate unique systems; to provide a service of information for the general public. Selected informational elements are incorporated in the Commission's central computer facility to maintain a current inventory of licensees for those services which are computerized.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In appropriate files in boxes or cabinets.

Retrievability: Records are filed alphabetically by name of applicant/licensee within each radio service.*

Safeguards: Records are maintained on division level in appropriate files in boxes or cabinets in offices which are locked at the end of each business day.

Retention and disposal: Records are normally retained as long as the station remains licensed, although some bulky files may be divided and older material sent to the Federal Records Center. Records for stations not renewed are retained for one year and then sent to the Federal Records Center.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above. *In order to facilitate the location of a specific record, the name of the radio category under which the application was filed and the call sign of the license issued should be included with the request.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Original applications and supplemental material submitted by applicants; correspondence from complainants; inspection reports, application processors.

FCC/SSRSB—3

System name: Conditional Amateur Licensees—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Conditional amateur licensees subject to recall for a Commission supervised examination because of failure to appear for or failure to pass a Commission supervised examination.

Categories of records in the system: Name, address, date of birth (if known) and authorization code of staff member who placed name in the file; license record information.

Authority for maintenance of the system: Title 47, U.S.C. Sections 301, 303 and 309(e).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: A computer print-out is used as a reference by selected staff employees at Commission headquarters and field installations to determine whether an applicant for an amateur license is eligible under Section 97.35(a) of the Commission's Rules.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On magnetic tape and computer print-out.

Retrievability: Information is filed alphabetically by name of individual in a computer and is retrieved periodically through computer print-out.

Safeguards: Control is exercised over information entering the computer; computer print-outs are available to selected staff personnel and are maintained on division level in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: The previous computer print-out is destroyed by tearing into pieces when a new list is distributed. Individual names on this list may be retained for a maximum of six years.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained by Commission personnel from the applicant.

FCC/SSRSB—4

System name: Current Projects File (Applications that may not comply with rules; Licensees whose systems may not comply with rules)—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Applicants and licensees under Parts 89, 91, and 93 of the Rules whose communication systems may not be in compliance with FCC Rules; and applicants for rule waivers.

Categories of records in the system: Pleadings, letters of complaint, correspondence, technical information, annual reports, and supporting documentation relating to the communication system and its operation.

Authority for maintenance of the system: Section 308(b) of the Communications Act of 1934, and amendments.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by Commission employees to resolve whether the system is in compliance with FCC Rules.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed and retrieved by name of applicant or licensee involved.

Safeguards: Records are maintained on a division level in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: Records are retained for two years after decision is reached, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Letters of petition or complaint initiate action. Letters of complaint are referred to licensees to advise them and to obtain additional information in response to the complaint.

FCC/SSRSB—5

System name: Employee Activity Report—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees of the Bureau.

Categories of records in the system: The total number of hours devoted to specific areas of work, number of hours absent, number of hours on business.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Individual reports compiled by Divisions into monthly totals. Report of totals (without names) is sent to Budget Office for their use in computing manpower hours; to report to the Commission total number of hours put forth in a specific category of work; to document how an employee uses his work time during a two-week period.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are retrieved by employee name and by reporting period.

Safeguards: Records are kept in locked file cabinets in the offices of Bureau and Division Chiefs which are locked at the close of each day.

Retention and disposal: Records are kept during the current fiscal year then destroyed.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above. 12

Same as above.

Contesting record procedures: Same as above.

Record source categories: Bureau employee.

FCC/SSRSB—6

System name: Employee Records—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All employees and former employees of the Safety and Special Radio Services Bureau.

Categories of records in the system: Personal data of a factual nature: e.g., education, career history, birth date, service computation date, telephone number; letters of reference written on behalf of employees, or concerning them; memoranda in support of reclassification, promotions or ingrade increases, or for documentation of grievances or adverse actions; performance evaluations of various kinds; time and attendance reports including special working hours and requests for leave; designations as special representative; work assignments and productivity data.

Authority for maintenance of the system: 5 U.S. Code, Sections 631, 2001, 2121, and 2301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff supervisors and administrative personnel in the Office of Bureau Chief: to provide personal data and career history; to support requests for personnel action, e.g., appointment, separation, promotion, reassignment; to evaluate job performance for purposes of retention, promotion, and annual performance rating; to determine productivity in a variety of job assignment categories; to provide models for writing letters of reference; to determine the days and hours during which annual or sick leave is taken (such records are transferred to the Payroll Office for use in computing pay); to document a work schedule that differs from normal duty hours; to provide a record of employees designated to serve on a special activity such as emergency building evacuation, fund drives, etc.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders or card files.

Retrievability: All records are retrievable by name; some records are also retrievable by the date employee is eligible for promotion or within grade increase.

Safeguards: Records are maintained on a bureau and division level in file cabinets in offices which are locked at the close of each business day.

Retention and disposal: Most records in this system are retained until the administrative need is completed, then destroyed by tearing into pieces; certain performance records are retained temporarily at the Bureau, then forwarded to the Personnel Division, Office of Executive Director; time and attendance records are maintained at the Bureau until the Payroll Office conducts the annual audit, verifying totals and so notifying the Bureau, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee supervisors; Personnel Division and Financial Management Division, Office of Executive Director.

FCC/SSRSB—7

System name: Employee Travel Records—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: All bureau employees who have traveled to conduct official FCC business.

Categories of records in the system: Name of traveler, date of trip, where, for what purposes, and related travel information.

Authority for maintenance of the system: None.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by administrative personnel as a reference for planning and approving current travel requests and in preparing budget estimates.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Records are filed by Fiscal Year but can be retrieved by employee name.

Safeguards: Records are maintained by administrative personnel on a division level in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: Records are retained for a two year period, then destroyed by tearing into pieces.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information for these records is gathered from the Bureau's secretaries who maintain all travel information for their particular Division or Branch.

FCC/SSRSB—8

System name: Licensees or Unlicensed Persons Operating Radio Equipment Improperly—FCC/SSRSB

System location: 2025 M Street, N.W., Washington, D.C. 20554.

Categories of individuals covered by the system: Licensees operating under Parts 81, 83, 87, 89, 91, 93, 95, and 97 of the Rules in violation of the Commission Rules or the Communications Act of 1934. Unlicensed persons operating radio equipment.

Categories of records in the system: Enforcement case history cards; license record information on microfilm and computer print-outs; name, address, date of birth (if known) and authorization code of staff member who placed name in the file.

Authority for maintenance of the system: Title 47 U.S.C. 301, 303, 309(e), 312, 362, 364, 386, 507, and 510.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by bureau employees on enforcement cases to document, to evaluate, to impose sanctions, and to maintain appropriate records for reference. Selected information is maintained in a computer data base and a computer print-out is used as a reference by bureau employees at Commission headquarters and field installations to determine whether applications should be granted or set for hearing.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders, card files, microfilm, magnetic tape and computer print-out.

Retrievability: Records are filed and retrieved by name of licensee or unlicensed individual. Information in the computer is printed periodically for staff use.

Safeguards: Records are maintained on a division level in appropriate file cabinets in offices which are locked at the end of each business day. Computer print-outs at field installations are maintained in file cabinets in offices which are locked at the end of each business day.

Retention and disposal: The documentation portion of these records is retained in active files for no more than 2 years, and are maintained in the Federal Records Center for five years, after which they are destroyed. The case history card portion of these records is retained for 25 years and then destroyed when no longer useful. Microfilm and computer print-out portions of the records are reporduced periodically and the older superseded material destroyed by cutting or tearing into pieces. Individual names in the computer data bank may be retained for a maximum of six years.

System manager(s) and address: Chief, Safety and Special Radio Services Bureau, 2025 M Street, N.W., Washington, D.C. 20554.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above

Record source categories: Information originates from various sources: FCC Field Engineers; private citizens; Department of Justice; other Commission personnel

Systems exempted from certain provisions of the act: Parts of this system of records are exempt from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act of 1974, 5 U.S.C. 522(a), and from sections 0.554-0.557 of the Commission's Rules because such parts contain investigatory material compiled solely for law enforcement purposes pursuant to Section 552(k)(2) of the Act.

APPENDIX A

FEDERAL COMMUNICATIONS COMMISSION, FIELD OPERATIONS BUREAU

ADDRESS LIST OF DISTRICT OFFICES AS OF JULY 25, 1975.

The sequential number below refers to the District Number assigned by the Field Operations Bureau.

1 BOSTON, Massachusetts, 1600 Customhouse, India and State Streets 02109. Phone: (617) 223-6608.

2 NEW YORK, New York, 201 Varick Street 10014. Phone: (212) 620-5745.

3 PHILADELPHIA, Pennsylvania, 1005 U.S. Customhouse, 2nd and Chestnut Streets 19106. Phone: (215) 597-4410.

4 BALTIMORE, Maryland, 819 Federal Building, 31 Hopkins Plaza 21201. Phone: (301) 962-2727.

5 NORFOLK, Virginia, Military Circle, 870 North Military Highway 23502. Phone: (804) 461-4000.

6 ATLANTA, Georgia, 1602 Gas Light Tower, 235 Peachtree Street, N.E., 30303. Phone: (404) 526-6381. Sub-office: SAVANNAH, Georgia, P.O. Box 8004, Room 238, Federal Building and Courthouse 31402. Phone: (912) 232-7602.

7 MIAMI, Florida, Room 919, 51 S.W. First Avenue 33130. Phone: (305) 350-5541. Sub-office: TAMPA, Florida, 738 Federal Office Building, 500 Zack Street 33602. Phone: (813) 228-2605.

8 NEW ORLEANS, Louisiana, 829 F.Ed. Hebert Fed. Building, 600 South Street 70130. Phone: (504) 589-2094. Sub-office: MOBILE, Alabama, 439 U.S. Courthouse and Customhouse 36602. Phone: (205) 690-2808.

9 HOUSTON, Texas, New Federal Office Building, 515 Rusk Avenue, Room 5636, 77002. Phone: (713) 226-4306. Sub-office: BEAUMONT, Texas, 323 Federal Building, 300 Willow Street 77701. Phone: (713) 838-0271.

10 DALLAS, Texas, Earle Cabell Federal Building, U.S. Courthouse, Room 13E7, 1100 Commerce Street 75202. Phone: (214) 749-3243.

11 LOS ANGELES, California, Room 1758 U.S. Courthouse, 312 No. Spring Street 90012. Phone: (213) 688-3276/3277. Sub-office: SAN DIEGO, California, Fox Theatre Building, 1245 Seventh Avenue 92101. Phone: (714) 293-5460.

12 SAN FRANCISCO, California, 323-A Customhouse (555 Battery Street) 94111. Phone: (415) 556-7700.

13 PORTLAND, Oregon, 1220 S.W. 3rd Avenue, 1782 Federal Office Building 97204. Phone: (503) 221-3097.

14 SEATTLE, Washington, 3256 Federal Building, 915 Second Avenue 98174. Phone: (206) 442-7653.

15 DENVER, Colorado, 504 U.S. Customhouse, 19th Bet. California and Stout Streets 80202. Phone: (303) 837-4053.

16 ST. PAUL, Minnesota, 691 Federal Building and U.S. Courthouse, 316 North Robert Street 55101. Phone: (612) 725-7819.

17 KANSAS CITY, Missouri, 1703 Federal Building, 601 East 12th Street 64106. Phone: (816) 374-5526.

18 CHICAGO, Illinois, 230 So. Daerborn Street 60604. Phone: (312) 353-5388.

19 DETROIT, Michigan, 1054 Federal Building, Washington Blvd. and Lafayette Street 48226. Phone: (313) 226-6077.

20 BUFFALO, New York, 1305 Federal Building, 111 West Huron Street 14202. Phone: (716) 842-3216.

21 HONOLULU, Hawaii, 502 Federal Building, P.O. Box 1021, 96808. Phone: (808) 546-5640.

22 SAN JUAN, Puerto Rico, SPO Box 2987, 322-323 Federal Building 00903. Phone: (809) 722-4562.

23 ANCHORAGE, Alaska, Room G-63 U.S.P.O. and Courthouse Building, P.O. Box 644, 99510. Phone: (907) 272-1822.

24 WASHINGTON, D.C., 1919 M Street, N.W., Room 411, 20554. Phone: (202) 632-7000.

APPENDIX B

FEDERAL COMMUNICATIONS COMMISSION

Description of organizational abbreviations used in the Federal Communications Commission System of Records.

BCB—Broadcast Bureau
CCB—Common Carrier Bureau
COMM—Commissioners
CTB—Cable Television Bureau
FOB—Field Operations Bureau
OALJ—Office of Administrative Law Judges
OCE—Office of Chief Engineer
OED—Office of Executive Director
OGC—Office of General Counsel
OOR—Office of Opinions and Review
OPP—Office of Plans and Policy
RB—Review Board
SSRSB—Safety and Special Radio Services Bureau

DEPARTMENT OF DEFENSE

Privacy Act of 1974

NOTICE OF SYSTEMS OF RECORDS; CORRECTION

In FR Doc. 75-21075 appearing at page 35151 in the FEDERAL REGISTER of Monday, August 18, 1975, the following changes should be made:

1. On page 35151, column one, the first two paragraphs should be deleted and the following revised new paragraphs substituted as follows:

"The systems of records in the Department of Defense which are subject to the Privacy Act are maintained by the Components of the Department these Components are:

U.S. Army.
Defense Mapping Agency.
Defense Civil Preparedness Agency.
Office of the Secretary of Defense.
Defense Advanced Research Projects Agency.
Department of the Air Force.
National Security Agency/Centuray Security Service.
Defense Nuclear Agency.
Organization of the Joint Chiefs of Staff.
Defense Communications Agency.
Defense Intelligence Agency.
Department of the Navy U.S. Marine Corps.
Defense Contract Audit Agency.
Defense Supply Agency.
Defense Security Assistance Agency.
Defense Investigative Service.
Uniformed Services University of the Health Sciences.

The Defense Security Assistance Agency has no system of records which requires publication under the Privacy Act. The system notices which follow contain listings for all other Components of the Department of Defense. Taken together, the Component listings constitute the total systems of records in the Department which are required to be published.

2. On page 35151, column one, after the third paragraph and before the section heading: "Routine Use—Law Enforcement" insert the following:

"DEPARTMENT OF DEFENSE COMPONENT IDENTIFIERS"

Each published system of records is preceded by a code identifier. The first letter of the code represents the appropriate Component identifier. Following is a list of identifiers for the Department of Defense and its Components assigned by Office of the Federal Register including the volume and page number of the FEDERAL REGISTER at which the systems of records of the specific Component begin.

The letter D identifies both the Department of Defense and the Office of the Secretary of Defense. The systems listed as D001 through D004 are generic descriptions of civilian personnel records which are maintained by virtually all Components. These generic descriptions will eventually be incorporated with the various Component listings. Except for the systems identified as D001 through D004, all systems of records having the D identifier are in the Office of the Secretary of Defense.

The Department of Defense systems D001 through D004 preced all other Component listings; the balance of Component listings are in the alphabetical order of the designation.

Identifier	*Component*
A	Department of the Army (DA) (40 FR 35151).
B	Defense Mapping Agency (DMA) (40 FR 35297).
C	Defense Civil Preparedness Agency (DCPA) (40 FR 35334).
D	Department of Defense (DOD) (40 FR 35151).
D	Office of the Secretary of Defense (OSD) (40 FR 35357).
E	Defense Advanced Research Projects Agency (DARPA) (40 FR 35401).
F	Department of the Air Force (AF) (40 FR 35403).
G	National Security Agency (NSA) (40 FR 35741).
H	Defense Nuclear Agency (DNA) (40 FR 35748).
J	Organization of the Joint Chiefs of Staff (JCS) (40 FR 35750).
K	Defense Communications Agency (DCA) (40 FR 35752).
L	Defense Intelligence Agency (DIA) (40 FR 35796).
N	Department of the Navy (DON) (40 FR 35852).
M	U.S. Marine Corps (USMC).
Q	Central Security Service (CSS) (40 FR 35741).
R	Defense Contract Audit Agency (DCAA) (40 FR 36018).
S	Defense Supply Agency (DSA) (40 FR 36045).
T	Defense Security Assistance Agency (DSAA), no system of records.
V	Defense Investigative Service (DIS) (40 FR 36077).
W	Uniformed Services University of the Health Sciences (USUHS) (40 FR 36088).

DEPARTMENT OF DEFENSE GENERIC SYSTEMS

ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by this component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibiliyt of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by this component may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, greator other benefit.

ROUTINE USE—DISCLOSURE OF REQUESTED INFORMATION

A record from a system of records maintained by this component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

ROUTINE USE WITHIN THE DEPARTMENT OF DEFENSE

A record from a system of records maintained by this component may be disclosed as a routine use to other components of the Department of Defense if necessary and relevant for the performance of a lawful function such as, but not limited to, personnel actions, personnel security actions and criminal investigations of the Component requesting the record.

The following generic systems of records relating to civilian personnel are applicable throughout the Department of Defense. Public comments, including written data, views, or arguments concerning the following systems of records should be addressed within 30 days of this publication to the system manager identified in each records system notice.

D001

Employee Assistance Program Case Record Systems.

Civilian Personnel Office servicing the Department of Defense Activity/Installation. license, or by other types of identification bearing an employee picture and signature. In the event requester is unable to obtain information, contact Department of Defense Privacy Board, Washington, D.C. 20301.

The agency's rules for access to records may be obtained from the system manager.

The agency's rules for contesting the contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

Department of Defense Component civilian personnel offices; current and previous supervisors of employees (when appraisals of performance/potential are used).

"DEPARTMENT OF THE ARMY"

3. On page 35297, column one, before the first paragraph entitled Routine Use—Law Enforcement insert the following heading:

"DEFENSE MAPPING AGENCY"

4. On page 35334, column one, before the first paragraph entitled "Routine Use—Law Enforcement" insert the following heading:

"DEFENSE CIVIL PREPAREDNESS AGENCY"

5. On page 35357, column one, before the first paragraph entitle "Routine Use—Law Enforcement" insert the following heading:

"OFFICE OF THE SECRETARY OF DEFENSE"

6. On page 35401, column one, before the ninth paragraph entitled "Routine Use—Law Enforcement" insert the following heading:

"DEFENSE ADVANCED RESEARCH PROJECTS AGENCY"

7. On page 35403, column one, before the fourth paragraph entitled 'Routine Use—Law Enforcement" insert the following heading:

"DEPARTMENT OF THE AIR FORCE"

8. On page 35741, column one, before the first paragraph entitled "Routine Use—Law Enforcement" insert the following heading:

"NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE"

9. On page 35748, column two, before the first paragraph entitled "Routine Use—Law Enforcement" insert the following heading:

"DEFENSE NUCLEAR AGENCY"

10. On page 35750, column two, before the eighth paragraph entitled 'Routine Use—Law Enforcement" insert the following heading:

"ORGANIZATION OF THE JOINT CHIEF OF STAFF"

11. On page 35752, column two, before the fourth paragraph entitled "Routine Use—Law Enforcement" insert the following heading.

"DEFENSE COMMUNICATIONS AGENCY"

12. On page 35796, column one, before the first paragraph entitled 'Routine Use—Law Enforcement" insert the following heading:

"DEFENSE INTELLIGENCE AGENCY"

13. On page 35852, column two, before the twelfth paragraph entitled "Routine Use—Law Enforcement" insert the heading:

"DEPARTMENT OF THE NAVY"

14. On page 36018, column one, before the first paragraph entitled "Routine Use—Law Enforcement" insert the heading:

"DEFENSE CONTRACT AUDIT AGENCY"

15. On page 36045, column one, before the first paragraph entitled "Routine Use—Law Enforcement" insert the heading:

"DEFENSE SUPPLY AGENCY"

16. On page 36077, column one, before the first paragraph starting with the words, "The notices following . . ." insert the following heading:

"DEFENSE INVESTIGATIVE SERVICE"

17. On page 36088, column two, before the fifth paragraph entitled "Routine Use—Law Enforcement" insert the heading:

"UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES"

MAURICE W. ROCHES,
Director, Correspondence and Directives OASD (Comptroller).

Aug. 22, 1975.
August 22, 1975.

[FR Doc.75-22756 Filed 8-28-75;8:45 am]

D001

System name: Employee Assistance Program Case Record Systems.

System location: Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Categories of individuals covered by the system: All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counseling assistance.

Categories of records in the system: Systems are comprised of case records on employees which are maintained by counselors, supervisors, civilian personnel offices and Social Action offices and consist of information on condition, current status, and progress of employees or dependents who have alcohol, drug, emotional, or other job performance problems.

Authority for maintenance of the system: Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 U.S.C. 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 U.S.C. 4582); Subchapter A of Chapter I, Title 42, Code of Federal Regulations;Chapter 43 of Title 5, U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the counselor in the execution of his/her counseling function as it applies to the individual employee. With specific written authority of the employee, selected information may be provided to and used by other counselors or medical personnel, research personnel, employers, representatives such as legal counsel, and to other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Case records are stored in paper file folders.

Retrievability: By employee name or by locally assigned identifying number.

Safeguards: All records are stored under strict control. They are maintained in spaces normally accessible only to authorized persons, normally in locked cabinets.

Retention and disposal: Records are purged of identifying information within five years after termination of counseling or destroyed when they are no longer useful.

System manager(s) and address: Director of Civilian Personnel or comparable official of the Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Notification procedure: Request by correspondence should be addressed to servicing DoD component civilian personnel office or to the appropriate Employee Assistance Program administrator at the DoD activity. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed. In the event requester is unable to obtain information, contact Department of Defense Privacy Board, Washington, D. C. 20301.

Record access procedures: Requests from individuals should be addressed to: Same address as stated in the notification section above.

Contesting record procedures: The rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories: Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

D002

System name: Employee Relations including Discipline, Employee Grievances, Complaints and Appeals Record System under Negotiated Grievance Procedures.

System location: Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Categories of individuals covered by the system: Department of Defense civilian employees paid from appropriated funds serving under career, career- conditional, temporary and excepted service appointments on whom discipline, grievances, and complaints records exist.

Discrimination complaints of civilian employees, paid from appropriated and non-appropriated funds, applicants for employment and former employees in appropriated and non- appropriated positions. Management Operation Record system consisting of manual file maintained by immediate supervisors and high level managers concerning employee performance, capability, informal discipline, attendance, leave and tardiness, work assignments, and similar work related employee records.

Categories of records in the system: Manual files, maintained in paper folders, contain copies of documents and information pertaining to discipline, grievances, complaints, and appeals.

Authority for maintenance of the system: Executive Order 9830, Amending the Civil Service Rules and Providing for Federal Personnel Administration; 4 U.S.C. 1302, 3301, 3302; Executive Order 10577, Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive System.

P. L. 92-261, The Equal Employment Opportunity Act of 1972; P. L. 93-259, Extension of Age Discrimination in Employment Act of 1967.

5 U. S. C. 7512; Executive Order 11491, Labor-Management Relations in the Federal Service.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials of the Department of Defense (to include Army, Navy, Air Force or other DoD Agencies) in the performance of their official duties related to the management of civilian employees in the processing, administration, and adjudication of discipline, grievances, complaints, appeals, litigation, and program evaluation.

Representatives of the United States Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of civilian personnel management programs or personnel actions, or such other matters under the jurisdiction of the Commission. Appeals officers and complaints examiners of the Federal employee Appeals Authority for the purpose of conducting hearings in connection with employees' appeals from adverse actions and formal discrimination complaints.

The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the civilian manpower management programs.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

The Senate or the House of Representatives of the United States or any member, committee or subcommittee of joint committees on matters within their jurisdiction relating to the above programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual records are stored in paper folders.

Retrievability: Manual records are filed by last name.

Safeguards: All records are stored under strict control, and are available only to authorized personnel having a need to know.

Retention and disposal: Manual records are destroyed upon separation of the employee from the activity, or in accordance with appropriate record disposal schedule.

System manager(s) and address: Director of Civilian Personnel or comparable official of the Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Notification procedure: Request by correspondence should be addressed to: Director of Civilian Personnel of Department of Defense Activity/ Installation. The letter should contain the full name, social security number, and signature of the requester. The individual may visit the Department of Defense activity at which he or she is employed. In the event requester is unable to obtain information, contact Department of Defense Privacy Board, Washington, D. C. 20301.

Record access procedures: The agency's rules for access to records may be obtained from the system manager.

Contesting record procedures: The agency's rules for contesting contents, and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories: Supervisors or other appointed officials designated for this purpose.

D003

System name: Labor Management Relations Records Systems.

System location: Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Categories of individuals covered by the system: Civilian employees paid from appropriated and non-appropriated funds, who are involved in a grievance which has been referred to an arbitrator for resolution; civilian employees involved in the filing of an Unfair Labor Practice complaint which has been referred to the Assistant Secretary of Labor-Management Relations; union officials; union stewards; and representatives.

Categories of records in the system: Records comprise: Manual files, maintained in paper folders, manually filed by type of case and case number (not individual). Folder contains all information pertaining to a specific arbitration case or specific Unfair Labor Practice with whom Department of Defense has dealings; field activities maintain manual roster of local union officials and union stewards.

Authority for maintenance of the system: Executive Order 11491, as amended "Labor-Management Relations in the Federal Service."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials and employees of the Department of Defense (to include Army, Navy, Air Force, and other DoD agencies) in the performance of their official duties related to the Labor-Management Relations Program, e.g.: Administration/ implementation of arbitration awards, interpretation of the Executive Order through 3rd party case decisions; National Consultation and other dealings with the recognized unions.

Representatives ofthe U. S. Civil Service Commission on matters relating to the inspection, survey, audit, or evaluation of Civilian Personnel Management Programs.

The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor Management Relations Program.

Officials and employees of other components of the Department of Defense in the performance of their official duties related to the administration of the Labor-Management Relations Program. A duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual records are stored in paper folders.

Retrievability: Manual records are retrieved by case subject, case number, and/or individual employee names.

Safeguards: All manual files are accessible only to authorized personnel having a need to know.

Retention and disposal: Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

System manager(s) and address: Director of Civilian Personnel or comparable official of the Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Notification procedure: Request by correspondence should be addressed to: Director of Civilian Personnel of Department of Defense Activity/ Installation. The letter should contain the full name, social security number, and signature of the requester. The individual may visit the Department of Defense activity at which he or she is employed. In the event requester is unable to obtain information, contact Department of Defense Privacy Board, Washington, D. C. 20301-

Record access procedures: The agency's rules for access to records may be obtained from the system manager.

Contesting record procedures: The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories: Servicing civilian personnel offices; arbitrator's office; office of the Assistant Secretary of Labor for Labor-Management Relations; union headquarters offices.

D004

System name: Training and Employee Development Record Systems.

System location: Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Categories of individuals covered by the system: Department of Defense civilian employees, full-time and part-time, U. S. citizens and foreign national direct hires receiving training supported by the Federal Government, paid from appropriated funds. Department of Defense military personnel may be included in the automated training information system, and non-appropriated funded personnel may be included in some of the installation manual records.

Categories of records in the system: Under the Department of Defense's manual and automated systems, or other locally developed systems, automated and non-automated records are maintained reflecting information pertaining to the employees' identification, social security number, occupational status (series, grade level, and supervisory status), course identification, course length, category and purpose of training received, date on which training was completed, associated costs, pre- post test results, et. al. Input documents for the systems include, but are not limited to completed automated forms, training reports, authorization and record, keypunched cards. The manual files are maintained in paper folders containing employee's registration and/or record of training documents. Under the Department of Defense's Apprentice, on-the-job Training Program, and similar trainee intake program manual and automated records are maintained, reflecting information pertaining to subject employee's identification, date of birth, entrance date to program, dates and nature of personnel actions which occurred during fiscal year, student progress, and statistical data which effects the numbers of apprentices in training as of a given date. At Department of Defense Component's level nomination forms and documents (non-automated) for Department of Defense Component's centrally-administered education and training programs are maintained. The manual files contain the candidate's nomination documents, training request, enrollment and registration and other documents related to training. Manual files are maintained at Department of Defense Component, Subcomponent and the Department of Defense installations regarding courses conducted on their premises, or for which they sponsor, listing such things as completion dates, and course participants. Additionally, manual files are typically found at the field activities containing information regarding an employee's supervisory status, an indication as to whether or not he/she has participated in supervisory training. Files are often maintained regarding an employee's certification/recertification or demonstrated proficiency in one or more skills areas; an activity-wide annual training plan should also be maintained, as well as individual training plans. Files are also maintained regarding professional licenses held by installation personnel.

Authority for maintenance of the system: 5 USC 4103, 4118, 4115.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Officials and employees of the Department of the Defense Components in the performance of their official duties related to the management of the Defense Components civilian employee training programs, the design, development, maintenance and operation of the manual and automated system of record keeping and reporting; the screening and selection of candidates for centrally- administered programs; and administration of grievance, appeals, complaints,and litigation involving the disclosure of records of the training programs. Representatives of the United States Civil Service Commission on matters relating to the inspection, survey, audit or evaluation of Defense Components civilian training programs, or such other matters under the jurisdiction of the Commission. The Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Defense Components civilian training programs.

The Attorney General of the United States or his authorized representatives in connection with litigation, law enforcement, or other matters underthe direct jurisdiction of the Department of Justice or carried out as the legal representative of the Executive Branch agencies.

Officials and employees of other Departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization.

Representatives of the United States Department of Labor on matters relating to the inspection, survey, audit or evaluation of the Defense Components Apprentice training programs or on other such matters under the jurisdiction of the Labor Department.

Representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of the Defense Components apprentice and on-the-job training programs. The Computer Systems Group Contractor (or other such contractor) and its employees for the purpose of card punch recording of data from employee training documents.

A duly appointed Hearing Examiner or Arbitrator (an employee of another Federal Agency) for the purpose of conducting a hearing in connection with an employee's grievance involving the disclosure of the records of the Defense Department's Component's training programs.

An arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving the disclosure of the records of the Defense Component's Training and Employee Development Record system.

The Senate or the House of Representatives of the United States or any Committee or sub-committee thereof, any joint committee of Congress or sub-committee of joint committees on matters within their jurisdiction requiring disclosure of the files or records of the Defense Department's civilian training program.

Representatives of Education Institutions which have been awarded contracts to conduct training for Defense Components create and maintain individual training records of those who attend.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Automated records are stored on magnetic tapes, drums, computer printouts, and on punched cards. Manual records are stored in paper file folders.

Retrievability: Automated records are retrieved by social security number and name, or by one, or a combination of data elements contained in the TRIM or apprentice program master files. Manual records are retrieved by employee last name, by course control information, or by training program title.

Safeguards: The computer facility and terminal are located in restricted areas accessible only to authorized persons that are properly screened, cleared and trained. Manual records and computer printouts are available only to authorized personnel having a need to know.

Retention and disposal: For the apprentice programs the computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from 1 to 5 fiscal years. For the Defense Components centrally-administered programs, files on selected candidates are maintained for five years (from date selection process is completed). Records of non-selected candidates are retained only for that period of time sufficient to permit appropriate review (usually less than 60 days). Some installation records are maintained for varying periods.

System manager(s) and address: Director of Civilian personnel or comparable official of the Civilian Personnel Office servicing the Department of Defense Activity/Installation.

Notification procedure: Request by correspondence should be addressed to the Directors of Civilian Personnel Defense Components, the Sub Component Offices of Civilian Personnel, headquarters or field activities employing civilians. Mailing addresses are provided in the Department of Defense Components directory published in the Federal Register. The letter should contain the full name and social security number of the requester and his signature. Proof of identification will consist of a Department of Defense Component building pass, or identification badge, or driver's license, or by other types of identification bearing an employee picture and signature. In the event requester is unable to obtain information, contact Department of Defense Privacy Board, Washington, D. C. 20301.

Record access procedures: The agency's rules for access to records may be obtained from the system manager.

Contesting record procedures: The agency's rules for contesting the contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

Record source categories: Department of Defense Component civilian personnel offices; current previous supervisors of employees (when appraisals of performance/potential are used).

[FR Doc.75-22781 Filed 8-28-75;8:45 am]

DEPARTMENT OF DEFENSE
Privacy Act of 1974
NOTICE OF SYSTEMS OF RECORDS; CORRECTION

In the Department of Defense submission to the FEDERAL REGISTER for correction of FR Doc. 75-21075 appearing at page 35151 of the FEDERAL REGISTER of Monday, August 18, 1975, dated August 22, 1975, the following changes should be made:

1. On page 5 of the submission under the heading of "Department of Defense Generic Systems," insert the following new Routine Use paragraph between the end of the paragraph entitled "Routine Use Within the Department of Defense" and the beginning of the paragraph starting with the words, "The following generic systems of records relating to civilian personnel . . . .":

"ROUTINE USE—PRIVATE RELIEF LEGISLATION
LEGISLATION"

Relevant information contained in all "Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular."

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

AUGUST 22, 1975.

[FR Doc.75-22755 Filed 8-28-75;8:45 am]

DEPARTMENT OF DEFENSE

PRIVACY ACT SYSTEM OF RECORDS; INDEX

The following is a guide to Department of Defense Privacy Act notices published in the FEDERAL REGISTER of August 18, 1975, beginning on page 35150. In this guide, system names are listed alphabetically for each component of the Department of Defense, and the identification number which heads each system notice is provided as a reference. Component abbreviations and inclusive FEDERAL REGISTER page numbers for the August 18th issue are provided for each component.

DEPARTMENT OF THE ARMY (A) 40 F.R. 35151--35296

ALPHABETICAL LISTING OF SCIENTISTS	1301.07AMC
AAFES TIME SHEETS	AFES0703.01
FIDELITY BOND FILES	AFES0704.07
GROUP INSURANCE PRINTOUT FILES	AFES0704.06
HISTORIAN'S BACKGROUND MATERIAL	0228.01DAMH
PAID DEATH CLAIM FILES	AFES0704.18
WAIVER OF PREMIUM FILES	AFES0704.14
AND ESPIONAGE DIRECTED AGAINST THE US ARMY	0501.12DAMI
OF HOSTILE INTELLIGENCE COLLECTORS OF UNCLASSIFIED MIL INFO	0501.11DAMI
OF KNOWN OR SUSPECT HOSTILE INTELLIGENCE PERSONALITIES	0501.13DAMI
ABSENTEE CASE FILES	C508.16DAPE
ACCIDENT AND INCIDENT CASE FILES: ARMY SAFETY MANAGEMENT INFORMATION	0607.01BDAIG
ACCIDENT AND INCIDENT FILES	0607.01ADAIG
ACCIDENTAL DEATH AND DISMEMBERMENT ADMINISTRATIVE FILES	AFES0704.08
ACTIVE AND INACTIVE THEATER EMPLOYEES PAYROLL REGISTER	0306.28AAFMPS
ALCOHOL AND DRUG REFERENCE PAPER FILES	0601.07AMC
AMERICAN RED CROSS CONSULTATION SERVICE CASE FILES	0920.04DASG
AMERICAN RED CROSS DENTAL FILES	0926.05DASG
ANNUITY ELIGIBILITY FILES	AFES0704.13
APPLICATION FOR EMPLOYMENT FILES	AFES0403.01
APPOINTMENT OF UNIT POSTAL OFFICERS AND UNIT MAIL CLERKS	1108.16DAAG
APPRAISAL OF PAST PERFORMANCE AGUZ FORM 65L	0807.11DAAG
ARMY COMMUNITY SERVICE (ACS) VOLUNTEER RECORD	0102.08DAAG
ARMY EMERGENCY RELIEF TRANSACTION FILES	C725.06AMC
ARMY MEDICAL DEPARTMENT PERSONNEL MANAGEMENT AND MANPOWER CONTROL SYS	0714.06HSC
ARMY MEDICAL X-RAY FILM FILES	0921.01DASG
ARMY NATIONAL GUARD AUTOMATED PERSONNEL REPORTING SYSTEM	0708.01NGB
ARMY PROPERTY CLAIM FILES	0403.16DAJA
ARMY SCHOOL FILES	1010.07TRADOC
ARMY SCHOOL STUDENT FILES	1012.03TRADOC
ARMY SERVICE SCHOOL/SENIOR SERVICE COLLEGE SELECTIONS-US ARMY RESERVE	1012.01DAAR
AUTHORIZED SUPPLY REPRESENTATIVE CARD FILES	1417.02DALO
AUTHORIZED SUPPLY REPRESENTATIVES CARD REGISTER FILES	1417.03DALO
AAFMPS INDIVIDUAL EARNINGS RECORD	0306.26AAFMPS
ADP MASTER AND OPERATING FILES	0225.11CAMC
AYA REGISTRATION FILE	0723.08USAREUR
BADGE AND CREDENTIAL FILES	C502.08DAMI
BANKRUPTCY PROCESSING FILES	0319.13DACA
BAPTISM, MARRIAGE AND FUNERAL FILES	0722.02DACH
BLACKMARKET MONITORING FILES	0501.08AUSARJ
BLOOD DONOR FILES	0914.05DASG
BURIAL REGISTER FILES	1525.04DAAG
CAREER MANAGEMENT FILES OF DUAL COMPONENT PERSONNEL.	0710.08DAAG
CAREER MANAGEMENT INDIVIDUAL FILES	0708.08DAPC1
CASUALTY CASE FILES	C726.04ADAAG
CASUALTY INFORMATION SYSTEM	0726.06DAAG
CENTRAL FILES, OFFICE OF THE CHIEF OF STAFF	0201.08ADACS
CHECK CASHING PRIVILEGE FILES	0314.08DAAG
CHECK-CASHING PRIVILEGE SUSPENSE FILES	AFES0702.22

CHECK-CASHING PRIVILEGE FILES	AFES0702.23
CIVIL PROCESS CASE FILES AND REFERENCE FILES	0406.01USAREUR
CIVILIAN ATTORNEY/PATENT ADVISER CAREER FILES	0811.05AMC
CIVILIAN CONSULTATION SERVICE CASE FILES	0920.02ADASG
CIVILIAN DENTAL FILES	0926.03DASG
CIVILIAN EMPLOYEE PAY SYSTEM	0306.01DACA
CIVILIAN PERSONNEL INFORMATION SYSTEM	0807.14DAPE
CLAIMS BACK-UP FILE	0403.18DAAG
CLAIMS INVENTORY OF ACTIVE CLAIMS FOR MEDICAL CARE UNDER CHAMPUS	0905.03USAREUR
CLASSIFIED MATERIAL ACCESS FILES	AFES0306.04
CLASSIFIED MATTER INVENTORY REPORTING FILES	0101.20AMC
CLEMENCY PROJECT	0701.08DAAG
CLINICAL PSYCHOLOGY INDIVIDUAL CASE FILES	0917.07DASG
COMPLAINT FILE	0614.03DSAI
CONGRESSIONAL CORRESPONDENCE FILES	0411.03BDAAG
CONGRESSIONAL INQUIRY FILE	0411.03CDSA
CONTRACT SURGEON PERSONNEL FILES	0708.17DASG
CONTRACT TRAINING FILE	0810.09DAEN
CONTRACTOR PERSONNEL FILES	1405.01AMC
CONTRACTOR QUALIFICATION FILES	1519.03DAEN
CONTROL CARD FILES	0909.05DASG
CONTROLLER TRAINING AND PROFICIENCY RECORD FILES.	1111.16DALO
CONVERSION FILES	0319.10DACA
CORRECTION CASE FOLDERS	0708.19DSA
CORRESPONDENCE	0412.18DAIO
CORRESPONDENCE COURSE FILES	AFES0408.15
COUNCIL OF REVIEW BOARDS FILES	0727.05DSA
COUNTERINTELLIGENCE OPERATIONS FILES	0503.06DAMI
CRIMINAL INVESTIGATION ACCREDITATION FILES	0508.07ACIDC
CRIMINAL INVESTIGATION CASE FILES, CRIME LABORATORY REPORTING FILES.	0508.11ACIDC
CROSS REFERENCE LIST REPORT OF CLAIMS FOR CHAMPUS	0905.04USAREUR
DATA CARD AND LOCATOR CARD FILES	0715.01DAPC
DEBRIEFING ACKNOWLEDGMENT FILES	AFES0306.03
DENTAL HEALTH RECORD FILES	0926.01DASG
DEPARTMENT OF THE ARMY OPERATIONAL SUPPORT ACTIVITIES FILES	0501.08CDAMI
DEPARTURE CLEARANCE FILES	0706.02DAAG
DEPENDENT CHILDREN SCHOOL PROGRAM FILES	1015.01DAAG
DISBURSING OFFICE ESTABLISHMENT AND APPOINTMENT FILES	0319.11DACA
DISCHARGE BOARD PROCEEDINGS FILE	0727.01DAPC
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Title 49—Transportation

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 802—RULES IMPLEMENTING THE PRIVACY ACT OF 1974

Pursuant to the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a et seq.)), the National Transportation Safety Board on July 17, 1975, at 40 FR 30130, published a notice of proposed rulemaking to add to its regulations a new Part 802—Rules Implementing the Privacy Act of 1974. On July 24, 1975, at 40 FR 30988, the proposed rule was amended to provide Subpart H—Specific Exemptions.

Comments were invited, on or before August 18, 1975, on both documents. No comments have been received. However, the following minor editorial and language changes have been made for the purpose of clarification:

1. In § 802.1, reference to specific systems of records has been deleted, since such systems of records and their routine uses are the subject of special notices published in the FEDERAL REGISTER as required by the Privacy Act of 1974.

2. A definition of "System Manager" has been added to § 802.2.

3. In § 802.6(c), the term "System Manager" has been substituted for "Comptroller" and reference to the Comptroller's jurisdiction has been deleted.

4. In Subparts C, D, and E, "System Manager," as defined, has been substituted for "General Manager."

5. In § 802.12(b), the phrase "including the General Manager and the Comptroller, where applicable;" has been deleted in conformance with other language changes made herein.

Accordingly, as adopted by the National Transportation Safety Board on August 22, 1975, 49 CFR Part 802 is added as set forth below:

Subpart A—Applicability and Policy

Sec.
802.1 Purpose and scope.
802.2 Definitions.

Subpart B—Initial Procedures and Requirements

802.5 Procedures for requests pertaining to individual records in a record system.
802.6 Times, places, and requirements for identification of individuals making requests.

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802.10 Request for correction or amendment to record.
802.11 Agency review of request for correction or amendment of record.
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Subpart H—Specific Exemptions

802.20 Security records.

AUTHORITY: Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a); Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.); and Freedom of Information Act, Pub. L. 93-502, November 21, 1974, amending 5 U.S.C. 552.

Subpart A—Applicability and Policy

§ 802.1 Purpose and scope.

The purpose of this part is to implement the provisions of 5 U.S.C. 552a with respect to the availability to an individual of records of the National Transportation Safety Board (NTSB) concerning all NTSB records maintained on individuals, whether the records predate or postdate September 72, 1975, the effective date set forth in section 8 of the Privacy Act of 1974 (Act). NTSB policy encompasses the safeguarding of individual privacy from any misuse of Federal records and the provision of access to individuals to NTSB records concerning them, except where such access is in conflict with the Freedom of Information Act, or other statute.

§ 802.2 Definitions.

In this part:

"Board" means the five Members of the National Transportation Safety Board, or a quorum thereof;

"Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

"National Transportation Safety Board (NTSB)" means the agency set up under the Independent Safety Board Act of 1974;

"Record" means any item, collection, or grouping of information about an individual that is maintained under the control of the NTSB pursuant to Federal law or in connection with the transaction of public business, including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains a name, or an identifying number, symbol, or other identifying particular assigned to an individual, such as a finger or voice imprint or photograph;

"Routine use" means the use of such record for a purpose compatible with the purpose for which it was collected, including, but not limited to, referral to law enforcement agencies of violations of the law and for discovery purposes ordered by a court referral to potential employers, and for security clearance;

"Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and which is not used wholly or partially in any determination concerning an identifiable individual;

"System Manager" means the agency official who is responsible for the policies and practices of his particular system or systems of record, as specified in the NTSB notices of systems of records; and

"System of records" means a group of any records under the control of the NTSB from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual, whether presently in existence or set up in the future.

Subpart B—Initial Procedures and Requirements

§ 802.5 Procedures for requests pertaining to individual records in a record system.

The NTSB may not disclose any record to any person or other agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, provided the record under the control of the NTSB is maintained in a system of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other particular assigned to such individual. Written consent is not required if the disclosure is:

(a) To officers or employees of the NTSB who require the information in the official performance of their duties;

(b) Required under 5 U.S.C. 552, Freedom of Information Act;

(c) For a routine use compatible with the purpose for which it was collected;

(d) To the Bureau of the Census for uses pursuant to Title 13, U.S. Code;

(e) To a recipient who has provided the NTSB with advance adequate assurance that the record will be used solely as a statistical research or reporting record and that it is to be transferred in a form not individually identifiable; or

(f) Pursuant to the order of a court of competent jurisdiction.

§ 802.6 Times, places, and requirements for identification of individuals making requests.

(a) All requests for access to records must reasonably describe the system of records and the individual's record within the system of records in sufficient detail to permit identification of the requested record. Specific information regarding the system name, the individual's full name, and other information helpful in identifying the records shall be included.

(b) All requests for access to records shall be made in writing addressed to the General Manager, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. The request shall clearly state on the envelope and in the letter that it is a "Privacy Act Request." Actual receipt by the General Manager, or his designee, shall constitute receipt.

(c) The request for the record, if reasonably identified, shall be promptly forwarded by the General Manager to the appropriate System Manager.

(d) The requester's identity must be verified before the release of any record unless exempted under the Freedom of Information Act. This may be accomplished by adequate proof of identity in the form of a driver's license or other acceptable item of the same type.

(e) A requester may wish to have a person of his choice accompany him to review the requested record. Prior to the release of the record, the NTSB will require the requester to furnish the General Manager, or his designee, with a written statement authorizing disclosure of the record in the accompanying person's presence.

(f) Where a request is made for reproduced records which are to be delivered by mail, the request must include a notarized statement verifying the requester's identity.

(g) Requests shall be handled on work days—Monday through Friday, excluding legal holidays, at official hours, between 8:30 a.m. and 5 p.m., at the offices of the National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

Subpart C—Initial Determination

§ 802.8 Disclosure of requested information.

(a) The System Manager may initially determine that the request be granted. If so, the individual making the request shall be notified in writing, and the notice shall include:

(1) A brief description of the information to be made available;

(2) The time and place where the record may be inspected, or alternatively, the procedure for delivery by mail to the requesting party;

(3) The estimated cost for furnishing copies of the record;

(4) The requirements for verification of identity;

(5) The requirements for authorizing discussion of the record in the presence of an accompanying person; and

(6) Any additional requirements needed to grant access to a specific system of records or record.

(b) Within 10 working days after receipt of the request by the General Manager in appropriate cases, the requester will be informed:

(1) That the request does not reasonably describe the system of records or record sought to permit its identification, and shall set forth the additional information needed to clarify the request; or

(2) That the system of records identified does not include a record retrievable by the requester's name or other identifying particulars.

(c) The System Manager may also, in appropriate cases, advise the requester within 10 working days after receipt of the request that the request for access has been denied, and the reason for the denial, or that the determination has been made to grant the request, either in whole or in part, in which case the relevant information will be provided.

Subpart D—Correction or Amending the Record

§ 802.10 Request for correction or amendment to record.

All requests for correcting or amending records shall be made in writing to the General Manager, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, and shall be deemed received upon actual receipt by the General Manager. The request shall clearly be marked on the envelope and in the letter with the legend that it is a "Privacy Act Request for Correcting or Amending Records." The request must reasonably set forth the portion of the record which the individual contends is not accurate, relevant, timely, or complete.

§ 802.11 Agency review of request for correction or amendment of record.

Within 10 working days after receipt of the request to correct or amend the record, the System Manager shall acknowledge receipt of the request in writing and shall either make the correction of the portion of the record which has been requested or inform the individual of the refusal to correct or amend the record as requested.

§ 802.12 Initial adverse agency determination on correction or amendment.

If the System Manager, determines that the record should not be corrected or amended in whole or in part, he will forthwith make such finding in writing, after consulting with the General Counsel, or his designee. The requester shall be notified within 10 working days of the refusal to correct or amend the record. The notification shall be in writing, signed by the System Manager, and shall include—

(a) the reason for the denial;

(b) the name and title or position of each person responsible for the denial of the request;

(c) the appeal procedures for the individual for a review of the denial; and

(d) notice that the denial from the System Manager is appealable within 30 days from the receipt thereof by the requester to the Board;

The System Manager is allotted 10 working days (or within such extended period as is provided in the section concerning "unusual circumstances" *infra*) to respond to the request for review. If the requester does not receive an answer within such time, the delay shall constitute a denial of the request and shall permit the requester immediately to appeal to the Board, or to a district court.

Subpart E—Review of Initial Adverse Determination

§ 802.14 Review procedure.

(a) A requester may appeal from an adverse determination within 30 days after receipt of a denial notice from the System Manager. The appeal must be in writing addressed to the Chairman, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594, and shall contain a statement on the envelope and in the letter: "Appeal from Privacy Act Adverse Determination."

(b) The Board shall make a determination with respect to the appeal within 30 working days after the receipt of the appeal, except as provided for in "unusual circumstances" *infra*.

(c) If the appeal upholds the denial in whole or in part, the Board shall notify the requester in writing. The notice shall contain: A brief explanation for the affirmance of the initial denial; a statement that the denial is a final agency action and judicial review is available in a district court of the United States in the district where the requester resides or has his principal place of business, or where the agency records are located, or in the District of Columbia; and a request that the requester file with the Board a concise statement enumerating the reasons for his disageement with the denial.

(d) If the denial is reversed on appeal, the Board shall notify the requester in writing of the reversal. The notice shall include a brief statement outlining the portions of the individual's record which were not accurate, relevant, timely, or complete, and the corrections of the record which were made, and the time and place where the individual may review the corrected record to verify that the corrections were made.

(e) Copies of all appeals and written determinations will be furnished by the System Manager to the Board.

(f) In unusual circumstances, time limits may be extended by not more than 10 working days by written notice to the individual making the request. The notice shall include the reasons for the extension and the date on which a determination is expected to be forthcoming. "Unusual circumstances" as used in this section shall include circumstances where a search and collection of the requested records from field offices or other establishments are required, cases where a voluminous amount of data is involved, and cases where consultations are required with other agencies or with others having a substantial interest in the determination of the request.

Subpart F—Fees

§ 802.15 Fees.

No fees shall be charged for providing the first copy of a record or any portion thereof to individuals to whom the record pertains. The fee schedule for other records is the same as that appearing in the Appendix to Part 801 of this chapter, implementing the Freedom of Information Act.

Subpart G—Penalties

§ 802.18 Penalties.

(a) An individual may bring a civil action against the NTSB to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of 5 U.S.C. 552a. The court may order the correction or amendment. It may assess against the United States reasonable attorney fees and other costs, or may enjoin the NTSB from withholding the records and order the production to the complainant, and it may assess attorney fees and costs.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1)(c) or (d), the United States shall be liable for the actual damages sustained, but in no case less than the sum of $1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the NTSB who fully discloses material which he knows is prohibited from disclosure, or who willfully maintains a system of records without meeting the notice requirements, or who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses. These offenses shall be misdemeanors with a fine not to exceed $5,000.

Subpart H—Specific Exemptions

§ 802.20 Security Records.

Pursuant to, and limited by, 5 U.S.C. 552a(k)(5), the NTSB's system of records, which contains the Security Records of NTSB employees, prospective employees, and potential contractors, shall be exempt from disclosure of the material and the NTSB's handling thereof under subsections (d), (e)(1) and (e)(4) (H) and (I) of 5 U.S.C. 552a.

Approved by the National Transportation Safety Board on August 22, 1975, to be effective August 28, 1975.

Signed at Washington, D.C., August 22, 1975.

JOHN H. REED,
Chairman.

NATIONAL TRANSPORTATION SAFETY BOARD

IMPLEMENTATION OF PRIVACY ACT OF 1974

Notice of Systems of Records; Amendment

The notice of the systems of records of the National Transportation Safety Board, published at 40 FR 33811 on Monday, August 11, 1085, is hereby amended to add two systems of records, one entitled "Reports of Employees' Financial Interests and Outside Employment," and one entitled "Employee Payroll, Leave, and Attendance Records," in accordance with the requirements of 5 U.S.C. 552a(e)(4) (Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896).

Public comment is solicited on the routine use portions of this notice. Comments should be submitted on or before September 15, 1085, to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

Frirtz L. Puls,
General Counsel.

August 22, 1975.

Authority for maintenance of the system: Federal Personnel Manual and Treasury Fiscal Requirements Manual; and Pub. L. 93-633, 88 Stat. 2168 (sec. 303(c)(3) of the Independent Safety Board Act of 1974, 49 U. S.C. 1902).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For preparation of payroll, to fulfill Government payroll recordkeeping and reporting requirements; and to retrieve and supply payroll and leave information as required for NTSB needs. Other routine uses for certain records are specified in the Civil Service Commission notice: "C.S.C.—General Personnel Records (Official Personnel Folder and records related thereto)." Routine use includes, but is not limited to, referral to law enforcement agencies of violations of the law and for discovery purposes ordered by a court, referral to potential employees, and for security clearance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Storage for NTSB is maintained by the Federal Highway Administration (FHWA), 400 7th Street, S.W., Washington, D.C. 20590.

Retrievability: Time cards are machine-printed, 7-1/2 inch by 3-1/2 inch cards (FHWA Form 320A); tapes are standard 2, 400-foot IBM tapes.

Safeguards: There are no safeguards for the time cards. The tapes, however, are maintained in the computer center and access is permitted only to certain specified FHWA employees or appropriate employees of contractor agencies.

Retention and disposal: The time cards are maintained in the office for the current and prior year and are thereafter sent to the Federal Records Center in St. Louis. The tapes are retained, based on the cycle of the particular system. The disposal occurs when the cycle ends. The tapes are kept by employee number, which is a number assigned to the employee on hiring.

System manager(s) and address: Director of Administration, Office of the General Manager, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

Notification procedure: Address inquiries to System Manager.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—5

System name: Reports of Employee's Financial Interests and Outside Employment.

System location: National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Confidential statements of financial interests and outside employment required of certain employees. The statements set forth the financial interests of the employees and members of their immediate families and specify the employment of the members of the immediate family or any other employment of the NTSB employees involved.

Authority for maintenance of the system: 5 CFR Part 735 (Federal Personnel Manual), implemented by 49 CFR Part 805.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used by authorized personnel for ascertaining conflicts or apparent conflicts of interest and for recommending appropriate action to NTSB employees. In the event of a violation or potential violation of law, whether civil, criminal, or regulatory, the records may be referred to the appropriate agency. Routine use includes, but is not limited to, referral to law enforcement agencies of violations of the law and for discovery purposes ordered by a court, referral to potential employers, and for security clearance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on 8-1/2 inch by 10-1/2 inch forms kept in a manila folder.

Retrievability: Indexed alphabetically by name.

Safeguards: Records are stored in a locked safe.

Retention and disposal: Records are manually kept during employment of the individual and then destroyed.

System manager(s) and address: Director of Administration, Office of the General Manager, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

Notification procedure: Address inquiries to System Manager.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: NTSB employees.

NTSB—6

System name: Employee Payroll, Leave, and Attendance Records—NTSB

System location: National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

Categories of individuals covered by the system: NTSB employees.

Categories of records in the system: Manual files and computer-retrievable data containing payroll-related information covering NTSB employees. Payroll, leave and attendance records include many records or information also maintained in the employees' Personnel Nonpermanent Records and related files which are maintained in accordance with Civil Service Commission regulations and noticed by the Commission in its Governmentwide systems of personnel records. Payroll and related information consists of various forms and computer-retrievable data which discloses on a biweekly, year-to-date, and/or annual basis, payroll and leave data for each NTSB employee. This data relates to the rate and amount of pay, leave, hours worked, and leave balances. It also includes tax and retirement deductions, life insurance and health deductions, savings allotments, savings bond and charity deductions, mailing addresses, and home addresses.

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Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1975)

Title 32A—National Defense, Appendix $2.85

Title 40—Protection of Environment (Parts 0–49) 2.90

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