AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.40—No.212
11–3–75
PAGES
51009–51176

federal register

MONDAY, NOVEMBER 3, 1975

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federal register

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Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January and February dates are in 1976.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
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November 6	November 21	December 8	December 22	January 5	February 4
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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 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1975 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1975. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

The rate for subscription service to all revised volumes issued for 1976 will be $350 domestic, $75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1975):

Title	Price
1	$1.45
2	.70
3A 1974 Compilation	2.75
4	2.70
5	4.35
6 [Reserved]	
7 Parts:	
0–45	6.15
46–51	4.10
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750–899	2.95
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400–end	9.70
21 Parts:	
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23	3.55
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1 (§§ 1.0–1—1.169)	5.90
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31	4.90
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1974 CFR volumes previously announced are available from the Superintendent of Documents at the prices listed below:

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Army

Section 213.3107 is amended to show that the United States Military Academy

Preparatory School formerly located at Fort Belvoir, Virginia, is now located at Fort Monmouth, New Jersey, and is no longer under the administrative jurisdiction of the Corps of Engineers. Positions of Academic Director, Department Head and Instructor at the Preparatory School continue to be excepted under Schedule A.

Effective on November 3, 1975, § 213.3107(c)(3) is revoked and (f)(1) is added as set forth below:

§ 213.3107 Department of the Army.

* * * * *

(c) *Corps of Engineers.* * * *

(3) [Revoked]

* * * * *

(f) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.*

(1) Positions of Academic Director, Department Head and Instructor.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-29496 Filed 10-31-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the position of Defense Representative, Iran, Immediate Office of the Secretary of Defense is excepted under Schedule C.

Effective November 3, 1975, § 213.3306(2)(50) is added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(50) Defense Representative, Iran.

(5 U.S.C. 3301, 3302; EO 10577; 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-29497 Filed 10-31-75;8:45 am]

Title 45—Public Welfare

CHAPTER I—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION

PART 118—FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS

Regulations and Guidelines for Title III of the Elementary and Secondary Education Act of 1965, as Amended

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the authority of title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 841–844a, 845–849), a notice of proposed rulemaking was published in the FEDERAL REGISTER on December 30, 1974 (39 FR 45019) which set forth proposed regulations and guidelines to amend Part 118 for a program of financial assistance to State educational agencies for planning and establishing supplementary educational centers and services and guidance, counseling and testing programs. Separate regulations and guidelines governing grants to local educational agencies under section 306 of Title III of the Act (20 U.S.C. 844b) are included in Part 126 of Title 45 of the Code of Federal Regulations (Note that section 306 was repealed by section 402(c)(2) of Pub. L. 93-380, effective July 1, 1975).

A public hearing was held on March 5, 1975, in Washington, D.C. to receive comments and suggestions on the notice of proposed rulemaking. Additionally, an opportunity was provided to submit written comments and suggestions. Comments were received and considered as outlined below:

1. Summary of comments and responses.

Comment on § 118.2 of the regulations. A commenter objected to the phrase "over a long period of time" as found in the definition of "seriously emotionally disturbed children." It was felt that such a limitation prevents early assistance in combating learning problems.

Response. The intent of including the phrase "over a long period of time" is merely to insure that the children to be served manifest a need which can be objectively measured. It is not meant to preclude a project from serving children at an early stage in their lives. No change was made to the regulations.

Comment on § 118.7(c) of the regulations. A commenter felt that the State agency should be allowed to use the titles of administrators normally used in State programs.

Response. Section 118.7(c) merely requires that the State educational agency provide information to allow the Commissioner to determine that there is sufficient staff to administer the State plan and carry out various Title III functions. However, in setting forth the administrative organization, the State educational agency is allowed to use the titles or names normally used. No change was made to the regulations.

Comment on § 118.8(a) of the regulations. A commenter suggested that the State agency be allowed to decide the manner in which the needs assessments be performed.

Response. The only specific requirements for a needs assessment are that it be based on objective criteria, relevant data and be periodically reviewed and updated. The State educational agency is otherwise given latitude in the actual conduct of needs assessment. No change was made in the regulations.

Comment on § 118.8(f) of the regulations. A commenter felt that the requirement that a review of all applications submitted by local educational agencies be made by the State Advisory Council and a panel of experts, creates a hardship to the State agency.

Response. Review of all applications by a panel of experts is required by Section 304(b)(3) of the Act (20 U.S.C. 844(b)(3)). Section 305(a)(2)(C) of the Act (20 U.S.C. 844a(a)(2)(C) requires the State Advisory Council to review and make recommendations on each application. No change was made in the regulations.

Comment on § 118.19(d) of the regulations. A commenter suggested that "area" should be defined to avoid having a large school district being compelled to serve children many miles apart.

Response. The statute does not define "area to be served" and it is felt that allowing the State and local educational agency to define "area to be served" in each project is most consistent with the innovative and exemplary nature of the Title III program. Of course, once an area is defined for the purpose of a project application, all children enrolled in a public or private school within the area having the need to be served by the project would be considered eligible for the project. No change was made in the regulations.

Comment on § 118.53 of the regulations. A commenter felt that the requirement that the State educational agency report on how all of its critical educational needs are being met is an unjust burden.

Response. Section 305(b)(11) of the Act (20 U.S.C. 844a(b)(11)) requires that the State plan provide for the making of an annual report and such other reports by the State educational agency, "as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of persons in the areas served by the programs or projects supported under the State plan and in the State as a whole." The State plan must also set forth educational needs of the State and the manner in which Title III funds would be used in meeting such needs. (See Section 305(b)(1)(A) of the Act (20 U.S.C. 844a(b)(1)(A)). The scope of the annual report as required by § 118.53 of the regulations is therefore felt to be appropriate and necessary in light of these statutory requirements. No change was made to the regulations.

2. Summary of changes.

The only changes made to the regulations and guidelines are of a technical, editorial or conforming nature.

3. Effective date.

The notice of proposed rulemaking was transmitted to Congress pursuant to Section 431(d) of the General Education Provisions Act (20 U.S.C. 1232(d)). The time period set forth therein for congressional action has expired without such action having been taken. These regulations shall become effective December 3, 1975.

(20 U.S.C. 841–844a, 845–849)

Dated: September 25, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: October 22, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program No. 13.519, Supplementary Educational Centers and Services, Guidance, Counseling and Testing (PACE (Projects to Advance Creativity in Education)))

PART 118—SUPPLEMENTARY CENTERS AND SERVICES: GUIDANCE, COUNSELING AND TESTING PROGRAMS

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AUTHORITY: The provisions of this Part 118 are issued under 20 U.S.C. 841–844a, 845–847a. Interpret or apply 20 U.S.C. 841–847a, 881, 885, and 1232–1232c.

Subpart A—Scope of Regulations; Definitions

§ 118.1 Scope of regulations.

The regulations published in this part are applicable to grants to States for planning and establishing supplementary educational centers and services and guidance, counseling, and testing programs. Regulations applicable to grants for such purposes by the U.S. Commissioner of Education directly to local educational agencies pursuant to section 306 of Title III of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b), have been published in Part 126 of this title. Allotments of Federal funds under Title III of the Act to the Departments of Interior and Defense pursuant to section 302(a)(1) of the Act (20 U.S.C. 842(a)(1)) shall be governed by such terms and conditions consistent with the Act as may be mutually agreed upon by these Departments and the Commissioner. Assistance provided under this part is also subject to applicable provisions contained in subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 842(a)(1))

§ 118.2 Definitions.

As used in this part:

"Act" means the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, as amended.

(20 U.S.C. 841–844a, 845–849)

"Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(20 U.S.C. 843(b)(3))

"Construction" means (a) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (b) the acquisition of existing structures not owned by the agency making application for assistance under Title III of the Act; (c) the remodeling or alteration (including the acquisition installation, modernization, or replacement of equipment) of existing structures; or (d) a combination of any two or more of the foregoing.

(20 U.S.C. 881(b))

"Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(20 U.S.C. 844(a))

"Dissemination" means communications with people about the operations and outcomes of demonstrations of exemplary practices in education in order to facilitate the adoption and replication of tested educational innovations in the host school system and other school systems in the State.

(20 U.S.C. 843(c)(3))

"Exemplary," as applied to an educational program, project, service, or activity, means one designed to serve as a model for a regular school program.

(20 U.S.C. 843(b)(2))

"Free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(20 U.S.C. 845)

"Guidance and counseling," in relation to activities undertaken pursuant to section 303(b)(4) of the Act (20 U.S.C. 843(b)(4)), refers to (a) services to pupils to assist them in assessing and understanding their particular abilities, educational needs, and career and vocational interests in light of all applicable environmental factors and (b) assistance in personal and social development, including the development of a positive self-concept when related to career and vocational guidance and counseling.

(20 U.S.C. 843(a), (b)(4))

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health-impaired, who by reason thereof require special education and related services. The term includes children with specific learning disabilities to the extent that such children are health-impaired children who by reason thereof require special education and related services.

(20 U.S.C. 843(b)(3))

"Innovative," as applied to an educational program, project, service or activity, means new or improved ideas, practices, or techniques.

(20 U.S.C. 843(b)(3))

"Junior college" means an institution of higher education which (a) is organized and administered principally to provide a one-year or two-year program which is acceptable for full credit toward a bachelor's degree; (b) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (c) is legally authorized within the State to provide a program of education beyond secondary education; (d) is a public or other nonprofit institution; (e) is accredited by a nationally recognized accrediting agency or association, or, if not so accredited (1) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance—considering the resources available to the institution, the period of

time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made—that the institution will meet the accreditation standards of such an agency within a reasonable period of time, or (2) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; (f) is a branch of an institution of higher education offering four or more years of higher education, is located in a community different from, and beyond a reasonable commuting distance from, the community in which the main campus of the parent institution is located.

(20 U.S.C. 844a(b)(1)(B))

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school such as State-operated schools for deaf, blind, mentally retarded, emotionally disturbed or crippled children. "Service function," as used in this paragraph means an educational service which is performed by a legal entity—such as an intermediate agency—whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(20 U.S.C. 881(f))

"Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State, as having curricula similar to that required of comparable public schools.

(20 U.S.C. 843(b)(4), 844(b)(2)(B), 845(f))

"Seriously emotionally disturbed children" means

(a) Those children who exhibit one or more of the following characteristics over a long period of time and to a marked degree:

(1) An inability to learn that which cannot be explained by intellectual, sensory, or health factors;

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(3) Inappropriate types of behavior or feelings under normal circumstances;

(4) General pervasive mood of unhappiness or depression; and/or

(5) A tendency to develop physical symptoms, pains, or fears associated with personal or school problems.

(d) This term does not include those children who are socially maladjusted.

(20 U.S.C. 843(b)(3))

"State aid" means any contribution by a State made to or on behalf of a local educational agency within the State for the support of free public elementary and secondary education, for which no repayment is expected.

(20 U.S.C. 845(e))

"State educational agency" means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 881(k))

"Technical institute" means an institution of higher education which (1) meets the requirements of subparagraphs (b) through (f) of the definition of "junior college" set forth in this section, and (2) is organized and administered principally to provide a 2-year program in engineering, mathematics, or the physical or biological sciences which program is designed to prepare the student to work as a technician at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(20 U.S.C. 843(b)(4))

"Testing," in relation to activities undertaken pursuant to Section 303(b)(4) of the Act, means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(20 U.S.C. 844a(b)(1)(B))

Subpart B—State Advisory Council

§ 118.3 Establishment and certification.

(a) Each State desiring to receive payments under Title III of the Act and the regulations in this part for any fiscal year shall establish a State advisory council which is appointed by the State educational agency, and is broadly representative of the cultural and educational resources (as defined in § 118.2 of this part) of the State and of the public, including persons representative of: (1) Elementary and secondary schools; (2) institutions of higher education; (3) areas of professional competence in dealing with children needing special education because of physical or mental handicaps; (4) areas of professional competence in guidance, counseling, and testing; (5) children from low-income families and other low-income individuals; and (6) other cultural and educational resources including State agencies, institutions of higher education, nonprofit private schools, and nonprofit private agencies such as libraries, museums, musical and artistic organizations, and educational radio and television.

(b) The State educational agency shall certify the establishment of, and membership of, its State advisory council to the Commissioner at least 90 days prior to the beginning of any fiscal year in which the State desires to receive a grant under Title III of the Act and the regulations in this part.

(c) The certification required under this section shall include the name of each person who is to serve on the State Advisory Council (including the name of the Chairperson), the cultural or educational resources of the State which each person represents, and a statement that the persons appointed are qualified to represent those resources.

(d) The State shall maintain on file, and furnish to the Commissioner at his request, the qualifications of the persons appointed to the State advisory council.

(20 U.S.C. 844a(a))

§ 118.4 Functions.

(a) The functions of the State advisory council shall include: (1) Advising the State educational agency on the preparation of, and policy matters arising in the administration of the State plan and in the development of the policies and procedures required by these regulations, including the criteria for approval of applications under the State plan; (2) reviewing and making recommendations to the State educational agency on the action to be taken with respect to each application for a grant under the State plan; (3) evaluating programs and projects assisted under Title III of the Act; and (4) preparing and submitting through the State educational agency annual reports of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and to the National Advisory Council on Supplementary Centers and Services which was established pursuant to section 309 of the Act. These reports shall be submitted at the time and in the format prescribed by the Commissioner.

(b) The State advisory council shall meet and select a chairman from its membership within 30 days after certification under § 118.3 of this part has been accepted by the Commissioner, and shall meet at such other times throughout the year as may be necessary to fulfill its functions under paragraph (a) of this section. The time, place, and manner of such meetings shall be determined by the council, except that it shall hold not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of the Act.

(c) The State advisory council shall be authorized to obtain (with funds paid

to the State under Section 307(b) of the Act) the services of such professional, technical and clerical personnel as may be necessary to enable it to carry out its functions under paragraph (a) of this section, and to contract for such services as may be necessary to enable it to carry out its evaluation functions.

(20 U.S.C. 843(c), 844a(a), 845(b))

§ 118.5 [Reserved]

Subpart C—The State Plan

§ 118.6 Preparation of plan.

(a) *General.* Any State desiring to receive funds under the Act for any fiscal year shall, as a condition to the receipt of such funds, submit a State plan to the Commissioner, using such forms as will be provided by the Commissioner and which will meet the requirements of the Act and these regulations. The State plan requirements of Title III of the Act and these regulations shall satisfy the requirement of submitting an annual program plan pursuant to Section 434(b) of the General Education Provisions Act (20 U.S.C. 1232c(b)).

(b) *Submission.* The State plan shall be submitted annually. It shall be developed in the light of all relevant information obtained in the prior year from reassessments of educational needs, evaluations of programs and projects funded under the Act, and reports and recommendations of the State advisory council.

(c) *Certifications.*—(1) *By State educational agency.* The State plan and each amendment thereto shall include as an attachment a certificate signed by an officer of the State educational agency authorized to submit the plan to the effect that the State plan or amendment thereto has been adopted by the State educational agency and that the State plan, or plan amended, will constitute the basis for operation and administration of the Title III program.

(2) *By the State Attorney General.* The State plan and each amendment thereto as described in § 118.6(e) of this part shall include as an attachment a certificate signed by the State Attorney General or other appropriate State legal officer to the effect that the State educational agency named in the plan is a "State educational agency" as defined in § 118.2 of this part, that has the legal authority ascribed to it in the State plan pursuant to § 118.7 of this part, and that all the provisions of the State plan may be carried out in the State.

(d) *Review by the State Governor.* In accordance with § 118.22(b)(2) of this part, and Part 100b of this chapter, the State plan and each amendment thereto shall include as an attachment the comments, if any, of the Governor of the State concerning coordination of Title III programs and projects under the State plan with other State and Federal programs and projects, or a statement from the Chief State School Officer that the Governor has reviewed the plan but no comments were made.

(e) *Amendments.* Whenever there is any change in the content or administration of the program set forth in the approved State plan, or whenever there is any change in pertinent State law or in the organization, policies, or operations of the State educational agency which materially affects the program under the plan, the State plan shall be appropriately amended and such amendment shall be submitted to the Commissioner for his approval. Any amendment shall be accompanied by a certificate of the State Attorney General or other State legal officer.

(20 U.S.C. 844a(a)(1), (b), 1232c(b); OMB Circular A-95)

§ 118.7 State educational agency.

(a) *Designation.* The State plan shall give the official name of the State educational agency which will be, either directly or through arrangements with other State or local public agencies, the sole agency responsible for administering the plan.

(b) *Authority.* The State plan shall set forth the authority of the State educational agency under State law to submit the plan and to administer and supervise the programs set forth therein pursuant to § 118.6(c)(2) of this part.

(c) *Organization.* The State plan shall set forth the administrative organization, the qualifications of all staff members involved, and the procedures of the State educational agency for administration of the State plan. Staffing shall be sufficient to carry out the following Title III functions: (1) program coordination; (2) program development; (3) project proposal review; (4) program operations; (5) program evaluation; (6) dissemination; and (7) grants management and finance.

(20 U.S.C. 844a(a)(1)(C), 1232c(b))

(d) *Fiscal control.* The State plan shall designate the officer or officers of the State educational agency who will have legal authority to receive all funds granted to the State and to authorize their expenditure or transfer to local educational agencies in accordance with § 100b.257 of this chapter. The State plan shall also set forth the fiscal control and fund accounting procedures (consistent with subpart E of the regulations in this part and part 100b of this chapter) under which the designated officer or officers will assure proper disbursement of and accounting for Federal funds paid to the State under Title III of the Act.

(20 U.S.C. 844a(a)(1)(C), (b)(2), and (10))

§ 118.8 General plan provisions.

(a) *Assessment of educational needs.* The State plan shall identify the critical educational needs of the State as a whole and the critical educational needs of the various geographic areas and population groups within the State, and shall describe the process by which such needs were identified. This process shall be based upon the use of objective criteria and measurements and shall include procedures for collecting, analyzing, and validating relevant data and translating such data into determinations of critical educational needs. These determinations and the data upon which they are based shall be periodically reviewed and updated, and the State plan shall indicate the most recent date of such review and updating.

(20 U.S.C. 844a(b)(1)(A), (b)(3))

(b) *Developing evaluation strategies.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in the evaluation by the State advisory council, at least annually, of the effectiveness of the programs and projects funded under the State plan in meeting the purposes of the Act.

(20 U.S.C. 844a(a)(2)(D) and (b)(6)(A))

(c) *Dissemination of information.* The State plan shall provide for, and describe the objectives of, and procedures to be used in, the statewide dissemination of the results of evaluations performed under paragraph (b) of this section and of other information concerning those programs and projects which are determined through such evaluations to be innovative, exemplary, and of high quality.

(20 U.S.C. 844a(b)(6)(B))

(d) *Adoption and adaptation of promising practices.* The State plan shall provide for, and describe the objectives of, and the procedures to be used in, the adoption and adaptation within the State of promising educational practices developed through programs or projects funded under the Act.

(20 U.S.C. 844a(b)(6)(c))

(e) *Professional development activities.* The State plan shall set forth procedures which will be utilized for professional staff development of State and local administrative, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under Title III of the Act.

(20 U.S.C. 844a(b)(2))

(f) *Reviewing local project applications.* The State plan shall (1) list and describe any criteria, required by § 118.24(a) of this part, which the State educational agency will use in reviewing local project applications (including applications for guidance, counseling, and testing projects) submitted under § 118.23 of this part; (2) describe the procedures which the panel of experts, State educational agency, and State advisory council will use in the review process with the results of their separate reviews forming the basis for a recommendation to the Chief State School Officer; and (3) provide that final action regarding the proposed final disposition of any local project application (or amendment thereof) shall not be taken without first affording the local educational agency or agencies submitting such application reasonable notice and opportunity for a hearing before a board

or official designated by the State educational agency for such purpose, and specified in the State plan.

(20 U.S.C. 844a(a)(1)(C), (b)(12))

(g) *Commingling of funds.* The State plan shall set forth policies and procedures which assure that funds made available under the Act for programs and projects for any fiscal year will not be so commingled with State or local funds as to lose their identity as Title III funds.

(20 U.S.C. 844a(b)(9)(A))

(h) *State aid.* The State plan shall contain adequate assurance that, in determining the eligibility of any local educational agency for State aid or the amount of such aid, grants to that agency under the Act will not be taken into consideration.

(20 U.S.C. 844a(b)(13))

§ 118.9 Supplementary educational centers and services.

The State plan shall set forth a program for improving education in the State through grants to local educational agencies to carry out the purposes of the Act as set forth in section 301(a) of the Act. The program shall be based upon an assessment of, and be designed to meet, the critical educational needs of the State as determined under § 118.8(a). Such program shall be related to and coordinated with the program for testing under § 118.10 and the program of guidance and counseling under § 118.11.

(20 U.S.C. 841(a), 844a(b)(1)(A))

§ 118.10 Testing.

(a) If a State wishes to conduct a testing program with Title III funds, the State plan shall set forth a program for testing students in the public and private elementary and secondary schools of the State or in the public and private junior colleges and technical institutes of the State. In so doing, the plan shall (1) describe the primary objectives of the program, (2) identify the grade levels of students to be tested, and (3) describe the types of tests to be utilized for the measurement of aptitudes and abilities.

(b) The testing program set forth in paragraph (a) of this section shall include at least one test for students not beyond grade 12, and shall be utilized to (1) identify students with outstanding aptitudes and abilities; (2) provide such information about the aptitudes and abilities of students as may be needed in connection with the guidance and counseling program under § 118.11 of this part and (3) provide such information as may be needed to assist other educational or training institutions and prospective employers in assessing the educational and occupational potential of students seeking admission to educational or training institutions or employment.

(c) Consistent with the applicable provisions of part 100b of this chapter, to the extent that the following items of cost are attributable to the programs approved under the State plan, the cost of supervisory and related services in testing programs in which Federal participation may be claimed include such categories of expense as:

(1) The purchase or rental of tests, answer sheets, cumulative record forms, and such other materials needed under the plan; and

(2) The rental of equipment for scoring, processing and reporting the results of tests administered under the plan, or, if such equipment is owned by State or local agencies, the pro-rata share of the cost of maintaining and operating such equipment.

(d) In fulfilling the requirements of this section, the State educational agency may provide services at the State level, make arrangements with local educational agencies or other appropriate local or State agencies, or contract with public or private nonprofit institutions, agencies, or individuals, for the provision of services consistent with the State's responsibilities under these regulations.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(i), 1224, 1232c(b), Section 131(b) of P.L. 91-230)

§ 118.11 Guidance and counseling.

(a) If a State wishes to conduct a guidance and counseling program with Title III funds, the State plan shall set forth a program of guidance and counseling designed to improve such existing services at the appropriate levels in the public elementary and secondary schools or public junior colleges and technical institutes of the State and, to the extent required by § 118.15 of this part, in the private elementary and secondary schools of the State. Such program shall serve to advise students regarding courses of study best suited to their abilities, aptitudes and skills, the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields. Also, it will encourage students with outstanding aptitudes and abilities to complete their secondary school education, take the necessary courses for admission to institutions of higher education, and enter such institutions. Such programs shall include occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education, and may include short-term training sessions for persons engaged in guidance and counseling in elementary and secondary schools, junior colleges, and technical institutes in the State.

(b) Guidance and counseling services under the State plan shall be provided by qualified counselors through appropriate individual and group processes. Such processes shall be coordinated with other pupil personnel services and guidance and counseling resources both within and outside the school setting, and shall include referral assistance, working with other staff members in planning curriculum content and changes, and consulting both teachers and parents with regard to the learning and developmental needs of pupils

(c) The program set forth under paragraph (a) of this section shall make provision for supervision and leadership activities by the State educational agency with regard to the establishment, maintenance, and improvement of guidance and counseling services. Such activities shall include the assessment of other Federal and State programs (such as Titles I and V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241 *et. seq.*) and (20 U.S.C. 862-869a), Part B of the Education of the Handicapped Act (20 U.S.C. 1411-14), and the Vocational Education Act of 1963 (20 U.S.C. 1241 *et. seq.*)) where there may be need for State-level supervision and leadership with respect to guidance and counseling, and the development of procedures for determining how these various programs and sources of funds can be coordinated to provide for strong leadership in the area of guidance and counseling.

(d) In addition to the activities set forth in paragraph (c) of this section, the program set forth under paragraph (a) of this section may also include the provision for services at the State level, through arrangements (including project grants under paragraph (e) of this section) with local educational agencies or other appropriate local or State agencies, or through contracts with public or private nonprofit institutions, agencies, or individuals, which are consistent with the State's responsibilities under these regulations.

(e) Project grants under an approved State plan may be made to local educational agencies under this section for the following purposes: (1) Planning programs and projects designed to provide the services and activities described in (c)(2) and (3) of this section, including pilot projects designed to test the effectiveness of such plans; (2) establishing or expanding innovative and exemplary guidance and counseling programs and projects for the purpose of stimulating the adoption of new programs; and (3) establishing, maintaining, and improving guidance and counseling services and activities, especially through new and improved approaches consistent with the purposes of the Act.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii), 1232c(b))

§ 118.12 Equitable distribution of assistance.

The State plan shall set forth criteria for achieving equitable distribution of assistance made available under the Act and these regulations. Such criteria shall be based on a consideration of (a) the size and population of the State, (b) the geographical distribution and density of the population within the State, (c) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities to be provided under the plan, and (d) the relative financial abilities of local educational agencies within the State to provide such services and activities. Application of

the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

(20 U.S.C. 844a(b)(3))

§ 118.13 Special consideration for certain local educational agencies.

The State plan shall provide for giving special consideration in those cases in which it is determined that two or more proposals are judged to be of substantially the same high quality, for approving applications, for Title III programs and projects, submitted by local educational agencies (a) that are making a reasonable tax effort but are unable to meet critical educational needs (including preschool and bilingual education) because some or all of their schools are seriously overcrowded, obsolete, or unsafe; or (b) whose proposed programs or projects were planned with funds made available under the Act. Application of the factors set forth in this section shall not result in the approval by the State educational agency of programs or projects which fail to meet any of the requirements contained in this part.

(20 U.S.C. 844a(b)(4) and (5))

§ 118.14 Percentage requirements regarding uses of funds.

The State plan shall provide that, of the funds made available under the Act for any fiscal year to carry out the State plan:

(a) An amount equal to at least 50 percent of such funds shall be expended for planning, establishing, and expanding innovative and exemplary programs and activities in accordance with § 118.25 of this part;

(b) An amount equal to at least 15 percent of such funds shall be expended for special programs or projects for the education of handicapped children in accordance with § 118.26 of this part; and

(20 U.S.C. 844a(b) (7) and (8))

§ 118.15 Participation by private school children.

(a) The State plan shall contain satisfactory assurances that each local educational agency receiving funds under the Act will provide for the effective participation in its Title III program or project, on an equitable basis, of children enrolled in private schools in the areas to be served whose educational needs are of the type which the program or project is designed to meet. The number of such children to be served, in relation to the total number of such children with educational needs of the type the project is designed to meet, shall be consistent with the number of public school children to be served in relation to the total number of public school children in the area served with educational needs of the type the program or project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include: (1) The payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control; (2) financing of the existing level of instruction in private schools; (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day and is used solely for Title III purposes; (4) the construction of facilities for private schools; or (5) the use of funds for religious worship or instruction, and (6) services provided on private school premises which inure to the benefit or enrichment of the private school.

(d) The State educational agency shall require that every project application submitted to it by a local educational agency under § 118.23 of this part shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools, the number of such children in the grades to be served by the project and the number of such children who have the needs to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under paragraph (2) of the paragraph); (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which, the times during which and the methods by which private school children will be served in accordance with the requirements of paragraph (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for such differences.

(20 U.S.C. 844(b)(2)(B), 845 (f)(1), 885)

§ 118.16 Reports and records.

The State plan shall provide that the State educational agency will submit to the Commissioner reports in accordance with § 118.53 of this part and Part 100b of this chapter and keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports required by § 100b.477 of this chapter.

(20 U.S.C. 844a(b)(11))

§ 118.17 Supplementary nature of projects.

(a) The State plan shall set forth policies and procedures for assuring that funds made available under the Act for any fiscal year will be used to supplement and, to the extent practical, increase (1) the fiscal effort which each local educational agency receiving Title III funds would have made in the absence of such funds for that fiscal year for educational purposes, as required by Section 305(b)(9) of the Act, and (2) the level of funds which each local educational agency receiving Title III funds would have made available in the absence of such funds for that fiscal year for the purposes described in Section 303(b) of the Act as required by Section 304(a)(3) of the Act.

(b) The State plan shall set forth policies and procedures for assuring that funds will not be used to supplant programs that would have been carried out with State or local funds in the absence of Title III funds.

(c) For the purposes of paragraph (a)(1) of this section, fiscal effort of a local educational agency for educational purposes shall be determined by the State educational agency on the basis of the amount of expenditures per pupil of the local educational agency from State and local funds; or in the event of a decrease of such expenditures, on the basis of the ratio between the total expenditures of the local educational agency from State and local funds and the wealth of the local educational agency as measured by the equalized assessed valuation of taxable property, per capita income, or other such indices as appropriate.

(20 U.S.C. 844(a)(3), 844a(b)(9)(B), 844a(b)(13))

§ 118.18 Approval of State plans.

(a) *Full approval or disapproval.* The Commissioner will review each State plan or amendment thereto submitted under § 118.6 of this part and approve those plans and amendments which he determines to meet the requirements of the Act and the regulations in this part. Except as provided in paragraph (b) of this section, the Commissioner will disapprove a plan which fails to comply with such requirements.

(b) *Partial approval.* If the Commissioner finds that a State plan submitted under § 118.6 of this part, pursuant to section 305(c) of the Act, is in substantial compliance with the Act and the regulations in this part, but fails to adequately provide for one of the programs required by section 305(b) of the Act, or is otherwise unapprovable in any other identifiable part, he may approve that part of the plan which he determines to be in compliance with the Act and the regulations in this part. In such a case, the Commissioner will make available to the

State that part of its allotment which he determines to be necessary to carry out the approved part of its State plan. The remainder of the amount the State is eligible to receive may be made available to the State only when the unapproved portion of its State plan is so modified as to bring the plan into compliance with the Act and the regulations in this part. The amount made available to a State pursuant to this subsection may not be less than 50 percent of the maximum amount which the State is eligible to receive under paragraph (e) of this section.

(20 U.S.C. 844a(b), (c))

(c) *Effect of State plan.* The State plan, as approved by the Commissioner under this section, and the general application required by Section 434(b) of the General Education Provisions Act (20 U.S.C. 1232c(a) will constitute the basis on which Federal grants are made under this title and the basis for determining the propriety of expenditures of grant funds. The administration of the Title III program shall be kept in conformity with the approved plan.

(20 U.S.C. 844a, 845(a))

(d) *Notice and opportunity for hearing.* No final action under this section other than one of full approval will be taken by the Commissioner until he first notifies the State educational agency of his proposed action and affords the State educational agency a reasonable opportunity for a hearing.

(20 U.S.C. 844a(e)(1), 845(g))

§ 118.19 Inability or failure to serve private school children.

(a) If the Commissioner determines under § 118.18(b) that a State plan is approvable, except that no State agency is authorized by law to provide, or there is a substantial failure to provide for effective participation on an equitable basis by private school children enrolled in any one or more private elementary or secondary schools in the areas served by programs or projects funded under the Act, as required by §§ 118.10(a), 118.11(a), or 118.15 of this part, the Commissioner shall arrange through contracts with institutions of higher education or other competent nonprofit institutions or organizations for the provision of Title III services to such children on an equitable basis.

(b) The costs of services provided in any fiscal year under paragraph (a) of this section will be paid out of the affected State's allotment. In determining the amount to be withheld, the Commissioner will take into account (1) the number of private school children in the affected area or areas who are excluded from effective participation in Title III programs or projects and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of teachers that would reasonably have been required to serve such children; and (3) the nature and extent of services being provided to public school children in the affected area or areas by the programs or projects in which private school children are denied effective participation.

(c) In any case where the State alleges that no State agency is authorized by law to provide for the effective participation of private school children as required by §§ 118.10(a), 118.11(a), or 118.15 of this part, the State shall provide the Commissioner with a written statement signed by the State Attorney General or other appropriate State legal officer setting forth the constitutional and statutory provisions, and case law which, in his opinion, prevent the State from so serving private school children.

(d)(1) Any organization or individual may file a written complaint with the State educational agency setting forth: (i) an allegation that, with respect to a program or project under Title III of the Act being conducted or approved by the State educational agency to be conducted, eligible private school children cannot effectively participate on an equitable basis, and (ii) the facts on which such allegation is based.

(2) The State educational agency shall, within sixty days from the receipt of the complaint, file a report with the Commissioner, with a copy to the complainant, setting forth the nature of the complaint and the actions taken to resolve the matter.

(3) If after such sixty-day period has elapsed, either the State educational agency, the Commissioner, or the complainant feels that the problem has not been satisfactorily resolved, the Commissioner will review the matter and take appropriate action.

(e) In determining whether there has been a "substantial failure" under paragraphs (a) and (d) of this section, the following will be considered: all acts or omissions of the State, or a local educational agency, or other political subdivision thereof, or of any individual acting for or on behalf of such entities, in the process of assessing educational needs and planning, approving, conducting, and monitoring programs and projects under the Act and these regulations which have the effect of (1) preventing, discouraging, or otherwise limiting in any manner the effective participation by any eligible private school child in the operation of the program or project serving the area in which his private school is located, or (2) not affording private school representatives of children the opportunity for effective participation in the planning and development of any program or project in which private school children are eligible to participate.

(20 U.S.C. 844(b)(2)(B), 845(f))

§ 118.20 Operational noncompliance.

Whenever the Commissioner, after affording the State educational agency reasonable notice and opportunity for a hearing, finds that in the operation or administration of its State plan there has been a failure to comply substantially with: (a) any provision of the Act and the regulations in this part, (b) any provision set forth in the plan of that State as approved under § 118.18 of this part, or (c) any provision set forth in an application of one of the State's local educational agencies as approved under § 118.23 of this part, he will notify the State educational agency that further payments will not be made to the State under the Act, or that the State educational agency may not make further payments under the Act to specified local educational agencies affected by the failure, until he is satisfied that there is no longer any such failure to comply.

(20 U.S.C. 844a(e)(2), 1232c(c))

Subpart D—Program Requirements

§ 118.21 Purpose.

This subpart sets forth various program requirements to which each State educational agency shall adhere in administering the educational programs described in its approved State plan and in implementing the provisions of such plan. The policies, procedures, and criteria developed by the State under this subpart shall be set forth in writing and shall be available for inspection at reasonable times and places by the Commissioner or his delegate and by interested parties in the general public.

(20 U.S.C. 843, 844, 844a(a)(1) and (b), 1232c(b))

§ 118.22 General requirements.

The State plan shall provide assurances that the following are formulated and maintained:

(a) *Long-range strategy for advancing education.* The State shall develop a long-range strategy for advancing education in the State in ensuing years through programs and projects funded under the Act. Such strategy shall be directed toward the critical educational needs of the State as periodically assessed under § 118.8(a) of this part, and shall provide for the coordination of Title III programs and projects with other public and private programs and projects as required by paragraph (b) of this section.

(b) *Coordination with other aid programs.* (1) To the extent not inconsistent with the prohibition against commingling of funds in § 118.8(g) of this part, the State shall establish effective procedures for coordinating the development and operation of programs and projects carried out under the Act and these regulations with other public and private programs having the same or similar purposes in accordance with § 100b.275 of this chapter. (2) The State plan and amendments thereto which the State educational agency submits to the Commissioner under §118.6 of this part, and the periodic reports which it submits to the Commissioner under § 118.53 of this part and Part 100b of this chapter shall first be submitted to the Governor of the State for his review and comments (if any) on the relationship of Title III programs and projects to, and coordination with, State comprehensive plans and

State plans in related Federal programs in accordance with Part 100b of this chapter.

(c) *State leadership.* The State educational agency shall establish policies and procedures for appropriate professional staff development of State and local administrative, supervisory, instructional, and supporting personnel involved in developing, conducting, or monitoring programs or projects under the Act, including those personnel involved in programs or projects for handicapped children.

(d) *On-site evaluation of projects.* The State educational agency shall develop procedures and criteria for the on-site evaluation, at least annually, of all Title III projects in the State. Such procedures shall indicate the role of the State educational agency staff in the evaluation process and the relationship between its functions under this subsection and the functions of the State advisory council under §§ 118.4(a)(3) and 118.8(b) of this part. Such procedures shall also provide for incorporation of recommendations made as a result of on-site evaluations and for follow-up methods to ensure proper implementation.

(e) *Construction.* The State educational agency shall establish criteria for determining the conditions under which the construction of facilities for use in a Title III program or project is consistent with the educational programs set forth in the State plan and necessary to the efficient operation of the program or project.

(f) *List of projects funded.* The State educational agency shall maintain a list identifying each local project it is funding under the Act, which shall include for each such project: (1) The project number, (2) a title or description by which the project may be easily identified, (3) the amount of the current grant, (4) the proposed level of funding for the portion of the project period remaining after expiration of the current grant, (5) the amount of grant funds to be expended in each project for guidance and counseling under § 118.11 of this part or for testing under § 118.10 of this part, and (6) the amount of grant funds to be expended in each project for the education of handicapped children under § 118.26 of this part, broken down by type of handicap.

(g) *Participation of students in junior colleges and technical institutes.* Participation in Title III programs or projects by students enrolled in junior colleges and technical institutes in a State shall be limited to participation in guidance, counseling, and testing programs or projects established under §§ 118.10 and 118.11 of this part.

(20 U.S.C. 843(b), 844a(a)(1) and (b)(1)(A), (B) (i) and (ii), (b)(2), (b)(10), 883, 1232c (b); (45 CFR 100b.15))

§ 118.23 Applications for grants.

(a) *Eligible applicants.* A grant may only be made to a legally constituted public local educational agency as defined in § 118.2 of this part and may not be made to an individual, private school, or private nonprofit corporation. Universities and colleges are considered as local educational agencies for this purpose when the following conditions are met: (1) The college or university has administrative control and direction of a public elementary and secondary school as determined under State law; (2) the college or university is a public agency as defined in § 100.1 of this chapter; and (3) the elementary and secondary school draws its students from the general public and not from a restricted group such as children of the faculty or other employees of the college or university.

(20 U.S.C. 844, 881(f))

(b) *Solicitation and submission.* The State educational agency shall establish procedures to stimulate the submission of applications for funds under the Act by all local educational agencies in the State that have educational needs of the type which the State has identified under § 118.8 of this part. Such procedures shall include (1) the statewide dissemination of information concerning the purposes and provisions of the Act and these regulations, and of the educational program which the State proposes to conduct under its State plan; (2) the establishment of cutoff dates for submission of applications and notifications to all local educational agencies of such dates; and (3) the development of solicitation techniques designed to ensure that Title III funds are equitably distributed as required by § 118.12 of this part, and that applications are submitted by local educational agencies entitled to special consideration under the criteria developed pursuant to § 118.13 of this part. The State shall not establish methods or procedures which have the effect of excluding the eligibility of any otherwise eligible local educational agency to apply for and receive grants under this part, other than those specifically required by this paragraph.

(c) *Content of application.* Each project application submitted to the State educational agency shall set forth a proposal for carrying out one or more of the purposes described in Section 303(b) of the Act in accordance with the provisions of the Act and the regulations in this part. Such applications shall:

(1) Provide that the services and activities for which Title III funds are sought will be administered by or under the supervision of the applicant;

(2) set forth (i) such methods of administration as are necessary for the proper and efficient operation of the project, and (ii) such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Title III funds paid to the applicant;

(3) set forth policies and procedures which assure that funds made available for the project for any fiscal year will supplement and not supplant State and local funds as required by § 118.17(a) of this part;

(4) set forth, in the case of an application which includes construction as part of the proposed project, the necessary assurances and such other information as the State educational agency shall require in fulfilling the requirements of § 118.22(e) of this part;

(5) provide for making such financial reports, annual reports, and other reports, and for keeping and allowing access to such records relating thereto, as the State educational agency may reasonably require to assure compliance with the reports and records requirements in §§ 118.53 of this part and part 100b of this chapter and to otherwise carry out its functions under the Act, these regulations and Section 437 of the General Education Provisions Act (20 U.S.C. 1232f);

(6) set forth the information regarding participation of private school children which is required by § 118.15(d) of this part;

(7) contain such other information as the State educational agency may reasonably require to apply the criteria for reviewing project applications set forth in § 118.24 of this part.

(d) *Panel of experts.* The State educational agency shall establish a panel of experts, consisting of persons who are not officers or employees of the State educational agency or the State advisory council, to review all local project applications prior to their approval or other disposition. The State educational agency shall determine the number of experts to be utilized and the qualifications to be required of such experts (including one or more experts in the education of handicapped children and one or more experts in guidance, counseling, and testing) and shall establish procedures for selecting the panel.

(e) *Approval of applications.* The State educational agency shall establish procedures for review and disposition of local project applications in accordance with the requirements of the Act and these regulations. Such procedures shall provide for coordination of the roles of the State advisory council (under § 118.4(a)(2) of this part) and the panel of experts (under paragraph (d) of this section) with the role of the State educational agency. Such procedures shall also assure that no application will be approved or renewed by the State educational agency unless it is specifically found to meet the requirements for participation of private school children under § 118.15 of this part, and each of the requirements of paragraph (c) of this section, and has been evaluated in terms of the criteria set forth in § 118.24 of this part.

(20 U.S.C. 844)

(f) *Hearings.* The State educational agency shall develop procedures for a hearing in accordance with § 118.8(f)(3) of this part, for any applicant whose application (or amendment thereto) the State educational agency proposes not to approve.

(20 U.S.C. 844 (a), (b), 844a(b)(12), 1232c (b), 1232 (f))

§ 118.24 Criteria for review of project applications.

(a) *Supplementary educational centers and services.* The State educational agency shall establish the criteria to be used in reviewing project applications from local educational agencies under § 118.9 of this part. Such criteria shall be applied in conjunction with the special criteria developed by the State educational agency under §§ 118.12 and 118.13 of this part and shall include criteria for determining the extent to which the proposal involves or contains:

(1) Evidence that it is designed to demonstrate solutions to identified critical educational needs and will substantially increase the educational opportunities of children in the area of the State to be served;

(2) Provisions for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere;

(3) Promising concepts or practices recognized as unique, original, unusual, innovative, or exemplary;

(4) Concepts or practices which are economically feasible and effective;

(5) Evaluation strategies and procedures based on valid methodology which will provide evidence of the extent to which performance of the participants is improved;

(6) Performance objectives which are measurable, and appropriate activities which facilitate achieving them;

(7) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(8) Provisions for staff members with professional qualifications adequate to achieve the stated objectives of the project;

(9) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which make a direct contribution to facilitating the achievement of the stated objectives;

(10) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be (i) utilization of the best available talents and resources and (ii) participation of students, teachers, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served; and

(11) Provisions for dissemination of information about the proposed project which are appropriate and adequate for the area to be served.

(b) *Guidance and counseling.* The State educational agency shall establish the criteria to be used in reviewing applications for guidance and counseling programs and projects under § 118.11 of this part. A State educational agency may elect to apply all criteria in paragraph (a) of this section to guidance and counseling programs and projects. However, at least those criteria set forth in §§ 118.12 and 118.13 of this part and those required by paragraph (a)(4) through (11) of this section shall be applicable to all such programs or projects.

(c) *Additional criteria.* If the State educational agency establishes criteria for the review of project applications in addition to those specified in paragraphs (a) and (b) of this section, it shall list such additional criteria in its State plan in accordance with § 118.8(f) of this part.

(20 U.S.C. 844, 844a(a)(1), 1232c(b))

§ 118.25 Innovative and exemplary projects.

The State educational agency shall establish policies and procedures under which it will use at least 50 percent of the funds that it receives to carry out its State plan in each fiscal year to plan for and take other steps leading to the development of innovative and exemplary programs and projects such as those described in section 303(b) (1), (2), and (3) of the Act, including pilot projects designed to test the effectiveness of such plans.

(20 U.S.C. 844a(b)(7))

§ 118.26 Projects for handicapped children.

(a) The State educational agency shall establish policies and procedures which are to be set forth in the State plan under which it will use at least 15 percent of the funds that it receives to carry out its State plan in each fiscal year for: (1) Planning programs or projects referred to in paragraphs 2 and 3 of this section; (2) establishing or expanding innovative and exemplary educational programs for the purpose of stimulating the adoption of new educational programs to demonstrate ways to meet the special needs of handicapped children; or (3) establishing, maintaining, operating, or expanding services or activities which utilize new and improved approaches which demonstrate ways to meet the special educational needs of handicapped children.

(b) The State educational agency shall also establish procedures which assure that such activities will be coordinated with other Federal, State, and local programs and projects for the education of handicapped children, such as Title I of the Elementary and Secondary Education Act (20 U.S.C. 241 *et seq.*), the Education of the Handicapped Act (20 U.S.C. 1401 *et seq.*), the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 2661 *et seq.*), and

(20 U.S.C. 884a(b)(8), 1232c(b)(1))

§ 118.27 Project period, amendment, continuation costs, and termination of projects.

(a) *Project period.* Subject to § 100b.55 of this chapter, the State educational agency shall establish a project period for projects funded under the Act and shall establish procedures for continuing the funding of promising projects throughout the project period, subject to the availability of Title III funds, on the basis of evaluations under § 118.22 (d) of this part, and other periodic reviews which demonstrate that the project is being operated in compliance with all the requirements of the Act and these regulations. The project period and the procedures shall be set forth in the State plan.

(b) *Amendment of project applications.* The State educational agency shall establish procedures for reviewing requests from grantees to amend project applications and alter projects during the project period and for assuring that such amendments and alterations are fully consistent with the requirements of the Act, the regulations in this part, and part § 100b of this chapter. Whenever the proposed amendment or alteration would involve significant changes in the content, design, or funding level of the project, the review procedures utilized shall conform to the requirements of §118.23 (e) of this part

(c) *Termination of projects.* The State educational agency shall establish procedures for termination, during the project period, of programs and projects which are not operating in substantial compliance with (1) any provision of the Act and regulations of this part, or (2) any requirement set forth in the approved State plan or in the approved project application. In the event of such termination the grantee shall be afforded reasonable notice of the proposed action and opportunity for a hearing.

(20 U.S.C. 844, 844a(b)(12))

§§ 118.28–118.31 [Reserved]

Subpart E—Fiscal Procedures

§ 118.32 Grant awards.

In all cases where the State educational agency makes grants under the Act to local educational agencies, it shall award such grants for a 12 month period on the basis of an application which have been approved in accordance with § 118.23 of this part. All grant awards shall be in writing and shall set forth the amount of funds granted and the period during which such funds are available for obligation and expenditure, and shall specify the anticipated length of the project period.

(20 U.S.C. 844(a), 1232c(d))

§§ 118.33–118.40 [Reserved]

Subpart F—Equipment and Construction

§ 118.41 Recovery of payments.

If within 20 years after the completion of any construction undertaken pursuant to a grant under the Act (a) the owner of the facility shall cease to be a State or local educational agency, or (b) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction in accordance with the provisions of section 308 of the Act.

(20 U.S.C. 847)

§§ 118.42–118.50 [Reserved]

Subpart G—General Provisions

§ 118.51 Payment of funds.

(a) From its allotment under section 302 of the Act for any fiscal year, and in accordance with § 100b.53 of this chapter, the Commissioner will pay to each State, either in advance or by way of reimbursement, amounts equal to the sums necessary for current expenditures by the State under an approved State plan for (1) grants to local educational agencies for supplementary educational centers and services and (2) guidance, counseling, and testing programs.

(20 U.S.C. 845(a), 1232d)

(b) The payment of funds under Title III of the Act will be limited to the maximum funding level established by section 305(d) of the Act as described in § 118.18 of this part and the funding of partially approved State plans is further subject to the limitations set forth in § 118.18(b) of this part.

(20 U.S.C. 844a(c), (d))

(c) The Commissioner will pay additional sums to each State receiving funds under paragraph (a) of this section for administration of the State plan; administration of guidance, counseling and testing programs; activities of the State advisory council, and evaluation and dissemination activities. In no case will the amount paid to a State for such activities for any fiscal year exceed an amount equal to 7.5 percent of its allotment for that fiscal year or $150,000 ($50,000 in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), whichever is greater. All allowable expenses for administering guidance, counseling, and testing programs or projects under the State plan can only be reimbursed with funds under this paragraph.

(d) Subject to applicable provisions of law, no payment will be made by the Commissioner to a State under the Act for any fiscal year unless the Commissioner determines that the amount of State aid per pupil with respect to the provision of free public education in that State for the preceding fiscal year was not less than the amount of such State aid per pupil for the second preceding fiscal year.

(20 U.S.C. 845(b), (e), 1232d)

§ 118.52 Reallotment.

(a) *General.* The amount of any State's allotment under Title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be reallotted to other States. Funds may be reallotted from time to time, during the period for which they are available, on such dates as the Commissioner may determine, among other States in proportion to the amounts of their respective original allotments for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the respective State needs and will be able to use during the period for which the funds are available. Funds available due to such reductions may be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State from funds appropriated pursuant to Section 301 of the Act for any fiscal year will be deemed to be a part of the amount allotted to it under Section 302 of the Act for that year.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment of funds by the Commissioner pursuant to this section, each State agency shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need for the funds previously allotted during the period for which such funds are available, or any amount needed to be added thereto by reallotment. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements.

(20 U.S.C. 842c)

§ 118.53 Annual and other reports.

Pursuant to the provisions required for approval of the State plan under section 305(b)(11) of the Act and § 118.16 of this Part, the State educational agency shall make an annual report and such other reports containing such information as the Commissioner may reasonably require to carry out his functions under the Act and to determine the extent to which funds provided under the Act have been effective in improving the educational opportunities of persons in the areas served by programs or projects supported under the State plan and in the State-as-a-whole. The annual report shall include an evaluation made in accordance with objective measurements to determine the extent to which critical educational needs identified in the State plan have been met and an evaluation of the effectiveness of projects funded for that fiscal year under the Act. The State shall also keep such records and afford access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 844a(b)(11))

§§ 118.54–118.58 [Reserved]

GUIDELINES—ESEA, TITLE III, SECTIONS 301–05, 307–08

FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS

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CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

§ 1.1 Scope of guidelines.

(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to Federal assistance under the Elementary and Secondary Education Act, Title III, sections 301–308 (excluding Section 306). The legal requirements include the Act (20 U.S.C. 841–844a, 845–49) and the regulations (45 CFR 118). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon. Projects are not subject to termination proceedings or audit exceptions for conduct which is recommended or suggested in the guidelines.

(20 U.S.C. 1441; 113 Cong. Rec. 5936, 5939 (daily ed. May 23, 1967); *United States v. Jefferson County Board of Education*, 372 F. 2nd 836, 857 (1966))

(b) Where a guideline is issued in connection with or effecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is Section 305(b)(11) of the Act (20 U.S.C. 844a(b)(11)), and the guideline affects § 118.16 of the regulations (45 CFR 118.16), the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 844a(b)(11)); (45 CFR 118.16). If no particular section of the regulations is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

PART 2—THE PURPOSE AND PROGRAMS OF TITLE III

§ 2.1 Objectives.

The role of Title III of the Act in the improvement of American education is that of demonstrating the feasibility of innovations in a local context. These demonstrations should meet the criteria of having been field tested following research and development phases, usually under the auspices of State educational agencies, universities, foundations, or educational laboratories. They should be exemplary in that they will serve as models for other school systems that may wish to visit or replicate them, and they should hold promise of being economically feasible. In this manner, the Title III project bridges the research-to-practice gap by filling the diffusion role in the change continuum of research, development, evaluation, diffusion, and adoption.

(20 U.S.C. 841(a))

§ 2.2 Types of programs.

State educational agencies are authorized to make grants to local educational agencies for innovative and exemplary programs and projects which are designed to demonstrate ways of making a substantial contribution to the solution of critical educational problems. Title III grants should be made only to programs or projects which can be replicated elsewhere if evaluation proves them to be effective approaches to solving educational problems.

(20 U.S.C. 841(a))

§ 2.3 Program emphases.

(a) The flexibility of Title III of the Act allows its resources to be focused on virtually any major educational need. Title III can be used as an effective agent to develop strategies for designing innovative approaches that can be replicated by local educational agencies and for demonstrating exemplary programs to meet assessed needs. Title III of the Act furnishes the seed money to produce innovative solutions to critical problems which are of concern to all or several States. In effect, this program offers money to plan and develop new programs, and to test their feasibility for dissemination innovation as model programs which may be adopted throughout the Nation to meet critical needs of public and private school children.

(b) In making long-range plans for improving education, States have the responsibility in cooperation with local education agencies for identifying their most critical educational needs with local educational agencies and for encouraging the development of local projects which demonstrate highly creative approaches to meeting these needs, with the ultimate aim of promoting widespread adoption, through other funding sources, of those programs which are judged to be the most promising. To summarize the primary aim of Title III is to design and demonstrate creative solutions of major educational problems which affect various States or the entire Nation, rather than to provide direct aid on a massive scale.

(20 U.S.C. 843(b), 844a(b)(1)(A)); (45 CFR 118.9, 118.22, 118.25)

CHAPTER II—STATE PLAN ADMINISTRATION

PART 1—ELIGIBILITY FOR PAYMENTS

§ 1.1 Submission of State plans.

The Title III program in recent years has placed less emphasis on the State's preparing, and the Office of Education's approving a detailed description of the manner in which the program is to be conducted. More emphasis has been placed upon the State's developing a contemporary dynamic process for planning, evaluating, and managing federally supported educational programs. The State plan provides an annual set of assurances, except when otherwise required by law that certain provisions which a State is legally bound to follow in the administration of a program are set forth in the plan. But providing such assurances it does not replace the requirement for a State to develop a thorough and complete plan or to present such a plan in writing. The plan serves as a guide in the administration of any federally supported program. This State-developed management plan should be made available and on file for any person to review.

(20 U.S.C. 844a(a)(1), (b), 1232c(b)); (45 CFR 118.6)

§ 1.2 Calendar of suggested dates for submitting material to Office of Education.

Name of report	Number of copies	Suggested date due in USOE
Certification of State Advisory Council (20 U.S.C. 844a(a)) (45 CFR 118.3(c)).	1	April 1 of each year.
State Plan (20 U.S.C. 844a(a)(1)(c)) (45 CFR 118.6).	4	May 1 of each year.
State Plan Amendment (20 U.S.C. 844a(a)(1)(c)) (45 CFR 118.6(e)).	4	Allow 30 days for OE to process.
Annual Report (20 U.S.C. 844a(b)(11)) (45 CFR 118.53).	4	October 1, after the end of each fiscal year.

PART 2—STATE ORGANIZATION AND FUNCTIONS

§ 2.1 State advisory council support staff.

Staff members made available to assist the State advisory council may be employed on a full- or part-time basis and may include consultants highly trained in educational areas such as evaluation and statistics. Other support staff may include administrative assistants trained in data collection, editorial assistants, and clerical help. Council members ordinarily will serve on a part-time basis; however, a full-time person may be employed to serve in the capacity of Executive Secretary.

(20 U.S.C. 843(c), 844a(a)); (45 CFR 118.4(c))

§ 2.2 State agency staffing and functions.

(a) *Staffing needs.* The State educational agency staffing patterns for the administration of the Title III State plan may vary from State to State. The number of additional staff members needed will, of course, depend upon the amount of the allotment, the competencies of the present staff, and the kind of program to be developed within the State. In States where small numbers of projects are to be administered, additional staff members may be recruited on a part-time basis, and regular staff members in the agency may be called upon both for service functions and for administration, depending upon the need for their particular proficiencies.

(b) *Staff functions.* In determining staffing patterns for the Title III State plan program required by § 118.7(d) of the regulations, the State educational agency should consider carefully the following needs:

(1) *Program coordination.* A staff member to oversee the total program and to coordinate the activities of the advisory council and the panel of experts with those of the State educational agency staff, will be needed. This person will be responsible for the establishment and management of the staff serving the State advisory council as well as the Title III State educational agency staff, and for coordinating their activities in connection of the program in the State;

(2) *Program development.* Personnel with expertise in such areas as early childhood education, education of children from minority groups, education of children from rural areas, education in inner cities, treatment of potential and actual dropouts, education of the handicapped, language arts, reading, bilingual education, individualized instruction, curriculum development, and other areas identified by the Statewide assessment of needs may be required. Such experts may already be on the staff of the State educational agency and, if so, may be called upon as appropriate. Such persons may be employed as full-time staff members to serve the Title III program, or may be employed on a part-time basis as needed. Their assignments might include providing consultation to local educational agencies in the development of projects; planning, developing, and conducting inservice training programs; gathering and disseminating information concerning research and innovation in their field; and serving in an advisory capacity to projects in operation;

(3) *Project proposal review.* Project proposals should be reviewed by persons having recognized expertise in the educational areas proposed for support. Reviewers should be able to judge, in their areas of specialization, whether: (i) a project is an innovation in the field, (ii) the available research has been studied, (iii) the idea is basically sound, (iv) the consultants named are competent in this field, and (v) the project is economically feasible;

(4) *Program operation.* Personnel are important to monitor and supervise the oper-

ation of approved projects. Projects may be assigned to personnel on the basis of area of specialization or, in the case of large States, on a regional basis. Such personnel should assist project directors in carrying out the proposed program;

(5) *Evaluation.* The requirements for evaluation both of local project design and of the program at the State level as set forth in § 118.22(d) of the regulations call for staff with expertise in this area. Evaluation specialists may be contracted on a team basis, or they may be a part of the staff. Their functions should be to assist local educational agencies in preparing evaluation designs and in evaluating projects at regular intervals. In addition, they should be called upon to evaluate the effectiveness of the total State Title III program;

(6) *Dissemination.* Personnel with experience in communications are important members of a staff. It should be their responsibility to disseminate information about the preparation and submission of projects, keep the local school districts informed about innovations in education, serve as a clearinghouse of educational information, assist local educational agencies in their dissemination efforts, inform school districts and other audiences in the State of successful programs, and maintain an internal communications system in the State educational agency;

(7) *Grants management and finance.* Grants administration personnel who can maintain such fiscal control and accounting procedures as may be necessary are important to assure proper disbursement of and accounting for Title III funds paid to the State. Their functions include working with program officers to examine items of the project budget and providing technical advice and assistance to local educational agencies in the areas of budgeting, fiscal control, and accounting. Grants administration personnel should also develop a system to ensure that fiscal data are accessible to appropriate units in the State educational agency; and

(8) *Record keeping; clerical.* A clerical staff sufficient to file and handle all records concerning each project is important. Assignments may include mailing of projects to reviewers, transmitting routine notifications, and handling correspondence and schedules for various staff members.

(20 U.S.C. 844a(a)(1), (b)(2) and (10)); (45 CFR 118.7(d), 118.22)

§ 2.3 *Professional development activities.*

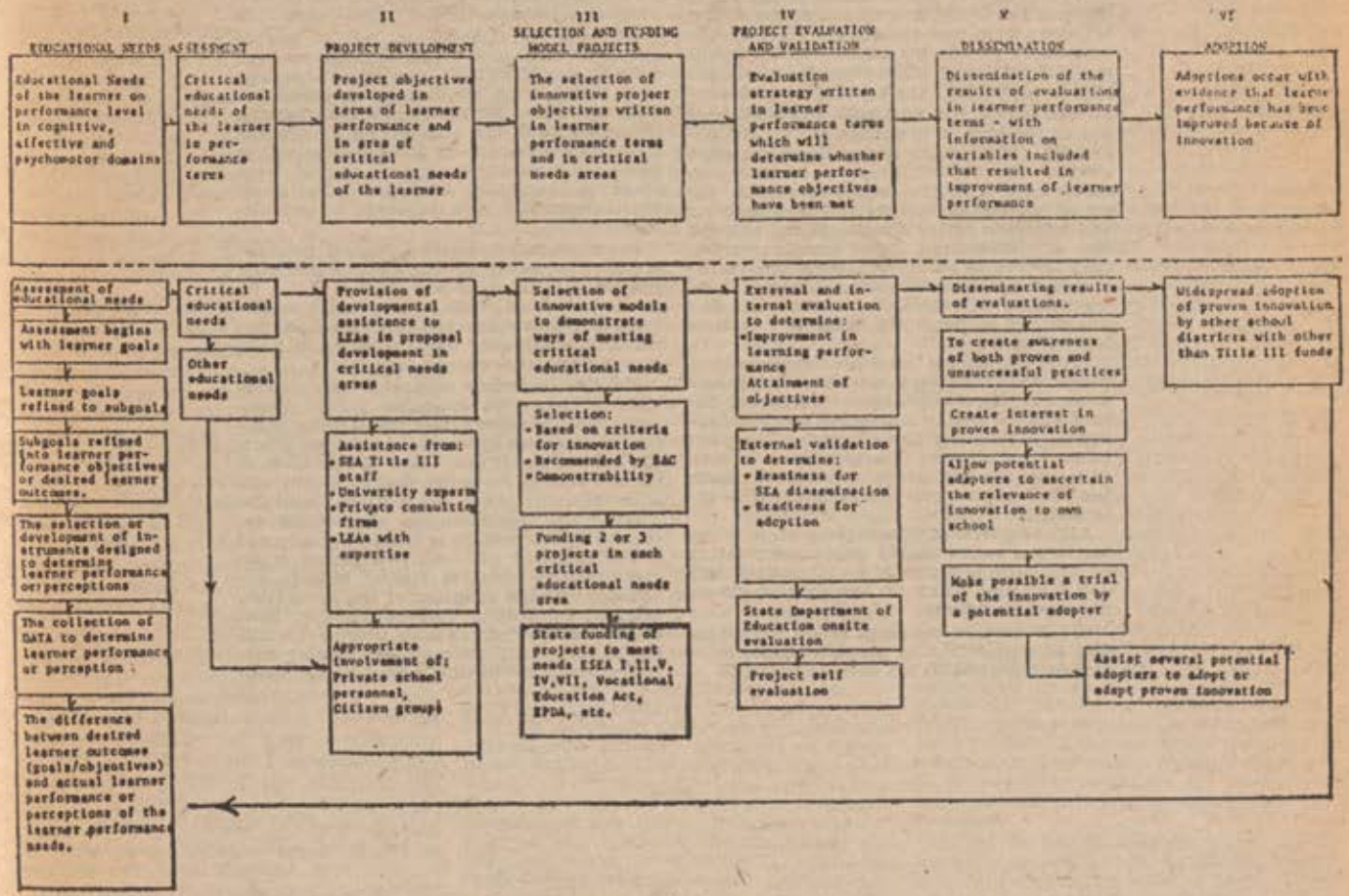
(a) Staff development programs are essential to the effective and efficient administration of the Title III program as set forth in § 118.8(e) of the regulations. Although the specific activities are dependent on individual State staff training needs, the following are examples of criteria that could be used to determine the adequacy of professional staff development activities at the State level under Title III: (1) The extent to which the State educational agency is already committed to providing the staff with development opportunities; (2) the extent to which development opportunities show clearly stated objectives which are directed toward the needs of the staff; (3) the adequacy of the total staff development program; (4) the extent to which the development program is evaluated to determine its effectiveness; and (5) the extent to which the development program involves appropriate State staff in addition to those working under Title III.

(20 U.S.C. 844a(b)(2), 1232c(b); (45 CFR 118.8(e))

(b) Since substantial consultant costs have been incurred by many Title III projects, it is important in the interest of effective control and better evaluation of consultant services that reports of such consultations be prepared and that results of consultations be documented in the grantee's project records. It is recognized that the selection of consultants by grantees may vary by purpose as well as by the length of time a consultant is hired, and that these matters have a bearing on the extent to which the consultations can be documented. For example, one consultant may be hired for the evaluation of a Title III project and receive fees for several days' work; whereas another consultant may visit a project for one day only to discuss strategy and problems with staff members. In the first example, the grant records should include a formal written report from the consultant (an evaluation). In the second example, the grantee should prepare a memorandum concerning matters discussed with the consultant and should file the memorandum for the record.

(20 U.S.C. 844(a)(5)); (45 CFR 118.23(c)(5))

2.4 *Model of operation.*



(20 U.S.C. 843(b), 844a(b)(1)(A),(6)); (45 CFR 118.8)

PART 3—THE STATE EDUCATIONAL AGENCY AS FACILITATOR OF EDUCATIONAL CHANGE UNDER TITLE III.

§ 3.1 *Change and the role of the State agency.*

(a) One of the primary functions of the State educational agency under Title III of the Act is to effect change in education which is relevant to valid educational and social goals. The Title III program is a vital part of the State educational agency's effort to effect such change in schools throughout the State.

(b) Most educational changes are not simple adoptions of a solution developed elsewhere, but are adaptations of the school to the innovation and of the innovation to the school. This means that it is vital to know both the essential conditions for the innovation to succeed and the unchangeable constraints within the school, so that any adaptation made in the innovation may actually result in educational improvement, rather than in maladaptation.

(c) In examining school districts to see which will be the most responsive to innovations, the State educational agency may wish to use the following criteria:

(1) *Initiating mechanisms*, the continuing flow of new knowledge into the school district from outside sources. This new knowledge may flow through print or other mass media, through training programs, through professional meetings, or through interpersonal communication with persons outside the school district;

(2) *Sustaining mechanisms*, or the capability of the school district to respond to and act upon such new knowledge. These mechanisms are within the school district, itself, and are relatively impervious to manipulation by outsiders. Among the internal conditions which will influence the ability of the school district to change are (i) the degree of commitment and support for high quality educational programs within the community, (ii) the degree to which the school district demonstrates "openness," or willingness to perceive problems and to make use of information from outside sources, (iii) the degree to which there is open communication between administrators and teachers about task-related matters, and (iv) the degree of flexibility there is in school budget; and

(3) *Performance feedback transmissions*, which are dependent on the clarity and measurability of objectives of the school district and the nature and degree of communication concerning desired goal attainment within the schools. Clearly related to this, of course, are similar communications about the effect of any trial innovation on goal attainment;

(d) Adopters of innovations tend to go through a series of five stages culminating in adoption. Rejection of an innovation may occur at any point in the process. These stages are as follows:

(1) *Awareness*, the point where the potential adopter learns of an innovation, or of some alternative to his current practice;

(2) *Interest*, the stage in which the more innovative of the potential adopters seek out additional, more technical information about the innovation;

(3) *Evaluation*, the stage during which the potential adopter makes an "in-the-head" assessment of the relevance of the innovation to needs, to apparent advantages, and to potential problems for him. Most potential adopters at this stage rely heavily on interpersonal communication with program developers and/or earlier adopters;

(4) *Trial*, the stage in which the potential adopter makes an actual field test of the innovation on a limited basis. The late adopters are likely to omit this stage, since they can see the benefits that adopting the innovation have brought to the majority of their peers who have already adopted the innovation; and

(5) *Adoption*, the final stage, when the adopter decides to make full-scale continuing use of the innovation until it is replaced by a better program. In both trial and adoption stages, the direct, first-hand experience of an adopter and the advice, assistance, and encouragement of expert consultants or even earlier adopters are the most important information sources.

(e) To facilitate change, the adopter should seek more information about the innovation, then turn toward more technical information sources which provide more detailed information, such as government bulletins, integrative reports, or expert advice. The more innovative the adopter, the more likely he is to use technical information sources; the less innovative, the more heavily he will rely on interpersonal communication, particularly with individuals he knows and believes to have more expert knowledge.

(f) Innovators should not rely on attractive color brochures or individual reports of Title III projects which are so popular among most educational dissemination personnel. They are useful for little more than making others aware of the existence of an innovation. Such information is unconvincing for those same potential adopters as they move closer to evaluation, trial, and adoption of the new practice, and may even be misleading.

(g) If a State educational agency is to facilitate the spread of improved educational practices, it is important that it tailor its strategy and activities to the actual conditions and constraints in the local school districts. The following are constraints that the State educational agency may face:

(1) *The pluralistic nature of the decision-making process in American public education.* The pluralistic system of decision-making in American government reflects American values, but it does make the problem of system-wide educational change slower and more difficult; there is no single locus for making and implementing educational decisions. An innovation is likely to be adopted if the adopting unit—be it a person or an organization—perceives greater relative advantage through adoption of the innovation than in continuing current practice. Most changes of any significance involve a number of congruent decisions in different loci: Policy decisions by the school board, man-

agement decisions by superintendents and principals, subject matter decisions by supervisors, and implementing decisions by each classroom teacher involved. However, one fact stands out: unless the superintendent, who can allocate resources and influence behavior, is supportive of innovation, it probably will not occur. It is important, therefore, that superintendents of schools continuously encourage activities which will better meet local needs. Every effort should be made to provide them with information and assistance which will help them make informed decisions regarding the allocation of resources. Efforts should also be made, of course, to communicate with and assist the decision-makers and implementers at other levels, who are necessary participants in the adoption process.

(2) *The statement of educational goals.* Educational goals, like many others, are often stated in unmeasurable terms. In determining whether an innovation should be adopted, the relative advantage of the innovation is compared to current practice in terms of the goals of an organization. When the goals are not stated in clear, measurable terms and when there are conflicts among goals, it becomes difficult to identify any clear advantage in any single practice over any other. This condition suggests the need for the formulation of more precise, operational, and attainable educational goals if educational improvement is to be determined. It should be recognized that explicit goal definition is, in itself, an educational innovation.

(20 U.S.C. 844a(b)(1)(A)); (45 CFR 118.22 (a) and (c))

§ 3.2 *The unique resources of the State educational agency.*

(a) The State educational agency possesses certain capabilities which assist the agency in facilitating educational change. Underlying all other consideration, the statutory position of the State as the responsible agent for education in the United States mandates a leadership role in educational improvement by the State educational agency.

(b) The State educational agency may fulfill its leadership role in the following ways:

(1) Quality education requires a certain critical mass of resources if there is to be real equality of educational opportunity for all our children. With the wide divergence in tax base among school districts, the State is the most natural governmental unit to serve as the planning base for education. Local school programs must necessarily reflect the prevailing norms of the local school district, with the possibility that the needs of all members of the community will not be recognized and dealt with. For example, there are communities where 85 percent or more of the public school graduates go on to higher education. The objectives and curriculum of the schools in this type of community are likely to stress academic excellence over all other possible educational values. Yet the 15 percent minority in that community may well be part of the majority of public school students of the entire State. The only assurance that their needs will be served equitably is the mediating influence that State educational policy may have on local norms.

(2) The State educational agency can be a facilitator of change because of its unique position as a source of expert advice and staff service to the legislative and executive branches of the State government. There is evidence that State legislatures view the State educational agency in many cases, as the major source of assistance in formulating educational policy. Through the types of communications it provides to the Governor and the State Legislature, the State educational agency can assure the development of sound, rational State policy on education and provide the intellectual basis for the policymakers to make fiscal and other decisions which permit implementation of that policy.

(3) The State educational agency may use its regulatory function to facilitate change. Although the regulatory function can be performed in a manner which is deadening and inhibiting, it can also be used as a means of encouraging educational improvement. Assuring the presence of qualified teachers is a regulatory function, but one that should assure better, not worse, education. If certification requirements are used as a means of preventing trial and assessment of staff differentiation in the schools, this can inhibit educational change. However, such inhibition results more from the way the regulation is implemented than from the standard, itself. The regulatory function can also be used to encourage more explicit statements of educational goals at the local level and to assure justification of proposed new courses of action. If exercised in this way, it is possible to develop procedures for regulating educational improvement rather than for blocking it and to have guidelines for further waiving of regulations under appropriate conditions, or even for amendment of regulations in a manner consonant with changing educational practices developed under Title III of the Act.

(4) The role of the State educational agency in educational finance should be a powerful instrument for change. The State's financial authority will not foster educational change, however, if all financial transactions between State and local educational agencies are based on formula grants. Most Title III innovations involve some degree of risk taking. It requires the potential for acquiring or reallocating money for trial and installation of changes. The State can facilitate change by providing risk capital and fiscal flexibility, as well as incentives for local schools to seek changes which lead to educational improvement. In such programs, it is highly advisable to require commitment of local funds to the innovative effort from the very beginning, with increasing allocation of local resources as the project progresses. Data in both education and other fields show that an innovative program which involves the use of local monies from the beginning is more likely to be installed than one which receives full funding from outside sources.

(5) Because of the State educational agency's intermediate position between local and national resources, it can have a great impact on local change processes through the information regarding innovation which it transmits to local schools, and its role as a linker agent in matching needs and resources. To perform this function effectively at appropriate intervals and in forms which are timely and useful, the State education agency should continuously keep abreast of proven practices in education. The agency's linker role can be established through a State educational agency information center which links distant resources to local needs. Without such a center, State dissemination efforts are likely to be intermittent, unfocused, and only partially effective. The State agency should set up an information system under Title III of the Act. Such a system should have five essential requisites.

(i) The system should provide comprehensive, up-to-date, practical, and accessible information. Often, information seekers make first and most frequent use of the most accessible information source, even when that source may not provide the best information.

(ii) The system should make available information tailored in format and content to the requirements of persons who have different educational roles and who are at different stages of the adoption process. Unless the State's information program is based upon continuing assessment of the characteristics and needs of its users, it will be a waste of money and effort. The following table suggests information relevant to each stage of the adoption process:

Stage	Questions	Needed information
Diagnosis	How am I doing?	Current performance data.
Awareness	How can I do better?	Alternative solutions to my problem.
Evaluation (pretrial.)	Will it work for me?	Settings and conditions where the innovation succeeded or failed.
Trial	How can I do it?	Sources of expert assistance. How to adapt to local conditions.
Evaluation (posttrial.)	How did I do?	Comparative effectiveness of old and new practices.
Installation	How must I change?	Needed resources and actions to make the innovation work operationally.
Maintenance	How do I continue?	Resources and actions needed to continue and modify the innovation.

(iii) The system should provide effective timely two-way communication between the school and the community, and facilitated by regulations which mandate increased efforts toward such communication. Since community concern for and participation in educational dialogue enhances the innovativeness and responsiveness of schools, the State educational agency, in its leadership role and in its provision of staff services to elected State officials, should emphasize this dialogue.

(iv) In its leadership and through its regulatory role, the State educational agency as part of its system can promote the enhancement of improved performance feedback transmissions within and between school districts. As part of its leadership role, the State educational agency also should communicate to local districts means of defining goals operationally and methods of assessing the degree of their attainment. In some cases, it may even be possible to stimulate statewide participation in the development of model educational objectives. As a regulator, the State educational agency may require operational specification of objectives in proposals for Federal or discretionary State funds; it may require by regulation that participation in certain State programs be based upon operationally stated objectives, or it may offer incentives for provision of undisputable evidence of satisfactory performance.

(v) At the highest level the system should include communications to the State legislature in performance-oriented terms whenever possible and offers assistance in the formulation of legislative proposals for improved

goal definition and performance assessment in education.

(20 U.S.C. 843(b)(4), 844a(a)(1), (b)(1)(B)(i) and (ii), 883); (45 CFR 118.22)

PART 4—ASSESSMENT OF EDUCATIONAL NEEDS

§ 4.1 *Planning for a needs assessment.*

(a) An educational needs assessment under Title III of the Act is a technique for identifying those educational objectives which are most important in a given instructional situation. This concept of educational needs assessment provides for (a) the identifying of a desired learner outcome and (b) the ascertaining of the learner's current status with respect to that outcome. The educational needs constitute the difference between the current status and the desired status. The following illustration represents this concept:

DESIRED LEARNER OUTCOMES	minus	CURRENT LEARNER STATUS	equals	AN EDUCATIONAL NEED

(b) The assessing of educational needs should be learner-oriented, focusing on the behavioral needs of children in the cognitive, affective, and psychomotor domains. Such needs assessment is important for making any significant improvement in educational outcomes and should be carefully planned and implemented with both short- and long-range objectives.

(c) Planning for a needs assessment is a departmentwide effort. The Title III monies may be combined with State and local monies to finance a needs assessment representative of all groups of persons who will be users of the needs assessment results and all persons whose specific skills will be useful in conducting the needs assessment studies should participate in the planning. It is suggested that they include:

(1) Appropriate representatives of State educational agencies, including persons responsible for administering State and federally supported programs, and those responsible for administering programs in the education of the handicapped; (2) appropriate representatives of the U.S. Office of Education; (3) appropriate representatives of local educational agencies; (4) representatives of professional organizations; (5) appropriate consultants (e.g., university-based evaluation specialists); (6) representatives of school boards of education; (7) representatives of State advisory councils for Title III; (8) representatives of State boards of education; (9) appropriate legislators and their staff consultants; and (10) representatives from private nonprofit elementary and secondary schools.

(d) Sufficient funds should be allocated to adequately accomplish a comprehensive educational needs assessment, and lines of communication and responsibility should be clearly established. Financial resources necessary for planning and implementing a needs assessment might come from a variety of State and Federal sources in addition to Title III funds. The possibility of a cooperative effort among State educational agencies in planning for needs assessments, including a pooling of financial resources, should be explored.

(e) Other resources contributing to the planning and implementing of a needs assessment should include personnel from various agencies, and representatives of private nonprofit elementary and secondary schools, and special ad hoc groups which in the past had been especially concerned with needs assessments, existing strategies used in needs assessments, literature related to the subject, both technical and popular, and existing sources of data. A needs assessment should refer to a variety of data sources with special attention given to timeliness, accuracy, and manageability (accessibility and usefulness) of data.

(f) Special competencies in system design, survey research design, statistics and measurement theory, sampling, and data processing is important in the planning stages. Special competencies in developing behavioral objectives, survey research, statistics, sampling, and data processing is also important in conducting the assessment.

(g) A commitment to the needs assessment and its potential results should be obtained from the Department, the Chief State School Officer, the Title III State Advisory Council, the State Board of Education, and appropriate representatives of private nonprofit elementary and secondary schools. It might be desirable to have a needs assessment steering committee to monitor, review, and revise strategies on a regular basis. Planning should include the means to facilitate reliability and validity checks of data collected and the means to make these data available to decision makers.

(h) A strategy for a needs assessment should be sufficiently constructed so as to consider all of the important elements and should include development and/or selection of learner goals and objectives, design of instruments for data collection, and determination of a means for precise analysis of data. The entire range of the student's achievement in all areas of learning should be included in the assessment of student needs. This would provide for student success as well as student deficiencies. The overall concept of the assessment of the students' educational needs could be defined as the difference between the current status of the learner and the desired learner outcomes. If particularly successful programs can be identified, the assessment strategy might provide alternatives to meet particular needs in a diffusion adoption process.

(i) The assessment strategy should include both long- and short-range goals and objectives that are behavioral, measurable, and representative of cognitive, affective, and psychomotor domains. A specification of the length of time required to achieve a specific goal or to reach a given objective and a set of objectives for each activity (time-frame) should be stated. Specific activities should be designed for the achievement of each goal and objective which are sufficiently refined to measure student learning.

(j) State educational agencies that have already established learner goals for their educational needs assessment should use these goals as a basis for developing subgoals and then use learning objectives as a basis against which needs can be delivered. Other States that do not have established learner goals should first establish goals before proceeding with the needs assessment effort. An example of the education goals and the related general objectives of one State educational agency include:

(1) *Goal: To accumulate knowledge.*

(i) *Subgoals:* (A) Develop a general education background in oral and written English, in the use of numbers, natural sciences, reading, mathematics, and social sciences; (B) develop a fund of information and concepts; (C) develop a knowledge of political principles and their evolution; and (D) develop special interests and abilities.

(ii) *Learning Objectives:* To develop fundamental intellectual skills: (A) By learning to get adequate meaning with reasonable speed from printed materials; (B) by learning to spell correctly the commonly used words; (C) by learning to express facts in reasonably correct and clear language, orally and in writing; (D) by developing habits and skills in clear thinking; and (*e*) by acquiring reasonable speed and accuracy in fundamental arithmetical processes and in the ability to solve quantitative problems.

(2) *Goal: To better the interrelationships of peoples.*

(i) *Subgoals:* (A) Develop respect for cultural heritages of other peoples of the world; (B) develop an appreciation for and an understanding of other people and other cultures; (C) develop an understanding of political, economic, and social patterns of the rest of the world; (D) develop awareness of the interpendence of races, creeds, nations, and cultures; and (E) develop an awareness of the processes of group relationships.

(ii) *Learning Objectives:* To lay the basis for intelligent citizenship: (A) By developing ideals and attitudes favorable to political, economic, and social democracy; (B) by developing appreciative, cooperative attitudes toward others of different national and racial origins and toward other countries; (C) by gaining an understanding of the simpler facts about and an appreciation of community, city, State, and national governments; and (D) by acquiring familiarity with and appreciation of the more important facts and lines of development in the history of our nation.

(3) *Goal: To develop character.*

(i) *Subgoals:* (A) Develop moral responsibility and a sound ethical and moral structure; (B) develop an understanding of moral behavior; (C) develop the student's capacity to discipline himself to work, study, and play constructively; (D) develop a moral and ethical sense of values, goals and processes of free society; and (E) develop standards of personal character and ideals.

(ii) *Learning Objective:* To assist in the formation of a high degree of social character and responsibility including moral and ethical concepts, attitudes, and habits: (A) by developing ideals, habits, and attitudes of fair dealing, cooperation, responsibility, respect for the rights of others, and self-reliance; and (B) by developing prejudices against such attitudes and habits as lack of cooperativeness, excessive selfishness, dishonesty, unwillingness to assume responsibility, etc.

(k) Learner goals can also be developed along more general lines such as those of another State educational agency which include the following: (1) The development of the inquiring mind exemplified by a continuing desire for knowledge, a continuing interest in current problems, and the habit of weighing alternatives and creatively applying them to the solution of these problems; (2) a knowledge of fundamental concepts about the world environment and man's relationship to it; (3) proficiency in the use of modes of communication; (4) a dedication to the task of improving America, striving for solutions to its continuing domestic and world problems and upgrading the lives of all people; (5) maintenance of health, achievement of a high level of personal fitness, and the acquisition of wholesome leisure skills; (6) producing an emotionally stable person; (7) developing a moral standard of behavior; (8) promoting a knowledge of the inter-relationships of nature and the cultural arts and the ability to utilize all of the senses to make aesthetic judgments about the total environment and to enrich one's own life; and (9) information and guidance for wise occupational choice.

(l) The needs assessment strategy should include provisions for collecting appropriate information on specific subpopulations about student learning objectives in three categories: (1) Perceptions of the community (including those in business and industry) educators, and the learner, with regard to the relevance and importance of these objectives; (2) criterion-based test instruments to determine the extent to which student learning objectives have been achieved;

and (3) revelant demographic data about the learner.

(20 U.S.C. 844a(b)(1)(A), (b)(3)); (45 CFR 118.8(a))

§ 4.2 *Collecting data.*

(a) The assessment should provide for instruments to collect data of three different types: The statements of objectives themselves; the criterion-referenced tests designed to measure the extent to which the objectives have already been achieved; and instruments designed to measure the perceptions of relevance and importance by different groupings of students and so-called consumers. In addition, the needs assessment strategy should include provisions for collecting appropriate information on specific subpopulations rather than for all respondents, regardless of background. Where it is appropriate to do so, data collection instruments should be field tested thoroughly on a pilot basis prior to actual use. The procedures for analyzing data should be thoroughly tested to determine if all data collected can be appropriately utilized and treated. Both reliability and validity should be built into the strategy design for assessing needs to aid in determining if the State is accurately and consistently measuring what it purports to measure in the needs assessment strategy.

(b) In collecting data, the specifications of actual procedures used must wait upon adoption of an overall strategy. The analyzing of such data is a highly technical function in statistics and data processing which can be spelled out only after comprehensive plans have been adopted for the needs assessment. Provisions should be made to assure that data collected are manageable and current, and that conclusions drawn from the interpretation of data can be supported.

(c) The translation of information into critical educational needs requires a distinction to be made between collecting information to be used in making decisions and between the decision making process itself. Logical and defensible procedures should be established for determining the criticalness of educational needs identified by data for the State as a whole and for each school district of the State. It may be that to the development of a strategy for making a needs assessment should be added a strategy for increasing the likelihood that the information will, in fact, be used. In addition to using the data for planning the Title III program, a State agency may determine that other institutions and agencies are potential users of the assessment results and, therefore, it is desirable to determine which are responsible for meeting various needs. At the State level, the State educational agency should be responsible for providing statewide results to the State Board of Education and, perhaps, for recommending courses of action based on an interpretation of results.

(20 U.S.C. 844a(b)(1)(A), (b)(3)); (45 CFR 118.8(a))

§ 4.3 *Criteria for determining adequacy of needs assessment.*

(a) The following criteria are suggested for use in determining the adequacy of State provisions for the educational assessment of learning needs under the Title III program:

(1) *Planning, Management, and Resources*

(i) The personnel involved in the program are knowledgeable about evaluation, systems design, survey research, statistics and measurement theory, sampling and data processing techniques.

(ii) Sufficient funds have been allotted to adequately accomplish a comprehensive educational needs assessment.

(iii) There has been departmentwide involvement in the planning.

(iv) Lines of communication and responsibility are clearly established within the State educational agency and with representatives of private nonprofit elementary and secondary schools of the State.

(v) The Department, the Chief State School Officer, the Title III State Advisory Council, and the State Board of Education are committed to the needs assessment and its potential results.

(2) *Strategy.*

(i) The overall concept of educational needs assessment defines an educational need as the difference between the current status of the learner and the desired learner outcomes.

(ii) The assessment strategy includes both long- and short-range goals.

(iii) The strategy includes specific activities which have been designed to achieve each objective included in the strategy.

(iv) The strategy includes a time frame for accomplishing each activity.

(v) The strategy is sufficiently constructed so as to consider all the required elements.

(vi) Student learning goals are established for the purpose of determining children's needs through the educational needs assessment.

(vii) The student learning goals are behaviorally stated and representative of cognitive, affective, and psychomotor learning.

(viii) The student learning goals are sufficiently definitive to make them measurable objectives for student learning.

(ix) The strategy includes the elementary and secondary grade levels which will be assessed.

(x) The strategy includes provisions for collecting data about student learning objectives into three categories:

(a) *Perceptions* of the community (including those in business and industry) educators, and the learners regarded as relevant and important to attaining these objectives;

(b) *criterion*-based test instruments to determine the extent to which student learning objectives have been achieved; and

(c) relevant *demographic* data about the learners.

(xi) The strategy includes provisions for a data sample from which validity can be determined; i.e., evidence that what is measured is that which purports to being measured.

(xii) The strategy includes provisions for a data sample from which reliability can be determined; i.e., that measurement is being performed accurately and consistently.

(xiii) The needs assessment strategy includes provisions for collecting appropriate information on specific subpopulations.

(xiv) The strategy includes provisions to assure that the data collected are manageable and current.

(xv) The instruments which are designed to collect data have been tested thoroughly on a pilot basis.

(xvi) Procedures for analyzing data have been thoroughly tested to determine if all data collected can be appropriately utilized and treated.

(xvii) The conclusions drawn from the interpretation of data can be supported.

(xviii) There are logical and defensible procedures established for determining the criticalness of educational needs identified by data for the State as a whole and for each distinct area of the State.

(xix) A listing of critical educational learner needs which are representative of cognitive, affective, and psychomotor learning is given.

(20 U.S.C. 844a(b)(1)(A)); (45 CFR 118.8(a))

PART 5—PROJECT DEVELOPMENT

§ 5.1 *State assistance to local project development.*

(a) In the Title III programs, the State educational agency provides leadership in developing school programs within its State. So it is logical that the State educational agency, seeing areas of need and potential areas of development within its State, would encourage local educational agencies to initiate innovative Title III project proposals.

(b) In its role as stimulator, organizer, and coordinator, the State educational agency may provide staff, including specialists in all curriculum and service areas, to help local schools develop sound proposals. Title V of the Elementary and Secondary Education Act can help provide the necessary funds if they are requested as part of a general effort to strengthen the curriculum program of the State.

(c) Since some local school districts have full-time personnel with expertise in educational research who may devote their entire efforts to the study and to the development of proposals, these districts would be likely to submit high quality proposals. To help local educational agencies that do not have staffs with needed capabilities, States might wish to implement procedures such as the following:

(1) Provide a team of consultants either from within the State educational agency or from some other agency to help local educational agencies in particular regions; and

(2) Fund planning grants which would provide local educational agencies with research teams that could offer intensive inservice training in new educational ideas to local staff members.

(3) Conduct local and regional workshops at frequent intervals for school personnel on such topics as translating educational research into practice, solving problems in curriculum change, examining successes and failures in initiating innovations, and studying evaluation designs and methods.

(20 U.S.C. 844a(b)(7)); (45 CFR 118.25)

PART 6—EVALUATION

§ 6.1 *Overview of evaluation.*

The most successful management of a title III project by a director and a team of specialists involves an evaluation which is the process of gaining and interpreting specific information to assess the degree to which the project objectives have been achieved. The task of designing the evaluation plan is both complex and multifaceted. Each component and the total project should include the evaluation of the product, the operational process, and management process goals.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8(b))

§ 6.2 *Purpose of evaluation.*

The purpose of such evaluation is to determine how well each component and the entire project function within the established framework of time, cost, and objectives. A well-planned and operated evaluation system should result in information which communicates clearly whether the standards of performance specified in the objectives have been met to a degree greater than, equal to, or less than the predetermined standards and why. This process enables the project staff to make the most effective and relevant decisions, and thus to provide the best possible assurances for project success by obtaining, maintaining, and interpreting accurate, up-to-date bodies of information relevant to project development, project implementation, and project successes and/or failures.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8 (b))

§ 6.3 *Staffing of evaluation.*

One primary management responsibility is that the project director oversee the design and implementation of the evaluation plan. Many local educational agencies will find it necessary to hire consultants or to seek the help of an outside technical assistance group for the planning, installation, or operation of the evaluation system, particularly if the program requires newly developed instruments and/or techniques.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8 (b))

§ 6.4 *The evaluation process.*

Evaluation may include delineating, collecting, and interpreting information for distribution to those involved in the decision-making process. In delineating information, one should clearly outline and specify the kinds of data being sought in terms of content, scope, reliability, validity, and appropriateness and relevancy of source; in collecting information one should gather and compile all available data from established parameters with precision and put in usable form; the interpreting of information gathered involves explaining the statistical and educational significance in a form that is understandable by those to whom the report is directed. Distributing this information entails providing appropriate and necessary written reports to those involved in the decision making process.

§ 6.5 *Elements of evaluation.*

(a) *Stating goals.* Stating major project goals in objective measurable terms is often the most difficult part of an evaluation design. Each major project goal should be broken down into more specific objectives. Specific objectives should be stated for each major project goal and might include: concepts or ideas to be learned; sensitivities and feelings to be developed; ways of thinking to be reinforced, strengthened, or initiated; or habits and skills to be mastered. It is suggested that applicants follow the generally accepted practice of stating specific objectives at the cognitive, affective, and psychomotor levels. Cognitive objectives relate to knowing, comprehending, applying, analyzing, synthesizing and evaluating; affective objectives relate to feeling, valuing, organizing, responding, etc., and psychomotor objectives relate to initiating, manipulating and articulating in a precise manner.

(b) *Standards for evaluation.* An important aspect of an evaluation design is the identification of specific activities, procedures, or techniques which will be used to attain each specific objective. Techniques should, to the extent possible, be varied, innovative, and in keeping with the objectives of the proposal. The specific method and standards for each specific objective to be used in evaluating that objective should also be stated. Examples of evaluative criteria might be: pupil attainment on questionnaires and surveys; teacher attitudes on questionnaires and surveys; pupil scores on paper-and-pencil tests of either the teacher-made variety or the standardized subject matter variety; direct observation of learners; random questioning of students; and pre-post testing.

(c) *Collection of data:*

(1) *Baseline Data:*

(i) The first steps in collecting information are to obtain the data needed to identify a need, define the problem and suggest directions in which solutions might be sought. The evaluator should indicate whether data currently available in the school system, such as school attendance figures for the previous year, will be used or whether data will be provided through the first administration of the measurement instrument. This data can become part of the baseline data needed for comparisons after the new program has been implemented. (ii) An important step in the baseline data collecting process is an analysis of the basic environmental factors involved, such as: (A) The environment in which the present problem occurs and that in which the proposed solution will operate; (B) the significant elements or variables in the environment or in the program which show promise of producing educational change; and (C) the direction in which the anticipated changes will occur. (iii) The process of establishing baseline data is a task of some magnitude and requires skill on the part of project planners. Questions of appropriateness of objectives, recency of collection, sensitivity or responsiveness to short-term change, reliability and objectivity of data, and comparability of data-gathering situations are some of the considerations which program planners must take into account as they formulate their evaluation designs.

(2) *Procedures for collecting data.* (i) The specific activities, procedures, or techniques designed to attain each specific objective should be stated. The formation of the evaluation design is inextricably linked to the development of performance objectives. If performance objectives have been developed properly both for product outcomes and for operational and management processes, a major part of the task has been accomplished. The conditions of measurement and the minimum levels of acceptable performance will have been specified within the objectives. (ii) The plan for the collection of evaluation data should cover the appropriate budget period and should include the complete evaluation schedule, the target populations to be measured, those responsible for arranging and administering the measurements, and any conditions of measurement not specified in the objectives. Procedures for the selection and training of testers, observers, or interviewers should be described. Charts and diagrams may prove to be helpful tools in the planning and organization of data collection procedures and in the coordination of these procedures with the plans for periodic reviews of the data by the independent educational auditor.

(3) *Instruments for data collection and the baseline data needed.*

(i) The evaluation instrument for each objective should be identified and described briefly. Standardized tests, questionnaires, rating scales, interviews, observation schedules, and interest inventories may be among the instruments selected. It is of critical importance that the instruments be matched as closely as possible to the objectives and that the validity and reliability of each instrument have been asscertained prior to its use. If new instruments are to be developed, a plan for their design and pretesting should be included. (ii) The baseline data requirements should be considered as the instruments are selected, since the validity of the evaluation process may be affected if the appropriate prerequisite data on the target population are not secured or available at the beginning of the program. Baseline data on ability and achievement levels, socio-economic status, attitudes, and other characteristics of project participants will be needed in most cases for accurate measurement of the attainment of project performance objectives.

(4) *Time lines for data collection.*

A calendar should be developed for the evaluation scheme that would include the following elements: (i) *Evaluator's report date.* The completion date for the evaluation report for each objective should be given; (ii) *Date instrument will be completed.* If the instrument is to be developed locally, the projected date of completion should be provided; (iii) *Scheduled dates for administration.* The dates for the administration of evaluation instruments should be specified; (iv) *Schedule for other dates.* Projected dates of dissemination activities, of evaluation findings, and/or frequency of activities should be indicated; and (v) *Recipient/audience.* Projected recipients of the evaluation findings (residents of the target area, school district, professional educational groups, etc.) should be indicated.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8 (b))

§ 6.6 *Stages of the evaluation process.*

The stages of the evaluation process should include: Baseline evaluation, process evaluation, and product evaluation.

(a) *Baseline evaluation* may be defined as the delineation, collection, interpretation, and distribution of all information needed (1) to establish data bases which provide input into needs assessment activities (those activities which result in a clear knowledge of the educational needs of the agency in which a Title III project will be developed); (2) to provide a benchmark against which to measure future successes and/or failures of project activities; and (3) to furnish data for identifying, describing, and defining the context within which change is expected to occur as a result of project activities. In effect, baseline evaluation provides that kind of information without which it would be impossible to measure any progress made toward meeting project objectives. Such information describes conditions as they exist before project treatment; and unless these conditions are accurately described before project implementation, it will be impossible to describe changes effected by project implementation. Baseline evaluation is, therefore, essential to the overall evaluation process; and every care should be taken to ensure that information gained during the baseline evaluation process is valid, appropriate and well-documented.

(b) *Process evaluation* aids management in making day-to-day operational decisions. Essentially, process evaluation may be defined as the delineation, collection, interpretation, and distribution of information needed to make decisions which will keep project resources and activities directed toward fulfilling project objectives. Thus, process evaluation assesses the fulfillment or nonfulfillment of those key steps which, having been carefully planned during project development, are being taken to meet project objectives. The result of such assessment should be information which will permit project management to make decisions regarding subsequent courses of action to be taken, and resources to be used, toward fulfillment of project objectives.

(c) *Product evaluation* may be defined as the delineation, collection, interpretation, and distribution of information needed to determine (1) whether or not a project objective or set of objectives has been met and (2) the extent to which a project objective or set of objectives has been met. Information resulting from product evaluation should permit project management to gain a clear overview of project progress in terms of project objectives. For this reason, due consideration from the very outset of project development should be given to stating project objectives in measurable terms. The less measurable project objectives are, the less probable it will be that effective product evaluation can take place, and, unless effective product evaluation can take place, project management will have no rational

foundation on which to base those key decisions which will affect the success or failure of the project as a whole, as well as the continuation of the project, either in part, or as a whole.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8 (b))

§ 6.7 *Criteria for determination of the adequacy of State provisions for evaluation.*

The following criteria should be used to determine the adequacy of State provisions for evaluation of the Title III program and are included here as a guide to States in their development of an effective evaluation program.

(a) *State evaluation objectives:*

(1) The State evaluation strategy begins with clear statements of performance objectives, i.e., what is to be evaluated, why, and to what extent;

(2) The list of performance objectives should include at least the following commitments:

(i) To collect and report annually to the U.S. Office of Education the effectiveness of Title III projects on the persons served;

(ii) to collect and report annually to the U.S. Office of Education the effectiveness of the Title III program on the State-as-a-whole; and

(iii) to identify the kinds of evaluative information needed for State management of Title III programs and to collect, process, and distribute such information in an accurate, timely, and usable manner.

(b) *Organizing for State evaluation:*

(1) The evaluation strategy shows evidence of active participation by State staff, advisory council members, and representatives from local projects in the planning and development of the strategy;

(2) The strategy includes appropriate activities and provision for adequate staff to achieve each of the stated evaluation objectives;

(3) The strategy includes specific plans for training State and local project personnel in evaluation;

(4) The amount of funds budgeted and time allocated for evaluation activities are adequate to implement the State evaluation strategy;

(5) The strategy shows evidence that Title III evaluation strategy is coordinated with the State's comprehensive plan for State evaluation of education;

(6) The strategy shows evidence of utilization of appropriate non-Title III State resources such as State instructional supervisors, State planning and research units and State statistical and data processing units for the evaluation of Title III;

(7) The State strategy for evaluation defines the responsibilities of the State advisory council for evaluation including its line of communication and working relationships with the State Title III staff, local project staff, and National Advisory Council and provides adequate technical, financial, and clerical assistance to the State advisory council to carry out this function; and

(8) The State evaluation strategy has a built-in provision for the evaluation of its own operation including control points to assess the effectiveness and efficiency of State and local evaluation activities.

(20 U.S.C. 844a(b)(6)(A)); (45 CFR 118.8 (b))

§ 6.8 *State strategy to evaluate the effectiveness of Title III projects on persons served and on the State-as-a-whole.*

(a) *Evaluating the effectiveness on persons served.*

The State strategy to document the effectiveness of Title III projects on persons served should include at least the following:

(1) A requirement that the local project's annual evaluation report be submitted to the State and include the following:

(i) Performance objectives stated in terms of what the learner is able to do, how he is to demonstrate what he can do, and the minimum acceptable standard of that performance whether it be in the cognitive, effective, or psychomotor domains;

(ii) Identification of the variables that might affect the project outcomes such as: (A) age, sex, socio-economic background of (a) age, sex, socio-economic background of the learner; (B) age, amount of training, amount of experience, enthusiasm, and sex of project staff members; and (C) the learning environment of school, home, and community.

(iii) Identification of process variables such as learner and teacher performance requirements, curriculum, instructional materials and equipment, school facilities, and duration and sequence of learner and teacher activities;

(iv) Identification of the major outcomes and explanation of reasons for such outcomes; and

(v) Identification of other factors that are crucial to the successful replication of the project.

(2) A plan for annual State on-site visits to monitor and audit the project's effectiveness on persons served; and a procedure for the collection and validation of evaluation data that will include the following:

(i) The strategy includes a comprehensive plan for data collection including a time schedule, identification of sources of information, and a copy of each instrument used, if any.

(ii) The kinds of information to be collected on on-site visits are identified including procedures for data collection and validation, and a copy of each instrument to be used.

(3) A plan for processing, analyzing, interpreting, and distributing such information that will include the following:

(i) A systematic routine for data processing and verification of data;

(ii) A comprehensive analysis plan including statistical treatments, if appropriate; and

(iii) An identification of the users of evaluation information and when and in what form the information is requested and supplied.

(b) *Evaluating the effectiveness on the State-as-a-whole.*

Title III makes possible a limited but concentrated attack on the State's selected critical educational problems by funding projects in order to demonstrate possible solution strategies. The effectiveness of Title III on the State-as-a-whole is largely determined by: how effectively and efficiently each project achieved its own objectives; how extensively the demonstration was institutionalized in the school district in which it was demonstrated; and how extensively the demonstration benefited other State school districts in solving similar educational problems.

(20 U.S.C. 844a(b)(6)); (45 CFR 118.8(b))

PART 7—VALIDATION OF EDUCATIONAL PRACTICES

§ 7.1 *An overview of validation.*

Each State educational agency is encouraged to bring about greater accountability in education through the validation of its Title III projects. Validation of Title III projects is a process of reviewing a practice to verify its credibility as an exemplary program through official and/or expert appraisal. The entire process of educational reform through diffusion can be accelerated through this process and the cost of change substantially reduced. Consequently, each State plan program should be effectively structured so as to increase the adoption and replication rate of projects funded under the Title III State Plan program.

(20 U.S.C. 844a(b)(6)(C)); (45 CFR 118.8 (d))

§ 7.2 *The validation process.*

State educational agencies should develop validation procedures and criteria for selecting and training the validation team and conducting the on-site visit, and for preparing the validation report through such measures as: (a) Developing the format for preparing the validation report; (b) developing the procedures for assessing the effectiveness and efficiency of the validation procedures; (c) developing a listing of successful activities for bringing about the adoption of validated practices; (d) developing criteria and procedures for identifying potential adopters of validated practices; and (e) developing a listing of alternative ways of organizing and coordinating the identification, validation, and dissemination of validated practices among various units of the State educational agency.

(20 U.S.C. 844a(b)(6)(C)); (45 CFR 118.8 (d))

PART 8—DISSEMINATION

§ 8.1 *The purpose of dissemination activities.*

(a) The purpose of the dissemination process in a State Title III program is to develop an awareness of, stimulate interest in, and provide opportunities for personal evaluations of Title III innovations. Its long-term goal is to facilitate the adoption and replication of tested educational innovations in the host school system and in other school systems throughout the State and Nation. Therefore, the local educational agencies, the State educational agencies, and the U.S. Office of Education should have distinct but complementary roles in dissemination.

(b) In planning State dissemination activities, distinction should be made between the needs of educational practitioners and those of the general public. Information for the public is designed primarily to cause citizen awareness and knowledge of new educational programs, while information for educators provides technical data to make it possible for educators to assess alternative solutions to local educational problems. The latter will rely more heavily upon interactions among professionals and less upon publicity and public relations programs. Though the two information streams may have common data sources and will often intermingle, their different purposes and final use destinations must remain distinctly in mind for each audience to receive the kinds of information needed in forms that are understood.

(c) Section 303 of the Act specifies that the objective of State Title III dissemination activities shall be the adoption of exemplary educational practices demonstrated by the Title III projects. This means that States should assume an active policy of identification of exemplary innovative projects, or components of them, and undertake a comprehensive program of diffusing the evaluation findings from these programs to other school systems. Thus the success of the State's dissemination activities will determine the success of the Title III program as a whole.

(d) Accountability has been built into a dissemination program. Such accountability makes evaluation not only important in terms of its own role in program operation, but changes the emphasis in evaluation from the conventional research-design type studies

of project outcomes to inclusion of evaluative data covering the context, process, and management of the project.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

§ 8.2 *The role of the State and local educational agencies, and the U.S. Office of Education.*

Section 303(c) of the Act provides funds for dissemination and Section 305(b)(6) of the Act gives the primary responsibility for the evaluation of Title III programs and projects, and the dissemination of the results of such evaluations and other information pertaining to such programs or projects to the State educational agency.

(a) *The role of the local educational agency.*

Local educational agencies should disseminate, locally, information which facilitates the adoption and adaptation of the innovation. They should not develop newsletters, filmstrips, films, and similar materials for audiences outside their project area. These dissemination materials should be mailed to local project constituents only. This is not meant to preclude local educational agencies from having some dissemination contacts with audiences outside the project area. Local educational agencies may address audiences larger than their own constituencies through professional journals and the established public media. They may also, upon request, loan films and other materials to agencies outside the project area and may develop descriptive materials on a project in order to answer inquiries from other agencies.

(b) *The role of the State educational agency.*

(1) It is desirable that State educational agencies develop procedures to assure that local project funds are not used for dissemination of information beyond the local project area which is defined as the geographic region where the persons served by the project reside. In approving project proposals for initial funding and for continuation, State educational agencies should review the local educational agencies' dissemination activities to ensure that they are consistent with State dissemination objectives and do not duplicate statewide dissemination efforts which should be included in the State plan.

(2) If, following an evaluation of a project, the State educational agency determines that an innovation is of such significance that broader adaptation or adoption of it should be encouraged, the State should use State administration funds authorized by Section 303(c) of the Act to disseminate the promising educational practices to other local educational agencies in the State.

(3) The amount of the project budget devoted to dissemination activities should bear a reasonable relationship to the size and progress of the project. For example, it may be desirable that the dissemination budget increase in amount during the second and third years as the project generates evaluation data supporting the project's effectiveness. It is the responsibility of States to establish procedures to improve the quality of dissemination activities and materials.

(4) The State educational agency should advise the U.S. Office of Education annually of those demonstration projects which it determines could have nationwide significance. The U.S. Office of Education's role will be to provide national dissemination of the identified innovations.

(c) *U.S. Office of Education dissemination program.*

(1) *National dissemination activities.*

The U.S. Office of Education in cooperation with the State educational agencies is modifying and expanding its responsibilities for national dissemination of the Title III program. Plans for national dissemination activities include the following:

(i) With the help of the States, the Office of Education will identify, validate, and encourage the adoption, as appropriate, of innovative and exemplary programs which hold promise of demonstrating ways of meeting critical national needs. This may include publications, films, conferences, and a variety of interpersonal activities;

(ii) As part of a continuing effort, the Office of Education will seek State educational agency cooperation to establish a repository of instructional and curricular materials developed by Title III projects. These include publications, films, and other print and nonprint educational materials. Annotated bibliographies of these materials will be revised annually and distributed to all State educational agencies and other appropriate agencies; and

(iii) Through the joint efforts of the U.S. Office of Education and the National Institute for Education pertinent information will be published regarding exemplary Title III projects.

(2) *Technical assistance to State and local educational agencies.* In addition to these activities, the U.S. Office of Education will, whenever possible, provide technical assistance to State and local educational agencies to aid them in improving their evaluation and dissemination programs. Technical assistance may be provided through the following activities:

(i) Whenever possible, Office of Education personnel will conduct and participate in State and regional conferences held in cooperation with local and State educational agencies, universities, and other educational and cultural organizations to encourage the development and implementation of effective dissemination strategies at State and local levels;

(ii) Wherever possible, the Office of Education will provide consultative services and conduct workshops to encourage the development of process as well as product evaluation techniques which will provide validated information on project findings for effective dissemination; and

(iii) The Office of Education will also continue to assist State educational agencies in their dissemination efforts by working to improve State dissemination plans.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

§ 8.3 *Management implications.*

The stress on accountability for the outcomes of the dissemination activities has several important implications for management of the Title III program and the dissemination efforts at the State level.

(a) *Organizational position of Title III program.* The location of the Title III program in the organizational structure of the State educational agency should enhance access by program personnel to central administrative personnel and to the various educational specialists throughout the State educational agency.

(b) *Dissemination personnel.* State educational agency personnel charged with dissemination responsibilities for Title III of the Act should have a broad knowledge of innovations in education, an understanding of the total educative process, and a sensitivity to the intricacies of the change process. They should be educators as well as information specialists.

(c) *Dissemination objectives.* The Title III mandate to disseminate information about and cause the adoption of promising programs requires close attention to the formulation of performance objectives for dissemination activities. Publications, films, meetings, visits, or other activities should be undertaken only when the disseminator has a preconceived idea as to what the behavior of participants should be in relation to causing the adoption of some new practice. Moreover, the disseminator should have in mind an acceptable level of response as a result of such activities. For example, if 100 persons are to be given a demonstration of a successful innovation, an acceptable level of response might be 10 persons requesting further assistance to introduce some aspect of the program in their own schools. Specificity of dissemination objectives also makes evaluation of the dissemination activities easier.

(d) *Relationship of State needs assessment and dissemination.* The Title III dissemination activities should relate directly to the State's critical educational needs including those in special education as identified by the Title III needs assessment. These needs will help dictate the priority ranking of dissemination objectives.

(e) *Dissemination strategies.* When developing educational change strategies, dissemination planners need to be aware of the several stages of the change process. As stated in § 3.1 of Chapter II of these guidelines, these stages are awareness, interest, evaluation, trial, and adoption. Most superintendents of schools do not attempt to introduce an innovation unless they have some opportunity for person-to-person or on-site evaluation of the new practice. It is, therefore, important that the State disseminator accept the responsibility not only to develop an awareness and interest in innovations, but also to provide personalized opportunities for educators to examine and evaluate innovations on-site and in operation.

(f) *Linkage of evaluation and dissemination.* A linkage between State evaluation and dissemination efforts should be given management consideration. Since the primary dissemination objective is the replication of exemplary practices, the disseminator needs to utilize information collected by evaluators and to understand the level of validity of that information. Since evaluation findings are useful to the educational community only if they contain the kinds of information practitioners need in order to make decisions about their feasibility for their own schools, planning for evaluation should be coordinated with the planning for dissemination.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

§ 8.4 *Nature and assignment of dissemination responsibilities.*

Although the organizational structures for administering the Title III program vary among the different States, attention should be given to the following responsibilities when planning Title III dissemination activities:

(a) *Organization.* If the public information component of the State educational agency is committed primarily to handling the necessary press and speech activities of the Chief State School Officer, the Governor, or the State legislative body, consideration should be given to establishing a separate unit for program dissemination activities. Such a unit might have responsibilities for coordinating all technical information activities in the State, including that of Title III.

(b) *Information retrieval.* Rapid retrieval of information about research and practice is important to the process of innovating. Therefore, the State should take the initiative to activate a service for Title III applicants and others in the State agency and in school districts who may need information about promising new ideas. Each State should have, in a central location, the Educational Research Information Center of the U.S.

Office of Education and the National Institute for Education (hereinafter referred to as ERIC) collection of microfiche and other documents, with personnel assigned to conduct searches on demand. Provision should be made to have access to other information services in the State, some of which are found in regional centers and on campuses of colleges or universities.

(c) *Dissemination of project materials.* Teaching and curricular materials and films developed through Title III projects should be identified, collected, and evaluated systematically by the State educational agency. Strategies should also be developed to promote usage of such materials by other school districts in the State. Promoting and facilitating usage may include developing limiting copyright arrangements with educational publishers, reprinting by the State educational agency, and other appropriate means such as providing a copy to a nonprofit organization (such as Xerox's University Microfilm Division in Ann Arbor, Michigan) for promotion and reproduction.

(d) *Dissemination of evaluation findings.* Coordination of evaluation and dissemination efforts should be maintained in order to provide the disseminators with validated findings about exemplary programs for further dissemination within the State and for reporting to the U.S. Office of Education.

(e) *Technical assistance to local educational agencies.* The State has the responsibility for monitoring all local project dissemination activities to assure that project funds expended for dissemination are used mainly for dissemination in the project area and not, unless authorized by the State, for statewide or national dissemination. The State also should provide technical assistance to the local educational agencies to assist them in developing dissemination objectives and designing change strategies at the local level so as to influence local adoption of the Title III project at the end of the project period.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

§ 8.5 *Criteria for determining adequacy of State plan provisions for dissemination.*

The following criteria should be used to determine the adequacy of State provisions for dissemination of the Title III programs and are included here as a guide to States in their development of an effective dissemination program:

(a) *The adequacy of the underlying principles:*

(1) The dissemination program facilitates desirable educational change through identifying, validating, and promoting the adoption or adaptation of promising and exemplary practices supported by Title III of the Act.

(2) The dissemination program is predicated on the availability and validity of evaluation findings concerning the projects operations and outcomes.

(3) Dissemination activities are related to written performance objectives for selected audiences according to expressed or known needs for information.

(4) Both State and local dissemination programs are based on a knowledge of the kinds of communication channels available and their area of impact (including public media, technical journals or house organs, and other communication channels, including decisionmakers).

(b) *The adequacy of administrative provisions for dissemination considerations.*

(1) Personnel engaged in the State dissemination process have (i) understanding and experience with the educational process, (ii) experience and skills in communication, and (iii) knowledge of the complexities of the change process.

(2) The amount of the dissemination budget reflects the high priority given this activity by the legislation.

(3) In organizing the dissemination program, the public information activities and the technical or program information activities are adequately distinct but carefully coordinated.

(c) *The adequacy of objectives and activities.*

(1) Activities are planned which will retrieve, analyze, and make accessible descriptions and evaluations of project operations and outcomes.

(2) Activities are planned which will cause an awareness and interest in projects on the part of appropriate educators in the State.

(3) Activities are planned which will provide opportunities for educators to examine and evaluate the operating qualities of the innovations in projects.

(4) Activities are planned which provide technical assistance to those who show a desire to install the innovation in their school.

(5) Activities are planned which will inform the general public about innovations being demonstrated through Title III in the State.

(6) Activities are planned which will retrieve and evaluate instructional materials produced by projects, forward significant materials to the U.S. Office of Education for ERIC and other systems, and which will disseminate them appropriately within the State.

(d) *The adequacy of evaluation of dissemination efforts.*

(1) Dissemination plans include provisions for receiving feedback from communications for purposes of evaluating their impact.

(2) There is evidence that appropriate activities are planned to ensure that evaluation designs of local projects will produce information needed for dissemination locally and statewide.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

§ 8.6 *Criteria for an effective dissemination program at the local level.*

The following criteria should serve as a guide for State agency personnel as they work with local projects in developing and monitoring dissemination components in Title III projects.

(a) *Planning and managing the dissemination program.*

(1) Provision is made for substantive involvement of potential information users in the planning of the dissemination program.

(2) Provision is made for continuing internal communication among project staff about the project.

(3) Provision is made to conduct studies to determine the mores, economic status, political processes, and social structure of the community.

(4) There is a commitment to dissemination, as evidenced by identifiable items in the project budget.

(5) Provision is made for coordination and cooperation with other information services in the school system and the community, including appropriate public media.

(6) Consideration is given to the means of handling audience responses to communications being planned.

(7) Consideration is given to the possible conflict between the project objectives and the values and objectives of the school and community.

(b) *Dissemination objectives.*

(1) The dissemination objectives should relate well to project objectives.

(2) The dissemination objectives should be written and available.

(3) The dissemination objectives should specify desired audience reactions to the dissemination activities.

(4) The dissemination objectives should include performance criteria and time constraints and are feasible in terms of available funds.

(5) The dissemination objectives should reflect knowledge of the adoption stages (awareness, interest, evaluation, trial, and adoption) and of the characteristics of the potential adopters (innovators, early adopters, early majority adopters, late majority adopters, and laggards).

(c) *Dissemination personnel.*

(1) The project dissemination staff should be knowledgeable about the change process and understand the administrative and instructional processes of education.

(2) This staff should possess writing and oral communication skills and be skilled in interpersonal relations.

(d) *The dissemination strategies and approach.*

(1) The approach should be that of tact, "soft sell," and objectivity.

(2) The approach should be flexible, reflecting various strategies, viz, research-centered, and cost-benefit.

(3) The approach should consider all those who are involved in the education decisionmaking process.

(4) The approach should be that of problem-solving and removing blocks to change.

(5) The techniques should be appropriate to the times and conditions, as shown by variability and creativity in the use of committees, conferences, demonstrations, administrative edicts, media and the like.

(e) *The use of communications for dissemination purposes.*

(1) Communications should be based on verified needs for information by clients.

(2) The selected medium or media should be appropriate for the message and for the intended audiences.

(3) The messages should be adapted to the various stages in the change or adoption process.

(4) Wherever possible, the messages should be designed to solicit feedback.

(5) The messages should be of good technical quality.

(6) The messages should relate to decisionmaking time lines of the project and the school system.

(7) The messages should be pre-tested with appropriate audiences to determine their relevance, clarity, validity, timeliness, and practicality.

(8) The messages should be in a considered order according to priorities as to who should receive them first, second, etc.

(f) *Evaluation in the dissemination process.*

(1) Provision should be made to determine and record relative effectiveness of various strategies and communications in order to alter strategies as the situation changes.

(2) Dissemination designed to encourage the adoption of innovation should be based upon objective evaluation data.

(20 U.S.C. 844a(b)(6)(B)); (45 CFR 118.8 (c))

PART 9—ADOPTION

§ 9.1 *The importance of adoption.*

A major objective for Title III of the Act is accomplished when it can be shown that a significant number of adaptations and replications of programs demonstrated by Title III have taken place in the State. In addition, it is hoped that a high proportion of the programs will be continued in substantially the same form by the applicant local educational agency after the period of Federal funding ends. The State therefore,

should plan activities to facilitate the adoption of validated projects.

(20 U.S.C. 844a(b)(6)(C)); (45 CFR 118.8 (d))

§ 9.2 *Criteria for an effective adoption program.*

The following criteria should serve as a guide for State educational agency personnel as they work with local projects in developing and monitoring adoption components in Title III projects.

(a) Activities are planned which orient project personnel to their demonstration function and to their role as catalysts for change in their community and State.

(b) The data collection plan includes practitioner-oriented information, such as cost effectiveness data and context and process information.

(c) Activities are planned which use project personnel to teach and train potential adopters.

(d) Activities are planned which identify the potential adopters of projects being demonstrated.

(e) Activities are planned which identify and describe the formal and informal communications network which passes on information concerning innovations in the State.

(f) The dissemination activities of projects are reviewed to assure credibility so as to not promise more than the project can deliver.

(20 U.S.C. 844a(b)(6)(C)); (45 CFR 118.8 (d))

PART 10—GUIDANCE, COUNSELING AND TESTING PROGRAMS

§ 10.1 *Purposes.*

All guidance counseling and testing programs or projects under Title III of the Act should, in some justifiable way, be related to one of the purposes stated in §§ 118.10 and 118.11 of the regulation. These purposes are primarily educational-vocational in nature. However, personal-social areas of development are also important to success in educational-vocational planning and achievement. The definition of "guidance and counseling" in § 118.8 of the regulations includes assistance in personal-social development, including the development of a positive self-concept. This is particularly necessary in relation to elementary school guidance programs. Projects in the areas of school health, psychological and social work services might be combined with guidance counseling testing programs or projects to provide comprehensive programs of guidance, counseling, and testing, and other pupil personnel services.

(20 U.S.C. 843(b)(4)); (45 CFR 118.2, 118.8, 118.10, 118.11, 118.14)

§ 10.2 *Division of staff.*

It is suggested that staff responsibilities and functions be divided into administrative and supervisory and leadership activities:

(a) *Administration activities.*

Activities pertaining to "administration" would include, but would not necessarily be limited to, State plan review, project review, Title III fiscal activities, project approval, the mechanics of project management and policy development. Conversely, activities which would likely not pertain to "administration" would include, but would not necessarily be limited to, supervisory activities, supervisory staff development, leadership activities, and project development.

(b) *Supervision and leadership activities.*

Programs of State supervision and leadership may include the following activities: (1) Organization, general direction, and coordination of the guidance, counseling, and testing programs established under the plan; (2) planning State programs and assisting in the planning of local programs; (3) assisting local guidance personnel in establishing, maintaining, or improving programs; (4) planning and preparing materials and information for State and local programs; (5) planning innovative or exemplary guidance, counseling, and testing programs; (6) demonstrating through pilot programs, or otherwise, guidance, counseling, and testing procedures and techniques; (7) evaluating the results of guidance, counseling, and testing programs; and (8) such other related activities as may be necessary for the organization, maintenance, and improvement of programs or projects established under the plan.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii), (b)(7) and (8)); (45 CFR 118.10, 118.11, 118.14)

§ 10.3 *Program content.*

Guidance, counseling, and testing programs may include the following activities to the extent that they are carried out by utilizing procedures and techniques appropriate to the educational levels of the students:

(a) Collecting, organizing, and interpreting such information as may be appropriate to the understanding of the student's abilities, aptitudes, interests, and other personal assets and liabilities related to educational readiness and progress and to career planning and development;

(b) Making available to the student and his parents such educational and career information as may be essential for them to understand the educational process and the various educational and career opportunities and requirements related to the choice of an educational program and a career;

(c) Providing individual counseling (1) to help the student and his parents develop a better understanding of the student's educational and occupational strengths and weaknesses; (2) to help the student and his parents relate his abilities and aptitudes to educational and career opportunities and requirements; (3) to help the student, with the assistance of his parents, make appropriate educational plans, including the choice of courses and the choice of an institution of higher education; (4) to stimulate desires in the student to utilize his abilities in attaining appropriate educational and career goals; and (5) to provide the student, directly or through arrangements with other appropriate resources, with such assistance as may be needed for the development of his aptitudes and the full utilization of his abilities;

(d) Providing services to encourage and assist students in making educational transitions, such as placement in the next educational level, and in securing appropriate employment during and upon completion of the educational program;

(e) Providing such group activities as may be necessary to orient students and their parents to the (1) school program including its offerings, services, and requirements; (2) educational opportunities and requirements at the next level; and (3) career opportunities and requirements;

(f) Providing to teachers and school administrators such assistance and information about individual students or groups of students as may be necessary to enable them to plan and implement curricular and instructional programs and services which will afford students maximum and equal opportunity for educational development and which will be consistent with the manpower needs of the State and the Nation; and

(g) Collecting and analyzing such information as may be needed to evaluate the guidance counseling and testing program and to provide such guidance information as may be available and needed to evaluate the school's program in terms of the educational needs of the students and of the State and the Nation.

(20 U.S.C. 843(b)(4)); (45 CFR 118.10, 118.11))

§ 10.4 *Additional criteria for the approval of guidance and counseling projects.*

In addition to the criteria listed in § 118.24 of the regulations, the State may wish to consider the following criteria in approving guidance and counseling projects: (a) the guidance and counseling activities to be provided and the grade levels of students who are to be the participants in such activities; (b) the duties of and qualifications for local guidance and counseling positions; (c) the ratio of students to each full-time local guidance and counseling position or its equivalent; (d) the physical facilities, equipment, and materials to be available for the conduct of guidance and counseling activities under the plan; (e) supervisory methods and procedures to be employed in local guidance and counseling projects; and (f) coordination methods and procedures to provide assurance of appropriate relationships between the local guidance and counseling program under the plan and other related services available to students.

(20 U.S.C. 843(b)(4)); (45 CFR 118.10, 118.11)

§ 10.5 *State Advisory committee.*

A State may choose to establish a guidance, counseling, and testing advisory committee either on an ad hoc or continuing basis to deal more fully and explicitly with advisory matters relating to guidance, counseling, and testing program development. A liaison relationship, however, should be maintained with the State's Title III advisory council to coordinate and relate the State's overall program development strategy to the total resources under Title III of the Act.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(ii)); (45 CFR 118.10, 118.11, 118.24)

PART 11—OTHER PROGRAM CONSIDERATIONS

§ 11.1 *Handicapped children.*

(a) *Funding decisions.*

Determination of the percentage of program dollars used for the handicapped under each Title III project should be the joint responsibility of the State department of education's unit on education of the handicapped and the State department of education's unit on Title III. Whatever the level, it should be mutually determined and evidence to this effect should be presented in the State plan.

(b) *Types of projects which can be designed.*

Projects providing services for the handicapped under the Title III State plan programs may or may not be a part of the larger Title III project and in either situation may serve one or more types of handicapped children, as explained in the following:

(1) Title III projects should not emphasize "meeting the needs of handicapped children" but rather demonstrate the solution to critical educational problems of the handicapped in the State. Once an acceptable and proven practice has been demonstrated, efforts should be made to encourage its adoption throughout the State and its operation with funding from sources other than Title III.

(2) The total Federal effort in behalf of the handicapped is to provide through mutuality of planning at the local, State, and Federal levels a continuum of services for this segment of our population. Title III programs

for the handicapped should be seen as a means to ensure this continuum, but they must also be seen as a demonstrative and catalytic part and not as a basic support effort. The mutuality of planning between the Title III coordinators and the State special education personnel should also lead to the development of large, easily identifiable projects and programs which are designed to demonstrate ways to solve one or more critical problems in the field of education of handicapped children. It is more desirable to have one or two well-conceived projects seeking to demonstrate solutions in critical problem areas within a State as defined by the Title III coordinators, the State's needs assessment, or the State Title III advisory council, and/or the State special education units, than to have many projects or programs which will not be exemplary or innovative. With this type of provision of services the concern for percentages of funds set aside for the handicapped will be lessened and the dedication to solving mutually identifiable problems through model education approaches for the handicapped will be increased.

(c) *Bureau of Education for the Handicapped; Assistance to State and local educational agencies.* Staff from the Bureau of Education for the Handicapped of the U.S. Office of Education, when requested, will assist local and State educational agencies in cooperation with the Bureau of School Systems of the U.S. Office of Education in developing projects and State plans by making available staff, when possible, or by locating in the State or region competent personnel for such assistance. In the event staff are not available, States may arrange to send their personnel to Washington for consultation.

(20 U.S.C. 844a(b)(8)); (45 CFR 118.26)

§ 11.2 *Local project administration.*

(a) *Continuation and discontinuation of projects.* To accomplish the objectives of Title III of the Act, provisions should be made to continue the support of promising projects as well as to terminate those projects which prove to be ineffective or unsuccessful as set forth in § 118.27 of the regulations. Only those projects which have been evaluated and can provide objective data which demonstrate that they are successfully meeting their objectives should be continued. These projects should continue to serve as models so that other school districts can adopt or adapt those practices which have been validated as being successful.

(b) *Extension of project or budget period.* When progress under the grant is delayed and circumstances make it necessary to request an extension of either the project period or the budget period, or both, without additional funds, the local educational agency should make a written request to the State educational agency. (Where it appears that the activity to be accomplished within the project period or the budget period, or both, will be completed within three (3) months after the expiration date, it will not be necessary to request an extension. However, if it appears that the time required will exceed three (3) months, the Title III coordinator should be informed and an extension requested).

(20 U.S.C. 844); (45 CFR 118.27)

§ 11.3 *Participation of children from private nonprofit schools.*

(a) *Providing information.* State educational agencies should assure that private school children receive the Title III benefits to which they are entitled under the legislation, by taking action to:

(1) Provide information to local educational agencies through workshops and other means concerning the organizational structure of private schools in the State and providing the names of appropriate persons to contact in the private school structure; and

(2) Provide information to representatives of private school children in the State concerning eligibility of and provisions for voluntary participation by private school children in Title III programs and projects.

(b) *Extent of involvement.* Whenever private school children are eligible, the local educational agency should ask the representatives of the eligible private school children whether they desire to participate in the planning of the project. Where it is appropriate, representatives of private school children should be involved in the local needs assessment and in the planning of projects at the very beginning, so that the needs of private school children are considered in conjunction with the needs of public school children in the development of a proposal. In addition, it is suggested that these representatives be asked to participate in the evaluation process.

(c) *Monitoring projects.* The State educational agencies should monitor each approved Title III project which involves private school children and assure that it benefits eligible private school children in the project area who desire to participate on an equitable basis with public school children benefited by the project. If a local educational agency is serving more than one need through separate components of a coordinated project proposal, each component should be open to all eligible children in both the public and nonpublic schools.

(d) *Approval of projects.* Project proposals that benefit only public school children should not be approved if there are private school children attending school in the area to be served unless the representatives of eligible private school children in the project area have formally indicated that the eligible private school children do not wish to participate or do not have their needs served by the proposed project.

(e) *Types of services.* During the operational phase of the project, many different types of arrangements for providing services might be made. For example, dual enrollment programs, mobile units, visiting personnel, after-school activities, central libraries, or museums could provide educational opportunities to children and teachers in private nonprofit schools.

(f) *Facilities.* In many communities, public facilities will not be equipped to receive a large influx of private school students, nor will sufficient resources be available to construct or lease a facility. Services may be provided on private school premises when it is not feasible or practical to provide such services on public premises.

(g) *Salaries.* Section 118.15(c)(1) of Title 45 CFR prohibits the payment of salaries to private school teachers; however, stipends are of a different nature and may be paid to private school personnel attending Title III inservice training programs. Further, that section of the regulations should be interpreted to prohibit the payment of the salary of a teacher who is teaching in the regular school program of a private school as a substitute for a private school teacher receiving inservice training supported under Title III of the Act. Private school teachers may receive payments with Title III funds for travel allowances, luncheon expenses, and similar costs when attending approved Title III inservice training programs. However, State educational agencies should not pay a fee to a private school teacher where such fee is not a normal training stipend but is for the specific purpose of paying for a substitute for the regular classroom duties of a trainee teacher.

(h) *Equipment.* Equipment purchased with Title III funds may not be permanently assigned to or placed on private school premises; however, project personnel performing services on private school premises may bring on the private school premises those necessary "tools of their trade" which are capable of being removed from the premises each day. Such equipment may be left on private nonprofit school premises for short periods of time as necessary to conduct particular Title III activities.

(20 U.S.C. 844(b)(2)(B), 845(f)(1), 855); (45 CFR 118.15, 118.19)

§ 11.4 *Suggested project numbering system.*

It is suggested that the following system be used for numbering Title III projects to bring about uniformity among the States:

State No.	Year project submitted	Project No.	Initial grant (0) continuations (1, 2)
25.....	1974	0212	2

The numbers assigned to each of the States are as follows:

10 Alabama	40 New Jersey
11 Alaska	41 New Mexico
12 Arizona	42 New York
13 Arkansas	43 North Carolina
14 California	44 North Dakota
15 Colorado	45 Ohio
16 Connecticut	46 Oklahoma
17 Delaware	47 Oregon
18 District of Columbia	48 Pennsylvania
	49 Rhode Island
19 Florida	50 South Carolina
20 Georgia	51 South Dakota
21 Hawaii	52 Tennessee
22 Idaho	53 Texas
23 Illinois	54 Utah
24 Indiana	55 Vermont
25 Iowa	56 Virginia
26 Kansas	57 Washington
27 Kentucky	58 West Virginia
28 Louisiana	59 Wisconsin
29 Maine	60 Wyoming
30 Maryland	61 American Samoa
31 Massachusetts	62 Canal Zone
32 Michigan	63 Guam
33 Minnesota	64 Puerto Rico
34 Mississippi	65 Virgin Islands
35 Missouri	66 Bureau of Indian Affairs
36 Montana	
37 Nebraska	67 Trust Territory of the Pacific Islands
38 Nevada	
39 New Hampshire	

(20 U.S.C. 844a(b)(11)); (45 CFR 118.16)

CHAPTER III—LOCAL PROGRAM DEVELOPMENT AND OPERATION

PART 1—PROJECT PROPOSAL SUBMISSION PROCESS

§ 1.1 *Dates of submission.*

(a) The State may wish to establish several submission dates during the year for the submission of project applications by local educational agencies or to limit dates to one or two per year. Before establishing submission dates, the State agency should give consideration to the funding and fiscal policies of the State, the school year calendar, the State's fiscal year, and the anticipated funding level.

(b) States may wish to consider using January or February as periods for submission of project applications from local educational agencies for the following reasons: information regarding appropriations is more likely to be available; considering time necessary for review, approval, and negotiation, the budget periods would then more nearly

parallel budget development and staff recruitment in the local school district; funding near the end of a fiscal year would allow program administrators at the State level more latitude in funding from the prior fiscal year or the new fiscal year; and mid-year project termination, with its concomitant staff release problems would be alleviated.

(20 U.S.C. 844); (45 CFR 118.23(b))

§ 1.2 *Letter of intent.*

A State may wish to use the "letter of intent" system which permits the local educational agency to submit a letter indicating its intent to submit a formal proposal. The letter should include an abstract of the intended proposal.

(20 U.S.C. 844); (45 CFR 118.23(b))

PART 2—FUNDING PROCESS

§ 2.1 *Project period.*

(a) Under § 118.27(a) of the regulations the State educational agency is required to formulate a general policy concerning the total period of time for which a project may be supported with funds under Title III (project period). In order to conserve funds for new projects, the State would want the project period generally not to exceed three (3) years. The State's policy on project periods should emphasize the necessity for phasing out Federal support of local projects and for gradual incorporation of project activities into the regular school program.

(b) It is recommended that the project period exceed three years only in two situations:

(1) For those projects which have been evaluated and validated by the State educational agency as successfully meeting their objectives and actually demonstrating a solution to one of the critical educational needs of the State, and upon recommendation of the State advisory council, a grant for an additional period of time for purposes of serving as a demonstration site for potential adopters may be approved as part of the State educational agency dissemination program; and

(2) In cases where it is determined that a time extension is required to assure adequate completion of the project, and when an extension is requested in writing at least sixty (60) days prior to the end of the project period, the project may be extended for a period not to exceed ninety (90) days utilizing unexpended project funds.

§ 2.2 *Grant terms and conditions.*

Each grant document used by a State educational agency should have specific terms and conditions which are attached to the grant document to assist the State in the development of the grant document.

(20 U.S.C. 844); (45 CFR 118.27)

PART 3—PROJECT DESIGN AND ACTIVITIES

§ 3.1 *Project design.*

(a) *The proposal.* The project proposal should define the entire scope of work that the applicant wishes to accomplish during the project period. A project may consist of one or a combination of the following major activities: planning programs, conducting one or more pilot programs, or conducting operational activities. If groups of students within a school district have demonstrably different but similarly pressing needs, the local educational agency may, through an innovative or exemplary demonstration project, serve more than one need as separate components of a coordinated project proposal.

(b) *Project functions.* Project functions may be categorized in general terms—planning programs, conducting pilot programs, conducting operational programs—and described as follows:

(1) *Planning programs.* In formulating a solution to a problem or in designing a new program, adequate planning is a vitally important function and a proper objective under Title III of the Act. Planning normally involves utilization of persons with expertise in the areas involved, including representatives from public and private nonprofit elementary and secondary schools and the best material resources available to assist in the design of pilot and operational activities. For example, since the primary educational resource is the local educational agency, representative teachers and other school personnel whose professional activities would be affected by a particular project, should be directly involved in all stages of its development.

(2) *Pilot programs.* Conducting pilot programs to test the feasibility of innovative designs on a small scale can be a valuable part of development, provided that objectives and procedures are clearly stated and that results of the effort will give definite direction to a later demonstration of the innovation if it proves to have promise.

(3) *Operational programs.* An operational program is a full-scale demonstration of an educational innovation which should include measurable objectives, a comprehensive evaluation system, an effective management system, staff development activities, provisions for community involvement, and an adequate dissemination program. It should emphasize effective use of technology combined with new and better utilization of manpower rather than the acquisition of hardware or the extensive construction of new facilities. For example, feasible alternatives to building new facilities might be the more effective use of existing facilities, the remodeling of existing structures, or the leasing of facilities.

(20 U.S.C. 844a(b)(7)); (45 CFR 118.23, 118.25)

§ 3.2. *Project activities.*

(a) *Professional staff development.*

(1) Professional staff development programs or inservice education activities involving Title III staff members and other appropriate school personnel are important in meeting project objectives. Staff development programs should be directly related to enhancing those staff competencies and attitudes which will contribute to the attainment of project goals.

(2) Title III project funds can be used for the employment of consultants, payment of stipends to participants, essential travel, and other direct costs necessary for the effective conduct of staff development programs.

(3) The following are examples of criteria that could be used to determine the adequacy of professional staff development activities in a local project: (i) Extent to which the activities are part of an organized, continuing process with definitive objectives; (ii) extent to which the activities are based on the assessed needs of the local educational agency; (iii) extent to which plans for staff development activities involve training of personnel at each level in the local educational agency, i.e., decision-makers, project staff, and teachers cooperating in projects; and (iv) extent to which staff development activities include provisions for determining effectiveness of those activities.

(20 U.S.C. 843(b)(4), 844a(a)(1) and (b)(1)(B)(i) and (ii)); (45 CFR 118.22(c))

(b) *Educational accountability.*

In an effort to assure the quality of the Title III projects, an accountability system should be instituted at the local agency level which will include the following twelve (12) factors:

(1) *Community involvement:* The utilization of members of concerned community groups in appropriate phases of project activity to facilitate: project access to community resources; community understanding of project objectives, procedures, and accomplishments; and the discharge of project responsibilities to relevant community client, service, and support groups;

(2) *Developmental assistance:* The means for providing adequate resources in project planning, implementation, operation, and evaluation by drawing upon community, business, industrial, labor, educational, scientific, artistic, social/welfare, and governmental agencies for expertise and services necessary to effective operations;

(3) *Needs assessment:* The identification of the educational needs of children in the cognitive, effective, and psychomotor domains of learning;

(4) *Change strategies:* The development of effective strategies for systematic change in the educational enterprise and the incorporation of the strategies in project operations;

(5) *Management systems:* The adaptation of the systems approach, through such techniques as Management by Objectives (MBO), Program Planning and Budget System (PPBS), Program Evaluation and Review Techniques (PERT), and Critical Path Method (CPM), to educational project management at the local, State, and Federal levels;

(6) *Performance objectives:* The specification of project objectives in a comprehensive, precise manner which indicates measures and means for assessing the degree of attainment of predetermined standards;

(7) *Performance budgeting:* The allocation of fiscal resources in accordance with project objectives to be realized, rather than by objects or functions to be supported;

(8) *Performance contracting:* The arrangement for technical assistance in project operations through contracts which condition compensation upon the accomplishment of specified performance objectives;

(9) *Staff development:* The determination of the nature and extent of staff development needed for the successful implementation of the accountability concept at the local, State, and Federal levels, and the design and conduct of indicated development activities;

(10) *Comprehensive evaluation:* The establishment of systems of performance control based on the continuous assessment of project operational and management processes and resultant products;

(11) *Cost effectiveness:* The analysis of unit results obtained in relation to unit resources consumed under alternative approaches to project operation, as a determinant in continued project planning; and

(12) *Program auditing:* A performance control system based upon external reviews conducted by qualified outside technical assistance, designed to verify the results of the evaluation of an educational project and to assess the appropriateness of evaluation procedures for determining the effectiveness of project operation and management.

(20 U.S.C. 844a(b)(1), (2)(6)); (45 CFR 118.8)

[FR Doc.75-29146 Filed 10-31-75;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 13, Amendment 7]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business Special Trade (Construction) Industries

On August 19, 1975, there was published in the FEDERAL REGISTER (40 FR 36148) a notice that the Small Business Administration proposed to increase the definition of special trade contractors for the purpose of bidding on Government procurements and obtaining an SBA loan from average annual receipts of $1 million or $2 million, depending on the industry involved, to average annual receipts of $5 million.

The comments received on the proposal were overwhelmingly favorable and we have decided to adopt the proposed increase for the purpose of bidding on Government procurements. However, because of certain administrative problems, we are taking a further look at the proposed increase for the purpose of financial assistance and will make our decision thereon as soon as possible.

Accordingly, the Small Business Size Standards Regulation, Revision 13, is further amended by revising Schedule H of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations to read as follows:

SCHEDULE H.—*Annual receipts size standards for purpose of bidding on procurements for construction—special trade contractors*

Census classification code	Industry, subindustry, or class of products	Average (3 yr) annual receipts size standard (maximum, in millions)
	Major group 17—construction—special trade contractors:	
1711	Plumbing, heating (except electric), and air-conditioning	$5
1721	Painting, paperhanging, and decorating	5
1731	Electrical work	5
1741	Masonry, stone setting, and other stonework	5
1742	Plastering, drywall, acoustical and insulation work	5
1743	Terrazzo, tile, marble, and mosaic work	5
1751	Carpentering and flooring	5
1752	Floor laying and other floorwork, not elsewhere classified	5
1761	Roofing and sheet metal work	5
1771	Concrete work	5
1781	Water well drilling	5
1791	Structural steel erection	5
1793	Glass and glazing work	5
1794	Excavating and foundation work	5
1795	Wrecking and demolition work	5
1796	Installation or erection of building equipment, not elsewhere classified	5
1799	Special trade contractors, not elsewhere classified	5

Effective Date: This amendment shall become effective December 3, 1975, but shall apply only to procurements for which invitations for bids or requests for proposals are issued on/or after such effective date.

(Catalog of Federal Domestic Assistance Program No. 59.009, Procurement Assistance)

Dated: October 21, 1975.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.75-29431 Filed 10-31-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-SW-70]

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

Alteration of Control Zones

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redescribe the Altus, Okla., and Little Rock, Ark. (Little Rock AFB), control zones without reference to the outer marker beacons which have been decommissioned.

Since these changes are editorial in nature and do not alter the control zones as described in Part 71 of the Federal Aviation Regulations, public comment is not considered necessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the Federal Register, as hereinafter set forth.

1. In § 71.171 (40 FR 354), the Altus, Okla., control zone is amended to read:

ALTUS, OKLA.

Within a 5-mile radius of the Altus AFB (latitude 34°39'40" N., longitude 99°16'30" W.); within 2 miles each side of the Altus AFB ILS localizer S course, extending from the 5-mile-radius zone to 3.8 miles S of the 5-mile radius; and within 2 miles each side of the Altus AFB TACAN 185° radial, extending from the 5-mile-radius zone to 9 miles S of the TACAN, excluding that airspace within a 1½-mile radius of the Altus, Okla., Municipal Airport (latitude 34°41'57" N., longitude 99°20'21" W.).

2. In § 71.171 (40 FR 354), the Little Rock, Ark. (Little Rock AFB), control zone is amended to read:

LITTLE ROCK, ARK. (LITTLE ROCK AFB)

Within a 5-mile radius of Little Rock AFB (latitude 34°55'05" N., longitude 92°08'45" W.), within 1.5 miles each side of the ILS localizer northeast course extending from the 5-mile-radius zone to 1 mile east of the 5-mile radius, within 1.5 miles each side of the Jacksonville TACAN 076° radial extending from the 5-mile-radius zone to 6.5 miles east of the TACAN, within 2 miles each side of the extended centerline of runway 24 extending from the 5-mile-radius zone to 6 miles southwest of the airport, and within 1.5 miles each side of the Jacksonville TACAN 241° radial extending from the 5-mile-radius zone to 7 miles southwest of the TACAN.

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

Issued in Fort Worth, Tex., on October 21, 1975.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.75-29415 Filed 10-31-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM-75-25]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Certification of Pipeline Transportation Agreements; Order Granting Reconsideration for Purposes of Further Consideration

OCTOBER 24, 1975.

On August 28, 1975, the Commission issued its Order No. 533, which adopted § 2.79 of the Commission's General Policy and Interpretations, setting forth a statement of policy with respect to the transportation by jurisdictional pipelines of nautral gas sold by certain producers from the on-shore and the off-shore nonfederal domain to non-resale industrial and commercial customers for high priority uses. Applications for rehearing of this order were filed jointly by Consumer Federation of America and the American Public Gas Association (Consumer Federation-APGA) on September 26, 1975, and severally by Florida Cities on September 29, 1975, and Cities Service Oil Company (Cities) on September 26, 1975. In addition, requests for clarification were submitted by Phillips Petroleum Company (Phillips) on September 29, 1975, and Transcontinental Gas Pipe Line Corporation (Transco) on October 3, 1975.

Section 19(a) of the Natural Gas Act provides that any person "aggrieved by an order" of the Commission "may apply for rehearing within thirty days after the issuance of that order" and that such a petition, if not acted upon "within thirty days after it is filed, . . . may be deemed to have been denied."

Despite petitioners' characterization of their applications as petitions for rehearing, we note that Order No. 533 was a statement of policy and, therefore, that applications for rehearing do not lie. Nevertheless, we intend to consider the matters raised by petitioners, and to provide us with adequate time to fully consider the issues presented, we will grant reconsideration of Order No. 533 solely for the purpose of further consideration. This action does not constitute a grant or denial of any or all of the petitions on their merits in whole or in part.[1]

[1] *Area Rate Proceeding, et al. (Southern Louisiana Area)*, 40 FPC 1091 (1968).

The Commission orders:

The petitions for reconsideration of Order No. 533 filed by Consumer Federation—APGA, Florida Cities, Cities, Phillips, and Transco are granted for the sole purpose of further consideration of Order No. 533.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29409 Filed 10-31-75;8:45 am]

[Docket No. R-393]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Small Producer; Joint Consideration of Applications for Rehearing

OCTOBER 23, 1975.

The Commission in Opinion No. 742, issued August 28, 1975 in the above-entitled proceeding, amended its regulations pertaining to sales by small producers under the blanket certificate procedure established in Order No. 428.[1] Opinion No. 742, 40 FR 41769, provides, inter alia, that if the contractually authorized rate does not exceed 130 percent of the Commission-determined base ceiling rate applicable to a comparable large producer sale, the rate may be charged and received by the small producer and paid by the purchaser, as the lawful, just and reasonable rate approved by the Commission pursuant to Sections 4, 5, and 7 of the Natural Gas Act.

Applications for rehearing have been filed by a number of parties with respect to Opinion No. 742. The first application for rehearing was filed by Shell Oil Company (Shell) on September 23, 1975, while most of the others were filed near the end of the statutory thirty day period for such applications which expired on September 29, 1975.[2]

Accordingly, we are hereby granting rehearing for purposes of further consideration and deferring completion of our consideration of Shell's application and all other timely filed applications to permit joint consideration of such applications, and it is so ordered. The action is not to be deemed a grant or denial of such petitions on their merits in whole or in part.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29410 Filed 10-31-75;8:45 am]

[1] Issued March 18, 1971, 45 FPC 454.

[2] Applications for rehearing were filed by Northern Natural Gas Company on September 25, 1975, Interstate Natural Gas Association of America on September 29, 1975, American Public Gas Association on September 26, 1975, Consolidated Gas Supply Corporation on September 29, 1975, Union Oil Company of California on September 25, 1975, Texaco, Inc. on September 26, 1975, Phillips Petroleum Company on September 29, 1975, United Gas Pipe Line Company on September 29, 1975, Dudley T. Dougherty, et al. on September 29, 1975, and J. S. Abercrombie Mineral Company, Bruce Anderson, Cotton Petroleum Corporation, Coquina Oil Corporation, C&K Petroleum, Inc. and Texasgulf, Inc. on September 29, 1975.

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0276]

PART 121—FOOD ADDITIVES

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

POLY(TETRAMETHYLENE TEREPHTHALATE)

The Commissioner of Food and Drugs is adding § 121.2635 (21 CFR 121.2635) to provide for poly(tetramethylene terephthalate) in certain food-contact articles, effective November 3, 1975.

Notice was given by publication in the FEDERAL REGISTER of April 29, 1975 (40 FR 18575) that a petition (FAP 5B3058) had been filed by Eastman Chemical Products, Inc., Kingsport, TN 37662, proposing that the food additive regulations be amended to provide for safe use of poly(tetramethylene terephthalate) as articles or components of articles intended to contact food.

The Commissioner, having evaluated data in the petition and other relevant material, is adding the new section, as set forth below, to provide for use of the additive as articles or components of articles intended to contact nonalcoholic food.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section, to read as follows:

§ 121.2635 Poly(tetramethylene terephthalate).

Poly(tetramethylene terephthalate) (poly (oxytetramethyleneoxyterephthaloyl)) [Chemical Abstracts Service Registry No. 24968-12-5] identified in this section may be safely used as articles or components of articles intended to contact nonalcoholic food, in accordance with the following prescribed conditions:

(a) *Identity.* For the purpose of this section, poly(tetramethylene terephthalate) is the reaction product of dimethyl terephthalate with 1,4-butanediol to which may have been added certain optional substances to impart desired technological properties to the polymer.

(b) *Optional adjuvant substances.* poly(tetramethylene terephthalate) identified in paragraph (a) of this section may contain optional adjuvant substances. The quantity of any optional adjuvant substance employed in the production of the polymer does not exceed the amount reasonably required to accomplish the intended technical or physical effect. Such adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, and substances permitted under applicable regulations in this part.

(c) *Specifications.* (1) Inherent viscosity of a 0.50 percent solution of the polymer in phenol/tetrachloroethane (60/40 weight ratio) solvent is not less than 0.8 as determined using a Wagner viscometer (or equivalent) and calculated from the following equation:

$$\text{Inherent viscosity} = \frac{\text{natural logarithm of } N_r}{c}$$

where:

N_r=Ratio of flow time of the polymer solution to that of the solvent and c=polymer concentration of the test solution in grams per 100 milliliters.

(2) Poly(tetramethylene terephthalate) in the finished form in which it is to contact food shall yield total extractives as follows:

(i) Not to exceed 0.08 milligrams per square inch of food contact surface when extracted for 2 hours at 250° F with distilled water.

(ii) Not to exceed 0.02 milligrams per square inch of food contact surface when extracted for 2 hours at 150° F with *n*-heptane.

(iii) Not to exceed 0.04 milligrams per square inch of food contact surface when extracted for 2 hours at 212° F with 3 percent aqueous acetic acid.

(d) *Conditions of use.* Articles or components of articles in which the poly(tetramethylene terephthalate) food contact surface is greater than 0.010 inches thick shall not be used at temperatures and exposure times exceeding 180° F and 24 hours, respectively.

Any person who will be adversely affected by the foregoing order may at any time on or before December 3, 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 wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order 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 analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective November 3, 1975.

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

Dated: October 24, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29438 Filed 10-31-75;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Revenue Sharing

Notice is hereby given that, pursuant to the authority vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972 (the Revenue Sharing Act), approved October 20, 1972, the Department of the Treasury is amending the regulations in Part 51 of Subtitle B of Title 31, Code of Federal Regulations, which became effective April 5, 1973 (38 FR 9132) for entitlement periods beginning on or after January 1, 1973.

On October 22, 1975, Department of the Treasury filed amendments to 31 CFR Part 51 by creating a new subpart for civil rights regulations which previously had been located entirely in § 51.32. Those amendments have necessitated changes in the designation of subparts and section numbers. Accordingly, notice is now being given that the subpart and section designations are revised, as set forth below, in order to conform the existing regulations to the new subpart on civil rights.

In addition to changes in designation, the Office of Revenue Sharing is amending the regulations to clarify existing policy and to change existing procedures. Section 51.22(b) is being amended to make clear that the Office of Revenue Sharing may make adjustments based on corrected data that results in adjustments of less than $200. The current provision was intended to apply to situations where the adjustment had to be calculated manually requiring excessive time and expense to the Office of Revenue Sharing. The amendment to § 51.22 (b) makes clear that adjustments of less than $200 can be made if practicable, and this will generally be the case, especially when adjustments are being made in the final computer allocation.

Section 51.24(a) is being amended for two purposes. First, to require that a waiver for a future entitlement period be received by the Office of Revenue Sharing during the 6 month period immediately preceding that entitlement period. This requirement would prevent a recipient government from waiving an entitlement up to a year in advance, and limit the potential for controversy where an outgoing administration had committed the recipient government to a waiver of revenue sharing funds. Second, this section is being amended to allow local recipient governments an opportunity to revoke a waiver up to 30 days prior to the first payment for the applicable entitlement period. Again, this amendment will provide flexibility in the waiver procedure to avoid a situation where a recipient government, for one reason or another, decides to accept the revenue sharing funds after initially waiving them.

Section 51.26(h) is being amended to conform certain fiscal terminology in the regulations with the equivalent fiscal terminology in § 107(b) of the Act. This will reduce the possibility of confusion over the type of funds which the State is required to transfer to local governments, and the type of funds which should be specified in the reports to the Office of Revenue Sharing.

The section heading of § 51.31 is being amended because questions have been asked whether the debt retirement restrictions of § 51.31(b) apply to the expenditure of revenue sharing funds by State governments. As amended, the section heading makes clear that all of § 51.31 applies only to units of local government.

The amendment to § 51.41(c) deletes local government auditors from the list of auditors that are preferred for revenue sharing audits. This is because the Office of Revenue Sharing prefers, where possible, to have revenue sharing audits performed by persons not employed by the local government receiving the funds. This amendment also states that the Secretary may accept audits by local government auditors in cases where they can be performed in a manner that is consistent with the objectives of the Act and regulations.

Section 51.57(d) is being amended to state that a failure to file an answer pursuant to the administrative hearing procedure may result in an admission of the allegation and a decision by default. Presently, this regulation makes such admission and finding by default a mandatory result. This amendment will bring § 51.57(d) into conformity with § 51.57 (f).

These amendments are intended primarily to clarify the language of certain provisions of the regulations and to give notice to State and local governments of certain internal procedures in use by the Office of Revenue Sharing. Because the purpose of these amendments is to provide immediate guidance to the States and local units of government as to procedures applicable after December 31, 1972, in order that the requirements of the Act be complied with, it is hereby found impracticable to issue these amendments with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

The foregoing amendments are issued under authority of the State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 (31 U.S.C. Supp. III 1221-1263) and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342). These amendments shall become effective when filed with the FEDERAL REGISTER and are applicable to entitlement periods beginning on or after January 1, 1973.

Dated: October 29, 1975.

JOHN K. PARKER,
Acting Director, Office of Revenue Sharing.

Approved:

EDWARD C. SCHMULTS,
Under Secretary of the Treasury.

The table of contents, subpart headings, and section numbers and titles are amended as follows:

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51.0 Scope and application of regulations.
51.1 Establishment of Office of Revenue Sharing.
51.2 Definitions.
51.3 Procedure for effecting compliance.
51.4 Extension of time.
51.5 Transfer of funds to secondary recipient.

Subpart B—Reports and Written Communications

51.10 Reports to the Secretary; assurances.
51.11 Report on planned use and actual use of funds.
51.12 Certifications.
51.13 Publication and publicity of reports; public inspection.
51.14 Reports to the Bureau of the Census.

Subpart C—Computation and Adjustment of Entitlement

51.20 Data.
51.21 Data affected by major disaster.
51.22 Adjusted taxes.
51.33 Date for determination of allocation.
51.24 Boundary changes, governmental reorganization, etc.
51.25 Waiver of entitlement; non-delivery of checks; insufficient data.
51.26 Reservation of funds and adjustment of entitlements.
51.27 State must maintain transfers to local governments.
51.28 Optional formula.
51.29 Adjustment of data factors.
51.30 Adjustment of maximum and minimum per capita entitlement; 100 percent criterion.

Subpart D—Prohibitions and Restrictions on Use of Funds

51.40 Matching funds.
51.41 Permissible expenditures for local governments.
51.42 Wage rates and labor standards.
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Subpart E—Nondiscrimination in Programs Funded With Entitlement Funds

51.50 Purpose.
51.51 Definitions.
51.52 Discrimination prohibited.
51.53 Employment.
51.54 Sex discrimination.
51.55 Assurances required.
51.56 Compliance information.
51.57 Complaints and investigations.
51.58 Compliance reviews and affirmative action.
51.59 Procedure for effecting compliance.
51.60 Hearing procedures.
51.61 Jurisdiction over property.
51.62 Delegation.

Subpart F—Fiscal Procedures and Auditing

Sec.
51.70 Procedures applicable to use of funds.
51.71 Auditing and evaluation; scope of audits.

Subpart G—Proceedings for Reduction in Entitlement, Withholding or Repayment of Funds

51.80 Scope of subpart.
51.81 Liberal construction.
51.82 Reasonable notice and opportunity for hearing.
51.83 Opportunity for compliance.
51.84 Institution of proceeding.
51.85 Contents of complaint.
51.86 Service of complaint and other papers.
51.87 Answer, referral to administrative law judge.
51.88 Supplemental charges.
51.89 Proof; variance; amendment of pleadings.
51.90 Representation.
51.91 Administrative law judge; powers.
51.92 Hearings.
51.93 Stipulations.
51.94 Evidence.
51.95 Depositions.
51.96 Stenographic record; oath of reporter; transcript.
51.97 Proposed findings and conclusions.
51.98 Initial decision of the administrative law judge.
51.99 Certification and transmittal of record and decision.
51.100 What constitutes record.
51.101 Procedures on review of decision of administrative law judge.
51.102 Decision of the Secretary.
51.103 Effect of order of repayment or withholding of funds.
51.104 Publicity of proceedings.
51.105 Judicial review.

§ 51.3 [Amended]

1. Section 51.3(a) is amended by deleting the reference to Subpart F in the first sentence and inserting in lieu thereof a reference to Subpart G.

§ 51.5 [Amended]

2. Section 51.5 is amended by adding a reference to Subpart E in the first and second sentences.

§ 51.10 [Amended]

3. Section 51.10(b) is amended by adding a reference to Subpart F in the first sentence.

§ 51.11 [Amended]

4. Section 51.11(b) is amended by deleting the reference to § 51.40(a) in the first sentence and § 51.40(b) in the third sentence and inserting in lieu thereof § 51.70(a) and § 51.70(b) respectively.

§ 51.12 [Amended]

5. Section 51.12 is amended by deleting the reference to § 51.30 in the first sentence and § 51.31 in the second sentence and inserting in lieu thereof § 51.40 and § 51.41 respectively.

6. Section 51.20(e), in addition to being redesignated as § 51.21, is also amended by deleting the reference to § 51.28 and inserting in lieu thereof a reference to § 51.29. As amended § 51.21 reads as follows:

§ 51.21 Data affected by major disaster.

(a) *In general.* Any change in data otherwise eligible for use in determining the entitlement of a recipient government after April 1, 1974, shall be disregarded for a period of 60 months if that change:

(1) Resulted from a major disaster determined by the President under § 301 of the Disaster Relief Act of 1974 (Pub. L. 93-288) and

(2) Results in a data factor which is less beneficial than the previous data factor for purposes of the revenue sharing allocation process.

(b) *Eligibility requirements.* In order for a recipient government to be eligible for the data stabilization benefit of paragraph (a), it shall:

(1) Be located within a State designated by the President as a major disaster area, and

(2) Be located within a geographical subdivision of the State as certified to the Office of Revenue Sharing as a major disaster area by the Administrator of the Disaster Assistance Administration of the Department of Housing and Urban Development.

Further, each recipient government within the specific geographic area so designated will be notified pursuant to the data improvement program, provided for in § 51.29 of this subpart, of each of its data factors developed subsequent to the major disaster designation and shall be required to verify, through its chief executive officer, that the data was adversely affected by the major disaster. In addition, the Secretary may require that such verifications be accompanied by substantiating documentation evidencing a causal relationship between the major disaster and the less favorable revenue sharing allocation value of the subject data factor. The Secretary, upon being satisfied that all of the requirements of this section have been met with respect to any post-disaster data factor, shall refrain from using the post-disaster data factor in the allocation process, and shall continue to use the pre-disaster data factor, until whichever of the following occurs first: (1) A data factor more beneficial than the pre-disaster data factor currently being used is developed, or (2) 60 months have expired from the designation by the President of the specific major disaster area.

§ 51.22 [Redesignated]

7. Section 51.21 has been redesignated § 51.22.

8. Section 51.22, in addition to being redesignated § 51.23, is amended by inserting a new sentence after the first sentence in paragraph (a) to read: "Any change in the computation of local tax effort to credit certain county sales taxes to units of local government pursuant to section 109(e)(2)(B) of the Act (the "Memphis Rule") will be considered to be a change in a data definition and will not be given effect for any entitlement periods for which there are final data definitions"; by deleting in paragraph (b) the phrase "and if corrected, would result in an increase or decrease of an entitlement of $200 or more of entitlement funds" and by adding at the end of paragraph (b) a new sentence to read: "No adjustment of any kind which is less than $200 shall be made to an entitlement if, in the judgment of the Secretary, such adjustment will be burdensome, expensive, or otherwise impracticable." As amended, paragraphs (a) and (b) read as follows:

§ 51.23 Date for determination of allocation.

(a) *In general.* Pursuant to the provisions of § 51.20 (a) and (b)(3), the determination of the data definitions upon which the allocations and entitlements for an entitlement period are to be calculated shall be made not later than the day immediately preceding the beginning of the entitlement period. Any change in the computation of local tax effort to credit certain county sales taxes to units of local government pursuant to section 109(e)(2)(B) of the Act (the "Memphis Rule") will be considered to be a change in a data definition and will not be given effect for any entitlement periods for which there are final data definitions. The final date upon which determinations of allocations and entitlements, including adjustments thereto, may be made for an entitlement period shall be determined by the Secretary as soon as practicable and shall be publicized by notice in the FEDERAL REGISTER.

(b) *Time limitation and minimum adjustment.* If prior to the date determined by the Secretary pursuant to paragraph (a) of this section, it is established to the satisfaction of the Secretary by factual evidence and documentation that the data used in the computation of an allocation is erroneous an adjustment will be made. No adjustment of any kind which is less than $200 shall be made to an entitlement if in the judgment of the Secretary such adjustment will be burdensome, expensive, or otherwise impracticable.

§ 51.24 [Redesignated]

9. Section 51.23 has been redesignated § 51.24.

10. Section 51.24 has been redesignated § 51.25 and paragraph (a) is amended by deleting the word "the" that precedes the word "next" in the first sentence and by inserting the phrase "or any combination thereof" immediately after the phrase "next beginning entitlement period"; by adding a new sentence after the first sentence as follows: "A waiver of entitlement for the next beginning entitlement period will only be given effect if the waiver is received during the six-month period immediately preceding that entitlement period"; by inserting the phrase "30 days prior to the first payment" after the word "irrevocable" in the last sentence and by deleting the words "or periods" after the words "entitlement period" in the last sentence. As amended paragraph (a) of § 51.25 reads as follows:

§ 51.25 Waiver of entitlement; nondelivery of checks; insufficient data.

(a) *Waiver.* Any unit of local government may waive its entitlement for any entitlement period: Provided, The chief executive officer with the consent of the

governing body of such unit notifies the Secretary that the entitlement payments for a past, current, or next beginning entitlement period, or any combination thereof, are being waived. A waiver of entitlement for the next beginning entitlement period will only be given effect if the waiver is received during the 6-month period immediately preceding that entitlement period. In the event that an entitlement payment is returned or a notice of waiver is executed which is not in accordance with this procedure, the chief executive officer will be so notified by the Secretary and, unless the attempted waiver is rescinded within 30 days of such notice, it shall be given effect. However, in no event will a notice of waiver be given effect for an entitlement period which is subsequent to the next beginning entitlement period. The entitlement waived and adjustments thereto, if any, resulting from recalculation of earlier entitlements, shall be added to and shall become a part of the entitlement of the next highest unit of government eligible to receive entitlement funds in that State in which the unit of government waiving entitlement is located. However, if the governing body of an Indian tribe or Alaskan native village waives its entitlement for any period, the rules relating to distributions within county areas (pursuant to section 108(b)(4) of the Act) are to apply to the distribution within a county area as if such tribe or village were not in existence for that period. A waiver of entitlement by a unit of local government or Indian tribe or Alaskan native village shall be deemed irrevocable 30 days prior to the first payment for the entitlement period to which it relates.

§ 51.26 [Redesignated]

11. Section 51.25 has been redesignated § 51.26.

12. Section 51.26 has been redesignated § 51.27 and paragraph (h) is amended by deleting the phrase "within 90 days"; by deleting the phrase "transfers from own source revenues" and inserting in lieu thereof "amounts transferred out of its own sources"; by deleting the word "revenues" in subparagraphs (1) and (2) and inserting in lieu thereof the word "funds". As amended, paragraph (h) of § 51.27 reads as follows:

§ 51.27 State must maintain transfers to local governments.

* * * * *

(h) *Report by Governor.* Pursuant to the authority of § 51.10 and in order to effect compliance with this section, the Governor of each State shall submit to the Secretary after the end of the State's fiscal year, on a form to be provided, the aggregate amounts transferred out of its own sources to units of local government for those entitlement periods or that State's fiscal years specified on the report:

(1) The State's own source funds.

(2) The State's total funds.

(3) The State's own source transfers to units of local government.

(4) The State's total transfers to units of local government.

§§ 51.28, 51.29, 51.30 [Redesignated]

13. Section 51.27 has been redesignated § 51.28.

14. Section 51.28 has been redesignated § 51.29.

15. Section 51.29 has been redesignated § 51.30.

§ 51.40 [Redesignated]

16. Section 51.30 has been redesignated § 51.40.

§ 51.41 [Redesignated]

17. Section 51.31 has been redesignated § 51.41 and amended to add the words "for local governments" to the section heading. As amended, the section heading reads: § 51.41 Permissible expenditures for local governments.

§ 51.42 [Redesignated]

18. Section 51.33 has been redesignated § 51.42.

§ 51.43 [Redesignated and amended]

19. Section 51.34 has been redesignated § 51.43 and is also amended by deleting the reference to § 51.32(a) and inserting in lieu thereof a reference to Subpart E.

Subpart F [Redesignated]

20. Subpart E has been redesignated Subpart F.

§ 51.70 [Redesignated]

21. Section 51.40 has been redesignated § 51.70.

22. Section 51.41 has been redesignated § 51.71 and paragraph (c) is amended by deleting the phrase "and local government audits" from the paragraph heading and inserting in lieu thereof "auditors and independent public accountants"; by deleting the words "and local government" from the first sentence; by deleting the words "in his judgment this may reasonably be done" in the second sentence and by inserting in lieu thereof the words "such acceptance"; by deleting the word "provisions" in the second sentence and inserting in lieu thereof the word "objectives". As amended, paragraph (c) of § 51.71 reads as follows:

§ 51.71 Auditing and evaluation; scope of audits.

* * * * *

(c) *Reliance on State auditors and independent public accountants.* It is the intention of the Secretary to rely to the maximum extent possible on audits of recipient governments by State auditors and independent public accountants. The Secretary may accept such audits and audits by local government auditors when such acceptance is consistent with the objectives of the Act and regulations of this part, and provided: * * *

§§ 51.80 through 51.85 [Redesignated]

23. Section 51.50 has been redesignated § 51.80.

24. Section 51.51 has been redesignated § 51.81.

25. Section 51.52 has been redesignated § 51.82.

26. Section 51.53 has been redesignated § 51.83.

27. Section 51.54 has been redesignated § 51.84.

28. Section 51.55 has been redesignated § 51.85.

§ 51.86 [Redesignated and amended]

29. Section 51.56 has been redesignated 51.86 and is also amended by deleting the reference in paragraph (d) to § 51.57 (a) and inserting in lieu thereof a reference to § 51.87(a).

30. Section 51.57 has been redesignated § 51.87 and paragraph (d) is amended to delete the word "shall" as it appears twice in that section and to insert in lieu thereof the word "may." As amended, paragraph (d) of § 51.87 reads as follows:

§ 51.87 Answer; referral to administrative law judge.

* * * * *

(d) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under paragraph (a) of this section, may constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge may make his findings and decision by default without a hearing or further procedure.

§§ 51.88 through 51.93 [Redesignated]

31. Section 51.58 has been redesignated § 51.88.

32. Section 51.59 has been redesignated § 51.89.

33. Section 51.60 has been redesignated § 51.90.

34. Section 51.61 has been redesignated § 51.91.

35. Section 51.62 has been redesignated § 51.92.

36. Section 51.63 has been redesignated § 51.93.

§ 51.94 [Redesignated and amended]

37. Section 51.64 has been redesignated 51.94 and is also amended by deleting the reference in paragraph (b) to § 51.65 and inserting in lieu thereof a reference to § 51.95.

§§ 51.95 through 51.97 [Redesignated]

38. Section 51.65 has been redesignated § 51.95.

39. Section 51.66 has been redesignated § 51.96.

40. Section 51.67 has been redesignated § 51.97.

§ 51.98 [Redesignated and amended]

41. Section 51.68 has been redesignated 51.98 and is also amended by deleting the reference in paragraph (a) to § 51.31 and inserting in lieu thereof a reference to § 51.41.

§§ 51.99 through 51.105 [Redesignated]

42. Section 51.69 has been redesignated § 51.99.

43. Section 51.70 has been redesignated § 51.100.

44. Section 51.71 has been redesignated § 51.101.
45. Section 51.72 has been redesignated § 51.102.
46. Section 51.73 has been redesignated § 51.103.
47. Section 51.74 has been redesignated § 51.104.
48. Section 51.75 has been redesignated § 51.105.

[FR Doc.75-29010 Filed 10-23-75;3:58 pm]

Title 34—Government Management

CHAPTER II—OFFICE OF FEDERAL MANAGEMENT POLICY, GENERAL SERVICES ADMINISTRATION

SUBCHAPTER D—FINANCIAL MANAGEMENT

[FMC 74-7, Supp. 2]

PART 256—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

Administrative Requirements for Grants to State and Local Governments

The General Services Administration hereby amends Part 256, Subchapter D, Chapter II of Title 34, Code of Federal Regulations, to expand the coverage to include school districts and federally recognized Indian tribal governments.

1. Section 256.4 is revised to read as follows:

§ 256.4 Applicability and Scope.

The standards promulgated by this part apply to all Federal agencies responsible for administering programs that involve grants to State and local governments and federally recognized Indian tribal governments. However, agencies are encouraged to apply the standards to loan and loan guarantee programs to the extent practicable. If the enabling legislation for a specific grant program prescribes policies or requirements that differ from the standards provided herein, the provisions of the enabling legislation shall govern.

2. Section 256.5 is amended to read as follows:

§ 256.5 Definitions.

* * * * *

(c) The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments, sponsor group representative organization (as defined in 7 CFR 620.2, 40 F.R. 12472, March 19, 1975) and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

(d) The term "federally recognized Indian tribal government" means the governing body or a governmental agency of any Indian tribe, band, nation, or other organized group or community (including any Native village as defined in Section 3 of the Alaska Native Claims Settlement Act, 85 Stat. 688) certified by the Secretary of the Interior as eligible for the special programs and services provided by him through the Bureau of Indian Affairs.

AUTHORITY: Executive Order 11717 (38 FR 12315, May 11, 1973).

Effective date. This regulation is effective October 10, 1975.

Dated: October 10, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-28761 Filed 10-31-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amendment 152]

PART 1-30—CONTRACT FINANCING

Miscellaneous Amendment

Correction

In FR Doc. 75-25224, appearing at page 43728 in the issue of Tuesday, September 23, 1975, make the following changes:

1. The last word in the eighth line of § 1-30.503-1 on page 43730 should read "effecting".

2. The nineteenth line of § 1-30.504-3 on page 43731 should read, "progress payments shall be restricted to".

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[PUBLIC LAND ORDER AA-5671]

ALASKA

Withdrawal of Lands for Classification and Protection of the Public Interest; Partial Revocation of Public Land Order No. 960

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), the Act of May 24, 1928, 49 U.S.C. 214, and section 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 708 (hereinafter referred to as the Act), it is hereby ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, and from location and entry under the general mining laws, 30 U.S.C., Ch. 2, including metalliferous minerals, and from leasing under the mineral leasing laws, and hereby reserved for classification and protection of the public interest under section 17(d)(1) of the Act, pending adjudication of existing applications and subsequent classification of said lands:

COPPER RIVER MERIDIAN

T. 31 S., R. 59 E.,
sec. 2, lots 4, 5, 18, 19, W½SW¼NE¼, NE¼SE¼SW¼, NW¼SW¼SE¼.

Containing 60.12 acres.

2. Public Land Order No. 960 of April 30, 1954, which withdrew lands for use of the Civil Aeronautics Administration, now the Federal Aviation Administration, is hereby revoked so far as it affects the lands described in paragraph 1 above.

3. Prior to the conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts, and to grant leases, permits, rights-of-way, or easements, shall not be impaired by this withdrawal. Applications for leases under the Mineral Leasing Act will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

OCTOBER 24, 1975.

[FR Doc.75-29383 Filed 10-31-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19742, RM-2063]

PART 73—RADIO BROADCAST SERVICES

Report and Order

In the matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (San Bernardino-Riverside, California)

1. In response to a petition filed by Inland Empire Telecasters seeking assignment of UHF Channel 62 to the San Bernardino-Riverside, California, area, the Commission on May 16, 1973, adopted a notice of proposed rulemaking, 38 FR 13660, inviting comments on a proposal to assign UHF Television Channel 62 to either San Bernardino or Riverside, California. Comments have been received from the Chancellor of the University of California, Riverside, and the president of the San Bernardino Community College District jointly, and from the president of Loma Linda University, Riverside, and the matter is ready for decision.

2. San Bernardino (pop. 104,251)[1] is located approximately 55 miles east of Los Angeles in San Bernardino County (pop. 682,233). It has two TV channels assigned: Channel 18 (Station KSCI—CP issued July 1, 1974) and Channel 30 (Station KHOF-TV).

3. Riverside (pop. 140,089) is located approximately 10 miles southwest of San Bernardino, in Riverside County (pop. 459,074). Its two TV channels are used by KLXA-TV (Channel 40) licensed at Fontana, California, and KBSA (Channel 46) licensed at Guasti, California.[2]

4. The *notice* requested that commenting parties submit information regarding the need for additional local TV service, and regarding the possibility that special treatment be given to the proposed assignment of Channel 62 to assure its

[1] All population data are taken from the 1970 U.S. Census.

[2] Under Section 73.607(b) of the Commission's Rules, channels assigned to a listed community in the TV Table of Assignments are available to any unlisted community within 15 miles.

use at either Riverside or San Bernardino rather than at an unlisted community as provided in § 73.607(b).[3] Further we asked for information regarding which community, Riverside or San Bernardino, has the greater need should we decide to make the assignment.

5. In comments jointly filed by the University of California, Riverside, and the San Bernardino Community College District, it is noted that the Commission has authorized construction of a translator station on Channel 62 (File No. BPTT-2453) to serve Riverside, subject to the disposition of this rule making proceeding herein. We are told that denial of the present proposal to assign Channel 62 would permit the University of California, Riverside, to continue with its present plans to construct the translator station in order to extend the educational programming of noncommercial television Station KVCR-TV (Channel 24), San Bernardino, licensed to the San Bernardino Community College District.[4] In opposition to the proposed assignment, it is alleged that it would be economically unfeasible to operate another commercial channel in the San Bernardino-Riverside area due to the proximity of thirteen commercial TV stations operating in the Los Angeles area.[5] Based on the experiences of the San Bernardino and Riverside TV stations, all of which have directed their services to the larger Los Angeles market, it is asserted that commercial television is not viable in this area. It is argued that the Riverside area would be better served by the operation of a translator station to serve the educational needs of the community.

6. Generally it has been Commission policy, in order to assure that available assignments are efficiently utilized, to require that a continuing interest be expressed by some party in a proposed channel assignment.[6] As stated previously, we requested, in the notice, information which would indicate that a need for a channel in the San Bernardino-Riverside area exists. Petitioner has failed to demonstrate that there is a need for an additional channel. In fact, petitioner has filed no comments since the issuance of our notice in this proceeding. We have had no expression of interest in the proposed assignment by any other person. We note that other TV stations licensed to San Bernardino and Riverside have located closer to the Los Angeles area to take advantage of the larger market. In addition, the translator station presently operating on Channel 62 is serving the educational needs of Riverside. Thus we believe, in view of the absence of an adequate showing of need by petitioner, that adoption of the proposal to assign Channel 62 to either San Bernardino or Riverside would not be in the public interest.

7. Accordingly, *it is ordered*, That the petition filed September 25, 1972, by Inland Empire Telecasters for assignment of Channel 62 to San Bernardino or Riverside, California, *is denied*.

8. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-29455 Filed 10-31-75;8:45 am]

[Docket No. 20480; RM-2515, etc.]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Various States

In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations (*St. Helena/Santa Rosa, California;* Kalkaska, Michigan; Newberry, Michigan; Tarkio-Rock Port, Missouri; Surfside Beach, South Carolina; Trenton, Tennessee) (RM-2515, 2516, 2519, 2525, 2513, 2526)

ERRATUM

In the First Report and Order, Mimeo 37550, in the above-entitled proceeding released October 16, 1975, and published at 40 FR 49332, the Santa Rosa entry under California is corrected to read as follows:

California	*Channel No.*
Santa Rosa	261A, 269A

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29454 Filed 10-31-75;8:45 am]

[Docket No. 20400 RM-2362]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, La.

In the matter of amendment of §73.202 (b), Table of Assignments, FM Broadcast Stations. (Crowley, Louisiana).

1. On March 18, 1975, the Commission adopted a notice of proposed rulemaking, 40 FR 14943, to invite comments on a proposal from KSIG Broadcasting Co., Inc. ("KSIG"), licensee of Station KSIG (Class IV unlimited-time AM), Crowley, Louisiana, seeking the assignment of FM Channel 249A to Crowley, Louisiana (pop. 16,105), seat of Acadia Parish (pop. 52,189), as its second FM assignment.

2. In the notice, KSIG was asked to address specifically the issues of (1) the availability of an alternative FM channel for nearby Kaplan, Louisiana (pop. 5,540), where use of Channel 249A would be precluded by the proposal, (2) the intermixture of classes of channels which occur at Crowley, and (3) petitioner's intention to operate on Channel 249A in view of its pending application for a construction permit on FM Channel 275 at Crowley. Crowley, in addition to its Class C FM assignment, has two AM stations. Kaplan is without local broadcast service or FM assignment. Rather than responding directly to these issues,[1] KSIG submitted another proposal seeking instead to have Channel 249A assigned at Kaplan, Louisiana, as a first assignment. Petitioner states that it would apply for a permit on the channel if assigned at Kaplan. No other comments or replies were received.

3. KSIG has withdrawn its application for use of Channel 275, the only FM channel now assigned to Crowley.[2] This is consistent with petitioner's claim that it had long been interested in serving Kaplan, and that its proposal to assign the channel there was not merely an attempt to avoid a comparative hearing on Channel 275 at Crowley.

4. Before a channel is assigned, we require indication from the proponent that it intends to utilize the channel promptly. In its petition, KSIG requested assignment of Channel 249A "so that one of the [applicants] for Channel 275 may amend its pending application to such newly-assigned frequency (which will likely be KSIG itself should Rice Capital be unwilling to do so)." This equivocal statement did not constitute the affirmation of intent we require, so we requested in our Notice that KSIG clearly states its intention to operate on Channel 249A. KSIG responded adequately, making an affirmative commitment to file an application for Kaplan upon assignment of the channel there. KSIG's withdrawal from the Channel 275 hearing supports its statement of intent to apply for Kaplan.

5. Under the circumstances of this case, we seek assurance that a channel assigned to Kaplan would be utilized for the benefit of that community, and not Crowley. In Berwick, 12 F.C.C. 2d 8 (1968), we found a substantial question was raised by the application, under the then "25-mile" rule, to use an FM channel assigned to White Haven, Pennsylvania, at Pittston, Pennsylvania, instead. The latter is in close proximity to Wilkes-Barre, Pennsylvania, where the applicant had an AM station whose programming it intended to duplicate.[3] Thus a question was raised as to applicant's intent to seek to serve another community than the one specified in its application. Here, we note several points of similarity. As in the Berwick case, KSIG could specify a site between the cities and by so

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[3] See footnote 2.

[4] A license was issued to the University of California on May 13, 1974 (BLTT-1602).

[5] The president of San Bernardino Valley College cited, as an example, the economic problems of Station KCHU-TV (Channel 18), licensed to the San Bernardino Sun-Telegram newspapers, which after expending upwards of $2,000,000 still could not compete with Los Angeles television stations for the San Bernardino market and decided to terminate its operation on Channel 18.

[6] See Princeton, Illinois, 48 F.C.C. 2d 1036 (1974).

[1] Petitioner did not say whether an alternative channel is available to Kaplan.

[2] Three applications for construction permits for the use of Channel 275 at Crowley were designated for hearing. On September 17, 1975, at the request of KSIG and a second applicant, their applications were dismissed with prejudice. The application of the third applicant was subsequently granted by the Administrative Law Judge.

[3] Earlier in this proceeding KSIG mentioned such duplication, and it has indicated no change in this aspect even though it has urged a Kaplan assignment.

doing provide a city-grade signal to Crowley, where KSIG has an AM station. Usually, however, this issue is resolved at the application stage rather than in rule making. We find that for the purposes of this proceeding, KSIG has made a sufficient commitment to provide local service to the town of Kaplan.

6. KSIG has demonstrated a need for local broadcast service in Kaplan. We are informed that it is a growing agricultural community. Because of our priority of providing each community with at least one local FM station, we find, upon consideration of all the above issues, that Channel 249A should be assigned to Kaplan to provide its residents with a first local broadcast service.

7. Accordingly, *it is ordered*, That effective December 8, 1975, the FM Table of Assignments contained in § 73.202(b) of the Commission's rules and regulations is amended insofar as the community named below is concerned, to read as follows:

City	*Channel No.*
Kaplan, Louisiana	249A

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: October 22, 1975.

Released: October 24, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief Broadcast Bureau.

[FR Doc.75-29457 Filed 10-31-75;8:45 am]

[Docket No. 20339; RM-2228 and 2323]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Ala.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cleveland, Athens, Etowah, and South Pittsburg, Tennessee, and Stevenson, Alabama).

1. The Commission here considers the two alternative plans for amending the FM Table of Assignments upon which a notice of proposed rulemaking was released herein on January 28, 1975 (40 FR 4940), and counterproposals and comments received in response to the notice. The alternative plans proposed were the following:

City	Channel No.	
	Present	Proposed
Plan I:		
Etowah, Tenn.		269A
South Pittsburg, Tenn.		269A
Or plan II:		
Cleveland, Tenn.	264	252A, 264
Athens, Tenn.	252A	269A
South Pittsburg, Tenn.		269A

2. The Etowah Channel 269A proposal in Plan I was advanced by McMinn Broadcasters, Inc. (McMinn), licensee of daytime-only AM Station WCPH at Etowah, in RM-2228 as a counterproposal to a conflicting proposal of WBAC, Inc. (WBAC), licensee of Class IV AM Station WBAC at Cleveland, in RM-2228 for the assignment of Channel 252A to Cleveland by substituting Channel 269A for Channel 252A (unused) at Athens, Tennessee, as proposed in alternative Plan II. The conflict between the Etowah Channel 269A and Cleveland Channel 252A assignment proposals exists because, with Etowah and Athens located only about 10 miles apart in southeastern Tennessee, the required 65-mile separation for Class A assignments would not permit the assignment of Channel 269A to Etowah and also to Athens. As pointed out in the notice, the present Athens Channel 252A assignment cannot be used at Etowah under the so-called "10-mile rule" [Section 73.203(b)] because it would be short-spaced to the Channel 251 FM station (WBFM) at Seneca, South Carolina; however, if Channel 269A is substituted for Channel 252A at Athens, as proposed in Plan II, Channel 269A would be technically feasible for use at Etowah under the "10-mile rule." The South Pittsburg Channel 269A proposal in both Plans I and II was advanced by Marion County Broadcasting Service, Inc. (Marion), licensee of daytime-only AM Station WEPG at South Pittsburg in RM-2323. South Pittsburg is located over 65 miles southwest of both Etowah and Athens, and Marion's Channel 269A proposal for South Pittsburg involves no spacing conflicts with either of the conflicting Etowah and Athens Channel 269A proposals. However, since the Channel 269A proposals for these three communities do involve a common preclusion area, it was considered desirable to consider them together.

3. Comments and reply comments were received from the proponents of the Etowah (McMinn), Cleveland (WBAC) and South Pittsburg (Marion) proposals in Plans I and II and also from Norman A. Thomas and Associates, Inc. (Thomas), licensee of AM Station WENR, a daytime-only operation at Englewood, Tennessee, and from Lynn, Ltd. (Lynn), a group headed by Dr. E. R. Knox and Charles Penley of Stevenson, Alabama. Counterproposals were advanced in the WBAC and Lynn comments.

4. *WBAC Counterproposal.* WBAC proposes modification of Plan II by adding Channel 276A for assignment to Etowah to resolve the conflict between its Cleveland Channel 252A-Athens Channel 269A proposal in Plan II and the McMinn Channel 269A proposal for Etowah in Plan I. The accompanying WBAC engineering statement indicates that Channel 276A could be assigned to Etowah in conformance with spacing requirements if used at an antenna site at least one mile north of Etowah and that an Etowah Channel 276A assignment would involve no spacing conflicts with the assignments proposed for Cleveland (252A) Athens (269A), and South Pittsburg (269A) in Plan II.

5. McMinn, the proponent of the Etowah Channel 269A proposal in Plan I, joins with WBAC in urging in their joint reply comments that WBAC's Channel 276A proposal for Etowah, together with WBAC's Cleveland Channel 252A-Athens Channel 269A asignment proposals in Plan II, be adopted instead of its Etowah Channel 269A proposal in Plan I since this would provide FM assignments to all three communities in the Cleveland-Athens area for which FM assignments have been requested herein. In its initial comments, McMinn had urged the adoption of either Plan I which would assign Channel 269A to Etowah or the conflicting proposal in Plan II which would assign Channel 269A to Athens in place of Channel 252A since both proposals would make a channel available for which it could apply for use at Etowah.

6. Thomas, the Englewood AM licensee, also filed reply comments supporting the WBAC proposals for Cleveland and Athens in Plan II, together with the WBAC counterproposal to assign Channel 276A to Etowah. It urges that this would be a technically feasible way of meeting the need for FM assignments at both Cleveland and Etowah while leaving a channel in Athens which could be put to use without the prospect of having to first determine in a comparative proceeding whether the channel should instead be utilized at Etowah under the "10-mile rule", as could be the case if the Athens assignment were to be changed as proposed in Plan II, and Etowah was not provided with an assignment of its own. Thomas, in its initial comments, had urged the adoption of Plan I which would assign Channel 269A to Etowah since, unlike Plan II, this would not disturb the Athens Channel 252A assignment for which it stated it was planning to apply for use at Englewood under the "10-mile rule." Since Englewood is located only about seven miles east of Athens, and has no FM assignments, the present Athens Channel 252A assignment, as well as proposed Channel 269A, would be available for use also at Englewood under this rule, and it appears from staff analysis that all spacing requirements for use of Channel 269A for an Englewood station could be met by locating its transmitter site at least four miles southwest of Englewood.

7. *Lynn Counterproposal.* The Lynn group, which desires to obtain a first FM assignment for Stevenson, Alabama, for which it can apply, proposes, as a counterproposal to the South Pittsburg Channel 269A proposal of Marion in Plans I and II that Channel 269A instead be assigned to Stevenson. While this Stevenson Channel 269A assignment proposal is, like the Marion South Pittsburg Channel 269A proposal, technically feasible and compatible with the conflicting Etowah and Athens Channel 269A proposals, it is mutually exclusive with the South Pittsburg Channel 269A proposal of Marion in Plans I and II. With Stevenson located but 13 miles southwest of South Pittsburg, spacing requirements (65 miles) for co-channel Class A assignments at Stevenson and South Pittsburg could not be met. Moreover, these communities are too far apart for the provisions of the "10-mile rule" to be operative and permit the assignment to be made to one of these communities but

open to application for use in either of them.

8. Marion, the proponent of the South Pittsburg Channel 269A proposal in Plans I and II, opposes Lynn's conflicting Channel 269A counterproposal for Stevenson in its reply comments. The other commenting parties, all proponents or supporters of the assignment proposals for Cleveland, Athens (Englewood) and Etowah herein which would be compatible with both of the conflicting Channel 269A proposals for South Pittsburg and Stevenson, confine their comments to those proposals and do not take a position or discuss the merits of the South Pittsburg and Stevenson Channel 269A proposals. The Marion and Lynn comments are addressed only to their conflicting Channel 269A proposals for South Pittsburg and Stevenson.

DISCUSSION OF PROPOSALS

9. The pertinent data concerning the populations of the communities involved and their respective counties, based on 1970 U.S. Census figures, and the present FM channel assignments and local aural broadcast services available in these communities are as follows:

City and county	Population	Percent change since 1960	Frequency modulation channels assigned	Local aural broadcast services
Athens, Tenn.[1]	11,790	−2.6	252A	WYXI-AM, daytime-only; WLAR-AM, class IV.
McMinn County	35,462	5.3		
Cleveland, Tenn.[1]	26,651	27.5	264	WCLE-FM (channel 264); WBAC-AM, class IV; WCLE-AM, daytime-only.
Bradley County	50,686	22.3		
Etowah, Tenn	3,736	15.9		WCPH-AM, daytime-only.
McMinn County	35,462	5.3		
Englewood, Tenn	1,878	19.3		WENR-AM, daytime-only.
McMinn County	35,462	5.3		
South Pittsburg, Tenn	3,613	−12.5		WEPG-AM, daytime-only.
Marion County [2]	26,577	−2.2		
Stevenson, Ala	2,390	64.1		
Jackson County	39,202	6.9		

[1] County seat.

[2] Marion County (south Pittsburg) was not listed in the 1970 U.S. Census Reports as part of the Chattanooga, Tenn.-Ga. standard metropolitan statistical area (SMSA). However, as a result of redefinition and a comprehensive revision of all SMSA's in 1973 by the Office of Management and Budget of the Executive Office of the President, the Chattanooga, Tenn.-Ga. SMSA was among those redefined to include Marion County, Tenn., among others, making it the 89th ranking SMSA in size with a reported total population of 370,013 in 1973, as compared to the 97th ranking SMSA in size with a reported total population of 304,927 in 1970.

10. As indicated above, some of the communities for which FM assignments are requested herein (Etowah, Englewood, South Pittsburg and Stevenson) have 1970 populations of under 10,000. Communities under that size in population are not normally assigned an FM channel in the absence of a showing of interest in the assignment and that there is someone willing to promptly apply for the channel if assigned and to build the station if authorized. Since a satisfactory showing in this regard has been made by the proponents of the FM proposals for these communities, making the requested assignments would not be inappropriate or in conflict with this Commission assignment policy respecting population guidelines. The proponents of the FM proposals for Etowah (McMinn), South Pittsburg (Marion) and Stevenson (Lynn), as well as the proponents of those for Cleveland (WBAC) and for retention of an FM assignment at Athens which could be used at Englewood (Thomas), all express interest and intent in their supporting comments in applying for, and in constructing stations upon, the FM assignments requested for these communities promptly after they are made and authorization is obtained.

11. The technical showings submitted by these proponents in support of their FM assignment proposals also demonstrate that Plan II above, as modified by the WBAC counterproposal to assign Channel 276A to Etowah, presents a technically feasible way of resolving the spacing conflict between the Etowah Channel 269A proposal in Plan I and the Athens Channel 269A proposal in Plan II and of satisfying the requests for FM assignments at Etowah, Cleveland and Athens (Englewood) as well as at either South Pittsburg or Stevenson without affecting existing assignments (other than the unused Athens Channel 252A assignment) or having an objectionable preclusionary effect upon needed FM assignments elsewhere. Comparative consideration of the needs of Etowah and Cleveland for FM assignments is therefore unnecessary. However, since spacing requirements would not permit the assignment of Channel 269A to South Pittsburg, as Marion proposes (Plan II), and to Stevenson, as Lynn proposed in its counterproposal, because of their proximity, a choice must necessarily be made between these two communities for the requested Channel 269A assignment, if otherwise warranted, unless a substitute channel can be assigned to either community; and a staff study indicates that there is no channel other than Channel 269A which would be technically feasible for assignment to either South Pittsburg or Stevenson to resolve the conflict between the Channel 269A proposals for these two communities without extensive shuffling of existing assignments.

12. Although we do not deal with them on a comparative basis, we turn now to a discussion of the needs of Etowah and Cleveland for FM channel assignments as well as the need of Athens and its vicinity. Thereafter, we compare the needs of South Pittsburg and Stevenson.

13. *Etowah.* With regard to the need for a first FM assignment at Etowah, which has but McMinn's daytime-only AM station for a local outlet (WCPH) and no full-time local broadcast service, this is sufficiently shown we believe by the demographic data concerning Etowah furnished by McMinn, as well as by the letters accompanying its comments from the mayor and president of the Etowah Chamber of Commerce which attest to the need of Etowah for a local nighttime radio service. While Etowah is a relatively small community (1970 population, 3,736), it experienced population growth over the 1960–1970 decade (15.9 percent), and McMinn's showing indicates that it has had continued population and industrial growth since 1970 and has considerable potential for further growth. It also shows that Etowah has some 15 local industries (most of which are engaged in the manufacture of clothing), and a full complement of municipal services and facilities, churches, schools and organizations from which a local FM station could be expected to draw support and serve their need for a local FM station and a first local nighttime radio service.

14. *Athens.* As for the continued need of Athens for an FM assignment, while the record evidences no present interest on the part of anyone in establishing an FM station at Athens at this time,[3] it does evidence that there is interest and intent on the part of Thomas to apply for use of the Athen's FM assignment at Englewood, only seven miles distant from Athens and in the same county (McMinn), which, as previously noted, would be permissible under the 10-mile rule.[4] Athens is the seat of McMinn County and its largest community (1970 population, 11,790), and it has two local AM services (one daytime-only and one Class IV), and Englewood, a much smaller community (1970 population, 1,878), has an AM daytime-only service. We are persuaded that the public interest would be served by retaining an FM assignment at Athens in view of its size and since it appears likely from this record that it will not remain dormant but will in the near future be used to provide a first FM service oriented to the needs of both Athens and Englewood.

15. *Cleveland.* A need for a second FM assignment at Cleveland, which now has both an FM station (WCLE-FM) and two AM stations, a daytime-only station (WCLE) and WBAC's Class IV station (WBAC), is also adequately demonstrated, we believe, by WBAC's showing. The Cleveland FM station operates on the only FM channel assigned in Bradley County, and the data furnished by

[3] Mutually exclusive applications for the present Athens Channel 252A assignment were designated for hearing in 1967, one of which was dismissed at the applicant's request in 1973 and the other denied in 1973. See *3 J's Broadcasting Co.*, 41 F.C.C. 2d 664 (1973), rev. denied, FCC 74–86, released January 30, 1974.

[4] McMinn has also indicated an interest in applying for use of the Athen's FM assignment at Etowah in the event that Etowah is not provided with an assignment.

WBAC support its contentions that a second FM station at Cleveland would serve a need in helping to meet the increased problems, needs, and interests of the community which have resulted from the substantial growth which has taken place there and in Bradley County since 1960. As shown in paragraph 9 above, over the 1960–1970 period, Cleveland's population increased 27.5 percent to a level of 20,651, and Bradley County's population increased 32.3 percent to a level of 50,686. Population estimates furnished by WBAC for 1973, based on data compiled by the Cleveland/Bradley Chamber of Commerce, place Cleveland's 1973 population at 24,750, up 52 percent from 1960, and that of Bradley County at 60,546, up 58 percent from 1960, and by 1980, a population of 40,000 is projected for Cleveland and a population of 65,000 for Bradley County. A growth survey compiled by the Chamber of Commerce for Cleveland for the years 1972 and 1973 which WBAC submitted also reflects other indicia of significant growth in bank deposits, saving and loan assets, building permit value, telephones in service, and electricity and water consumption. Other data prepared by the Tennessee Valley Authority's economic research staff which WBAC supplied indicate that Bradley County's per capita personal income increased 48 percent between 1965 and 1970 to a level of $2,545, and WBAC states that this trend continues. The WBAC comments also indicate that Cleveland now has more than a hundred civic and service clubs, organizations, fraternal groups and sororities, as well as over 120 churches and some 600 retail firms whose needs a second FM station at Cleveland would serve.

16. *South Pittsburg and Stevenson.* We now turn to the conflicting South Pittsburg and Stevenson Channel 269A proposals of Marion, the South Pittsburg proponent, and of Lynn, the Stevenson proponent. In the case of South Pittsburg, a community located in Marion County[3] in the south central part of Tennessee, approximately three miles north of the Alabama border, 23 miles west of Chattanooga and 13 miles northwest of Stevenson, Alabama, the requested Channel 269A assignment would provide a first FM assignment and opportunity for a first full-time local broadcast outlet since South Pittsburg now only has Marion's daytime-only AM station (WEPG) for a local outlet. There are no other aural broadcast stations, and no FM channels assigned in Marion County. In the case of Stevenson, a community located in Jackson County in the northeastern corner of Alabama, approximately 17 miles north of Scottsboro, the seat of Jackson County, the requested Channel 269A assignment would provide a first FM assignment and opportunity for a first local broadcast service, since Stevenson has none. There are, however, one FM and three daytime-only AM stations in Jackson County. Station WCNA–FM (Channel 252A), which operates on the only FM channel assigned in Jackson County, and two of the daytime-only AM stations (WCRI and WROS) are located at Scottsboro. The other daytime-only AM station is located at Bridgeport, Alabama (WPTS), approximately ten miles northeast of Stevenson and five miles south of South Pittsburg.

17. The showings of Marion and Lynn in support of their respective Channel 269A proposals for South Pittsburg and Stevenson furnish ample demographic information concerning these communities to convince us that the assignment of an FM channel to each of them would have public benefit and serve a need for a first local FM service and a first full-time local radio service, especially since their comments indicate that both communities are in areas subject to flooding and prone to tornadoes and the value to these communities of a local FM station which could meet their claimed need for a full-time local weather warning service is recognized. However, since, because of their proximity and technical requirements, Channel 269A cannot be assigned to both of these communities, we must decide which of them warrants the assignment.

18. From the standpoint of technical considerations and effective utilization of Channel 269A, we do not believe that there is any valid basis for preferring either community for the assignment. The channel may be assigned to either South Pittsburg or Stevenson in conformance with technical requirements without affecting any existing assignment and, in either case, the preclusion therefrom would be limited to co-channel preclusion and in an area where there appears to be no other community of significant size without aural broadcast service.[4] While, in order to meet separation requirements with respect to existing FM stations, a South Pittsburg Channel 269A assignment would have to be used for a station at a site in an area outside and at least one mile south of the community[5] whereas a Stevenson Channel 269A station could operate from a site within the community and at various locations around Stevenson, we do not agree with Lynn that this constitutes reason for concluding that the use of Channel 269A at South Pittsburg would be significantly less efficient than at Stevenson or should be a basis of preference. Lynn also argues in this connection that the assignment of Channel 269A to Stevenson would permit a more flexible choice of a transmitter site for a Channel 269A operation at Athens (where Channel 269A is being assigned) or Etowah than would the assignment of the channel to South Pittsburg. This is, of course, true. However, since there is a leeway of about 2.5 miles for a Channel 269A site in either of these communities with respect to that for a South Pittsburg Channel 269A station meeting spacing requirements, the restriction on a choice of site for an Athens or Etowah Channel 269A operation is not a factor deserving any weight in balancing considerations between these conflicting South Pittsburg and Stevenson Channel 269A proposals.

19. From the viewpoint of the availability of local broadcast services, however, since Stevenson has none and South Pittsburg has one, albeit a daytime-only AM station, we believe that Stevenson clearly warrants the requested Channel 269A assignment for a first local aural broadcast service over South Pittsburg for a second such service, particularly since it appears that there are no other FM channels which could be assigned to Stevenson and it would otherwise be likely to be deprived of any opportunity for a local radio outlet of its own. In the circumstances, we believe that the public interest and the mandate of Section 307 (b) of the Communications Act for a fair, efficient and equitable distribution of radio services requires this decision on these conflicting Channel 269A proposals.

20. In reaching this decision we have, of course, carefully considered and taken into account the various factors urged by Marion as reason for preferring South Pittsburg to Stevenson for the assignment. None of them, in our judgment, provide a basis for concluding that the public interest would be served by providing South Pittsburg with opportunity for a second local aural service when this would in turn deprive Stevenson of opportunity for a first such service. While Marion has argued that South Pittsburg warrants the requested Channel 269A assignment over Stevenson because of its larger size, its potential for growth, its greater importance as a retail trade center, and its greater need for a local full-time weather warning service because of the greater susceptibility of the South Pittsburg area of flash flooding, this argument need not be further detailed, since, even if given full force, it does not, in our view, override the consideration that South Pittsburg has a local radio service and Stevenson has none and the public interest importance of providing Stevenson with opportunity for a first local service also. Moreover, in view of the proximity of these communities (approximately 13 miles apart) it is clear that many of South Pittsburg's needs for nighttime radio service, including a weather warning service, could be met by a Stevenson Channel 269A station whereas a South Pittsburg Channel 269A station would leave Stevenson with no means of filling its need for a local station.

21. Marion has also contended that Stevenson's needs for radio service are adequately satisfied by the Scottsboro

[3] Marion filed a correction to its comments which informed us that the seat of Marion County is not South Pittsburg, as it had previously stated, but Jasper, a community with a 1970 population of 1,811, located approximately six miles northeast of South Pittsburg.

[4] Bridgeport, Alabama (1970 pop., 2,908), which has a daytime-only AM station (WPTS) is within the preclusion area.

[5] The limiting FM stations are Station WBIE–FM (Ch. 268), Marietta, Georgia, Station WJLE (Ch. 269A), Smithville, Tennessee, and Station WDRM (Ch. 271), Decatur, Alabama.

FM station, and neither the FM signal it daytime-only stations in Jackson County (two at Scottsboro and one at Bridgeport). Stevenson is, however, some 17 miles from Scottsboro and is not within the 1 mV/m contour of the Scottsboro FM station, and neihter the FM signal it receives from the Scottsboro FM station nor the service it receives from it and the Scottsboro and Bridgeport AM stations can be considered sufficient to fill its need for a local service of its own. For that matter, since South Pittsburg is only five miles from Bridgeport, the South Pittsburg area receives daytime-only service from the Bridgeport AM station of at least 2 mV/m strength, as well as from South Pittsburg's local daytime-only AM station. While it was not mentioned by Marion, it would appear that since South Pittsburg is only 23 miles from Chattanooga, it also receives FM service from the three Chattanooga Class C FM stations, as well as from some of the Chattanooga unlimited-time AM stations.

22. In view of the foregoing, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, *It is ordered*, That effective December 8, 1975, the FM Table of Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows for the cities listed below:

City	*Channel No.*
Athens, Tennessee	269A
Cleveland, Tennessee	252A, 264
Etowah, Tennessee	276A
Stevenson, Alabama	269A

23. *It is further ordered*, That the proposal to assign Channel 269A to South Pittsburg, Tennessee, advanced by Marion County Broadcasting Service, Inc., in RM-2323 is denied.

24. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: October 22, 1975.

Released: October 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-29458 Filed 10-31-75;8:45 am]

[Docket No. 20136, RM-2285]

PART 73—RADIO BROADCAST SERVICES

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Cookeville and Fayetteville, Tennessee).

1. The Commission has under consideration its *notice of proposed rulemaking* adopted August 12, 1974, 39 FR 30050, inviting comments on a proposal to substitute Channel *52 for reserved Channel *28 at Fayetteville, Tennessee, and to assign Channel 28 to Cookeville, Tennessee. This proceeding was instituted in response to a petition of South Central Broadcasting Corporation (SCBC), licensee of commercial television Station WTVK, Channel 26, Knoxville, Tennessee. While SCBC requested the substitution of Channel *50 at Fayetteville, the Commission proposed Channel *52 to avoid a conflict with another rule making. Comments were filed by the Corporation for Public Broadcasting (CPB) and SCBC. No reply comments were filed.

2. The notice pointed out that SCBC desires to operate a satellite of its Knoxville station at Cookeville in an effort to improve WTVK's coverage west of Knoxville. Cookeville is 90 miles from Knoxville and a satellite station there will extend coverage beyond WTVK's present Grade B contour. Such a station will also provide improved service to persons within the predicted WTVK Grade B contour but unable to receive it. It is within this service area that petitioner wishes to improve WTVK's signal quality.

3. The notice also pointed out that Channel 28 is requested over an available, higher numbered channel that could be directly assigned to Cookeville. This is due to the desire of SCBC to utilize certain existing equipment from its present Channel 26 operation.

4. CPB filed pre-Notice comments objecting to the proposal and urging retention of the low UHF television channel at Fayetteville. Comments filed by CPB in response to the notice similarly object to the Commission's proposals, stating that Channel *28 should be retained for educational use at Fayetteville because it is a low UHF channel. The SCBC comments, on the other hand, state that the public interest will best be served by adoption of the proposal. Such a decision, it states, will permit it to provide television broadcast service to a significant number of persons now unable to receive it.

5. The Commission agrees with SCBC. No psychological or technical advantage is accorded low UHF channels over high UHF channels by the Commission and this seems to be the principal reason for the CPB objection. The SCBC proposal will permit substantial improvement in the quality of the broadcast signal available to persons living within the western confines of the WTVK predicted Grade C contour and an additional service to persons residing in the Cookeville area. Additionally the substitution proposed and the requested assignment at Cookeville do not adversely affect the efficiency of the Table of Assignments. Therefore, the Commission finds that adoption of the SCBC proposal is warranted.

6. In view of the foregoing and pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, *it is ordered*, That effective December 8, 1975, the Television Table of Assignments contained in § 73.606(b) of the Commission's rules and regulations *is amended* with respect to the following cities in Tennessee to read as follows:

City	*Channel No.*
Tennessee	
Cookeville	*22, 28+
Fayetteville	*52—

7. *It is further ordered*, That this proceeding is terminated.

Adopted: October 22, 1975.
Released: October 24, 1975.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-29456 Filed 10-31-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[451-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Rhode Island Revision

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR 51, the Administrator approved with exceptions the Rhode Island Plan for attainment of national ambient air quality standards. Included in this approval was Regulation 10, Air Pollution Episodes. This publication contains the Administrator's approval of a revision to this regulation.

On January 25, 1974, Austin C. Daley, Chief, Rhode Island Air Pollution Division of Air Pollution Control, submitted a proposed revision to Rhode Island Air Pollution Control Regulation 10, Air Pollution Episodes. As proposed, Regulation 10 allows the concentration of SO_2 to reach 500 ug/m³ before the alert level is declared and 800 ug/m³ before the warning level is declared. These limits, while higher than approved originally by the Administrator, are below the EPA recommended values set forth in 40 CFR Part 51, Appendix L, Example Regulations for Prevention of Air Pollution Emergency Episodes. There were no other modifications made in Regulation 10.

The proposed revision was published as proposed rulemaking on May 24, 1974 (39 FR 18299) and opportunity was provided for the public to comment on the approvability of the revision. The comment period has expired with no comments being received.

After evaluation of the State's submittal, the Administrator has determined that the regulation, as amended, meets the requirements of the Clean Air Act and 40 CFR Part 51. This regulation is promulgated as a revision to the Rhode Island Implementation Plan.

This revision shall become effective December 3, 1975.

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

Dated: October 24, 1975.

JOHN QUARLES,
Acting Administrator.

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

Subpart OO—Rhode Island

§ 52.2070 [Amended]

In Section 52.2070, paragraph (d) is amended by inserting the date "January 25, 1974" in proper chronological order.

[FR Doc.75-29514 Filed 10-31-75;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[451-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Rhode Island Plan

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR 51, the Administrator approved, with exceptions, the Rhode Island Implementation Plan for the attainment of national ambient air quality standards. Included in this approval was Regulation 8 limiting the sulfur content in fuel. This publication contains the Administrator's promulgation of a revision to the plan.

On May 22, 1974, Mr. Austin C. Daley, Chief, Rhode Island Division of Air Pollution Control, submitted for EPA approval a proposed revision to Regulation 8, Limitation of Sulfur in Fuels. The amendment would redefine "Low Sulfur Fuel" from percent sulfur dry weight of fuel to pounds of sulfur per heat release potential of the fuel. In accordance with the amended definition, no source could deliver, store, or use in any fuel containing greater than 0.55 pound of sulfur per million Btu heat release potential. The purpose of this change is to insure sulfur dioxide emissions from any facility would not exceed 1.1 pounds SO_2 per million Btu heat input regardless of the type of fuel burned.

On July 31, 1974 (39 FR 27700), the Administrator published the notice of proposed rulemaking and solicited public comment on the proposed revision. The comment period expired with no comments being received.

After a careful evaluation of the State's submittal, the Administrator has determined that the regulation, as modified, meets the requirements of the Clean Air Act. Accordingly, the Administrator promulgates the revision to Regulation 8, Limitation of Sulfur in Fuels.

The revision shall become effective December 3, 1975.

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

Dated: October 24, 1975.

JOHN QUARLES,
Acting Administrator.

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

Subpart OO—Rhode Island

§ 52.2070 [Amended]

1. Section 52.2070 paragraph (d) is amended by inserting the date "May 22, 1974" in proper chronological order.

[FR Doc.75-29515 Filed 10-31-75;8:45 am]

[PP5F1610/R58; 460-7]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbofuran

On September 24, 1975, the Environmental Protection Agency published in the FEDERAL REGISTER (40 FR 43924) a notice of proposed rulemaking to amend 40 CFR 180.254 by increasing the tolerances for residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl - 7 - benzofuranyl methylcarbamate) in or on the raw agricultural commodity potatoes from 1 part per million (ppm) to 2 ppm of which no more than 1 ppm is carbamate. Notice of the proposed rulemaking was published in response to a petition (PP 5F1610) submitted by FMC Corp., Agricultural Chemical Division, 100 Niagara St., Middleport NY 14105.

No comments or requests for referral to an advisory committee were received by the Agency. Therefore, based on the data submitted in the petition and other relevant material, it is concluded that the tolerance established by amending § 180.254 will protect the public health and that the proposed regulation should be adopted without change.

Any person adversely affected by this regulation may on or before December 3, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW., Washington DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2))).

Dated: October 29, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.254, is amended by increasing the tolerance for potatoes from 1 part per million to 2 parts per million by deleting potatoes from the paragraph "1 part per million * * *" and adding the commodity to the paragraph "2 parts per million".

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

2 parts per million in or on potatoes and sugar beet tops (of which no more than 1 part per million is carbamates).

1 part per million in or on peppers (of which no more than 0.1 part per million is carbamates) and rice straw (of which no more than 0.2 part per million is carbamates).

* * * * *

[FR Doc.75-29511 Filed 10-31-75;8:45 am]

[449-8-PP6E1661/R55]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methomyl

On September 16, 1975, the Environmental Protection Agency published in the FEDERAL REGISTER (40 FR 42757) a notice of proposed rulemaking to establish a tolerance of 0.2 part per million for residues of the insecticide methomyl in or on pomegranates. Notice of the proposed rulemaking was published in response to a petition (PP 6E1661) submitted by Mr. John C. Hillis, Chief, Agricultural Chemicals and Feed, California Department of Food and Agriculture, 1220 N. St., Sacramento CA 95814.

No comments or requests for referral to an advisory committee were received by the Agency. Therefore, based on the data submitted in the petition and other relevant material, it is concluded that the tolerance established by amending § 180.253 will protect the public health and that the proposed regulation should be adopted without change.

Any person adversely affected by this regulation may on or before December 3, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

(Section 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(3)))

Effective November 3, 1975, § 180.253, Subpart C, Part 180, is amended as follows.

Dated: October 24, 1975.

LOWELL E. MILLER,
Acting Deputy Assistant Administrator for Pesticide Programs.

Section 180.253, Subpart C, Part 180, is amended by revising the paragraph beginning "0.2 parts per million * * *" to include pomegranates as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

0.2 parts per million (negligible residue) in or on the commodity groups cucurbits, fruiting vegetables, leafy vegetables (except broccolli, brussells sprouts, cabbage, cauliflower, celery, endive

(escarole), lettuce, spinach), root crop vegetables, and pomegranates, sorghum grain, and soybeans.

[FR Doc.75-29448 Filed 10-31-75;8:45 am]

[PP9F0761/R56; 450-6]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Methyl-4-Chlorophenoxyacetic Acid

On October 23, 1968, notice was given (33 FR 15678) that the National Agricultural Chemicals Association Industry Task Force on Phenoxy Herbicide Tolerances, 1155 15th St. NW, Washington, DC 20005, had filed a pesticide petition (PP 9F0761) with the Food and Drug Administration. This petition proposed the establishment of tolerances for residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid resulting from the application of the herbicide in the acid form or in the form of one or more of the salts or esters:

1. Inorganic salt: Sodium.
2. Amine salts: Ethanolamine: diethanolamine; triethanolamine; isopropanolamine; diisopropanolamine; triisopropanolamine; and dimethylamine.
3. Esters: Isooctyl and butoxyethyl.

in or on the raw agricultural commodities alfalfa, barley, beans, clover, corn, flaxseed, oats, peas, rice, rye, sorghum, soybeans, and wheat at 0.2 part per million (ppm).

The petitioner subsequently amended the petition by:

1. Withdrawing the tolerance request for beans, corn, peas, sorghum, and soybeans.
2. Adding requests for tolerances for the following raw agricultural commodities:
   a. Grasses (pasture and rangeland) at 300 ppm.
   b. Alfalfa (fresh) and clover (fresh) at 75 ppm.
   c. Forage of barley, oats, rye, wheat, and grass hay at 20 ppm.
   d. Straw of barley, flax, oats, rice, rye, and wheat at 2 ppm.
   e. Peavines and peavine hay at 0.1 ppm (negligible residues).
   f. Combined negligible residues of 2-methyl-4-chlorophenoxyacetic acid and its 2-methyl-4-chlorophenol metabolite in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm (negligible residues).
3. Reducing the proposed 0.2 ppm tolerance in or on flaxseed, rice, and the grain of barley, oats, rye, and wheat to 0.1 ppm (negligible residues).

On August 30, 1972 (37 FR 17554) interim tolerances (40 CFR 180.319) were established as follows:

20 ppm in or on the forage of barley, oats, rye, and wheat.
2 ppm in or on the straw of barley, oats, rye, and wheat.
0.2 ppm in or on the grain of barley, oats, rye, and wheat.
0.1 ppm in or on flaxseed and rice.

On December 2, 1972 (37 FR 25716) an interim tolerance of 300 ppm was established for grasses (pasture and rangeland) and grass hay, and for alfalfa (fresh) and clover (fresh) at 75 ppm.

The petitioner again amended the petition by reinstating a proposed tolerance for peas at 0.1 ppm, and on May 21, 1973, a tolerance of 0.1 ppm (negligible residues) was established (40 CFR 180.339) for residues of the herbicide in or on the raw agricultural commodity peas resulting from the application of the herbicide in the acid form or in the form of the salts and esters listed above (38 FR 13376).

The petitioner has since withdrawn the request for tolerances for alfalfa (fresh) and clover (fresh).

The data submitted in the petition and other relevant material have been evaluated, and the herbicide is considered to be useful for the purposes for which the tolerances are sought. There is no reasonable expectation of residues in eggs or poultry, and § 180.6(a)(3) applies. The proposed tolerances are adequate to cover residues that would result in milk and the meat of cattle, goats, hogs, horses, and sheep. It has been determined that these proposed tolerances will protect the public health, and it is, therefore, concluded that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before December 3, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW., Washington DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on November 3, 1975, Part 180, Subpart C, is amended by revising § 180.319 to delete interim tolerances, and amending § 180.339 as set forth below.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Dated: October 29, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

§ 180.319 [Amended]

1. Section 180.319 is amended by deleting the entry 2-methyl-4-chlorophenoxyacetic acid and all related tolerances.

2. Section 180.339 is amended by adding additional raw agricultural commodities to the list of tolerances to read as follows:

§ 180.339 2-methyl-4-chlorophenoxyacetic acid; tolerances for residues.

Tolerances are established for residues of the herbicide 2-methyl-4-chlorophenoxyacetic acid from application of the herbicide in the acid form or in the form of its sodium, ethanolamine, diethanolamine, triethanolamine, isopropanolamine, diisopropanolamine, triisopropanolamine, or dimethylamine salts or its isooctyl or butoxyethyl esters in or on raw agricultural commodities as follows:

hay.

300 parts per million in or on grasses (pasture and rangeland).

20 parts per million in or on the forage of barley, oats, rye, and wheat, and grass hay.

2 parts per million in or on the straw of barley, flax, oats, rice, rye, and wheat.

0.1 part per million (negligible residues) in or on flaxseed; grain of barley, oats, rice, rye, and wheat, peas, peavines, and peavine hay.

0.1 part per million for combined negligible residues of 2-methyl-4-chlorophenoxyacetic acid and its 2-methyl-4-chlorophenol metabolite in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

* * * * *

[FR Doc.75-29510 Filed 10-31-75;8:45 am]

Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-742]

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	Covington	Opp, city of	Oct. 20, 1975, emergency	July 11, 1975		
Iowa	Black Hawk	Unincorporated areas	do			
Do	Wapello, Mahaska, and Monroe.	Eddyville, town of	do	June 28, 1974		
Nebraska	Red Willow	Indianola, city of	do	Sept. 19, 1975		
Do	Keith	Paxton, village of	do	May 24, 1974		
New York	Otsego	Sebenevus, village of	do	Nov. 15, 1974		
Ohio	Highland	Highland, village of	do	Dec. 20, 1974		
Vermont	Orange	Thetford, town of	do	Aug. 16, 1974		
Virginia	Charles City	Unincorporated areas	do	Jan. 17, 1975		
Do	James City	do	do	July 18, 1975		
Wisconsin	Fond du Lac	Rosendale, village of	do	Nov. 8, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	Montgomery	Unincorporated areas	Oct. 22, 1975, emergency	Jan. 17, 1975		
Connecticut	Litchfield	Norfolk, town of	do	Feb. 14, 1975		
Indiana	Franklin	Cedar Grove, town of	do	Dec. 7, 1973		
Iowa	Muscatine	Atalissa, city of	do	Nov. 8, 1974		
Massachusetts	Worcester	Brookfield, town of	do	May 3, 1974		
Michigan	Ionia	Lake Odessa, village of	do	July 18, 1975		
Do	Jackson	Summit, township of	do	Sept. 19, 1975		
Montana	Beaverhead	Lima, town of	do	July 25, 1975		
New Mexico	Eddy	Unincorporated areas	do			
Do	Mora	do	do	Aug. 9, 1974		
New York	Columbia	Ghent, town of	do	Oct. 18, 1974		
North Dakota	Walsh	Forest River, city of	do	Nov. 22, 1974		
Do	Nelson	Petersburg, city of	do	Jan. 17, 1975		
Ohio	Lake	Unincorporated areas	do			
Oregon	Morrow	Boardman, city of	do	Dec. 13, 1974		
Utah	Wasatch	Charleston, town of	do	Sept. 19, 1975		
Vermont	Chittenden	Saint George, town of	do	Apr. 11, 1975		
West Virginia	Grant	Unincorporated areas	do	Jan. 10, 1975		
Do	Pendleton	do	do	Apr. 25, 1975		
Do	Taylor	do	do	Dec. 13, 1974		
Wisconsin	Winnebago	Omro, city of	do			
Do	Marquette	Oxford, village of	do	Sept. 6, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	Winston	Haleyville, city of	Oct. 23, 1975, emergency	Feb. 21, 1975		
Maine	Somerset	Cambridge, town of	do	Jan. 17, 1975		
Do	Franklin	Phillips, town of	do	June 14, 1974		
Do	Lincoln	Southport, town of	do	Jan. 17, 1975		
New York	Saratoga	Hadley, town of	do	Sept. 13, 1974		
Ohio	Lorain	Avon, city of	do	Apr. 12, 1974		
				Mar. 28, 1975		
Utah	Salt Lake	Riverton, city of	do	Nov. 1, 1974		
Wisconsin	St. Croix	Hammond, village of	do	May 10, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	
Alabama	De Kalb	Collinsville, town of	Oct. 24, 1975, emergency	May 17, 1974		
Arizona	Yuma	Parker, town of	do	do		
Iowa	Monona	Rodney, city of	do			
Maine	Aroostook	Merrill, town of	do	Feb. 21, 1975		
Do	Kennebec	Readfield, town of	do	Feb. 15, 1975		
Do	Oxford	Roxbury, town of	do	do		
Do	do	Peru, town of	do	Oct. 18, 1974		
Minnesota	Anoka	Ham Lake, city of	do	Aug. 15, 1975		
Do	Hennepin	Maple Plain, city of	do	May 3, 1974		
Missouri	Holt	Forest City, city of	do	Oct. 18, 1974		
New York	Oswego	Minetto, town of	do	Nov. 22, 1974		
Do	Allegany	Willing, town of	do	Aug. 30, 1974		
Ohio	Hamilton	Montgomery, city of	do	June 28, 1974		
				Apr. 11, 1975		
Do	Butler	New Miami, village of	do	Feb. 8, 1974		
Do	Lucas	Ottawa Hills, village of	do	Nov. 9, 1973		
Pennsylvania	Bedford	Harrison, township of	do	Jan. 24, 1975		
Do	Clearfield	Knox, township of	do	Nov. 29, 1974		
Do	Luzerne	Lake, township of	do	Nov. 22, 1974		
Do	Chester	Newlin, township of	do	Nov. 1, 1974		
Do	Northumberland	Upper Mahanoy, township of	do	Sept. 20, 1974		
Wisconsin	Iowa	Ridgeway, village of	do	do		

(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: October 20, 1975.

FRANCIS REILLY,
Acting Federal Insurance Administrator.

[FR Doc.75-29284 Filed 10-31-75;8:45 am]

[Docket No. FI-741]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

● **Purpose. The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.** ●

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be December 3, 1975, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

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

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Arkansas	Chicot	Dermott, city of	H 050026A 01	Division of Soil and Water Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Dermott, Ark. 71638.	Mar. 22, 1974. Oct. 24, 1975.
Do	Clay	Knobel, town of	H 050032A 01	do	Mayor, Town Hall, Knobel, Ark. 72435.	Oct. 25, 1974.
Do	Desha	Arkansas City, city of.	H 050066A 01	do	Mayor, Town Hall, Arkansas City, Ark. 71630.	May 10, 1974. Oct. 24, 1975.
Do	Howard	Nashville, city of	H 050089A 01 through H 050089A 02	do	Mayor, City Hall, Nashville, Ark. 71852.	Nov. 16, 1973. Oct. 24, 1975.
Do	Lafayette	Stamps, city of	H 050117A 01 through H 050117A 02	do	Mayor, City Hall, Stamps, Ark. 71860.	Jan. 23, 1974. Oct. 24, 1975.
Do	Lawrence	Hoxie, city of	H 051109A 01 through H 050119A 02	do	Mayor, City Hall, Hoxie, Ark. 72433	May 10, 1974. Oct. 24, 1975.
Do	Lee	Marianna, city of	H 050124A 01 through H 050124A 01	do	Mayor, City Hall, Marianna, Ark. 72360.	Oct. 26, 1973. Oct. 24, 1975.
Do	Union	Strong, city of	H 050210A 01	do	Mayor, City Hall, Strong, Ark. 71765	June 28, 1974. Oct. 24, 1975.
Do	Washington	Greenland, town of.	H 050217A 01	do	Mayor, City Hall, Greenland, Ark. 72737.	June 28, 1974. Oct. 24, 1975.
California	Contra Costa	Antioch, city of	H 060026A 01 through H 060026A 04	Department of Water Resource, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 600 South Commonwealth Ave., Los Angeles, Calif. 90005.	City Planner, City Hall, 3d and H Sts., P.O. Box 369, Antioch, Calif. 94509.	June 28, 1974. Oct. 24, 1975.
Do	Los Angeles	Lakewood, city of	H 060130A 01 through H 060130A 05	do	City Manager, 5050 Clark Ave., P.O. Box 158, Lakewood, Calif. 90714.	July 19, 1974. Oct. 24, 1975.
Do	San Mateo	San Bruno, city of	H 060326A 01 through H 060326A 02	do	Mayor, City Hall, 567 El Camino Real, San Bruno, Calif. 94066.	June 7, 1974.
Do	Plumas	Portola, city of	H 060456A 01 through H 060456A 02	do	City Engineer, City Hall, P.O. Box 1228, Portola, Calif. 96122.	Feb. 7, 1975. Oct. 24, 1975.
Delaware	Kent	Clayton, town of	H 100005A 01	Delaware State Planning Office, Thomas Collins Bldg., 530 South Dupont Highway, Dover, Del. 19901. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	Mayor, Town Hall, Clayton, Del. 19938.	May 17, 1974. Oct. 24, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Florida	Manatee	Bradenton, city of.	H 120155A 01 through H 120155A 10	Department of Community Affairs, 2571 Executive Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Mayor, Drawer 730, Bradenton, Fla. 33506.	Mar. 1, 1974. Oct. 24, 1975.
Do.	Orange	Maitland, city of.	H 120184A 01 through H 120184A 03	do.	City Manager, P.O. Box 66, Maitland, Fla. 32751.	July 19, 1974. Oct. 24, 1975.
Do.	Palm Beach	Lake Clarke Shores, town of.	H 120211A 01	do.	Mayor, town of Lake Clarke Shores, 1701 Barbados Rd., West Palm Beach, Fla. 33409.	Jan. 9, 1974. Oct. 24, 1975.
Georgia	Bartow	Cartersville, city of.	H 130209A 01 through H 130209A 06	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	City Manager, Box 529, Cartersville, Ga. 30120.	June 28, 1974. Oct. 24, 1975.
Do.	Stephens	Toccoa, city of.	H 130231A 01 through H 130231A 02	do.	Community Chairman, Box 579, Toccoa, Ga. 30577.	June 28, 1974. Oct. 24, 1975.
Illinois	Champaign	Fisher, village of.	H 170057A 01	Governor's Task Force on Flood Control, 309 North State St., Room 1010, P.O. Box 475, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	Mayor, Village Hall, Fisher, Ill. 61843.	Mar. 22, 1974.
Do.	Cook and Dupage	Schaumburg, village of.	H 170158A 01 through H 170158A 09	do.	Mayor, 101 Schaumburg Rd., Schaumburg, Ill. 60172.	Dec. 6, 1974. Oct. 24, 1975.
Do.	Dupage	Warrenville, city of.	H 170218A 01 through H 170218A 02	do.	Mayor, P.O. Box 430, Warrenville, Ill. 60555.	May 24, 1974. Oct. 24, 1975.
Do.	Lake	Round Lake Park, village of.	H 170391A 01 through H 170391A 02	do.	Mayor, 203 East Lake Shore Dr., Round Lake Park, Ill. 60073.	Mar. 29, 1974. Oct. 24, 1975.
Do.	Tazewell	North Pekin, village of.	H 170653A 01	do.	Village President, 318 North Main St., North Pekin, Ill. 61554.	Mar. 8, 1974. Oct. 24, 1975.
Do.	do.	Washington, city of.	H 170655A 01 through H 170655A 04	do.	Mayor, 115 West Jefferson Ave., Washington, Ill. 61571.	June 7, 1974. Oct. 24, 1975.
Do.	Washington	Nashville, city of.	H 170678A 01 through H 170678A 02	do.	Mayor, 116 East Court St., Nashville, Ill. 62263.	May 17, 1974. Oct. 24, 1975.
Indiana	Crawford	English, town of.	H 180032A 01	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Town Board President, English, Ind. 47118.	Apr. 12, 1974. Oct. 24, 1975.
Do.	Madison	Elwood, city of.	H 180152A 01 through H 180152A 04	do.	Mayor, 1601 Main St., Elwood, Ind. 46036.	Dec. 28, 1973. Oct. 24, 1975.
Do.	Porter	Chesterton, town of.	H 180201A 01 through H 180201A 03	do.	Town Board President, 726 Broadway, Chesterton, Ind. 46304.	Feb. 1, 1974.
Do.	Delaware	Gaston, town of.	H 180360A 01	do.	Town Board President, Town Hall, Gaston, Ind. 47342.	Feb. 21, 1975. Oct. 24, 1975.
Iowa	Lyon	Rock Rapids, city of.	H 190199A 01 through H 190199A 02	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	City Administrator, City Hall, Rock Rapids, Iowa 51246.	Mar. 29, 1974. Oct. 24, 1975.
Kansas	Barton	Ellinwood, city of.	H 200018A 01	Division of Water Resources, Kansas Department of Agriculture, 1720 South Topeka Ave., Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, P.O. Box 287, Ellinwood, Kans. 67526.	Mar. 15, 1974. Oct. 24, 1975.
Do.	do.	Hoisington, city of	H 200020A 01	do.	Mayor, City Hall, 100 East 1st St., Hoisington, Kans. 67544.	Feb. 22, 1974. Oct. 24, 1975.
Do.	Butler	El Dorado, city of	H 200030A 01 through H 200030A 03	do.	Mayor, City Hall, P.O. Box 702, El Dorado, Kans. 67042.	May 10, 1974. Oct. 24, 1975.
Do.	Cherokee	Columbus, city of.	H 200046A 01	do.	Mayor, City Hall, 300 East Maple St., Columbus, Kans. 66725.	Mar. 1, 1974. Oct. 24, 1975.
Do.	do.	Galena, city of.	H 200047A 01	do.	Mayor, City Hall, 501 Main, Galena, Kans. 66739.	May 24, 1974. Oct. 24, 1975.
Do.	Clark	Ashland, city of.	H 200049A 01 through H 200049A 02	do.	Mayor, City Hall, 703 Main St., Ashland, Kans. 67831.	May 17, 1974. Oct. 24, 1975.
Do.	Clay	Clay Center, city of.	H 200053A 01	do.	Mayor, City Hall, 472 Court St., P.O. Box 117, Clay Center, Kans. 67432.	Mar. 29, 1974. Oct. 24, 1975.
Do.	Cloud	Glasco, city of.	H 200061A 01	do.	Mayor, City Hall, P.O. Box 356, Main St., Glasco, Kans. 67445.	June 21, 1974. Oct. 24, 1975.
Do.	Coffey	LeRoy, city of.	H 200066A 01 through H 200066A 02	do.	Mayor, City Hall, LeRoy, Kans. 66857.	Dec. 28, 1973. Oct. 24, 1975.
Do.	Dickinson	Herington, city of.	H 200076A 01	do.	Mayor, City Hall, 715 South Broadway, Herington, Kans. 67449.	May 1, 1974. Oct. 24, 1975.
Do.	Ellis	Ellis, city of.	H 200095A 01	do.	Mayor, City Hall, 911 Washington St., P.O. Box 27, Ellis, Kans. 67637.	Jan. 9, 1974. Oct. 24, 1975.
Do.	Gray	Cimarron, city of.	H 200117A 01	do.	Mayor, City Hall, Main St., Cimarron, Kans. 67835.	May 31, 1974. Oct. 24, 1975.
Do.	Harvey	Burrton, city of.	H 200130A 01	do.	Mayor, City Hall, 203 North Burrton, Burrton, Kans. 67020.	Mar. 15, 1974. Oct. 24, 1975.
Do.	Jackson	Holton, city of.	H 200141A 01	do.	Mayor, City Hall, 430 Penn Ave., Holton, Kans. 66436.	Feb. 22, 1974. Oct. 24, 1975.
Do.	Johnson	Mission Hills, city of.	H 200171A 01 through H 200171A 02	do.	Mayor, City Hall, State Line, Mission Hills, Kans. 66208.	June 7, 1974. Oct. 24, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Marshall	Frankfort, city of	H 200211A 01	do	Mayor, City Hall, 109 North Kansas, Frankfort, Kans. 66427.	Jan. 23, 1974. Oct. 24, 1975.
Do	Montgomery	Caney, city of	H 200230A 01	do	Mayor, City Hall, Caney, Kans. 67333.	Feb. 15, 1974. Oct. 24, 1975.
Do	Pratt	Pratt, city of	H 200278A 01	do	Mayor, City Hall, Pratt, Kans. 67124.	Apr. 5, 1974. Oct. 24, 1975.
Do	Rice	Chase, city of	H 200293A 01	do	Mayor, City Hall, Main St., Chase, Kans. 67524.	Mar. 8, 1974. Oct. 24, 1975.
Do	Stanton	Johnson City, city of.	H 200345A 01	do	Mayor, City Hall, P.O. Box 387, Johnson City, Kans. 67855.	May 24, 1974.
Kentucky	Marshall	Benton, city of	H 210163A 01 through H 210163A 04	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza, Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Dept., Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, 101 East 11th, Benton, Ky. 42025.	June 15, 1973. Oct. 24, 1975.
Louisiana	Avoyelles	Moreauville, village of.	H 220023A 01 through H 220023A 02	Director, State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Commissioner, Louisiana Insurance Commission, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor, Village Hall, Moreauville, La. 71355.	June 28, 1974. Oct. 24, 1975.
Do	Evangeline	Mamou, town of	H 220067A 01 through H 220067A 02	do	Mayor, Town Hall, Mamou, La. 70554.	May 3, 1974.
Do	Iberia	Loreauville, village of.	H 220081A 01 through H 220081A 02	do	Mayor, Village Hall, Loreauville, La. 70552.	Apr. 12, 1974.
Do	Iberville	Plaquemine, city of.	H 220085A 01 through H 220085A 04	do	Mayor, City Hall, Plaquemine, La. 70764.	Apr. 12, 1974. Oct. 24, 1975.
Do	Rapides	Cheneyville, town of.	H 220148A 01	do	Mayor, Town Hall, Cheneyville, La. 71325.	May 17, 1974. Oct. 24, 1975.
Do	do	Glenmora, town of.	H 220149A 01	do	Mayor, City Hall, Glenmora, La. 71433.	Apr. 12, 1974. Oct. 24, 1975.
Do	St. Martin	Breaux Bridge, town of.	H 220180A 01 through H 220180A 02	do	Mayor, Town Hall, Breaux Bridge, La. 70517.	Dec. 28, 1973. Oct. 24, 1975.
Do	Tangipahoa	Tickfaw, village of.	H 220214A 01	do	Mayor, Village of Tickfaw, Tickfaw, La. 70466.	Aug. 30, 1974.
Maryland	Frederick	Walkersville, town of.	H 240032A 01	Director, Department of Natural Resources, Water Resources Division, State Office Bldg., Annapolis, Md. 21401. Commissioner, Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Richard Winn, Burgess, 3 West Pennsylvania, Walkersville, Md. 21793.	June 28, 1974. Oct. 24, 1975.
Michigan	Cass	Dowagiac, city of	H 260055A 01 through H 260055A 02	Executive Secretary, Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Commissioner, Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 49077.	City Manager, Box 439, Dowagiac, Mich. 49047.	June 28, 1974.
Do	Saginaw	Bridgeport, town of.	H 260186A 01 through H 260186A 10	do	Township Supervisor, 6206 Dixie, Bridgeport, Mich. 48722.	Feb. 8, 1974. Oct. 24, 1975.
Minnesota	Chisago	Harris, city of	H 270071A 01 through H 270071A 07	Director, Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Commissioner, Minnesota Division of Insurance, R-210, State Office Bldg., St. Paul, Minn. 55101.	Mayor, Harris, Minn. 55032.	Sept. 20, 1974. Oct. 24, 1975.
Do	do	Stacy, city of	H 270074A 01	do	Mayor, City Hall, Stacy, Minn. 55079.	Oct. 25, 1974. Oct. 31, 1975.
Do	do	Taylors Falls, city of.	H 270075A 01 through H 270075A 02	do	Mayor, Box 241, Taylors Falls, Minn. 55084.	May 24, 1974.
Do	Hennepin	Woodland, city of	H 270189A 01	do	Mayor, Woodland City Hall, City of Woodland, Wayzeta, Minn. 55391.	May 31, 1974. Oct. 24, 1975.
Do	Pipestone	Ruthon, city of	H 270360A 01	do	Mayor, Ruthon, Minn. 56179.	Aug. 9, 1974.
Do	Rock	Hills, city of	H 270400A 01	do	Mayor, Hills, Minn. 56138.	Apr. 12, 1974.
Do	Winona	Minnesota City, city of.	H 270529A 01	do	Mayor, City Hall, Minnesota City, Minn. 55959.	Aug. 2, 1974. Oct. 24, 1975.
Do	do	Stockton, city of	H 270532A 01	do	Mayor, Box 62, Stockton, Minn. (No ZIP).	Aug. 23, 1974. Oct. 24, 1975.
Mississippi	Yalobusha	Water Valley, city of.	H 280187A 01	Director, Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Commissioner, Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Mayor, Box 231, Water Valley, Miss. 38965.	Feb. 1, 1974. Oct. 24, 1975.
Missouri	Jasper	Duenweg, city of	H 290182A 01	Executive Director, Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson, Mo. 65101. Superintendent, Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City Hall, P.O. Box 105, Duenweg, Mo. 64841.	May 3, 1974. Oct. 24, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Mississippi	East Prairie, city of.	H 290232A 01 through H 290232A 02	....do	Mayor, City Hall, East Main St., East Prairie, Mo. 63845.	May 3, 1974. Oct. 24, 1975.
Do.	St. Francois	Farmington, city of.	H 290323A 01 through H 290323A 04	....do	Mayor, City Hall, Long Memorial Bldg., Farmington, Mo. 63640.	Mar. 1, 1974. Oct. 24, 1975.
Do.	St. Louis	Bellefontaine Neighbors, city of.	H 290330A 01 through H 290330A 03	....do	Mayor, City Hall, 9641 Bellefontaine Rd., Bellefontaine Neighbors, Mo. 63137.	June 14, 1974. Oct. 24, 1975.
Montana	Fallon	Baker, city of	H 300018A 01	Administrator, Montana Department of Natural Resources and Conservation, Water Resources Division, 32 South Ewing St., Helena, Mont. 59601. Commissioner, Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	City Alderman, City of Baker, P.O. Box 741, Baker, Mont. 59313.	Mar. 15, 1974. Oct. 24, 1975.
New Jersey	Bergen	Demarest, borough of.	H 340025A 01	Chief, Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. Commissioner, New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, 118 Serpentine Rd., Demarest, N.J. 07627.	Mar. 15, 1974.
Do.	do	Tenafly, borough of.	H 340076B 01 through H 340076B 03	....do	Mayor, 401 Tenafly Road, Tenafly, N.J. 07670.	Jan. 16, 1974. Apr. 25, 1975. Oct. 24, 1975.
Do.	Somerset	Somerville, borough of.	H 340444A 01 through H 340444A 02	....do	Mayor, Municipal Office, 25 West End Ave., Somerville, N.J. 08876.	July 26, 1974. Oct. 24, 1975.
New York	Allegany	Scio, town of	H 360034A 01 through H 360034A 03	Commissioner, New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. Attention: Eldred Rich. Superintendent, New York State Insurance Department, 2 World Trade Center, New York, N.Y. 10047.	Town Supervisor, Town Hall, Scio, N.Y. 14880.	May 3, 1974. Oct. 24, 1975.
Do.	Greene	Ashland, town of	H 360284A 01 through H 360284A 07	....do	Town Supervisor, Rural Delivery, Town of Ashland, Windham, N.Y. 12496.	Nov. 1, 1974. Oct. 24, 1975.
Do.	Monroe	Pittsford, town of	H 360429A 01 through H 360429A 07	....do	Town Supervisor, 11 South Main St., Pittsford, N.Y. 14534.	Dec. 28, 1973. Oct. 24, 1975.
Do.	Westchester	Peekskill, city of	H 360924A 01 through H 360924A 02	....do	City Manager, 840 Main St., Peekskill, N.Y. 10566.	May 31, 1974. Oct. 24, 1975.
Do.	Yates	Starkey, town of	H 360065A 01 through H 360065A 05	....do	Town Supervisor, Town of Starkey, 33 Main St., Dundee, N.Y. 14837.	June 7, 1974. Oct. 24, 1975.
North Carolina	Cumberland	Fayetteville, city of.	H 370077A 01 through H 370077A 09	Director, Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. Commissioner, North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, 234 Green St., Fayetteville, N.C. 28301.	Nov. 2, 1973. Oct. 24, 1975.
Ohio	Knox	Fredericktown, village of.	H 390309A 01	Director, Ohio Department of Natural Resources, Flood Insurance Coordination Bldg., Fountain Sq., Columbus, Ohio 43224. Ohio Department of Insurance, 447 East Broad St., Columbus, Ohio 43215.	Mayor, 2 East Sandusky St., Fredericktown, Ohio 43019.	Apr. 5, 1974. Oct. 24, 1975.
Do.	Lucas	Sylvania, city of	H 390364A 01 through H 390364A 03	....do	Mayor, 6635 Maplewood, Sylvania, Ohio 43560.	Dec. 17, 1973. Oct. 24, 1975.
Oklahoma	Nowata	Nowata, city of	H 400136A 01 through H 400136A 03	Executive Director, Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Commissioner, Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	City Manager, City Hall, Nowata, Okla. 74048.	June 28, 1974. Oct. 24, 1975.
Pennsylvania	Bradford	Ridgebury, township of.	H 420173B 01 through H 420173B 12	Secretary, Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Commissioner, Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120. Attention: David P. Ralston.	Township Supervisor, Rural Delivery Township of Ridgebury, Sayre, Pa. 18840.	Jan. 9, 1974. Aug. 8, 1975. Oct. 24, 1975.
Do.	Chester	East Bradford, township of.	H 420276A 01 through H 420276A 05	....do	Township Board of Supervisors, Chairman, Township of East Bradford, 310 Highland Rd., West Chester, Pa. 19380.	Aug. 16, 1974. Oct. 24, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Crawford	Springboro, borough of.	H 420353A 01	do	Mayor, Box 12, Springboro, Pa. 16435	June 21, 1974. Oct. 24, 1975.
Do	Adams	Straban, township of.	H 421259A 01 through H 421259A 11	do	Township Board of Supervisors, Chairman, Rural Delivery No. 2, Township of Straban, New Oxford, Pa. 17350.	Jan. 3, 1975.
Do	Washington	Deemston, borough of.	H 422132A 01 through H 422132A 04	do	Mayor, Rural Delivery No. 1, Borough of Deemston, Fredericktown, Pa. 15333.	Nov. 1, 1974.
Texas	Bosque	Meridian, city of	H 480053A 01 through H 480053A 02	Executive Director, Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Commissioner, Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Mayor, Box 712, Meridian, Tex. 76665	May 3, 1974. Oct. 24, 1975.
Do	Denton	Denton, city of	H 480194A 01 through H 480194A 15	do	Professional Engineer, City of Denton, 1 Lemon Park North, 3500 McKinney at Blackburn, Dallas, Tex. 75204.	Nov. 1, 1974. Oct. 24, 1975.
Utah	Duchesne	Duchesne, city of	H 490065A 01	Director, Department of Natural Resources, Division of Water Resources, State Capitol Bldg., Room 435, Salt Lake City, Utah 84114. Commissioner, Utah Insurance Department, 115 State Capitol, Salt Lake City, Utah 84114.	Mayor, City Hall, Duchesne, Utah 84021.	June 21, 1974. Oct. 24, 1975.
Virginia	Fairfax	Vienna, town of	H 510053A 01 through H 510053A 02	Bureau of Water Control Management, State Water Control Board, P.O. Box 11143, Richmond, Va. 23240. Commissioner, Virginia Insurance Department, 700 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Town Manager, 127 Center St., Vienna, Va. 22180.	Aug. 2, 1974. Oct. 24, 1975.
West Virginia	Cabell	Barboursville, village of.	H 540017A 01 through H 540017A 02	Director, Office of Federal-State Relations, Division of Planning and Development, Capitol Bldg., Room 150, Charleston, W. Va. 25305. Commissioner, West Virginia Insurance Commission, 1800 Washington St., Building No. 3, Room 643, Charleston, W. Va. 25305.	Mayor, Village Hall, Barboursville, W. Va. 25504.	May 31, 1974. Oct. 24, 1975.
Wisconsin	Dodge	Fox Lake, city of	H 550097A 01	Secretary, Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Insurance Commissioner, Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	Mayor, Box 105, Fox Lake, Wis. 53933	May 24, 1974.
Do	Richland	Cazenovia, village of.	H 550358A 01 through H 550358A 03	do	Village President, Box 33, Cazenovia, Wis. 53924.	Aug. 23, 1974. Oct. 24, 1975.
Do	Sauk	North Freedom, village of.	H 550399A 01	do	Village President, Box 25, North Freedom, Wis. 53951.	Dec. 17, 1973. Oct. 24, 1975.

(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 (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: October 20, 1975.

FRANCIS REILLY,
Acting Federal Insurance Administrator.

[FR Doc.75-29285 Filed 10-31-75;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 AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 909]

HANDLING OF GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Expenses and Fixing of Rate of Assessment for the 1975–76 Fiscal Period and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $125,000 and rate of assessment of two and one-half cents ($0.025) per carton of grapefruit to support the activities of the Administrative Committee for the 1975–76 fiscal period under Marketing Order No. 909.

Consideration is being given to the following proposals submitted by the Administrative Committee, established under Marketing Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1975, through August 31, 1976, will amount to $125,000.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 909.41, be fixed at two and one-half cents ($0.025) per carton, or equivalent quantity of grapefruit; and

(3) That unexpended assessment funds of approximately $35,287, in excess of expenses incurred during the 1974–75 fiscal period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than November 15, 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)).

Dated: October 24, 1975.

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

[FR Doc.75-29436 Filed 10-31-75;8:45 am]

[7 CFR Parts 1060, 1061, 1068, 1069, 1076]

[Docket Nos. AO–178–A33, etc.]

MILK IN THE MINNEAPOLIS-ST. PAUL AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Correction

In FR Doc. 75–28832, appearing at page 50392 in the issue of Wednesday, October 29, 1975, make the following change:

The twenty-two lines of text immediately following the last table on page 50395, together with the nineteen lines of text preceding the table on 50396, should be interchanged with the 46 lines of text appearing in the first column following the table on page 50396.

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 29]

APPRENTICESHIP PROGRAMS

Proposed Registration Standards

CROSS REFERENCE: For a document relating to a notice of proposed rulemaking on apprenticeship programs published at 40 FR 11340, see FR Doc. 75–29508 appearing in the notices section of this issue under Labor Department, Manpower Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 102]

[Docket No. 75N–0172]

PEANUT SPREADS

Proposed Common or Usual Name

The Food and Drug Administration is proposing to establish a common or usual name for spreadable peanut products that fail to meet the standard of identity for peanut butter. The name proposed is "peanut spread," followed by a declaration of the percentage of peanuts present. Interested persons have until January 2, 1976 to submit comments.

The Commissioner of Food and Drugs, in the FEDERAL REGISTER of March 14, 1973 (38 FR 6964), promulgated general principles and a procedure for establishing common or usual names for nonstandardized foods (21 CFR Part 102). These principles and that procedure govern this rule making proceeding.

Recently, a number of spreadable peanut products have appeared on the market that do not conform to the standard of identity for peanut butter. The peanut butter standard of identity (21 CFR 46.1) sets a maximum of 10 percent by weight for any combination of seasoning and stabilizing ingredients; the remainder must consist of peanut ingredient. During processing, the oil content of the peanut ingredient may be adjusted by adding or subtracting peanut oil, but the finished food may contain no more than 55 percent fat. These figures were established following a public hearing, which began November 1, 1965, and concluded on March 15, 1966. The findings of fact were published in conjunction with the standard of identity for peanut butter in the FEDERAL REGISTER of July 24, 1968 (33 FR 10506).

Descriptive name. The new spreadable peanut products have less peanut ingredient than standardized peanut butter. Consequently, the Commissioner concludes that the products do not purport to be peanut butter if they are identified by an appropriately descriptive and distinguishing name. To prevent confusion with standardized peanut butter, the Commissioner on his own initiative is proposing to establish by regulation a common or usual name for nonstandardized spreadable peanut products. The proposed regulation requires use of the name "peanut spread." This is the name currently being used by the new products. Copies of representative labeling are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

Percentage declaration. Section 102.1 (b) of the regulations (21 CFR 102.1(b)) requires that a common or usual name established by regulation include a declaration of the percentage of any characterizing ingredient when the proportion of such ingredient has a material bearing on price or consumer acceptance. The Commissioner concludes that the proportion of peanuts in peanut spread has a material bearing on consumer acceptance, and hence should be required to be declared on the label of such products.

Certain exhibits introduced into evidence at the 1965–1966 hearing on the peanut butter standard corroborate this conclusion and are on file with the Hearing Clerk.

In particular, the exhibits show that intensity of peanut flavor is an important factor in consumer acceptance of peanut spreads. An industry survey of consumer preferences determined that "taste and flavor" was a characteristic named by 67.1 percent of buyers as one of the most important characteristics in

buying peanut spreads (hearing exhibit 22). Flavor in peanut spreads was shown by the survey to be a more important factor in consumers' choices than flavor in jam, jelly, or margarine. Similarly, a U.S. Department of Agriculture survey found that almost half of the respondents who used peanut butter reported they liked it for its "good taste or flavor" (hearing exhibit 24, page 17 and table 20).

Exhibits from the hearing also show that peanut flavor is directly related to the amount of peanuts contained in the spread. A consumer evaluation of three peanut spreads, containing 95 percent, 90 percent, and 80 percent peanuts, respectively, reported as a major finding that there was a "highly significant" difference detected in the intensity of peanut flavor among the three spreads. The products with lowest peanut content had less intense flavor (hearing exhibit 110).

Together, these surveys demonstrate that the amount of peanuts in a peanut spread product has a material bearing on consumer acceptance.

The percentage of peanuts in peanut spread products has long been regarded by industry as a material fact. Prior to the establishment of the peanut butter standard, one product marketed had only 75 percent peanuts, although most peanut butters of the time had at least 87 percent peanuts. Recognizing the material difference, the manufacturer identified the product by the common or usual name "peanut spread," rather than "peanut butter," and stated the percentage of peanuts directly beneath the common or usual name (hearing exhibit 49). The transcript of a television commercial for a peanut butter product introduced into the record of the peanut butter standard hearing emphasized the amount of peanuts, indicating that at least one manufacturer recognized that the amount of peanuts in spreadable peanut products had a material bearing on consumer acceptance (hearing exhibit 129).

A statement by the manufacturer of one brand of peanut spread currently marketed in four flavors is also on file with the Hearing Clerk. The statement points out that the peanut content varies among the flavored products from about 52.5 to 69.5 percent. Nothing in the labeling, which is on file with the Hearing Clerk, indicates this difference. Moreover, all four flavors are sold at the same retail price. Thus, with the present labeling, a material fact bearing on consumer acceptance is undisclosed, and not revealed even by a difference in the retail prices.

Section 102.1(b) of the regulations also requires the declaration of the percentage of a characterizing ingredient when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient is present in an amount greater than is actually the case. Although use of the name "peanut spread" is appropriate because of its descriptive character and historical use, the Commissioner believes the term may not be adequately informative without an accompanying percentage declaration because of its similarity to the name "peanut butter." The potential for confusion is increased because the appearance and packaging for the two types of foods are similar. Consequently, the Commissioner concludes that a statement of the percentage of peanuts present is necessary to distinguish the product adequately as one that contains fewer peanuts than peanut butter.

One manufacturer, in correspondence with the Food and Drug Administration on file with the Hearing Clerk, proposed declaring the percentage of peanuts in peanut spreads but suggested counting added peanut oil as peanuts for purposes of the percentage declaration. According to this manufacturer, the addition of peanut oil is necessary to compensate for natural variation in the protein content of peanut oil as peanuts of including peanut oil as peanuts is is sanctioned in the peanut butter standard of identity.

The standard of identity for peanut butter does permit the use of peanut oil within certain limitations. The standard of identity for peanut butter states that "During processing, the oil content of the peanut ingredient may be adjusted by the addition or subtraction of peanut oil." In the findings of fact published in the FEDERAL REGISTER of July 24, 1968 (33 FR 10506) as a result of the peanut butter hearing, Finding of Fact No. 22 states, "Some manufacturers have added unhydrogenated peanut oil or other unhydrogenated vegetable oils to compensate for deficiency in oil content of the peanut ingredient. Addition of oil is needed only with peanuts that are characteristically low in oil content." As a result of this finding, the standardized product was limited to a maximum of 55 percent total fat.

The Commissioner is of the opinion that when the percentage of "peanuts" is declared on the label of any spreadable peanut product, the consumer would reasonably expect that this represents the actual amount of peanuts and not the amount of peanuts plus added peanut oil. It is proposed, therefore, that the declaration of the percentage of peanuts in peanut spreads be made on the basis of the actual weight of peanuts used in the formulation in relation to the total formula weight. When peanut oil is added, it would be declared as a separate ingredient in the ingredient statement, as required by section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act. However, because there are differences of opinion on the appropriate manner for the declaration of the percentage of peanuts (the amount of peanuts versus the amount of peanuts plus added peanut oil), the Commissioner invites comments specifically on this point.

Imitation designation. Section 403(c) of the act (21 U.S.C. 343(c)), as interpreted by § 1.8(e) of the regulations (21 CFR 1.8(e)), requires a food to be labeled as an imitation of another food if it substitutes for and resembles the other food and is nutritionally inferior to it.

The Commissioner concludes that a spreadable peanut product is inherently a substitute for peanut butter. The dominant characteristics of both are their spreadable form and peanut flavor. Under such circumstances, it is inevitable that substitution will occur. The Commissioner further notes that labeling for these products directed at retailers encourages them to display the product on retail shelves surrounded by brands of peanut butter. One statement in the labeling contends that the product "belongs in the peanut butter department—next to the national brands—where your customers will be looking for it." The labeling also describes the results of a test in which the peanut spread product was compared by consumers to a peanut butter. Copies of this labeling and other labeling and advertising used for these products are on file with the Hearing Clerk.

Discussions between representatives of the Food and Drug Administration and one manufacturer of nonstandardized peanut spreads have dealt with whether these products substitute for peanut butter. Memoranda of these meetings and copies of correspondence are on file with the Hearing Clerk. The manufacturer presented the results of a survey purporting to show that most consumers had not substituted peanut spread for peanut butter in their diets. Most of the consumption of the product, which is flavored, was said to take place in the afternoon as a snack, rather than at mealtimes.

Since details of the survey were not submitted, the Commissioner cannot evaluate the significance of these results. Moreover, such statistics must be considered together with the inherent similarities of peanut spread to peanut butter and the efforts to promote peanut spread as a substitute for peanut butter. Considering these factors together, the Commissioner concludes that a substantial likelihood of substitution exists, and therefore that any peanut spread that is not nutritionally equivalent to peanut butter must be labeled as an imitation of peanut butter.

Under § 1.8(e) the requirement for nutritional equivalence applies only when a food resembles another food, in addition to substituting for it. The Commissioner concludes that all spreadable peanut products resemble peanut butter within the meaning of § 1.8(e) since the dominant physical characteristics of both peanut spread and peanut butter are their spreadable form and peanut flavor.

The Commissioner notes that the effect of section 403(c) of the act and § 1.8(e) of the regulations is to discourage the gradual nutritional degradation of the American diet through the introduction of products that replace traditional products but are nutritionally inferior to them. When a nutritionally inferior product is introduced, its being labeled as an imitation in accordance

with the provisions of § 1.8(e) will alert consumers to the food's inferiority.

The Commissioner is aware that it may be impossible for a product to be nutritionally equivalent to peanut butter and still have the physical characteristics sought by the manufacturer. One manufacturer of peanut spreads has indicated in meetings with representatives of the Food and Drug Administration, memoranda of which are on file with the Hearing Clerk, that nutritional equivalence cannot be achieved without sacrificing desired product characteristics. The Commissioner concludes, however, that in accordance with section 403(c) of the act and § 1.8(e) of the regulations, in such a case the product is appropriately labeled as an imitation.

Since these peanut spread products substitute for and resemble peanut butter, they are imitations of peanut butter under § 1.8(e) if they are nutritionally inferior to peanut butter. Consequently, the proposal identifies the nutritional qualities a peanut spread must achieve to avoid having to be labeled as an imitation. These nutritional qualities include the quantity of protein, the quality of that protein, and the amounts of vitamins and minerals present in the finished food.

Several varieties of peanuts are used in the manufacture of peanut butter. The protein content of peanut butter thus varies over a wide range depending on the amount and type of peanuts used in the manufacture of the product. Data presently available to the Food and Drug Administration, which are on file with the Hearing Clerk, indicate that the protein content of peanut butter ranges from 21.5 to 28.6 percent protein (N X 5.46).

It is, therefore, proposed that the protein content (N X 5.46) of peanut spreads reach at least 21.5 percent to achieve nutritional equivalence to peanut butter.

The biological quality of the protein sources in peanuts, as measured by protein efficiency ratio (PER), is 1.7, compared to casein with a PER of 2.5 as a reference; see "Amino Acid Content of Foods and Biological Data on Proteins," Food and Agriculture Organization of the United Nations, Part II, Sec. 1, pp. 171–172, a copy of which is on file with the Hearing Clerk. It is, therefore, proposed that the PER of the protein in peanut spreads be at least 1.7, or 68 percent that of casein.

In determining nutritional equivalence, special criteria apply in the case of protein because the U.S. Recommended Daily Allowance (U.S. RDA) has two values, depending on the quality of the protein. The U.S. RDA of protein is established by § 1.17(c)(7)(ii) (21 CFR 1.17(c)(7)(ii)) as 45 grams if the protein efficiency ratio (PER of the total protein in a product is equal to or greater than that of casein, and 65 grams if the PER is less than that of casein. When a traditional food has low quality protein, and a substitute food is so fabricated that the quality of its total protein exceeds that of casein, the intent of § 1.8(e) is that a serving of the substitute food shall contain at least the same percentage of the U.S. RDA of protein as an equal amount of the traditional food.

If a manufacturer of peanut spread uses a protein source, including added amino acids, in addition to the peanuts and develops a peanut spread product with a protein quality at least equal to that of casein, allowance is properly made for the nutritional advantage when calculating protein content. Therefore, with respect to protein, the proposed regulation would provide that a peanut spread is not imitation peanut butter if it contains at least 14.9 percent protein (21.5 x 45/65=14.9) when the protein quality equals or exceeds that of casein.

The following vitamins and minerals at the levels prescribed would be required to be present in peanut spreads to avoid the necessity of their being labeled as imitations:

Nutrients:	*Amount (milligram per 100 g)*
Niacin	15.3
Vitamin B_6	0.33
Folic acid	0.08
Iron	2.0
Zinc	2.9
Magnesium	173.0
Copper	0.6

These values are obtained from average values listed for peanut butter in "Composition of Foods" USDA Handbook No. 8, Dec., 1963; "Home Economics Research Report #36," U.S. Dept. of Agriculture; Canadian Institute of Food Science and Technology Journal, 5(2):65, 1972; Journal of the American Dietetic Association, 56:401, 1970. Copies of these references are on file with the Hearing Clerk. Each of these nutrients is present in peanut butter in an amount at least equal to 2 percent of the U.S. RDA for the nutrient in an average serving (20 grams). Under the criteria of § 1.8(e)(4)(ii), these nutrients are therefore required to be present to avoid nutritional inferiority.

The amount of vitamin E that a peanut spread must contain to avoid being labeled as an imitation has not yet been established. The vitamin E content of peanut butters is subject to variation for several reasons, and the Food and Drug Administration does not presently have enough information to be able to set a value for nutritional equivalence. Consequently, under the proposal, no peanut spread would be considered to be an imitation peanut butter solely because it contained less vitamin E than the standard food.

The Commissioner will establish a requirement for vitamin E in peanut spreads when sufficient data on the vitamin E content of peanut butters currently manufactured have been obtained. Interested persons are invited to submit pertinent studies and available data concerning vitamin E content of peanut butters to the Food and Drug Administration in response to this proposal.

Restoration of lost nutrients. One manufacturer in correspondence with the Food and Drug Administration, a copy of which is on file with the Hearing Clerk, expressed a desire to add additional vitamins to peanut spreads. This manufacturer stated that certain vitamins should be added to restore them to the levels present prior to processing.

The Commissioner advises that this proposal defines the nutrient levels for peanut spreads that will provide nutritional equivalence to peanut butter. The levels of nutrients required for nutritional equivalence to peanut butter are properly based on average values found in peanut butter, not raw peanuts. Thus, the levels proposed do not include any vitamins or minerals added for the purpose of restoring nutrients lost in processing.

General principles governing the addition of nutrients to foods, including addition for the purpose of restoration, were proposed in the FEDERAL REGISTER of June 14, 1974 (39 FR 20900). Questions concerning the addition of vitamins and minerals to food for the purpose of restoring nutrients lost in proceeding will be considered prior to the promulgation of a final regulation based on that proposal.

Flavored products. The Commissioner notes that some peanut spread products are formulated to contain additional flavoring agents and advises that if the label, labeling, or advertising of the peanut spread product makes any direct or indirect representations with respect to such flavors, other than in the statement of ingredients, the product is subject to the requirements of § 1.12(i) (21 CFR 1.12(i)), which governs the labeling of flavored products.

Effective date. The Commissioner proposes to make the regulation effective for products shipped in interstate commerce after December 31, 1977.

Environmental and inflation impact. The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. The Commissioner has also carefully considered the inflation impact of the proposed regulation and no major inflation impact has been found, as defined in Executive Order 11821, OMB circular A-107, and guidelines issued April 1, 1975 by the Department of Health, Education, and Welfare. Copies of the FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041, as amended, 1047–1048, as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 102 be amended by adding a new section to read as follows:

§ 102.23 Peanut spreads.

(a) The common or usual name of a spreadable peanut product that does not

conform to § 46.1 of this chapter, and more than 10 percent of which consists of nonpeanut ingredients, shall consist of the term "peanut spread" and a statement of the percentage by weight of peanuts in the product in the manner set forth in § 102.1(b).

(b) A spreadable peanut product that is nutritionally inferior to peanut butter shall be labeled as an imitation of peanut butter pursuant to § 1.8(e) of this chapter. For purposes of § 1.8(e)(2) of this chapter, a spreadable peanut product shall be considered nutritionally equivalent to peanut butter if it meets all of the following conditions:

(1) *Protein.* (i) The protein content of the product is at least 21.5 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is at least 68 percent that of casein; or

(ii) The protein content of the product is at least 14.9 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is equal to or greater than that of casein.

(2) *Other nutrients.* The product contains the following levels of nutrients per 100 grams of product:

Nutrient:	*Amount (milligrams)*
Niacin	15.3
Vitamin B_6	0.33
Folic acid	0.08
Iron	2.0
Zinc	2.9
Magnesium	173.0
Copper	0.6

(c) Compliance with the requirements of paragraph (b) of this section shall be determined by methods described in the following references:

(1) Protein quantity: "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975 (AOAC),[1] section 27.007.

(2) Biological quality of protein: AOAC,[1] sections 43.183–43.187.

(3) Niacin: AOAC,[1] sections 43.044–43.046.

(4) Vitamin B_6: AOAC,[1] sections 43.159–43.164.

(5) Folic acid: U.S. Department of Agriculture Handbook No. 29, modified by use of ascorbate buffer as described by Ford and Scott, *Journal of Dairy Research*, 58:85–90, 1968.[2]

(6) Iron: AOAC,[1] sections 43.188–43.190.

(7) Zinc: AOAC,[1] sections 25.143–25.147.

(8) Copper: AOAC,[1] sections 25.035–25.040.

(9) Magnesium: AOAC,[1] sections 2.096–2.099.

Interested persons may, on or before January 2, 1975, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

Dated: October 27, 1975.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.75-29439 Filed 10-31-75;8:45 am]

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[2] Copies may be obtained from: National Center for Nutrient Analysis (HFF-264), Division of Nutrition, Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204.

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Health Maintenance Organizations Contract Appeal Procedures Under Title XVIII

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations set forth the procedures to be followed by health maintenance organizations (HMO's) in appealing termination notices from the Secretary, or notices that the Secretary will not renew the HMO's contract under Medicare. Additionally, the proposed regulations set forth the appeal procedures for an organization dissatisfied with the Secretary's determination that it is ineligible to enter into a contract as an HMO in the Medicare program.

Section 1876(i)(4) of the Social Security Act (42 U.S.C. 1395mm(i)(4)), which was added to title XVIII by section 226 of Pub. L. 92–603 provides that the Secretary may terminate his contract with an HMO at any time, after giving reasonable notice and opportunity for hearing, if the Secretary finds that the HMO has failed substantially to carry out the contract, is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or no longer substantially meets the applicable conditions necessary to qualify as an HMO within the meaning of section 1876 of the Social Security Act.

These proposed regulations, which implement section 1876 of the Act, comply with the aforesaid requirements. In addition, even though not required by the Act, the Secretary will afford hearing rights in two other situations. One involves the situation in which the Secretary determines that an organization is not eligible to enter into a contract under which it would qualify for participation as an HMO in the Medicare program. The other is a case where the Secretary refuses to renew a contract with an HMO—such contracts are term agreements renewable automatically in the absence of notice by either party of intention not to renew. The appeal rights in such a case will extend to situations only where the Secretary's reason for nonrenewal is a reason which would have sufficed to terminate the contract. Thus, the HMO's right to a hearing would not be diminished where the Secretary felt it was more advisable not to renew, rather than to terminate for cause.

In termination or nonrenewal cases, the HMO will be given notice of such action at least 90 calendar days before the effective date of the Secretary's determination and will have until such effective date to file a request for a hearing. In the case of a termination, the filing of such request will postpone the effective date of the determination until the hearing officer renders a decision. In a nonrenewal case, the Secretary will have the power to extend the contract where he is satisfied that such extension is consistent with the purposes of section 1876 of the Act.

The HMO's right to a hearing will flow directly from the initial determination of the Secretary to terminate or to not renew. The step of reconsideration usually utilized in such a process is eliminated in order to expedite action. In this regard the regulations follow similar regulations in Subpart O, Regulations No. 5, dealing with the termination of a provider's participation in this program.

The hearing will be conducted by a hearing officer appointed by the Secretary. Because of the absence of specific authorization in the Act, no provision is made for judicial review.

Like policies and procedures will apply to a determination of the Secretary that an organization is not eligible to participate in the program as an HMO, except that the organization will be required to go through reconsideration before it has a right to a hearing. Since the organization is not participating in the Medicare program, the need for expedited action is not as great as in the case of termination or nonrenewal of a contract. Reconsideration will afford the Secretary an opportunity to review his decision and, to the extent that he reverses the initial determination, the organization will be spared the expense and time of a hearing. Again, this is the process followed in Subpart O, Regulations No. 5, where the Secretary finds an institution or facility ineligible to participate as a provider of services under the Medicare program. Here, too, since there is no statutory provision for judicial review of a determination that an organization does not qualify as an HMO, these regulations make no provision for judicial review.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commis-

sioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before December 3, 1975.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The proposed regulations are to be issued under the authority contained in sections 1102, 1871, and 1876 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, and 86 Stat. 1396; 42 U.S.C. 1302, 1395hh, and 1395mm.

(Catalog of Federal Domestic Assistance Programs No. 13.800, Health Insurance for the Aged and Disabled—Hospital Insurance; No. 13.801, Health Insurance for the Aged and Disabled—Supplementary Medical Insurance.)

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: September 16, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: October 22, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the code of Federal Regulations, as amended, is further amended as set forth below:

1. The table of sections for Subpart T is amended by adding the following numbers and headings:

Sec.
405.2065 Health maintenance organizations contract appeals; determinations and appeals procedures.
405.2066 Initial determinations.
405.2067 Notice of initial determination.
405.2068 Effect of initial determination.
405.2069 Administrative actions which are not initial determinations.
405.2070 Reconsideration; right to reconsideration; time and place of filing request for reconsideration.
405.2071 Proper party for filing request for reconsideration.
405.2072 Extension of time to request reconsideration.
405.2073 Withdrawal of request for reconsideration.
405.2074 Reconsidered determination.
405.2075 Submission of evidence.
405.2076 Notice and effect of reconsidered determination.
405.2077 Hearing; right to hearing; time and manner of filing request for hearing.
405.2078 Postponement of effective date of initial determination.
405.2079 Parties to the hearing.
405.2080 Hearing officer.
405.2081 Disqualification of hearing officer.
405.2082 Location of hearing.
405.2083 Notice of hearing.
405.2084 Conduct of hearing.
405.2085 Record of hearing.
405.2086 Authority of hearing officer.
Sec.
405.2087 Hearing decision and notice.
405.2088 Effect of hearing decision.
405.2089 Appointment of representative.
405.2090 Authority of representative.
405.2091 Reopening of initial or reconsidered determination and decision of a hearing officer.
405.2092 Notice of reopening and revision.

2. Subpart T is amended by adding §§ 405.2065–405.2092 reading as follows:

§ 405.2065 Health maintenance organizations contract appeals; determinations and appeals procedures.

(a) The provisions contained in this section and §§ 405.2066–405.2092 shall govern the procedures for making and reviewing determinations with respect to whether:

(1) An organization is eligible to enter into a contract with the Secretary under which such organization would qualify for participation as a health maintenance organization (hereinafter referred to as an "HMO") within the meaning of section 1876 of the Social Security Act, and

(2) The Secretary's agreement with the HMO should be terminated for cause, pursuant to section 1876 of such Act, and

(3) The Secretary's agreement with the HMO should not be renewed.

(b) Any organization dissatisfied with an initial determination that it is ineligible to enter into a contract with the Secretary as an HMO under section 1876 of the Social Security Act may request a reconsideration of that determination (see § 405.2070) and, if dissatisfied with the reconsidered determination, may request a hearing. An organization which has a contract with the Secretary to participate as an HMO is entitled to a hearing if it is dissatisfied with the Secretary's initial determination to terminate the contract as specified in § 405.2066. In addition, any such organization is, under certain circumstances, also entitled to a hearing if it is dissatisfied with the Secretary's initial determination not to renew the contract (see § 405.2066(c)).

(c) To be a participating HMO, eligible for payment, an HMO must be in compliance with title VI of the Civil Rights Act of 1964 and must enter into a contract with the Secretary under § 405.2030. The provisions of this Subpart T do not govern in any respect the adjudication of issues related to the compliance of an HMO with title VI of the Civil Rights Act of 1964, or the implementing regulation (45 CFR Part 80) promulgated by the Secretary of Health, Education, and Welfare.

§ 405.2066 Initial determinations.

The Secretary shall make an initial determination with respect to:

(a) Whether an organization which has applied to enter into a contract with the Secretary under section 1876 of the Social Security Act (§ 405.2030) is eligible to enter into such a contract;

(b) The termination of a contract with an HMO because the HMO:

(1) Has failed substantially to carry out the terms of the contract entered into pursuant to § 405.2030, or

(2) Is carrying out the contract in a manner which is inconsistent with the efficient and effective administration of section 1876 of the Social Security Act, or

(3) No longer meets the applicable conditions necessary to qualify as an HMO under section 1876 of such Act (§ 405.2030);

(c) The nonrenewal of a contract with an HMO, but only if such nonrenewal is for a reason stated in paragraph (b)(1), (2), or (3) of this section.

§ 405.2067 Notice of initial determination.

(a) Written notice of an initial determination specified in § 405.2066(a) shall be mailed to the organization filing the request for such determination and specifically advise the organization:

(1) As to whether it is eligible for participation as an HMO in the health insurance program; and

(2) If not so eligible, the reasons why the organization is ineligible to participate in the program.

(b) Written notice of an initial determination specified in § 405.2066(b) shall be mailed to the HMO at least 90 calendar days before the effective date of such determination.

(c) Written notice of an initial determination specified in § 405.2066(c) shall be mailed to the HMO at least 90 calendar days before the end of the contract period.

§ 405.2068 Effect of initial determination.

The initial determination shall be final and binding upon the parties to the determination unless it is reconsidered in accordance with § 405.2074 (in the case of a determination described in § 405.2067(a)) or revised in accordance with § 405.2091, or a request for hearing is filed (in the case of a determination described in § 405.2066 (b) or (c)).

§ 405.2069 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this subpart include, but shall not be limited to, the following:

(a) The refusal of the Secretary to renew a contract with an HMO where the reasons for such refusal are not among the causes specified in paragraph (b)(1), (2), or (3) of § 405.2066 (e.g., a refusal to renew because the HMO no longer complies with title VI of the Civil Rights Act of 1964).

(b) The finding by the Secretary that an HMO is not eligible to enter into a risk-sharing contract as specified in section 1876(i)(2)(A) of the Social Security Act.

§ 405.2070 Reconsideration; right to reconsideration; time and place of filing request for reconsideration.

Any organization which is dissatisfied with an initial determination (§ 405.2066

(a)) that it is ineligible to enter into a contract with the Secretary under section 1876 of the Social Security Act (§ 405.2030) may request the Secretary to reconsider such determination. The Secretary shall reconsider an initial determination if a written request for reconsideration is filed by the organization within 60 calendar days after the date of mailing of the notice of initial determination (§ 405.2067), or later if the time for filing is extended (§ 405.2072). The request for reconsideration is to be filed with the Office of the Secretary or with an employee of the Department of Health, Education, and Welfare authorized to accept such requests at a place other than such office.

§ 405.2071 Proper party for filing request for reconsideration.

Only an authorized official of the organization which was a party to an initial determination may file the request for reconsideration of such determination (§ 405.2070).

§ 405.2072 Extension of time to request reconsideration.

If a party to an initial determination desires to file a request for reconsideration after the time for filing has passed (§ 405.2070), such party may file a petition with the Secretary for an extension of the time. The petition shall be in writing and shall state the reasons why the request for reconsideration was not filed within the required time. For good cause shown, the Secretary may extend the time for filing a request for reconsideration.

§ 405.2073 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn at any time prior to the mailing of notice of the reconsidered determination (see § 405.2076) if a written request for withdrawal is filed with the Secretary by the organization which filed the request for reconsideration and if the Secretary approves the request for withdrawal.

§ 405.2074 Reconsidered determination.

When a request for reconsideration has been filed (§ 405.2070), the Secretary shall reconsider the initial determination in question and the findings on which the initial determination is based. The Secretary shall make a reconsidered determination, affirming or reversing the initial determination (§ 405.2066).

§ 405.2075 Submission of evidence.

The Secretary shall accept in evidence any documents or written statements which are relevant and material to the matters at issue and which are submitted within a reasonable time after the filing of a request for reconsideration. The reconsidered determination shall be based on the evidence considered in making the initial determination and whatever other written evidence may be submitted prior to the time of the reconsidered determination, taking into account facts relating to the status of the organization subsequent to the initial determination.

§ 405.2076 Notice and effect of reconsidered determination.

(a) *Notice of reconsidered determination.* Written notice of the reconsidered determination (§ 405.2074):

(1) Shall be mailed to the organization concerned;

(2) Shall contain findings with respect to whether the organization is eligible to enter into a contract with the Secretary under section 1876 of the Social Security Act (§ 405.2030);

(3) Shall contain a statement of the reasons for the determination; and

(4) Where the initial determination is affirmed, shall inform the organization of its right to a hearing (§ 405.2077) if it is dissatisfied with the reconsidered determination.

(b) *Effect of reconsidered determination.* The reconsidered determination shall be final and binding upon the parties to the determination unless it is revised in accordance with § 405.2091, or a hearing is requested in accordance with § 405.2077.

§ 405.2077 Hearing; right to hearing; time and manner of filing request for hearing.

(a) *Right to hearing.* An organization which has been determined in a reconsidered determination to be not eligible to enter into a contract with the Secretary under section 1876 of the Social Security Act (§ 405.2030), shall be entitled to a hearing with respect to such determination. Likewise, an HMO whose contract with the Secretary has been terminated or has not been renewed as a result of an initial determination of the Secretary as provided in § 405.2066(b) or (c) shall be entitled to a hearing with respect to that initial determination.

(b) *Time and manner of filing request for hearing specified in paragraph (a) of this section.* The request for a hearing specified in paragraph (a) of this section shall be in writing and filed by an authorized official of the organization or HMO, as the case may be, which was the party to the reconsidered determination (in the case of a determination under § 405.2066(a)) or the initial determination (in the case of a determination under § 405.2066(b) or (c)). The request for a hearing is to be filed with the Office of the Secretary or at an office of the Social Security Administration.

(c) *Time and manner of filing request for hearing with respect to certain reconsidered or revised determinations.* A request for a hearing with respect to a reconsidered or revised determination provided for in § 405.2074 and § 405.2091, must be filed within 30 calendar days after the date on which written notice of a reconsidered determination or a revised determination, as the case may be, has been mailed to the organization which is the party to such determination. In the case of an initial determination provided for in § 405.2066(b) or (c), the request for a hearing must be filed prior to the date such determination becomes effective.

(d) *Exception to time of filing request for hearing.* For good cause shown, the 30-day period referred to in paragraph (c) of this section may be extended.

§ 405.2078 Postponement of effective date of initial determination.

Where a request for a hearing with respect to a determination provided for in § 405.2066(b) or (c) is timely filed:

(a) the effective date of the initial determination to terminate a contract with the HMO shall be postponed until a decision is rendered by the hearing officer;

(b) the contract with the HMO may be extended at the end of a contract period, in the case of an initial determination not to renew the contract, but only if prior to the end of the contract period the Secretary finds that a renewal of the contract will be consistent with the purposes of section 1876 of the Social Security Act. (Where such a finding is made, the contract shall be extended for such period as the Secretary and HMO shall mutually agree.)

§ 405.2079 Parties to the hearing.

The party(ies) to the hearing on an appeal filed pursuant to § 405.2077 shall be:

(a) The organization which was a party to the reconsidered determination (see § 405.2070) or the HMO which was a party to the initial determination (in the case of such a determination specified in § 405.2066(b) or (c));

(b) At the discretion of the hearing officer, any interested party(ies) who makes a showing that his (their) rights may be prejudiced by the decision to be rendered at the hearing; and

(c) The Bureau of Health Insurance representing the Secretary.

§ 405.2080 Hearing officer.

Any hearing provided for in § 405.2077 shall be conducted by a hearing officer designated by the Secretary.

§ 405.2081 Disqualification of hearing officer.

A hearing officer shall not conduct a hearing in any case in which he is prejudiced or partial with respect to any party, or if he has an interest in the matter before him. Notice of any objection with respect to the hearing officer who will conduct the hearing shall be made by the objecting party at his earliest opportunity. The hearing officer shall consider such objection and shall, at his discretion, withdraw. If the hearing officer withdraws, the Secretary shall designate another hearing officer to conduct the hearing. If the hearing officer does not withdraw, the objecting party may present his objections to the Secretary at any time prior to the issuance of a decision. The Secretary shall review the request and take appropriate action.

§ 405.2082 Location of hearing.

(a) *Time and place.* The hearing officer shall fix a time and place for the

hearing reasonably convenient to the requesting party and not inconsistent with the public interest.

(b) *Adjournment or postponement.* The hearing officer may, for a good and sufficient reason, fix a new time and/or place for the hearing; he may change the time and place for the hearing or adjourn the hearing on his own motion upon reasonable notification to the parties.

§ 405.2083 Notice of hearing.

The notice of hearing shall include notice of the time and place of the hearing; information as to the specific issues to be determined; and the matters on which findings shall be made and conclusions shall be reached. The notice shall also contain sufficent information about the hearing procedure (including the party's right to representation) for effective preparation for the hearing.

§ 405.2084 Conduct of hearing.

(a) *General.* Hearings shall be open to the parties and to such other persons as the hearing officer deems necessary and proper for the orderly and efficient conduct of the hearing. The hearing officer shall inquire fully into the matters at issue and shall accept in evidence the testimony of witnesses and any documents which are relevant and material to such matters. The parties shall be provided an opportunity to enter any objection to the inclusion of any document. The order in which evidence and allegations shall be presented and the procedure at the hearing, except as this subpart otherwise expressly provides, shall be at the discretion of the hearing officer and of such nature as to afford the parties a proper hearing.

(b) *Evidence.* Evidence may be accepted at the hearing even though inadmissible under rules of evidence applicable to court procedures. The hearing officer shall rule on the admissibility of evidence.

(c) *Witnesses.* The hearing officer may examine the witnesses and shall allow the parties or their representatives to do so. Parties to the proceedings may also cross-examine witnesses.

§ 405.2085 Record of hearing.

A complete record of the proceedings at the hearing shall be made and transcribed in all cases. It shall be made available to the provider upon request. The record shall not be closed until a decision (see § 405.2087) has been issued.

§ 405.2086 Authority of hearing officer.

The hearing officer in exercising his authority must comply with all the provisions of title XVIII of the Social Security Act and regulations issued thereunder as well as with general instructions issued by the Social Security Administration in implementing such Act and regulations.

§ 405.2087 Hearing decision and notice.

The hearing officer shall render a decision in writing based on the evidence in the record. In such decision he shall cite applicable law, regulations, and Social Security Administration general instructions as well as findings on all the matters at issue in the hearing. A copy of the decision shall be provided all parties to the hearing.

§ 405.2088 Effect of hearing decision.

The hearing decision provided for in § 405.2087 shall be final and binding upon all parties to the hearing unless it is reopened and revised in accordance with § 405.2091.

§ 405.2089 Appointment of representative.

A party may appoint as its representative at the proceedings conducted in accordance with § 405.2084 any individual except an individual disqualified or suspended from acting as a representative in proceedings before the Secretary or otherwise prohibited by law.

§ 405.2090 Authority of representative.

A representative appointed by a party may accept or give on behalf of the party he represents any request or notice relative to any proceeding affecting such party. A representative shall be entitled to present evidence and allegations as to facts and law in any such proceeding and to obtain information with respect to a request for hearing made in accordance with § 405.2077 to the same extent as the party he represents. Notice to a party of any action, determination, or decision which is sent to the representative of the party shall have the same force and effect, as if it had been sent to the party represented.

§ 405.2091 Reopening of initial or reconsidered determination and decision of a hearing officer.

(a) *Initial or reconsidered determination.* An initial or reconsidered determination which is unfavorable to one or more parties to such determination and is otherwise final (see § 405.2068 and § 405.2076) may be reopened and revised by the Secretary upon his own motion within one year of the date of the notice of determination.

(b) *Decision of a hearing officer.* A decision of a hearing officer which is unfavorable to one or more of the parties to the hearing identified in § 405.2079(a) or (b) and is otherwise final (see § 405.2088) may be reopened and revised by the hearing officer upon his own motion within one year of the date of the notice of the decision.

§ 405.2092 Notice of reopening and revision.

(a) *Notice.* When any determination or decision is reopened as provided in § 405.2091, notice of such reopening shall be mailed to the parties to such determination or decision at their last known addresses. A notice of revision, following a reopening of a determination or a decision, shall be mailed to the parties and shall state the basis or reasons for the revised determination or revised decision.

(b) *Effect of revised determination.* The revision of a determination shall be binding upon the parties thereto unless a party files a written request for a hearing with respect to a revised determination.

[FR Doc.75-29334 Filed 10-31-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75-WE-29]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Heber, Arizona transition area.

The Heber, Arizona transition area is presently described as that airspace extending upward from 13,500 feet MSL. Military training requirements and new recovery procedures to be accomplished within this area require descent to lower altitudes. Additionally, the minor realignment of this training area has necessitated the addition of a small parcel of uncontrolled airspace to encompass these activities. It is, therefore, necessary to lower the floor of the transition area to 12,000 feet MSL and to extend it approximately 12 miles westerly to provide sufficient controlled airspace for protection of the training aircraft.

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, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before December 3, 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 document will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (40 FR 441) the description of the Heber, Arizona transition area is amended to read as follows:

That airspace extending upward from 12,000 feet MSL bounded by a line beginning at latitude 34°39'00" N., longitude

111°39'00" W. to latitude 34°43'00" N., longitude 111°24'00" W., to latitude 34°43'00" N., longitude 110°20'00" W., thence south via longitude 110°20'00" W. to the north edge of V190N, thence west and southwest via the north and northwest edges of V190N to latitude 34°03'30" N., longitude 111°05'00" W. to latitude 34°10'00" N., longitude 111°30'00" W. to latitude 34°10'00" N., longitude 111°43'00" W., to point of beginning.

This amendment is proposed under the authority of 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 Los Angeles, California on October 24, 1975.

ROBERT H. STANTON,
Director, Western Region.

[FR Doc.75-29418 Filed 10-31-75;8:45 am]

[49 CFR Part 572]

[Docket No. 73-8; Notice 4]

MOTOR VEHICLE SAFETY STANDARDS

Anthropomorphic Test Dummies; Extension of Comment Period

The Ford Motor Company has petitioned the National Highway Traffic Safety Administration (NHTSA) for an extension of time to comment on the Notice of Proposed Rulemaking on Anthropomorphic Test Dummy published on August 8, 1975 (40 FR 33462, Docket No. 73-8, Notice 3). The petition is based on the fact that the results of the latest research efforts on the subject of anthropomorphic test dummies have been made publicly available only recently. The NHTSA recognizes that, because of the complex nature of the issues, detailed study of this material is necessary to produce meaningful comment. Accordingly, Ford Motor Company's petition is granted.

The comment closing date is hereby changed from October 30 to December 30, 1975.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on October 30, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-29625 Filed 10-30-75;4:16 pm]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 75-23; Notice 2]

MOTOR VEHICLE SAFETY STANDARDS

Electrical System Integrity; Comment Period Extended

The purpose of this notice is to extend the period for submission of comments on Notice 1 of the advance notice of proposed rulemaking to establish a motor vehicle safety standard to regulate electrical system integrity. (40 FR 40853; September 4, 1975). Notice 1 has a comment closing date of November 3, 1975.

In response to the requests of interested persons, the comment period for the advance notice of proposed rulemaking will be extended to February 16, 1976. This will facilitate adequate commentary on the broad and complex area of vehicle electrical systems.

In light of the above, the comment closing date for Notice 1 of the advance notice of proposed rulemaking, *Electrical System Integrity*, is changed to February 16, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 501.8)

Issued on October 30, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-29626 Filed 10-30-75;4:16 pm]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Docket No. 20662; FCC 75-1192]

NEW CARGO VESSELS OF 1600 GROSS TONS AND UPWARDS

Proposed Exemption From Radiotelegraph and Radio Direction Finding Provisions

In the matter of amendment of Part 83 to provide an exemption to newly constructed United States Cargo vessels of 1600 gross tons and upwards from the radiotelegraph and radio direction finding provisions of Title III, Part II of the Communications Act of 1934, as amended, when navigated on sea trials, not more than 150 nautical miles from the nearest land.

1. United States cargo vessels of 1600 gross tons and upwards are required by Section 351 of the Communications Act of 1934, as amended, to be equipped with a radiotelegraph station and an efficient radio direction finding apparatus properly adjusted and in operating condition. Newly constructed vessels are generally equipped with the required radio installations but these radios are not necessary during sea trials where the purpose is final testing of the propulsion system of the vessel, the maneuvering capability and functioning of other equipment on the vessel.

2. The Commission's staff has previously granted emergency exemptions from Title III, Part II of the Communications Act to permit the vessel to be navigated on the sea trials and to calibrate the radio direction finder while enroute. The proviso has been to have a radiotelephone installation adequate for the safety of the vessel during these short sea trials and that the radio direction finder would be calibrated with a radiobeacon where simultaneous visual and radio bearings could be taken for comparison. This procedure of granting emergency exemptions has been unsatisfactory as whenever unforeseen delays in the shipyard or other reasons require changes in the provisions of the exemption.

3. In order to avoid any unnecessary administrative procedures and as a public convenience in rendering it unnecessary for a shipyard to file formal applications for exemptions, it would be desirable to provide a general exemption to vessels during sea trials.

4. The proposed amendment to the rules is issued pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in Section 1.415 of the rules, interested persons may file comments on or before December 3, 1975, and reply comments on or before December 15. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to specific comments invited by this Notice.

5. In accordance with the provisions of § 1.419 of the rules, an original and 11 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: October 21, 1975.

Released: October 24, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter I, Title 47, Code of Federal Regulations, is amended as follows:

1. Section 83.803 is amended by adding new paragraph (c) and redesignating present paragraph (c) as (d), to read as follows:

§ 83.803 General exemption orders issued exempting ships from compulsory radio provisions.

* * * * *

(c) Order, granting exemption pursuant to Section 352(b)(2) of the Communications Act of 1934, as amended, to all newly constructed U.S. cargo ships of 1600 gross tons and upwards, from the provisions of Title III, Part II of the Communications Act of 1934, as amended, when navigated on sea trials, not more than 150 nautical miles from the nearest land; Provided, That:

(1) the vessel is equipped with a radiotelephone capable of operation on 2182 kHz and equipped with a radiotelephone alarm signal generator. The vessel may carry an additional portable radiotelephone, located in the wheelhouse, equipped with a radiotelephone alarm signal generator to satisfy the radiotelephone alarm signal generator requirement;

(2) the radio direction finding apparatus is calibrated during the sea trials;

(3) a continuous watch is maintained on 2182 kHz during the sea trials; and

(4) the local FCC, Engineer in Charge is advised of the dates and routes of the sea trials.

(d) These exemptions may be terminated at any time without hearing if, in the Commission's discretion, the need for such action arises.

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[FR Doc.75-29459 Filed 10-31-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release No. 34-11748]

BROKER-DEALER REPORTS

Financial and Operational Reporting

Proposal to adopt the FOCUS Report, a program to streamline the financial and operational reporting of brokers and dealers, including amendments to Rule 17a-4 [17 CFR 240.17a-4], Rule 17a-5 [17 CFR 240.17a-5] and related Form X-17a-5 [1] [17 CFR 249.617], Rule 17a-10 [17 CFR 240.17a-10] and related Form X-17A-10 [1] [17 CFR 249.618], Rule 17a-11 [17 CFR 240.17a-11] and related Form X-17A-11 [17 CFR 249.621], and Rule 17a-20 [17 CFR 240.17a-20] under the Securities Exchange Act of 1934 (File No. S7-594).

The Securities and Exchange Commission today announced the proposed adoption of the FOCUS Report, a financial and operational combined uniform single report under the Securities Exchange Act of 1934. The FOCUS Report would replace the information presently required by Form X-17A-5 [17 CFR 249.617], Form X-17A-10 [17 CFR 249.618] [2] and Form X-17A-11 [17 CFR 249.621], which are the Commission's forms, the Joint Regulatory Report, Forms "M" and "Q", the income and expense reports, and various other financial and operational forms and reports required by self-regulatory organizations.

The Commission also announced the proposed amendment of Rule 17a-4 [17 CFR 240.17a-4], Rule 17a-5 [17 CFR 240.17a-5], Rule 17a-10 [17 CFR 240.17a-10], Rule 17a-11 [17 CFR 240.17a-11] and Rule 17a-20 [17 CFR 240.17a-20] in order to further implement the adoption of the FOCUS Report and a streamlined system of financial and operational reporting for brokers and dealers. Rule 17a-4 [17 CFR 240.17a-4] would be amended to require that brokers and dealers maintain certain books and records required for the preparation of the FOCUS Report. Rule 17a-4 [17 CFR 240.-17a-4] would also be amended to require that such books and records be maintained for a minimum period of 3 years. Rule 17a-5 [17 CFR 240.17a-5] would be amended to specify the preparation and filing requirements of the FOCUS Report including Parts I and II of Form X-17A-5 [17 CFR 249.617] and the annual audit report. Rule 17a-10 [17 CFR 240.17a-10] would be amended to shorten the time period within which Form X-17A-10 [17 CFR 249.618] must be filed. Form X-17A-10 [17 CFR 249.618] would be substantially amended to conform to the format of the FOCUS Report and to reduce the amount of income and expense information required. This reduced information would be effective for calendar year 1975. Rule 17a-11 [17 CFR 240.17a-11] would be amended to require a broker or dealer subject to it to file Part II of Form X-17A-5 [17 CFR 249.617] plus supplementary schedules as required, in place of the schedules now required. In addition, those events which would require reporting of material inadequacies would be revised, and the filing by the broker or dealer of corrective plans to remedy such inadequacies would be required. Rule 17a-20 [17 CFR 240.17a-20] would be amended to eliminate the monthly reporting by any broker or dealer and to eliminate the required quarterly filing of Form X-17A-20 [17 CFR 249.636] for those brokers or dealers whose revenues exceed $500,000, unless a minimum of 20 percent of said revenue is derived from brokerage commission transactions.

Each of said rules would also be amended to conform to Section 15(a)(1) of the Securities Exchange Act of 1934, as amended. That section now requires all brokers and dealers, whether or not they are members of a national securities exchange, to register with the Commission. Consequently the term "member of an exchange" would be deleted from the phrase "member of an exchange, broker or dealer," as such term would no longer be necessary.

Due to the implementation of amended Rule 15c3-1 [17 CFR 240.15c3-1] on January 1, 1976, the financial and operational reports, and the surveillance systems of the Commission and the self-regulatory organizations will become obsolete as of that date. For this reason, the Commission is amost concerned with expediting the adoption of the FOCUS Report, in order that the revised reporting system may be implemented concurrently with amended Rule 15c3-1 [17 CFR 240.15c3-1].

Introduction. Section 17(a)(1) of the Securities Exchange Act, as amended, provides that the Commission shall prescribe by rule the records to be kept and the reports to be made and disseminated by brokers and dealers. Section 17(e) of the Securities Exchange Act of 1934, as amended, requires every broker or dealer to file annually with the Commission a certified balance sheet and income statement, and such other information concerning its financial condition as the Commission may prescribe by rule, and authorizes the Commission to prescribe the form and content of such financial statements, and accounting standards used in their preparation.

The creation of the SEC Advisory Committee on Broker-Dealer Reports and Registration Requirements was announced by the Commission in September, 1972, marking the beginning of a program to review the reporting requirements imposed on brokers and dealers by rules of the Commission and the self-regulators. In December, 1972 the Committee submitted its recommendations to the Commission in the Advisory Committee's Study on Broker-Dealer Reports and Registration Requirements ("Stepanek Report"). The Stepanek Report concluded that there then existed unnecessary and duplicative reporting requirements which were uncoordinated by the various regulating entities.

The Commission subsequently established a Staff Task Force to determine whether the recommendations of the Committee could be implemented and if so, in what manner. The Staff Task Force delivered its report to the Commission substantially supporting the conclusions and recommendations of the Stepanek Report. The Commission thereafter formulated a program of implementation based upon the recommendations of the Stepanek Report as supported by the Staff Task Force. In its "Announcement of a Program of Implementation Regarding the 'SEC Advisory Committee Study on Broker-Dealer Reports and Registration Requirements' * * *" the Commission:

1. Stated its intention to develop a key regulatory report [3] and sought public comments thereon; and

2. Stated its intention to establish a Report Coordinating Group under the Federal Advisory Committee Act to advise the Commission on the consolidation and reduction of reporting requirements and to assist the Commission in the development of a key regulatory report.[4]

In May, 1974 the Commission announced the membership of the Report Coordinating Group ("Group"), a federal advisory committee.[4] At its first meeting on June 3, 1974, the Group reviewed the Stepanek Report and decided to give the highest priority to developing recommendations regarding a uniform financial and operational report.[5]

On August 9, 1974 the Commission issued guidelines for a uniform financial

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[1] Forms X-17A-5 and X-17A-10 filed as part of the original document.

[2] Form X-17A-10 [17 CFR 249.618] would substantially be in FOCUS Report format, with some modifications.

[3] The key regulatory report is denominated the FOCUS Report symbolizing a Financial and Operational Combined Uniform Single Report.

[4] These two items are only part of a complete program described in Securities Exchange Act Release No. 10612, January 24, 1974, 39 FR 5204, February 11, 1974.

[4] The Report Coordinating Group was established in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix 1, 86 Stat. 770 (1972).

[5] The Group also concentrated its efforts on the development of uniform registration and record retention forms. Uniform registration forms for brokers and dealers were adopted by the Commission on May 16, 1975 (Securities Exchange Act Release No. 11424, 40 FR 30634, July 22, 1975). Subsequent to the submission of the Report Coordinating Group's First Annual Report, a Trading Forms Task Force has deliberated for several months and has recommended the elimination or consolidation of the 104 trading forms described in the First Annual Report. The Task Force now proposes 44 simplified and consolidated forms in their place.

An Assessment Forms Task Force working during the same period has made additional proposals for the further simplification of assessment procedures. For background and prior status of these two projects, see *First Annual Report of the Report Coordinating Group, June 16, 1975.*

and operational report. In accordance with these guidelines the Group reviewed the reports, forms and similar material required of brokers and dealers by the Commission, the self-regulatory organizations and others. The Group, with the dedicated assistance of staff persons from all sectors of the industry, developed a FOCUS Report Discussion Paper which was distributed on October 15, 1974. Comments suggesting further simplification and changes in the items of the FOCUS Report were considered in the drafting of the FOCUS Report Revised Discussion Paper released on December 16, 1974.[6] The FOCUS Report Revised Discussion Paper set forth a three part reporting format of financial and operational data to be completed by certain firms at specified intervals.

Since the release of the FOCUS Report Revised Discussion Paper, the Group has held additional public meetings to further simplify the FOCUS Report and at the same time improve its effectiveness as a surveillance tool for the Commission and the self-regulators. The Group released its final recommendation for a FOCUS Report in its First Annual Report on June 16, 1975.[7] The FOCUS Report is the product of the efforts of the Group assisted in large part by the comments and suggestions of members of the industry, the self-regulatory organizations, the accounting profession and interested members of the public. The Commission, having considered the recommendations of the Report Coordinating Group and the comments thereon, believes that the adoption of a reporting system based upon and including the FOCUS Report, with some modifications to the program recommended, will provide an opportunity for uniform industry-wide regulation and will substantially reduce the reporting burdens on the securities industry without compromising the interest of the public and the regulators.

Proposed Amended Rule 17a–4 [17 CFR 240.17a–4]. Rule 17a–4 [17 CFR 240.-17a–4] would be amended by adding subparagraph (b)(8) to require every broker or dealer who is required to file Part II of Form X–17A–5 [17 CFR 249.617] to make and keep certain additional books and records. Such a requirement should not consitute a significant burden, inasmuch as said records are now prepared during the course of operation of the broker's or dealer's business. These new schedules would replace a number of schedules in current Form X–17A–5 [17 CFR 249.617] and would provide detailed information required for a proper analysis and review of the annual audit report.

Proposed Amended Rule 17a–5 [17 CFR 240.17a–5] and Proposed Amended Form X–17A–5 [17 CFR 249.617][8]—I. Reports to be Filed by Brokers and Dealers. Rule 17a–5(a)(2) [17 CFR 240.17a–5(a)(2)] would be amended to prescribe which firms must file the different parts of Form X–17A–5 [17 CFR 249.617]. Clearing or carrying firms which have not received notice that they exceed certain safe parameters of financial and operational condition would file Part I monthly and Part II on calendar quarters.[9] Firms which do not carry or clear customer accounts would file Part II on calendar quarters. Firms which receive notice of exceeding certain parameters of financial and operational condition would file Part II monthly. Part IIA would be filed quarterly in lieu of Part II by small brokers and dealers, firms not clearing and not carrying customer accounts, and firms conducting a limited type of business. Such of these firms which exceed parameters set by the self-regulators would file Part IIA monthly. In addition, every broker or dealer required to file an annual audit report under proposed paragraph (b) must file Part II or IIA, as applicable, as of the date selected for the annual audit report if such date does not coincide with a calendar quarter.

Rule 17a–5 [17 CFR 240.17a–5]

Current paragraph	*Proposed paragraph*
	17a–5(a) [17 CFR 240.17a–5(a)]
(a)	(b)
(b)	(c)
(c)	(d)
(d)	(e)
(e)	(f)
(f)	(g)
	(h)
	(i)
(g), (h), (i)	(j)
	(k)
(j)	(l)
(k)	
(l)	(m)
(m), (n), (o).	

Proposed subparagraph (a)(4) would be added to permit the broker or dealer to satisfy the filing requirements under subparagraph (a)(2) by complying with filing requirements established by a plan submitted to the Commission by the appropriate national securities exchange or registered national securities association. Pursuant to the plan, the exchange or association would be required to transmit to the Commission a copy of the applicable parts of Form X–17A–5 [17 CFR 249.617] as to each member participating in the plan. The plan would also set forth the time limitations within which the various parts of Form X–17A–5 [17 CFR 249.617] must be filed.

Requests for extension of time or exemption from any of the requirements of paragraph (a) would be considered pursuant to proposed subparagraph (a)(5).

Termination of Membership. Paragraph (j) would be renumbered (l) and amended to require that any broker or dealer who ceases to be a member in good standing of a national securities exchange file with the Commission, no later than two days after the termination, Part II of Form X–17A–5 [17 CFR 249.617] as of the termination. In addition, a national securities exchange which acts to terminate the membership of a broker or dealer or learns of any such action would be required to notify the Commission of such action and notify the broker or dealer of its reporting requirement under this paragraph.

Financial Statements to Customers. Proposed amended paragraph (m) combines former paragraphs (m), (n) and (o) and would prescribe the form and content of statements to be furnished to customers by all brokers and dealers required to file an annual audit report, with the exception of certain brokers or dealers with limited activities as enumerated in subparagraph (m)(1). The statements, as set forth in subparagraph (m)(2), would include a consolidated balance sheet, a statement indicating the broker's or dealer's actual net capital and its required net capital, a notice that a copy of any material inadequacies commented upon by the independent public accountant in connection with the annual audit report is currently available for the customer's inspection at the Commission's principal office in Washington, D.C., and the Commission's regional office for the region in which the broker or dealer has its principal place of business, and a notice indicating that the Statement of Financial Condition of the most recent annual audit report of the broker or dealer is similarly available for inspection.

II. *Accountants' Reports—Annual Audit Report.* The Commission also proposes that brokers and dealers file an annual audit report on a fiscal or calendar year basis.[10] Rule 17a–5(b)(1) [17 CFR 240.17a–5(b)(1)] would require the following financial data to be included in the annual audit report:

Financial Statements

Statement of Financial Condition;
Statement of Income (Loss);
Statement of Changes in Financial Condition;
Statement of Changes in Stockholders' Equity or Partners' or Sole Proprietor's Capital; and
Statement of Changes in Liabilities Subordinated to Claims of General Creditors;

[6] Securities Exchange Act Release No. 11140.
[7] Securities Exchange Act Release No. 11499.
[8] The following is a comparison of the current and proposed paragraphs:

[9] This reporting sequence will enable the Commission to fulfill its Congressional mandate to collect and report on economic data concerning the securities industry, while simultaneously streamlining the financial and operational reporting required by brokers and dealers. It would allow almost the complete integration of the current economic data reporting requirements of Rule 17a–10 [17 CFR 240.17a–10] and Rule 17a–20 [17 CFR 240.17a–20].

Under Section 23 of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975, the Commission has a duty to make such reports to Congress. The information necessary to prepare such reports would be derived from the calendar quarter filings of Form X–17A–5 [17 CFR 249.617] and the annual filing of Form X–17A–10 [17 CFR 249.618].

[10] This is in accordance with Section 14 of the Securities Acts Amendments of 1975 which amended Section 17(e)(1)(A) of the Securities Exchange Act of 1934 to require that the audited financial statements be submitted on a fiscal or calendar year basis.

Schedules

Computation of Net Capital Pursuant to Rule 15c3-1 [17 CFR 240.15c3-1]; and
Computation for Determination of Reserve Requirements Pursuant to Rule 15c3-3 [17 CFR 240.15c3-3].

The financial statements would be consolidated, including the statements of the broker or dealer parent company and its subsidiaries. All of the financial statements and schedules would be filed on a confidential basis except the Statement of Financial Condition, which would be provided for customers of the broker or dealer.

The proposed audited financial statements would be filed at the principal office of the Commission in Washington, D.C., the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and at the principal office of the designated examining authority for said broker or dealer no later than sixty days after the date of the annual audit. The computations contained in the previous unaudited filing of Part II or Part IIA, pursuant to Rules 15c3-1 [17 CFR 240.15c3-1] and 15c3-3 [17 CFR 240.15c3-3], would be reconciled in a report filed by the broker or dealer pursuant to amended Rule 17a-5(b)(4) [17 CFR 240.17a-5(b)(4)], if such reports differ materially from the computation contained in the audit report.

The term "fiscal year" would be defined as the broker's or dealer's fiscal year for reporting purposes. The date of the audit may be at any point within the calendar year; however, if such date does not coincide with the close of a calendar quarter, the broker or dealer must file an additional Form X-17A-5 [17 CFR 249.617], Part II or IIA as prescribed in paragraph (a), as of the date of the annual audit. This fifth filing would allow the integration of the annual audit report into the Commission's surveillance program, and the surveillance programs of the self-regulators.

Audit Objectives & Procedures. Rule 17a-5 [17 CFR 240.17a-5] would also be amended to prescribe the auditing principles and auditing standards to be used in the preparation of the broker's or dealer's audited financial statements.[11] Proposed paragraph (h) requires the annual audit to be made in accordance with generally accepted auditing standards. The audit is to be conducted in such a manner as to provide the accountant with the basis for expressing an opinion on the financial statements of the broker or dealer at the date of the examination. The audit should be designed in such a manner as to provide the accountant with reasonable assurance of the discovery of any material inadequacies in the accounting system, the internal accounting control, procedures for safeguarding securities or the procedures followed in complying with Rule 17a-13 [17 CFR 240.17a-13]. Subparagraph (h)(2) defines the scope of a material inadequacy.

Proposed paragraph (i) would prescribe the extent and timing of procedures to be followed in the annual audit and would permit the accountant to exercise discretion in the area of the extent and timing of the audit procedures. In addition, the accountant would have a responsibility to notify the chief financial officer of the broker or dealer of any material inadequacies discovered in the course of the audit or interim work. If the broker or dealer fails to notify the Commission, the accountant himself must do so.

Report on Material Inadequacies. Proposed paragraph (k) would require that the broker or dealer file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist at the audit date and any corrective action taken by the broker or dealer or proposed by the broker or dealer or the accountant in regard thereto.

Nature and Form of Reports. Paragraph (b), which prescribes the nature and form of reports which must be filed by the broker or dealer would be renumbered (c). Subparagraph (c)(4)(iii)(b) thereof would be amended to require that amounts reported in the Annual General Assessment Reconciliation (Form SIPC-7) be compared with amounts reflected in Form X-17A-5 [17 CFR 249.617] for the fiscal year, rather than the present comparison with the amounts reflected in Form X-17A-10 [17 CFR 249.618].

Extensions of Time. Paragraph (d) of the Rule would be designated as paragraph (e) and would be revised to require the broker or dealer to include certain representations in its application for an extension of time for filing the annual audit report. The application would be required to be received by the Commission's principal office in Washington, D.C. and the appropriate regional office of the Commission prior to the time that the report is normally due pursuant to paragraph (b). The application would not be deemed granted by inaction on the part of the Commission as is now provided for by the last sentence of the paragraph; accordingly, that sentence has been deleted from proposed paragraph (e).

Qualifications of Accountant. Paragraph (f) would me renumbered (g) and a new subparagraph (g)(2) would be added which would require every broker or dealer to file with the Commission, as of January tenth of each year, an agreement with an independent public accountant covering a contractual commitment to conduct the broker's or dealer's annual audit for that year. In addition, new subparagraph (g)(3) would require that the accountant be independent in accordance with Rules 2-01(b) and (c) of Regulation S-X [17 CFR 210.2-01(b) and (c)].

Technical Requirements of Accountant's Report. Proposed amended paragraph (j) would combine former paragraphs (g), (h) and (i) in setting forth the technical requirements of the accountant's report, the representations and opinions to be expressed by the accountant with respect to the annual audit, and the manner in which exceptions noted by the accountant are to be stated. Proposed amended paragraph (j) also notes that the accountant would be required to perform additional audit procedures if such procedures are necessary to accomplish the audit objectives.

Proposed Amended Form X-17A-5 [17 CFR 249.617]. The statements and schedules contained in the FOCUS Report would replace present Form X-17A-5 [17 CFR 249.617], but the designation "Form X-17A-5" [17 CFR 249.617] would be retained. Form X-17A-5 [17 CFR 249.617] is divided into two parts with additional supplementary schedules. Part I is to be a one-page summary report containing key financial and operational information consisting of core line items for all brokers and dealers and supplementary items for small brokers and dealers. These line items would provide regulators with timely information needed for the continued viability of the present day early warning system. This part is designed so that the trend for a full year in any of the line items is shown on a horizontal line on the report.

Nearly all of the information in Part I is presently required to be generated and maintained by rules of the Commission, national securities associations and national securities exchanges. Accordingly, Part I will replace a number of forms currently used by members of the securities industry. It is the Commission's understanding that Part I will replace the monthly reports that the various self-regulators currently require of firms which do not exceed certain safe parameters of financial and operational condition.

Part II of Form X-17A-5 [17 CFR 249.617] is a general purpose financial and operational report. It is designed to accomplish several objectives: attain simplicity and uniformity, obtain essential regulatory information, and develop financial statements in a format consistent with generally accepted accounting principles. Part II contains the following financial statements and schedules:

Financial Statements

Statement of Financial Condition;
Statement of Income (Loss);
Statement of Changes in Stockholders' Equity or Partners' or Sole Proprietor's Capital; and
Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

Schedules

Computation of Net Capital Under Rule 15c3-1 [17 CFR 240.15c3-1];
Computation for Determination of Reserve Requirements Under Exhibit A of Rule 15c3-3 [17 CFR 240.15c3-3];
Total Capital and Subordinated Capital Maturing or Proposed to be Withdrawn Within the Next Six Months and Details Thereof; and
Financial and Operational Data.

Part IIA is an abbreviated version of Part II. It includes a Statement of Financial Condition, a Computation of Net Capital Under Rule 15c3-1 [17 CFR 240.15c3-1]; a Statement of Income

[11] This is in accordance with Section 17(e)(2) of the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975.

(Loss), and a Schedule of Details of Total Capital and Subordinated Capital Maturing or Proposed to be Withdrawn Within the Next Six Months.

Copies of proposed amended Form X-17A-5 [17 CFR 249.617] have been filed with the Office of the Federal Register and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Amendment of Rule 17a-10 [17 CFR 240.17a-10] and Related Form X-17A-10 [17 CFR 249.618]. Rule 17a-10 [17 CFR 240.17a-10] and related Form X-17A-10 [17 CFR 249.618] would be amended, beginning with calendar year 1975, so as to eliminate certain information no longer considered essential, to conform to the format of the FOCUS Report and to reduce the reporting burden on brokers and dealers. For the first time, the financial and operational data required for surveillance purposes and the information required for economic analysis would be integrated into a single reporting system. Rule 17a-10 [17 CFR 240.17a-10] would be amended to shorten the time period from 120 days to 45 days within which revised Form X-17A-10 [17 CFR 249.618] must be filed. Those brokers and dealers with annual gross revenue related to the securities business of ten million dollars or more who are required to file additional schedules will be given 60 days within which to file. The extension of time after the close of the calendar year would be reduced from 150 days to 75 days. The Commission proposes these changes in view of the reduced amount of information required by revised Form X-17A-10 [17 CFR 249.618]. In addition, shortening the filing period would result in more timely information being provided to the Commission.

Proposed Form X-17A-10 [17 CFR 249.618] would consist of two parts with additional schedules, the schedules to be filed only by certain large brokers and dealers. Part I of amended Form X-17A-10 [17 CFR 249.618] would be filed by those brokers and dealers with annual gross revenue related to the securities business of less than $500,000, approximately 83 percent of all brokers and dealers. Part II of amended Form X-17A-10 [17 CFR 249.618] would be filed by all brokers and dealers with annual gross revenue related to the securities business of over $500,000. Subsidiary schedules requesting additional information would be filed only by those brokers and dealers with annual gross revenue related to the securities business of ten million dollars or more during the calendar year.

This is the first major revision in Form X-17A-10 [17 CFR 249.618] since the form became mandatory for calendar year 1969. The purpose of Rule 17a-10 [17 CFR 240.17a-10] and the related form is to provide the Commission with comprehensive financial data on a comparable basis for all segments of the broker-dealer industry. The Commission is required to carry out broad and comprehensive regulatory responsibilities as mandated by the Securities Acts Amendments of 1975. As a result of the introduction of competitive commission rates and the development of a national market system, and because of significant developments impacting the economics of the securities industry, the need for timely and comparable data regarding various segments of the insdutry continues to be essential.[12]

Copies of proposed amended Form X-17A-10 [17 CFR 249.618] have been filed with the Office of the Federal Register and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Amendment of Rule 17a-11 [17 CFR 240.17a-11] and Revocation of Form X-17A-11 [17 CFR 249.621]. Rule 17a-11 [17 CFR 240.17a-11] will be revised to conform to the new net capital rule by the addition of subparagraph (b)(2) which applies to the alternative method of capital computation. Subparagraph (b)(2) would be revised to clarify that a broker or dealer must file a report at the end of the month if a capital computation made at any time during the month indicates that his total net capital is below the minimum requirement. The report to be filed would be Part II of Form X-17A-5 [17 CFR 249.617] plus any additional statements which may be required, thus eliminating the need for Form X-17A-11 [17 CFR 249.621].

New paragraph (d) would require any broker or dealer who receives notice of a material inadequacy pursuant to paragraph (i)(2) of Rule 17a-5 [17 CFR 240.17a-5] to give telegraphic notice to the Commission and file a corrective plan within forthy-eight hours thereafter.

Amendment of Rule 17a-20[17 CFR 240.17a-20]. Rule 17a-20 [17 CFR 240.17a-20], which was adopted as part of the Commission's program to monitor the impact of competitive commission rates, would be amended to reduce the frequency of filing. The Commission has determined that the program's effectiveness will not be decreased by requiring quarterly rather than monthly filing by all brokers and dealers subject to Rule 17a-20 [17 CFR 240.17a-20].

Paragraph (a) has been amended to eliminate from the reporting system certain brokers and dealers who do not derive at least 20 percent of their revenues from securities commissions. Certain technical changes have also been made in order to coordinate the filing requirements with revised Rule 17a-10 [17 CFR 240.17a-10].

COMMENTS

Due to the implementation of amended Rule 15c3-1 [17 CFR 240.15c3-1] on January 1, 1976, the current financial and operational reporting systems will become obsolete. It is therefore most urgent that the FOCUS Report be adopted as expeditiously as possible. For this reason, the Commission requests that the self-regulatory organizations comment as soon as possible on the feasibility of implementing the FOCUS Report in its current format. Should comments or experience indicate that additional adjustments are necessary, the Commission will consider amendments to the FOCUS Report.

The Commission welcomes comments on the entire program and is particularly interested in receiving comments from all interested members of the public in the following areas:

1. Items contained in the various parts of the FOCUS Report;

2. Frequency and timeliness of submission of parts of the FOCUS Report by various types of firms;

3. Changes in the audit requirements pursuant to proposed amended Rule 17a-5 [17 CFR 240.17a-5];

4. Adoption of new Form X-17A-10 [17 CFR 249.618] effective for calendar year 1975;

5. Implementation of the FOCUS Report as of January 1, 1976;

6. The desirability of requiring specialists, including option traders, floor brokers, floor traders, or municipal securities brokers or dealers to file the FOCUS Report and become subject to the reporting system described herein; and

7. The desirability of requiring exempted life insurance companies registered as brokers and dealers engaging in the sale of variable contracts to file a report annually.[13]

Interested persons should submit their comments in writing on or before December 1, 1975. All such communications should be directed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-594 and will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 16, 1975.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Part 240 is amended as follows:

1. Commission action: Pursuant to sections 17(a), 17(e) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 240.17a-4 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a-4 Records to be preserved by certain brokers and dealers.

* * * * *

[12] *See* note 9 *supra.*

[13] The Commission is currently developing a limited revenue and expense form to be filed annually by such companies.

(b) Every such broker and dealer shall preserve for a period of not less than 3 years, the first 2 years in an accessible place:

* * * * *

(8) Schedules which contain the following information in support of amounts included in reports on Form X–17A–5 Part II or Part IIA:

(i) Money balance and quantity, price and valuation of ecah security in customers' accounts reported on the Statement of Financial Condition in cash and fully secured accounts, partly secured accounts, unsecured accounts and in securities accounts payable to customers;

(ii) Money balance and quantity, price and valuation of each security in non-customers' accounts reported on the Statement of Financial Condition in cash and fully secured accounts, partly secured and unsecured accounts and in securities accounts payable to non-customers;

(iii) Description, quantity, price and valuation of each security reported on the Statement of Financial Condition as securities owned, securities owned not readily marketable, and other investments owned not readily marketable;

(iv) Amount of secured demand note, description of collateral securing such secured demand note including quantity, price and valuation of each security and cash balance securing such secured demand note;

(v) Description of futures commodity contracts, contract value on trade date, market value, gain or loss, and liquidating equity or deficit in customers' and non-customers' accounts;

(vi) Description of futures commodity contracts, contract value on trade date, market value, gain or loss and liquidating equity or deficit in trading and investment accounts;

(vii) Money balance, quantity, price and valuation of each spot commodity reported on the Statement of Financial Condition in customers' and non-customers' accounts;

(viii) Money balance, quantity, price and valuation of each spot commodity reported on the Statement of Financial Condition in trading and investment accounts;

(ix) Number of shares, description of security, exercise price, cost and market value of put and call options reported on the Statement of Financial Condition showing listed and unlisted put and call options separately; and

(x) Quantity, price, and valuation of each security underlying the haircut for undue concentration made in the Computation of Net Capital.

2. Commission Action: Pursuant to Sections 17(a), 17(e) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 240.17a–5 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

(a) *Filing of Monthly and Quarterly Reports.* (1) Paragraph (a) of this section shall apply to every broker or dealer registered pursuant to section 15 of the Act.

(2) (i) Every broker or dealer subject to paragraph (a) of this section who clears or carries customer accounts shall file monthly Part I of Form X–17A–5 (Section 249.617 of this chapter).

(ii) Every broker or dealer subject to paragraph (a) of this section who clears or carries customer accounts shall file Part II of Form X–17A–5 (§ 249.617 of this chapter) each calendar quarter and within 17 business days after the date selected for the annual audited financial statements where said date is other than a calendar quarter. Certain of such brokers or dealers shall file Part IIA in lieu thereof if the nature of their business is limited as described in the instructions to Part II of Form X–17A–5 (§ 249.617 of this chapter).

(iii) Every broker or dealer who does not carry nor clear customer accounts shall file Part IIA of Form X–17A–5 (§ 249.617 of this chapter) each calendar quarter and within 17 business days after the date selected for the annual audited financial statements where said date is other than the end of the calendar quarter.

(iv) Upon receiving written notice from the Commission or the examining authority designated pursuant to Section 17(d) of the Act, a broker or dealer who receives such notice shall file monthly Part II of Form X–17A–5 (§ 249.617 of this chapter) or such other financial or operational information as shall be required by the Commission or the designated examining authority.

(3) The reports provided for in paragraph (a) of this section shall be filed at the Commission's principal office in Washington, D.C. and the regional office of the Commission for the region in which the broker or dealer has its principal place of business. Except as provided for in paragraph (c)(3) of this section such reports shall be available for examination at the principal office of the broker or dealer.

(4) The provisions of paragraphs (a)(2) and (3) of this section shall not apply to a member of a national securities exchange or a registered national securities association if said exchange or association maintains records containing the information required by Part I, Part II or Part IIA of Form X–17A–5 (§ 249.617 of this chapter) as to such members, and transmits to the Commission a copy of the applicable parts of Form X–17A–5 (§ 249.617 of this chapter) as to such member, pursuant to a plan, the procedures and provisions of which have been submitted to and declared effective by the Commission. Any such plan filed by a national securities exchange or a registered national securities association may provide that when a member is also a member of one or more national securities exchanges, or of one or more national securities exchanges and a registered national securities association, the information required to be submitted with respect to any such member may be submitted by only one specified national securities exchange or registered national securities association. For the purposes of this section, a plan filed with the Commission by a national securities exchange or a registered national securities association shall not become effective unless the Commission, having due regard for the fulfillment of the Commission's duties and responsibilities under the provisions of the Act, declares the plan to be effective. Further, the Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the publicc interest, for the protection of investors, or to carry out the Commission's duties and responsibilities under the Act.

(5) On written request of any national securities exchange, registered national securities association, broker or dealer, or on its own motion, the Commission may grant an extension of time or an exemption from any of the requirements of paragraph (a) of this section either unconditionally or on specified terms and conditions.

(b) *Filing of Annual Audited Financial Statements.* (1) (i) The broker or dealer shall file annually, on a calendar or fiscal year basis on Form X–17A–5 (§ 249.617 of this chapter), a report which shall be audited. Reports pursuant to paragraph (b) of this section shall be as of the same fixed or determinable date each year unless a change is approved by the Commission.

(ii) A broker or dealer succeeding to and continuing the business of another broker or dealer need not file a report under this paragraph as of a date in the fiscal or calendar year in which the succession occurs if the predecessor broker or dealer has filed a report in compliance with this paragraph as of a date in such fiscal or calendar year.

(2) Financial statments to be filed with said report shall be prepared in accordance with generally accepted accounting principles and shall include a Statement of Financial Condition, a Statement of Income (Loss), a Statement of Changes in Financial Condition, a Statement of Changes in Stockholders' Equity or partners' or Sole Proprietor's Capital, and a Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

(3) Supporting statements and schedules shall include a Statement of Financial Condition from Part II of Form X–17A–5 (§ 249.617 of this chapter), a Computation of Net Capital Under Rule 15c3–1 (§ 240.15c3–1 of this chapter), a Computation for Determination of the Reserve Requirements Under Exhibit A of Rule 15c3–3 (§ 240.15c3–3 of this chapter) and Information Relating to the Possession or Control Requirements Under Rule 15c3–3 (§ 240.15c3–3 of this chapter), and shall be filed with said report.

(4) A reconciliation of the Computation of Net Capital Under Rule 15c3–1 (§ 240.15c3–1 of this chapter) and the Computation for Determination of the

Reserve Requirements Under Exhibit A of Rule 15c3-3 (§ 240.15c3-3 of this chapter) with the broker's or dealer's corresponding unaudited most recent Part II filing shall be filed with said report when they differ materially.

(5) The annual audit report shall be filed not more than sixty (60) days after the date of the financial statements.

(6) The annual audited financial statements shall be filed at the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, D.C., and the principal office of the designated examining authority for said broker or dealer, and copies thereof shall be provided to all self-regulatory organizations of which said broker or dealer is a member.

(c) *Nature and form of reports.* The financial statements filed pursuant to paragraph (b) of this section shall be prepared and filed in accordance with the following requirements:

(1) A certified public accountant or a public accountant who shall be in fact independent shall give an opinion covering the financial statements: *Provided, however,* That an accountant need not give an opinion covering such financial statements if, since the date of the previous financial statements or report filed pursuant to § 240.15b1-2 of this section: (i) Said broker or dealer has not transacted a business in securities directly with or for other than members of a national securities exchange; has not carried any margin account, credit balance or security for any person other than a general partner; and has not been required to file a certified financial statement with any national securities exchange; or (ii) its securities business has been limited to acting as broker (agent) for the issuer in soliciting subscriptions for securities of such issuer, said broker has promptly transmitted to such issuer all funds and promptly delivered to the subscriber all securities received in connection therewith, and said broker has not otherwise held funds or securities for or owed money or securities to customers; or (iii) its securities business has been limited to buying and selling evidences of indebtedness secured by mortgage, deed of trust, or other lien upon real estate or leasehold interests, and said broker or dealer has not carried any margin account, credit balance, or security for any securities customer.

A broker or dealer who files a report which is not covered by an accountant's opinion shall include in the oath or affirmation required by paragraph (c)(2) of this section a statement of the facts and circumstances relied upon as a basis for exemption from the requirement that financial statements filed pursuant to paragraph (b) be covered by the opinion of an accountant.

(2) Attached to the report shall be an oath or affirmation that, to the best knowledge and belief of the person making such oath or affirmation, (i) The financial statements and supporting schedules are true and correct, and (ii) neither the broker or dealer, nor any partner, officer, or director, as the case may be, has any proprietary interest in any account classified solely as that of a customer. The oath or affirmation shall be made before a person duly authorized to administer such oaths or affirmations. If the broker or dealer is a sole proprietorship, the oath or affirmation shall be made by the proprietor; if a partnership, by a general partner; or if a corporation, by a duly authorized officer.

(3) If the Statements of Financial Condition in paragraphs (b) (2) or (3) of this section are bound separately from the balance of the annual audited financial statements filed pursuant to paragraph (b)(1) of this section, the balance of the annual audited financial statements shall be deemed confidential, except that it shall be available for official use by any official or employee of the United States or any State, by national securities exchanges and national securities associations of which the person filing such report is a member, and by any other person to whom the Commission authorizes disclosure of such information as being in the public interest. Nothing contained in this paragraph (b)(3) of this section shall be deemed to be in derogation of the rules of any registered national securities association or national securities exchange which give to customers of a member broker or dealer the right, upon request to such member broker or dealer, to obtain information relative to its financial condition.

(4) The broker or dealer shall file with the report a supplemental report and, subject to the provisions of paragraph (c)(1) of this section, a report of the independent public accountant on the status of the membership of the broker or dealer in the Securities Investor Protection Corporation ("SIPC"). The report shall cover the SIPC annual general assessment reconciliation or exclusion from membership forms not previously reported on under this paragraph (c)(4) of this section which were required to be filed prior to the date of the report required by paragraph (b) of this section. The supplemental report, which shall be submitted in triplicate original to the regional office of the Commission for the region in which the broker or dealer has its principal place of business as specified in paragraph (b)(4) of this section, be bound separately, be dated and be signed manually, shall include the following:

(i) A schedule of assessment payments also showing any overpayments applied and overpayments carried forward including: payment dates, amounts, and name of SIPC collection agent to whom mailed, or

(ii) If exclusion from membership was claimed, a statement that the broker or dealer qualified for exclusion from membership under Section 3(a)(2) of the Securities Investor Protection Act of 1970, and the date and name of the SIPC collection agent with whom a Certification of Exclusion from Membership (Form SIPC-3) was filed, and

(iii) An accountant's report which shall state that in the accountant's opinion either the assessments were determined fairly in accordance with applicable instructions and forms, or that a claim for exclusion from membership was consistent with income reported. If exceptions are noted, the accountant shall state any corrective action taken or proposed. The accountant's review on which his report is based shall include as a minimum the following procedures:

(A) Comparison of listed assessment payments with respective cash disbursements record entries;

(B) Comparison of amounts reflected in Form X-17A-5 (§ 249.617 of this chapter) for the fiscal year as required by paragraph (b) of this section, with amounts reported in the Annual General Assessment Reconciliation (Form SIPC-7);

(C) Comparison of adjustments reported in Form SIPC-7 with supporting schedules and working papers supporting adjustments;

(D) Proof of arithmetical accuracy of the calculations reflected in Form SIPC-7 and in the schedules and working papers supporting adjustments; and

(E) Comparison of the amount of any overpayment applied with the Form SIPC-7 on which it was computed; or

(F) If exclusion from membership is claimed, the accountant shall review Form X-17A-5 (§ 249.617 of this chapter) as required by paragraph (b) of this section to ascertain that the Certification of Exclusion from Membership (Form SIPC-3) was consistent with the income reported.

(d) *Use of certain statements filed with the Securities and Exchange Commission.* (1) Any broker or dealer who is subject to the provisions of paragraph (b) of this section may file in lieu of the report required by that paragraph a copy of any financial statement which is required to be filed with any national securities exchange of which it is a member, or with any agency of any State as a condition of doing business therein, provided that:

(i) The copy so included reflects the financial condition of the broker or dealer as of a date not more than sixty days prior to the filing thereof with the Commission; and

(ii) The report, as filed with this Commission, meets the requirements of this section and Form X-17A-5 (§ 249.617 of this chapter) and contains the information called for by that form.

(2) At the request of any broker or dealer who is (i) an investment company registered under the Investment Company Act of 1940, or (ii) a sponsor or depositor of such a registered investment company who effects transactions in securities only with, or on behalf of, such registered investment company, the Commission will accept the financial statements filed pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 and the rules and regulations promulgated thereunder as a filing pursuant to paragraph (b) of this

section. Such a filing shall be deemed to satisfy the requirements of this section for any calendar year in which such financial statements are filed, provided that the statements so filed meet the requirements of the other sections of this chapter under which they are filed with respect to time of filing and content.

(e) *Extension of time for filing reports.* In event any broker or dealer finds that he cannot file his report for any year within the time specified in paragraph (b) of this section without undue hardship, he may file with the Commission's principal office in Washington, D.C. and the appropriate regional office as specified in paragraph (b)(6) of this section an application for an extension of time to a specified date which shall not be more than 90 days after the date as of which his financial condition is reported. Notice of such application shall be sent to the designated examining authority. The application shall be made by the broker or dealer and the representations therein verified by the independent public accountant to the best of his ability and shall:

(1) State the reasons for the requested extension;

(2) Indicate that the inability to make a timely filing is due to circumstances beyond the control of the broker or dealer if such is the case, and describe briefly the nature of such circumstances;

(3) Indicate if the broker or dealer is in violation of the net capital requirements specified in § 240.15c3–1 or the requirements of § 240.15c3–3, or has any other financial or recordkeeping problems;

(4) Contain an agreement to file the report on or before the date specified by the broker or dealer in the application; and

(5) Be received by the regional office of the Commission for the region in which the broker or dealer has its principal place of business, the Commission's principal office in Washington, D.C. and the principal office of the designated examining authority prior to the date upon which the report is due.

(f) *Exemptions.* Any "bank," as defined in section 3(a)(6) of the Act (48 Stat. 382; 15 U.S.C. 78c) shall be exempt from the provisions of this section.

(g)(1) *Qualifications of accountants.* The Commission will not recognize any person as a certified public accountant who is not duly registered and in good standing as such under the laws of the place of his residence or principal office. The Commission will not recognize any person as a public accountant who is not in good standing and entitled to practice as such under the laws of his place of residence or principal office.

(2) *Designation of accountant.* Every broker or dealer subject to this section shall file no later than January 10 of each year a statement with the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which its principal place of business is located and the principal office of the designated examining authority for such broker or dealer. Such statements shall indicate the existence of an agreement, dated no later than January first, with an independent public accountant, covering a contractual commitment to conduct the broker's or dealer's annual audit. The statement shall be headed "Notice pursuant to Rule 17a–5(g)(2)" (§ 240.17a–5(g)(2)) and shall contain the following information: (i) Name, address, telephone number and registration number of the broker or dealer; (ii) name, address and telephone number of the accounting firm; (iii) the audit date of the broker or dealer for the year covered by the agreement.

(3) *Independence of accountant.* An accountant shall be independent in accordance with the provisions of § 210.2–01 (b) and (c) of this chapter.

(4) *Replacement of accountant.* A broker or dealer shall file a notice with the Commission's principal office in Washington, D.C., the regional office of the Commission for the region in which its principal place of business is located, and the principal office of the designated examining authority for such broker or dealer, not more than 15 days after:

(i) The broker or dealer has notified the accountant whose opinion covered the most recent financial statements filed under paragraph (b) of this section that his services will not be utilized in future engagements; or

(ii) The broker or dealer has notified an accountant who was engaged to give an opinion covering the financial statements to be filed under paragraph (b) of this section that the engagement has been terminated; or

(iii) An accountant has notified the broker or dealer that he would not continue under an engagement to give an opinion covering the financial statements to be filed under paragraph (b) of this section; or

(iv) A new accountant has been engaged to give an opinion covering the financial statements to be filed under paragraph (b) of this section without any notice of termination having been given to or by the previously engaged accountant.

Such notice shall state (a) the date of notification of the termination of the engagement or engagement of the new accountant as applicable and (b) the details of any problems existing during the 24 months (or the period of the engagement if less) preceding such termination or new engagement relating to any matter of accounting principles or practices, financial statement disclosure, auditing scope or procedure, or compliance with applicable rules of the Commission, which problems, if not resolved to the satisfaction of the former accountant, would have caused him to make reference to them in connection with his report on the subject matter of the problems. The problems required to be reported in response to the preceding sentence include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Problems contemplated by this rule are those which occur at the decision-making level; i.e., between personnel of the broker or dealer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. State whether the accountant's report on the financial statements for any of the past two years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles; also describe the nature of each such adverse opinion, disclaimer of opinion, or qualification. The broker or dealer shall also request the former accountant to furnish the broker or dealer with a letter addressed to the Commission stating whether he agrees with the statements contained in the notice of the broker or dealer and, if not, stating the respects in which he does not agree. The broker or dealer shall file three copies of the notice and the accountant's letter, one copy of which shall be manually signed by the sole proprietor, or a general partner or a duly authorized corporate officer, as appropriate, and by the accountant, respectively.

(h) *Audit objectives.* (1) The audit shall be made in accordance with generally accepted auditing standards and shall include a review of the accounting system, the internal accounting control and procedures for safeguarding securities. The audit shall include all procedures necessary under the circumstances to enable the independent public accountant to express an opinion on the financial condition, results of operations, and changes in financial position. The scope of the audit and review of the accounting system, the internal control and procedures for safeguarding securities shall be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination would be disclosed. Additionally, as specific objectives, the audit shall include reviews of the practices and procedures followed by the client:

(i) In making the periodic computations of aggregate indebtedness and net capital under § 240.17a–3(a)(11) and the reserve required by Section 240.15c3–3(e);

(ii) In making the quarterly securities examinations, counts, verifications and comparisons and the recordation of differences required by § 240.17a–13;

(iii) In complying with the requirement for prompt payment for securities of Section 4(c) of Regulation T (§ 220.4 (c) of Chapter II of Title 12) of the Board of Governors of the Federal Reserve System; and

(iv) In obtaining and maintaining physical possession or control of all fully paid and excess margin securities of customers as required by § 240.15c3–3.

(A) If the broker or dealer is exempt from § 240.15c3–3, the independent public accountant shall ascertain that the conditions of the exemption were being complied with as of the examination date and that no facts came to his attention to indicate that the exemption had not been complied with during the period since his last examination.

(B) Based upon such audit, including the foregoing specific objectives, and concurrent with his report on the financial statements, the independent public accountant shall comment upon any material inadequacies found to exist. Any corrective action taken or proposed shall be indicated. If the audit did not disclose any material inadequacies, the accountant shall so report.

(2) A material inadequacy in the controls and practices and procedures referred to above which is expected to be reported under these audit objectives includes any condition which has contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to (i) inhibit a broker or dealer from promptly completing securities transactions or promptly discharging his responsibilities to customers, other broker-dealers or creditors; (ii) result in material financial loss; (iii) result in material misstatements of the broker or dealer's finanical statements; or (iv) result in violations of the Commission's recordkeeping or financial responsibility rules to an extent that could reasonably be expected to result in the conditions described in parts (i), (ii), or (iii) of this paragraph (h)(2).

(i) *Extent and timing of audit procedures.* (1) The extent and timing of audit procedures are matters for the independent public accountant to determine on the basis of his review and evaluation of the accounting system and accounting control. In determining the extent of testing, consideration shall be given to the materiality of an area and the possible effect on the financial statements of a material misstatement in a related account. The performance of auditing procedures involves the proper synchronization of their application and thus comprehends the need for simultaneous performance of procedures in certain areas such as, for example, securities counts, transfer verification and customer and broker confirmation in connection with verification of securities positions.

(2) If, during the course of the audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, internal accounting control, procedures for safeguarding securities, or as otherwise defined in paragraph (h)(2) of this section, then he shall call it to the attention of the chief financial officer of the broker or dealer, who shall have a responsibility to inform the Commission and the designated examining authority by telegraphic notice within 24 hours thereafter as set forth in paragraphs (d) and (f) of § 240.17a–11. The broker or dealer shall also furnish the accountant with a copy of said notice to the Commission by telegraphic communication within said 24 hour period. If the accountant fails to receive such notice from the broker or dealer within said 24 hour period, or if he disagrees with the statements contained in the notice of the broker or dealer, the accountant shall have a responsibility to inform the Commission and the designated examining authority by report of material inadequacy within 24 hours thereafter as set forth in paragraph (f) of § 240.17a–11. Such report from the accountant shall (a) if the broker or dealer failed to file a notice, describe any material inadequacies found to exist or (b) if the broker or dealer filed a notice, describe the respects in which the accountant does not agree.

(j) *Accountants' reports in general.*— (1) *Technical requirements.* The accountant's report shall: (i) be dated; (ii) be signed manually; (iii) indicate the city and state where issued; and (iv) identify without detailed enumeration the financial statement and schedules covered by the report.

(2) *Representations as to the audit.* The accountant's report shall: (i) state whether the audit was made in accordance with generally accepted auditing standards; (ii) state whether the accountant reviewed the procedures followed for safeguarding securities of customers; and (iii) designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which have been omitted, and the reason for their omission.

Nothing in this section shall be construed to imply authority for the omission of any procedure which an independent accountant would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required under this section.

(3) *Opinion to be expressed.* The accountant's report shall state clearly the opinion of the accountant: (i) In respect of the financial statements and schedules covered by the report and the accounting principles and practices reflected therein; and (ii) as to the consistency of the application of the accounting principles, or as to any changes in such principles which have a material effect on the financial statements as required to be set forth in § 210.3–07(a) of this chapter.

(4) *Exceptions.* Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

(5) *Definitions.* For the purpose of this section, the terms "audit" (or "examination"), "accountant's report," and "certified" shall have the meanings given in § 210.1–02 of this chapter.

(k) *Accountant's report on material inadequacies.* The broker or dealer shall file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist. The supplemental report shall indicate any corrective action taken or proposed by the broker or dealer in regard thereto. If the audit did not disclose any material inadequacies, the supplemental report shall so state.

(l) *Termination of membership interest.* (1) If a broker or dealer holding any membership interest in a national securities exchange ceases to be a member in good standing of such exchange, such broker or dealer shall, within two business days after such event, file with the Commission, Part II of Form X–17A–5 (§ 249.617 of this chapter) as of the date of such event.

The report shall be filed at the Commission's principal office in Washington, D.C. and with the regional office of the Commission for the region in which the broker or dealer has its principal place of business: *Provided, however,* That such report need not be made or filed if the Commission, upon written request or upon its own motion, exempts such broker or dealer, either unconditionally or on specified terms and conditions, from such requirement: *Provided further,* That the Commission may, upon request of the broker or dealer, grant extensions of time for filing the report specified herein for good cause shown.

(2) Attached to the report required by subparagraph (1) of this paragraph shall be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the report is true and correct. The oath or affirmation shall be made before a person duly authorized to administer such oath or affirmation. If the broker or dealer is a sole proprietorship, the oath or affirmation shall be made by the sole proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or, in his absence, by the person authorized to act in his place.

(3) For the purposes of paragraph (l)(1) of this section "membership interest" shall include the following: full membership, allied membership, associated membership, floor privileges, and any other interest that entitles a broker or dealer to the exercise of any privilege on an exchange.

(4) For the purposes of paragraph (l)(1) of this section, any broker or dealer shall be deemed to have ceased to be a member in good standing of such exchange when he has resigned, withdrawn, or been suspended or expelled from a membership interest in such exchange or has directly or through any associated person sold or entered into an agreement for the sale of a membership interest which would on consummation thereof result in the termination of the broker or dealer's membership interest in such exchange.

(5) Whenever any national securities exchange takes any action which causes any broker or dealer which is a member of such exchange to cease to be a member in good standing of such exchange or when such exchange learns of any action by such member or any other person which causes such broker or dealer to cease to be a member in good standing of such exchange, such exchange shall report such action promptly to the Commission, furnishing information as to the circumstances surrounding the event and shall send a copy of such notification to said member together with a

notification of the broker or dealer's responsibilities under paragraph (l)(1) of this section.

(m) *Statements to be furnished customers.* (1) Every broker or dealer shall send to its customers the statements prescribed by paragraph (m)(2) of this section within 30 days after it files with the Commission the information required by paragraph (b) of this section, except if the activities of such broker or dealer are limited to any one or combination of the following and are conducted in the manner prescribed herein:

(i) As introducing broker or dealer, the forwarding of all transactions of his customers to a clearing broker or dealer on a fully disclosed basis: *Provided*, That such clearing broker or dealer reflects such transactions on its books and records in accounts it carries in the names of such customers and that the introducing broker or dealer does not hold funds or securities for, or owe funds or securities to, customers other than funds and securities promptly forwarded to the clearing broker or dealer or to customers;

(ii) The prompt forwarding of subscriptions for securities to the issuer, underwriter or other distributor of such securities and of receiving checks, drafts, notes, or other evidences of indebtedness payable solely to the issuer, underwriter or other distributor who delivers the security directly to the subscriber or to a custodian bank, if the broker or dealer does not otherwise hold funds or securities for, or owe money or securities to, customers;

(iii) The sale and redemption of redeemable shares of registered investment companies or the solicitation of shares account of savings and loan associations in the manner contemplated by the $2,500 minimum net capital requirement of § 240.15c3–1 or the offering to extend any credit to or participate in arranging a loan for a customer to purchase insurance in connection with the sale of redeemable shares of registered investment companies; or

(iv) Conduct which would exempt the broker or dealer from the provisions of § 240.17a–13 by reason of the provisions of paragraph (a) of that section.

(2) The statements to be sent to customers shall be as follows:

(i) A balance sheet with appropriate notes prepared in accordance with the requirements of Regulation S–X (§ 210 of this chapter), which shall be certified if the financial statements furnished in accordance with paragraph (b) of this section are required to be certified;

(ii) A statement indicating the amount of the broker's or dealer's net capital and its required net capital, computed in accordance with Section 240.15c–1;

(iii) If in connection with the most recent annual audit report pursuant to § 240.17a–5, the independent accountant commented on any material inadequacies found to exist in the accounting system, the internal accounting control, procedures for safeguarding securities or the procedures followed in complying with § 240.17a–13, there shall be a statement by the broker or dealer that a copy of such report and comments is currently available for the customer's inspection at the principal office of the Commission in Washington, D.C., and the regional office of the Commission for the region in which the broker or dealer has its principal place of business; and

(iv) A statement indicating that the Statement of Financial Condition of the most recent annual audit report of the broker or dealer pursuant to § 240.17a–5 is available for examination at the principal office of the broker or dealer, and at the regional office of the Commission for the region in which the broker or dealer has its principal place of business.

(3) Every broker or dealer who is subject to this paragraph (m) shall furnish to customers and file with the regional office of the Commission in the region in which the broker or dealer has its principal place of business, and each national securities exchange and national securities association of which it is a member an unaudited statement containing the information specified in paragraphs (m)(2)(i) and (ii) of this section, not later than 285 days from the date of the audited statements required by paragraph (m) of this section. Said unaudited statement shall be as of the date of the broker's or dealer's fiscal period ending nearest to 6 months from the date of the audited statements required to be furnished pursuant to paragraphs (m)(1) and (2) of this section.

(4) For purposes of paragraph (m) of this section, the term "customer" includes any person other than another broker or dealer who is exempted by paragraph (m)(1) of this section, for or with whom a broker or dealer has effected a securities transaction in a particular month, which month shall be either the month preceding the balance sheet date or the month following the balance sheet date in which the statement is sent. In addition, the term "customer" includes any person for whom the broker or dealer holds securities for safekeeping or as collateral or for whom the broker or dealer carries a free credit balance in the month in which customers are determined for purposes of paragraph (m) of this section.

3. Commission action: Pursuant to sections 6(e), 17(a) and 23(a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 240.17a–10 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–10 Report of revenue and expenses.

(a) Every broker or dealer registered pursuant to Section 15 of the Act shall, not later than 45 days after the close of each calendar year (commencing with the calendar year 1975), file a report of his revenue and expenses, and related financial and other information for such calendar year on Form X–17A–10 (§ 249.618 of this chapter). Brokers or dealers required to complete Schedules A through D shall file Form X–17A–10 (§ 249.618 of this chapter) not later than 60 days after the close of each calendar year.

* * * * *

(d) In the event any broker or dealer finds that he cannot file his report for any year within the time specified in paragraph (a) of this section without undue hardship, he may file with the Commission's principal office in Washington, D.C. an application for an extension of time to a specified date which shall not be later than 75 days after the close of the calendar year for which the report is to be made. The application shall state the reasons for the requested extension and shall contain an agreement to file the report on or before the specified date.

4. Commission action: Pursuant to sections 17(a) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 240.17a–11 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–11 Supplemental current financial and operational reports to be made by certain brokers and dealers.

(a) Every broker or dealer subject to § 240.15c3–1, whose net capital at any time is less than the minimum required by any capital rule to which such person is subject, shall:

(1) Give telegraphic notice as set forth in paragraph (f) of this section that such person's net capital is less than is required by any such capital rule, identifying the applicable net capital rule or rules. The notice shall be given on the same day that such person's capital becomes less than required by any of the aforesaid rules to which such person is subject; and

(2) Within 24 hours thereafter file Part II of Form X–17A–5 (§ 249.617 of this chapter) and supplementary schedules as may be required.

(b)(1) If a computation made by a broker or dealer pursuant to the requirements of § 240.15c3–1(c) shows, at any point during the month, that his aggregate indebtedness is in excess of 1,200 per centum of his net capital, or that his total net capital is less than 120 per centum of the minimum net capital required of him, such person shall file a report on Part II of Form X–17A–5 (§ 249.617 of this chapter) within 15 calendar days after the end of the month for which such computation was required to be made, and within 15 calendar days after the end of each month thereafter until 3 successive months shall have elapsed during which his aggregate indebtedness does not exceed 1,200 per centum of his net capital, and his total net capital does not fall below 120 per centum of the minimum net capital required of him.

(2) If a computation made by a broker or dealer pursuant to § 240.15c3–1(f) shows, at any point during the month, that his net capital is less than 6 percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A: Formula for the Determination of

Reserve Requirements, such broker or dealer shall file a report on Part II of Form X–17A–5 (§ 249.617 of this chapter) within 15 calendar days after the end of the month for which such computation is made, and within 15 days after the end of each month thereafter until three successive months shall have elapsed during which his net capital is not less than six percent of aggregate debit items computed in accordance with § 240.15c3–3 Exhibit A.

(c) At any time when a broker or dealer subject to § 240.17a–3 fails to make and keep current the books and records specified therein, he shall immediately give telegraphic notice of such fact, specifying the books and records which have not been made or which are not current, and within 48 hours of the telegraphic notice file a report stating what steps have been and are being taken to correct the situation.

(d) Whenever any broker or dealer is notified by an independent public accountant, pursuant to paragraph (i)(2) of § 240.17a–5, of any material inadequacy as defined in paragraph (h) of § 240.17a–5, said broker or dealer shall give telegraphic notice of such material inadequacy within 24 hours, and within 48 hours of the telegraphic notice file a report stating what steps have been and are being taken to correct the situation.

(e) Whenever any national securities exchange or national securities association learns that a member broker or dealer has failed to file a notice or file a report as required by paragraph (a), (b), (c) or (d) of this section, such organization shall immediately report such failure as provided in paragraph (f) of this section.

(f) Every notice and report required to be given or filed by this rule shall be given to or filed with the principal office of the Commission in Washington, D.C., with the regional office of the Commission for the region in which the broker or dealer has its principal place of business, and with the designated examining authority of which such broker or dealer is a member.

4. Commission action: Pursuant to Sections 6(e), 17(a) and 23(a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 240.17a–20 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 240.17a–20 Monitoring effect of competitive commission rates.

(a)(1) Every broker or dealer with revenues as shown on line 6 of Statement A to Part III or line 11 of Statement AA to Part II of Form X–17A–10 (§ 249.618 of this chapter) of $500,000 or more, of which at least 20 percent is derived from brokerage commission transactions effected on national securities exchanges as shown on Line 1(a) of Statement A to Part III, or Line 1(e) of Statement AA to Part II, respectively, of Form X–17A–10 (§ 249.618 of this chapter) during calendar year 1974 shall, not later than 17 business days after the close of each calendar quarter, file a report of his revenues and expenses and related financial and other information for each such calendar quarter on Form X–17A–20 (§ 249.636 of this chapter).

(2) Every broker or dealer required to file for calendar year 1975 Part II to Form X–17A–10 (§ 249.618 of this chapter) and whose commissions earned on transactions in listed equity securities executed on an exchange as shown on Line A(1)(a) is at least 20 percent of the total revenue as shown on Line A(10) of Part II to Form X–17A–10 (§ 249.618 of this chapter), shall, not later than 17 business days after the close of each calendar quarter (commencing with the calendar quarter ending March 31, 1976), file a report of revenues and expenses and related financial and other information for each such calendar quarter on Form X–17A–20 (§ 249.636 of this chapter).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Part 249 is amended as follows:

5. Commission Action: Pursuant to Sections 17(a), 17(e) and 23 of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 249.617 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 249.617 Form X–17A–5, information required of certain brokers and dealers pursuant to section 17 of the Securities Exchange Act of 1934 and § 240.17a–5 of this chapter.

This form shall be used by every broker or dealer required to file reports under § 240.17a–5 (a) and (b) of this chapter.

6. Commission action: Pursuant to sections 6(e), 17(a) and 23(a) and (b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to adopt amended § 249.618 in Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

§ 249.618 Form X–17A–10, annual report of revenue and expenses to be filed by brokers and dealers pursuant to Section 17 of the Act and § 240.17a–10 of this chapter.

This form shall be filed as the annual report of revenues and expenses, and related financial and other information, by every broker or dealer required to file a report pursuant to § 240.17a–10(a) of this chapter, unless such broker or dealer has filed the information required by this form with a national securities exchange or a registered national securities association pursuant to § 240.17a–10(b) of this chapter.

§ 249.621 Form X–17A–11, for report of information required of certain members, brokers and dealers, pursuant to section 17 of the Act and § 240.17a–11 of this chapter. [Revoked]

7. Commission action: Pursuant to sections 17(a) and 23(a) of the Securities Exchange Act of 1934, the Securities and Exchange Commission proposes to revoke § 249.621 in chapter II of Title 17 of the Code of Federal Regulations.

[FR Doc.75–29435 Filed 10–31–75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 103]

APPEARANCES AND COMPENSATION OF PERSONS APPEARING BEFORE SBA

Solicitation by Applicants' Representatives

Notice is hereby given that the Administrator, SBA, proposes to amend the subpart of 13 CFR Part 103 entitled "Interpretation of 'good cause'" by revising § 103.13–5(b) to specifically interpret advertising by applicants' representatives using the name "SBA" as "good cause" for suspension or revocation of the privilege to appear before the SBA. The revision will clarify existing interpretations of solicitation that constitutes grounds for removal or suspension of an applicant's representative.

Interested persons may participate in this proposed rulemaking by submitting written data to the Small Business Administration, 1441 L Street, N.W., Room 716, Washington, D.C. 20416. Each person submitting a comment should include his name and address and give reasons for any recommendations. All material received on or before December 3, 1975, will be considered. Comments in response to this proposal 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).

It is therefore proposed to revise 13 CFR Part 103 to read as follows:

§ 103.13–5 Interpretation of "good cause."

* * * * *

(b) *Solicitation.* Requesting or suggesting directly or through any agency or medium the employment of the person making or initiating the request or suggestion, or some other person to perform work in connection with an application. "Solicitation" shall include, but shall not be limited to, requests or suggestions which violate the ethics, customs, or regulations of the profession or business of the person or persons making or initiating the suggestion; requests or suggestions which imply or infer that the work to be performed, or any portion thereof, will be of a political, influential, or similar nature; and any advertisement or representation that contains or uses the words "Small Business Administration" or "SBA", or any symbol thereof.

Dated: October 24, 1975.

H. GREGORY AUSTIN,
Acting Administrator.

[FR Doc.75–29388 Filed 10–31–75;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 STATE

[Public Notice CM-5/120]

ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON INTERNATIONAL SALE OF GOODS

Notice of Meeting

A meeting of the Study Group on International Sale of Goods, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held on Saturday, November 22, 1975, at the United States Mission to the United Nations, 799 United Nations Plaza, New York, New York. The meeting, which will begin at 10 a.m. in room 412, will be open to the public.

The purpose of the meeting is to review a preliminary draft convention on international sale of goods under consideration by a Working Group of the United Nations Commission on International Trade Law.

Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

Entrance to the United States Mission building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to November 22, 1975, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Robert E. Dalton, Office of the Legal Adviser, Department of State; the telephone number is (202) 632-2107.

Dated: October 28, 1975.

ROBERT E. DALTON,
Executive Director.

[FR Doc.75-29390 Filed 10-31-75;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 75-267]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Rates of Exchange Certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

The appended table shows the rates of exchange certified to the Secretary of Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the currencies of the countries listed in § 159.34a, Customs Regulations (19 CFR 159.34a), for the period September 22 through September 26, 1975. This table is published for the information and use of Customs officers and others concerned.

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

Country	Currency	Sept 22	Sept. 23	Sept. 24	Sept. 25	Sept. 26
Australia	Dollar	(1)	(1)	(1)	(1)	(1)
Austria	Schilling	$0.0535	$0.0528	$0.0530	$0.0530	$0.0534
Belgium	Franc	.024975	.024825	.025030	.025080	.025020
Canada	Dollar	(1)	(1)	(1)	(1)	(1)
Denmark	Krone	.1619	.1609	.1614	.1621	.1612
Finland	Markka	.2581	.2558	.2545	.2545	.2546
France	Franc	.2194	.2184	.2190	.2208	.2200
Germany	Deutsche mark	.3759	.3743	.3758	.3776	.3752
India	Rupee	.1120	.1120	.1120	.1120	.1118
Ireland	Pound	2.0710	2.0440	2.0445	2.0470	2.0445
Italy	Lira	.001455	.001448	.001452	.001457	.001454
Japan	Yen	(1)	(1)	(1)	(1)	(1)
Malaysia	Dollar	.3885	.3871	.3893	.3874	.3870
Mexico	Peso	(1)	(1)	(1)	(1)	(1)
Netherlands	Guilder	.3665	.3642	.3657	.3668	.3655
New Zealand	Dollar	1.0519	1.0457	1.0430	1.0420	1.0430
Norway	Krone	.1755	.1745	.1754	.1761	.1760
Portugal	Escudo	.0367	.0363	.0364	.0364	.0366
South Africa	Rand	1.1470	1.1470	1.1470	1.1470	1.1480
Spain	Peseta	.016780	.016665	.016695	.016695	.016750
Sri Lanka	Rupee	.1350	.1350	.1350	.1350	.1325
Sweden	Krona	.2214	.2199	.2209	.2230	.2214
Switzerland	Franc	.3360	.3663	.3667	.3668	.3642
United Kingdom	Pound	2.0710	2.0440	2.0445	2.0470	2.0445

[1] Rate did not vary—use quarterly rate published in T.D. 75-176.

[FR Doc.75-29445 Filed 10-31-75;8:45 am]

[T.D. 75-268]

FOREIGN CURRENCIES—CERTIFICATION OF RATES

Rates of Exchange Certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

The appended table shows the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the currencies of the countries listed in section 159.34a, Customs Regulations (19 CFR 159.34a), for the period September 29 through September 30, 1975. This table is published for the information and use of Customs officers and others concerned.

JAMES D. COLEMAN,
Acting Director,
Duty Assessment Division.

Country	Currency	Sept. 29	Sept. 30
Australia	Dollar	(1)	(1)
Austria	Schilling	$0.0528	$0.0530
Belgium	Franc	.024875	.025040
Canada	Dollar	(1)	(1)
Denmark	Krone	.1604	.1612
Finland	Markka	.2530	.2531
France	Franc	.2195	.2215
Germany	Deutsche mark.	.3745	.3777
India	Rupee	.1118	.1118
Ireland	Pound	2.0365	2.0430
Italy	Lira	.001450	.001455
Japan	Yen	(1)	(1)
Malaysia	Dollar	.3854	.3855
Mexico	Peso	(1)	(1)
Netherlands	Guilder	.3647	.3670
New Zealand	Dollar	1.0425	1.0410
Norway	Krone	.1751	.1757
Portugal	Escudo	.0363	.0364
South Africa	Rand	1.1480	1.1480
Spain	Peseta	.016680	.016720
Sri Lanka	Rupee	.1325	.1325
Sweden	Krona	.2210	.2223
Switzerland	Franc	.3632	.3643
United Kingdom	Pound	2.0365	2.0430

[1] Rate did not vary—use quarterly rate published in T.D. 75-176.

[FR Doc.75-29446 Filed 10-31-75;8:45 am]

Office of the Secretary

PRESIDENT'S LABOR-MANAGEMENT COMMITTEE

Meeting

Notice is hereby given that the President's Labor-Management Committee will meet in the Secretary's Conference Room in the Treasury Department on

November 5, 1975, at 10 a.m. Greater advance notice of the meeting was not possible because of the difficulty of finding a meeting time which permitted attendance by members and which was consistent with the President's schedule.

The purpose of the meeting is to discuss the economic outlook, including the outlook for the housing sector.

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in section 552(b)(5) of Title 5 of the United States Code, and that the public interest requires such meeting be closed to public participation.

Dated: October 30, 1975.

[SEAL] WARREN F. BRECHT,
Assistant Secretary Administration.

[FR Doc.75-29564 Filed 10-31-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

[Docket No. M 76-15]

F AND W COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), F and W Coal Company has filed a petition to modify the application of 30 CFR 75.301 to its No. 2 Drift Mine, Pine Grove, Pennsylvania.

30 CFR 75.301 provides in pertinent part:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute * * *.

Petitioner requests that § 75.301 be modified for the subject anthracite mine to require, in part, that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

In support of its alternate method, Petitioner states:

1. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

2. There is no history of ignition, explosion and mine fire for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already comfortable, wet mines.

7. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

Petitioner avers that its alternate method will in no way provide less than the same measure of protection afforded the miners by the existing mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 3, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

OCTOBER 21, 1795.

[FR Doc.75-29384 Filed 10-31-75;8:45 am]

[Docket No. M 75-36]

GRAYS KNOB COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Grays Knob Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 7 Harlan Mine, Harlan County, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, Petitioner states:

(1) The subject access roads are approximately 1½ miles in length. These roads are narrow due to the steep slope of the mountains in which they are situated.

(2) The outer bank of the roadways are composed of fill material and thus will not support guardrails. Also, the installation of berm s would cause the elimination of passing areas along the roadways.

(3) Graders are used to remove snow and mud from the roads. Berms would cause water to be trapped on the roadways and would generally hamper road maintenance.

(4) The access roads, without berms, can be maintained by use of gravel, salt and grading equipment. However, these roads cannot be safely maintained if berms are installed.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 3, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

OCTOBER 23, 1975.

[FR Doc.75-29385 Filed 10-31-75;8:45 am]

[Docket No. M 75-35]

HARLAN-CUMBERLAND COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Harlan-Cumberland Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its Mine No. 2, Grays Knob, Kentucky.

30 CFR 77.1605(k) provides:

Berms on guards shall be provided on the outer bank of elevated roadways.

In support of its petition, Petitioner states:

(1) The subject access roads are approximately 1½ miles in length. These roads are narrow due to the steep slope of the mountains in which they are situated.

(2) The outer bank of the roadways are composed of fill material and thus will not support guardrails. Also, the installation of berms would cause the elimination of passing areas along the roadways.

(3) Graders are used to remove snow and mud from the roads. Berms would cause water to be trapped on the roadways and would generally hamper road maintenance.

(4) The access roads, without berms, can be maintained by use of gravel, salt and grading equipment. However, these roads cannot be safely maintained if berms are installed.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 3, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Depart-

ment of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

OCTOBER 23, 1975.

[FR Doc.75-29386 Filed 10-31-75;8:45 am]

Office of the Secretary

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

Adjustment of Salary

OCTOBER 24, 1975.

Pursuant to the provisions of Executive Order 11883 the salary of the Administrator, Southwestern Power Administration is adjusted to $37,800 per annum effective on the first day of the first pay period which begins on or after October 1, 1975.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.75-29387 Filed 10-31-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Cancellation of Public Meeting

The November 4, 1975, meeting of the Shippers Advisory Committee, announced in the October 20, 1975, issue of the FEDERAL REGISTER (40 FR 48956), is canceled. The Committee is established under Marketing Order No. 905 (7 CFR Part 905), which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). At its meeting of October 28, 1975, the Committee recommended regulations it deemed appropriate to the current supply situation, and requested that the meeting scheduled for November 4 be canceled.

Dated: October 31, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-29656 Filed 10-31-75;10:58 am]

SHIPPERS ADVISORY COMMITTEE

Notice of Public Meetings

Pursuant to to the provisions of § 10 (a) (2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will hold meetings on November 18 and November 25, 1975, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida.

The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: October 31, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-29657 Filed 10-31-75;10:58 am]

Office of the Secretary

NATIONAL HORSE INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

A meeting of the National Horse Industry Advisory Committee will be held at 9 a.m. on December 11 and 12, 1975, in Room 218 Administration Building, USDA, Washington, D.C. The meeting will adjourn at 12:00 noon, December 12, 1975.

The purpose of the committee is to advise the Secretary of Agriculture and other officials on research, disease control, educational programs, and other activities and programs of the Department of Agriculture affecting horse producers, owners, users, and other aspects of the horse industry.

The purpose of the meeting is to review program progress, problems, and recommended actions.

The meeting is open to the public; however, space and facilities are limited. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. Dixon D. Hubbard, Executive Secretary of the committee, Extension Service, U.S. Department of Agriculture, Room 5051-South Bldg., Washington, D.C. 20250, telephone number (202) 447-2677.

Dated: October 29, 1975.

DIXON D. HUBBARD,
Executive Secretary.

[FR Doc.75-29494 Filed 10-31-75;8:45 am]

Soil Conservation Service

EMERGENCY ASSISTANCE

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for Emergency Assistance as authorized by section 216 of the Flood Control Act of May 17, 1950, Pub. L. 81-516 (33 U.S.C. 701b-1), USDA-SCS-ES-FP-(ADM)-75-1-F.

The EIS concerns emergency measure installation to safeguard lives and property from floods and the products of erosion whenever floods, fire or other natural element or force causes abrupt damage to a watershed. Frequently used emergency measures include: establishment of vegetative cover, gully control structures, streambank protection, debris and sediment removal from channels, and emergency repair of existing dikes, dams, and other water control structures.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

United States Department of Agriculture, Soil Conservation Service, Washington, D.C. 20250.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 22, 1975.

[FR Doc.75-29427 Filed 10-31-75;8:45 am]

CANEY CREEK WATERSHED, OKLAHOMA

Notice of Availability of Negative Declaration

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969, part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b) (3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Caney Creek Watershed Project, Atoka and Bryan Counties, Oklahoma.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA, Farm Road and Brumley Streets, Stillwater, Oklahoma 74074, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining works of improvement as described in the negative declaration include conservation land treatment sup-

plemented by two floodwater retarding structures.

Single copies of the negative declaration are available upon request and the environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA Building, Farm Road and Brumley Streets, Stillwater, Oklahoma 74074.

No administrative action on implementation of the proposal will be taken until November 18, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 24, 1975.

[FR Doc.75-29421 Filed 10-3-75;8:45 am]

MANTACHIE, BOGUE FALA, AND BOGUE EUCUBA CREEKS WATERSHED PROJECTS, MISSISSIPPI

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement for the Mantachie, Bogue Fala, and Bogue Eucuba Creeks Watershed Project, Itawamba, Lee, and Monroe Counties, Mississippi, USDA-SCS-EIS-WS-(ADM)-75-2-(F)-MS.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement include conservation land treatment, 12 floodwater retarding structures, two multiple-purpose structures for floodwater retardation and recreation water storage, and associated recreation facilities. The structures will provide for 4,660 acre-feet of sediment storage, 11,882 acre-feet of floodwater retardation storage, and 2,726 acre-feet of recreational water storage. The recreation facilities will provide for about 129,000 visitor-days of recreation annually.

Mantachie, Bogue Fala, and Bogue Eucuba Creeks, Watershed Project, Mississippi, Notice of Availability of Final Environmental Impact Statement.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, P.O. Box 610, Jackson, Mississippi 39205 or Room 502, Milner Building, 310 S. Lamar Street, Jackson, Mississippi.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 24, 1975.

[FR Doc.75-29425 Filed 10-31-75;8:45 am]

ROGUE RIVER WATERSHED PROJECT, MICHIGAN

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Rogue River Watershed Project, USDA-SCS-EIS-WS-(ADM)-75-2-(F)-MI.

The environmental impact statement concerns a plan for watershed protection, streambank protection, flood prevention, and improved drainage on agricultural land. The planned works of improvement include 11.6 miles of channel work, one pumping station, 1.7 miles of streambank protection, conservation land treatment measures on 10,528 acres, soil surveys on 57,600 acres and 21 miles of flood plain delineation. The channel work involves deepening and widening 10.5 miles of previously modified channel and 1.1 miles of which no channel exists. The channel work and pumping station will provide flood prevention and drainage to 3,324 acres of intensively managed organic soils. Of the 10.5 miles of work proposed on existing channels, 6.8 miles have perennial flow and the rest have intermittent flow.

Rogue River Watershed Project, Michigan, Notice of Availability of Final Environmental Impact Statement.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 24, 1975.

[FR Doc.75-29925 Filed 10-31-75;8:45 am]

SOUTH GUTHRIE RC&D FLOOD PREVENTION MEASURE, TENNESSEE

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the South Guthrie RC&D Flood Prevention Measure, Montgomery County, Tennessee.

The environmental assessment of this federal action indicates that the measure will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the measure. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, USDA, 561 United States Courthouse, 801 Broadway, Nashville, Tennessee 37203, has determined that the preparation and review of an environmental impact statement is not needed for this measure.

The measure concerns a plan for flood prevention. Planned works of improvement include approximately 1,450 feet of channel constructed along existing drainage ways with the remainder of channel routed away from existing ditches. Channels will carry only ephemeral flow.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 561 U.S. Courthouse, Nashville, Tennessee 37203.

The Negative Declaration is available for single copy requests at the above location.

No administrative action or implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services.)

R. C. BARNES,
Acting Deputy Administrator for Field Services Soil Conservation Service.

OCTOBER 23, 1975.

[FR Doc.75-29423 Filed 10-31-75;8:45 am]

UPPER PETIT JEAN WATERSHED, ARKANSAS

Notice of Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650.7(e) of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974);

the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Upper Petit Jean Watershed Project, Logan, Scott, and Sebastian Counties, Arkansas, USDA–SCS–EIS–WS–(ADM)–76–3–(D)–AR.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and a municipal and industrial water supply. The planned works of improvement include conservation land treatment, eight floodwater retarding structures, and one multiple purpose structure (flood prevention and municipal and industrial water supply).

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, P.O. Box 2323, Little Rock, Arkansas 72203.

Copies of the draft environmental impact statement have been sent for comment to various Federal, State, and local

Upper Petit Jean Watershed, Arkansas, Notice of Availability of Draft Environmental Impact Statement.

agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to M. J. Spears, State Conservationist, Soil Conservation Service, P.O. Box 2323, Little Rock, Arkansas 72203.

Comments must be received on or before December 22, 1975 in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program Number 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 24, 1975.

[FR Doc.75-29426 Filed 10-31-75;8:45 am]

UPPER WAKARUSA WATERSHED PROJECT, KANSAS

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Wakarusa Watershed Project, Douglas, Osage, Shawnee, and Wabaunsee Counties, Kansas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, recreation, and flood prevention. The remaining planned works of improvement as described in the ngeative declaration include

Upper Wakarusa Watershed Project, Kansas, Notice of Availability of Negative Declaration.

conservation land treatment supplemented by 12 floodwater retarding structures and one multipurpose floodwater retarding-recreation structure.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401.

The negative declaration is available for single copy requests. Requests should be sent to the above address.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

SHELDON G. BOONE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

OCTOBER 23, 1975.

[FR Doc.75-29422 Filed 10-31-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

AUBURN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq. 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00090-01-77095. Applicant: Auburn University, Chemistry Department, Auburn, Alabama 36830. Article: PS-10 Photoelectron Spectrometer and Heated Probe. Manufacturer: Perkin Elmer, United Kingdom. Intended use of article: The article is intended to be used for basic research in the electronic structure of matter and chemical bonding. The materials to be studied are organic compounds which are usually solid at room temperature. Experiments to be conducted are measurements of the photoelectron spectra of a free (gas phase) molecules. In addition, the article will be used by graduate students in basic research as partial fulfillment of the requirements for a disertation for the degree of Doctor of Philosophy. The article will also be used for demonstration and student use in applied spectroscopy courses.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capabilities of heating samples to 250 degrees centigrade and to measure high resolution (approximately 18 millielectron volts) photoelectron spectra. The National Bureau of Standards (NBS) advises in its memorandum dated October 15, 1975 that the capabilities described above are pertinent to the applicant's intended purposes and NBS further advises that it knows of no domestic instrument of equivalent scientific value for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29414 Filed 10-31-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary

PRESIDENT'S BIOMEDICAL RESEARCH PANEL

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the President's Biomedical Research Panel on November 24 and 25, 1975, in Building 31, Conference Room 6, National Institutes of Health.

The meeting will be open to the public from 9 a.m. to 5 p.m. on November 24 and from 9 a.m. to 5 p.m. on November 25. Attendance by the public will be limited to space available. The agenda will address issues pertaining to the studies previously identified by the Panel as being germane to its Congressional mandate.

Substantive program information will be provided by Dr. Charles U. Lowe, Executive Director of the Panel (202-634-1907), 2401 E Street, NW., Suite 3100, Washington, D.C. 20506.

All requests for information should be directed to Ms. Susan L. Haught, at the above address.

Dated: October 24, 1975.

CHARLES U. LOWE,
Executive Director.

[FR Doc.75-29437 Filed 10-31-75;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meeting

This notice announces a forthcoming meeting of the Oncologic Drugs Advisory Committee of the Food and Drug Administration. It also sets out a summary of the procedures governing the committee meeting and the methods by which interested persons may participate in the open public hearing conducted by the committee. The notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)). The following advisory committee meeting is announced:

Committee name	Date, time, place	Type of meeting and contact person
Oncologic Drugs Advisory Committee.	Nov. 20 and 21, 9 a.m., Conference Room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing Nov. 20, 9 to 10 a.m.; open committee discussion Nov. 20, 10 a.m. to 3 p.m.; closed committee deliberations Nov. 20, 3 to 4:30 p.m.; open committee discussion Nov. 21, 9 a.m. to 1 p.m.; closed committee deliberations Nov. 21, 1 to 2 p.m.; C. H. Maxwell, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-5197.

General function of the committee. Reviews and evaluates available data concerning the safety and effcetiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

Agenda—Open public hearing. During this portion of the meeting, any interested person may present data, information, or views, orally or in writing, concerning issues pending before the

Open committee discussion. Discussion of guidelines for testing of oncologic agents to include preclinical testing and phase I protocols. Discussion of Lomustine, NDA 17-588 (Bristol Labs), and review of package inserts of approved NADA's of anticancer drugs.

Closed committee deliberations. Review of IND's and NDA's presently under consideration; discussion of subjects reviewed in open session. This portion of the meeting will be closed to permit discussion of trade secret data and to protect the free exchange of internal views and to avoid undue interference with agency or committee operations (5 U.S.C. 552(b)(4) and (5)).

Each public advisory committee meeting may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participaton does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. Both the Federal Advisory Committee Act and 5 U.S.C. 552 (b) permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed shall, however, be closed for the shortest time possible consistent with the intent of the cited statutes.

Generally, FDA advisory committees will be closed because the subject matter is exempt from public disclosure under 5 U.S.C. 552(b)(4), (5), (6), or (7), although on occasion the other exemptions listed in 5 U.S.C. 552(b) may also apply. Thus, a portion of a meeting may be closed where the matter involves a trade secret; commercial or financial information that is privileged or confidential; personnel, medical, and similar files, disclosure of which could be an unwarranted invasion of personal privacy; and investigatory files compiled for law enforcement purposes. A portion of a meeting may also be closed if the Commissioner determines: (1) That it involves inter-agency or intra-agency memorranda or discussion and deliberations of matters that, if in writing would constitute such memoranda, and which would, therefore, be exempt from public disclosure; and (2) that it is essential to close such portion of a meeting to protect the free exchange of internal views and to avoid undue interference with agency or committee operations.

Examples of matters to be considered at closed portions are those related to the review, discussion, evaluation or ranking of grant applications; the review, discussion, and evaluation of specific drugs or devices; the deliberation and voting relative to the formation of specific regulatory recommendations (general discussion, however, will generally be done during the open committee discussion portion of the meeting); review of trade secrets or confidential data; consideration of matters involving FDA investigatory files; and review of medical records of individuals.

Examples of matters that ordinarily will be considered at open meetings are those related to the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices that have previously been made public, and presentation of any other data or information that is not exempt from public disclosure.

Dated: October 28, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-29442 Filed 10-31-75;8:45 am]

ADVISORY COMMITTEES

Notice of Meetings

This notice announces forthcoming meetings of the public advisory committees of the Food and Drug Administration. It also sets out a summary of the procedures governing the committee meetings and the methods by which interested persons may participate in the open public hearings conducted by the committees. The notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)). The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of Miscellaneous Internal Drug Products.	Nov. 16 and 17, 9 a.m. on Nov. 17, Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed committee deliberations Nov. 16, 9 a.m. to 4:30 p.m., open public hearing Nov. 17, 9 to 10 a.m.; closed committee deliberations Nov. 17, 10 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md; 20852, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Closed committee deliberations. Continuing review and investigation of the ingredients included in over-the-counter (OTC) miscellaneous internal drug products. This portion of the meeting will be closed to protect the free exchange of internal views (5 U.S.C. 552(b)(5)).

Open public hearing. During this portion, any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Committee name	Date, time, place	Type of meeting and contact person
2. Anti-Infective Agents Advisory Committee.	Nov. 17, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 to 1 a.m.; open committee discussion 10 a.m. to adjournment; Mary K. Bruch (HFD-140), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4310.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

Agenda—Open public hearing. During this portion any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of lincomycin—incidence of adverse reactions (presentation by Upjohn Co.); oral tetracycline for pediatric use; and discussion of nonantibiotic susceptibility discs.

Committee name	Date, time, place	Type of meeting and contact person
3. National Advisory Food and Drug Committee.	Nov. 20 and 21, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing/open committee discussion Nov. 20, 9 a.m. to 3:30 p.m.; closed committee deliberations Nov. 20, 3:30 to 4:30 p.m.; open public hearing/open committee discussion Nov. 21, 9 a.m. to 12 m.; William V. Whitehorn, M.D. (HFG-1), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-1547.

General function of the committee. Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission of the Food and Drug Administration (FDA) in the areas of food, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the FDA, as required by law.

Agenda—Open public hearing/open committee discussion. November 20: Discussion of state of the agency; congressional oversight of FDA; cost benefit analysis of regulatory actions; topic updates of food additives and hyperkinesis; blending process report; subcommittee on antibiotics in animal feeds progress report; the NCTR program. November 21: Discussion of analysis of NAFDC priority data; FDA consumer programs; and topic updates and items of concern to members. During this portion, any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. The committee will conduct a final review of grant applications for Federal assistance. This portion of the meeting will be closed to permit discussion of financial information and personnel or medical files or similar files, and to protect the free exchange of internal views and to avoid undue interference with committee operations (5 U.S.C. 552(b) (4), (5), and (6)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairmans discretion.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. Both the Federal Advisory Committee Act and 5 U.S.C. 552(b) permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed shall, however, be closed for the shortest time possible consistent with the intent of the cited statutes.

Generally, FDA advisory committees will be closed because the subject matter is exempt from public disclosure under 5 U.S.C. 552(b)(4), (5), (6), or (7), although on occasion the other exemptions listed in 5 U.S.C. 552(b) may also apply. Thus, a portion of a meeting may be closed where the matter involves a trade secret; commercial or financial information that is privileged or confidential; personnel, medical, and similar files, disclosure of which could be an unwarranted invasion of personal privacy; and investigatory files compiled for law enforcement purposes. A portion of a meeting may also be closed if the Commissioner determines: (1) That it involves interagency or intra-agency memoranda or discussion and deliberations of matters that, if in writing would constitute such memoranda, and which would, therefore, be exempt from public disclosure; and (2) that it is essential to close such portion of a meeting to protect the free exchange of internal views and to avoid undue interference with agency or committee operations.

Examples of matters to be considered at closed portions are those related to the review, discussion, evaluation or ranking of grant applications; the review, discussion, and evaluation of specific drugs or devices; the deliberation and voting relative to the formation of specific regulatory recommendations (general discussion, however, will generally be done during the open committee discussion portion of the meeting); review of trade secrets or confidential data; consideration of matters involving FDA investigatory files; and review of medical records of individuals.

Examples of matters that ordinarily will be considered at open meetings are those related to the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices

that have previously been made public, and presentation of any other data or information that is not exempt from public disclosure.

Dated: October 28, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

OCTOBER 28, 1975.

[FR Doc.75-29441 Filed 10-31-75;8:45 am]

[DOCKET NO. 75N-0176]

OVER-THE-COUNTER (OTC) MISCELLANEOUS EXTERNAL AND INTERNAL DRUG PRODUCTS

Safety and Effectiveness Review; Request for Data and Information; Extension of Time for Submissions

The Commissioner of Food and Drugs is extending the period to January 2, 1975, for submissions of supplemental and original data and information for consideration by the OTC miscellaneous external and internal drug products panels requested in a notice published in the FEDERAL REGISTER of August 27, 1975 (40 FR 38179). In the public interest, the Commissioner invited the submission of such supplemental and original data and information to the Food and Drug Administration on or before October 28, 1975.

The Commissioner is aware that some drug manufacturers require additional time in order to complete submissions adequately on the safety and effectiveness of their OTC miscellaneous external and/or internal drug products. The Commissioner wants the review by the OTC miscellaneous external and internal panels to be as extensive as possible.

Good reasons therefor appearing, the Commissioner hereby extends the period for submitting supplemental and original data and information to January 2, 1975.

Supplemental and original data and information must be submitted to the Food and Drug Administration, Bureau of Drugs, Division of OTC Drug Evaluation (HFD-510), 5600 Fishers Lane, Rockville, MD 20852.

Dated: October 28, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29440 Filed 10-31-75;8:45 am]

[Docket No. 75N-0211]

PRIVACY ACT OF 1974

Amendment to Notice of Systems of Records

Correction

In FR Doc. 75-27639, appearing at page 48462 in the issue for Wednesday, October 15, 1975, make the following changes:

1. The third word in the eighth from last line of the second paragraph read "While".

2. The first two lines of the paragraph immediately preceding the signature should read, "Interested persons may, on or before November 14, 1975, submit to the".

CIVIL AERONAUTICS BOARD

[Docket No. 28086]

BRITISH AIRTOURS LIMITED CHARTER PERMIT RENEWAL (BRITISH)

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on November 20, 1975, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 12, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., October 28, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-29491 Filed 10-31-75;8:45 am]

[DOCKET No. 27990]

CHICAGO-NEW ORLEANS NONSTOP ROUTE PROCEEDING

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on December 2, 1975, at 10 a.m. (local time) in room 1003-D, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on September 4, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 29, 1975.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.75-29488 Filed 10-31-75;8:45 am]

[Docket No. 27802]

CONDOR FLUGDIENST GmbH CHARTER PERMIT RENEWAL (GERMAN)

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on November 21, 1975, at 10 a.m. (local time), in Room 1003-B, North Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Dee C. Blythe.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 14, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., October 28, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-29492 Filed 10-31-75;8:45 am]

[Docket Nos. 27907, 27908]

HUGHES AIRWEST SUSPENSION AND DELETION OF SERVICE

Notice of Change of Hearing Room

Notice is hereby given that the hearing in the Hughes Airwest Suspension and delection of service at Cedar City, Utah, and Page, Arizona Case (40 FR 44860, September 30, 1975) scheduled to be held in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., commencing at 10 a.m. (local time), Wednesday, November 12, 1975, has been transferred to Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., at the same time.

Dated at Washington, D.C., October 28, 1975.

[SEAL] WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.75-29489 Filed 10-31-75;8:45 am]

[Docket No. 27176]

LAKER AIRWAYS LIMITED

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 24, 1975, at 10 a.m. (local time) in Room 1003-B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Greer M. Murphy.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 14, 1975.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., October 28, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-29490 Filed 10-31-75;8:45 am]

[Docket No. 28107]

LINEAS AEREAS DE NICARAGUA, S.A., RENEWAL & AMENDMENT OF FOREIGN AIR CARRIER PERMIT (NICARAGUA)

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 3, 1975, at 10:00 a.m. (local time), in Room 1003B, North Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Janet D. Saxon.

Dated at Washington, D.C., October 29, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.75-29487 Filed 10-31-75;8:45 am]

[Docket 28332; Order 75-10-113]

PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC., ET AL.

Order Relating to North Atlantic Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of October, 1975.

By tariff revisions filed September 25, 1975 for effectiveness October 29, 1975, Trans World Airlines, Inc. (TWA), Pan American World Airways, Inc. (Pan American) and various foreign carriers propose revisions in their rules governing intermediate application of transatlantic specific commodity rates to restrict such intermediate application only to cities which are intermediate to New York or Montreal. Currently, intermediate application of commodity rates applies to all points which are intermediate to Boston, New York, Philadelphia, Baltimore, Washington, Cleveland, Detroit or Chicago.[1] The tariffs of the IATA carriers provided for the intermediate application of specific commodity rates at cities intermediate to the above U.S. points other than New York (the Seven Cities) following implementation of the Board's decision in Docket 20522, Agreements Adopted by IATA Relating to North Atlantic Cargo Rates. In this proceeding, the Board found that the IATA rate structure on the North Atlantic unduly preferred New York and unduly prejudiced the Seven Cities and concluded that such preference and prejudice should be corrected by placing the Seven Cities upon an equal basis with New York. The Board prescribed that such equality should be achieved by establishing cargo rates between points in Europe, on the one hand, and Boston, Philadelphia, Baltimore, Washington, Cleveland, Detroit and Chicago, on the other hand, at the New York-European rates-per-mile multiplied by the shortest operated mileage between the Seven Cities and points in Europe.[2] Previously, IATA North Atlantic cargo resolutions specified rates only to/from New York and Montreal; following the Board's decision in Docket 20522 the IATA carriers specified rates in IATA resolutions and in tariffs not only between Europe and New York/Montreal, but also between Europe and the Seven Cities, using the percentage relationship of the Seven Cities-Europe mileages over the New York-Europe mileages to establish the same rates per mile as at New York. Thus, points intermediate to newly-specified points—the Seven Cities—received the benefits of intermediate application of commodity rates under a carrier interpretation of paragraph 14(a) of IATA Resolution 590 (JT12) which provides in pertinent part that:

". . . a commodity rate established for carriage from/to or between the specified originating/destination point, Montreal or New York, to/from a specified destination/originating point in TC2 may be applied to carriage from either the specified destination or an intermediate point in the same country . . ."

TWA, in the justification accompanying its tariff filing, states that although it believes that intermediate application based on specified rates at the Seven Cities should be allowed, it is obligated to cancel such application to conform to a recent decision by the IATA Breaches Commissioner that only points intermediate to New York or Montreal may use the intermediate-point rule. The IATA Commissioner held that the Resolution specifically limits "specified originating/destination points" to New York and Montreal only; that the equitable and justifiable rate construction rules of Resolution 014b (Construction Rules for Cargo Rates), which have been approved by the Board, permit the construction of commodity rates to/from U.S. points other than the Seven Cities;[3] and that the Board, in establishing rating principles for the Seven Cities, left to the carriers the detailed construction of rates to nongateway points, subject to its right to intervene if not satisfied as to the lawfulness of the rates involved.

Pan American, which requested the interpretation of the IATA Commissioner, opposes the presently effective intermediate application over the Seven Cities. The carrier has submitted comments alleging that the Board does not have the statutory authority to prescribe rates in foreign air transportation, and consequently cannot require common-rating of interior nongateway points with the Seven Cities; that, in any event, the rate relationships supported by TWA are contrary to Board policy which has consistently refused to require common-rating; that transportation of freight from interior points is more costly than from gateways due to interline and other transfers;[4] and that TWA's suggestion that common-rating be maintained is simply another effort by TWA to take advantage of its domestic route authority, and would increase the revenue absorption Pan American and other transatlantic carriers suffer due to pro-rates.

A consolidated complaint against the filings has been submitted by the County of Milwaukee and the Metropolitan Milwaukee Association of Commerce; separate complaints have been filed by the Milwaukee Air Cargo Association, Inc., the City of Dayton and the Dayton Chamber of Commerce, and by individual shippers in Milwaukee, Dayton, St. Louis, Minneapolis and Memphis. Generally the complaints assert that despite the minimal mileage differentials between Chicago-Europe routes, on the one hand, and routes between the other respective cities and Europe, on the other hand,[5] the proposal to treat Chicago differently from New York as a specified point would have the effect of eliminating intermediate-point application over Chicago and thus increase transatlantic commodity rates at the other points by as much as 18 percent over the present rates, which are at the Chicago levels; and that the result would be a massive diversion of traffic from the smaller cities, via truck, to Chicago and other gateways to avoid the increased rates at the intermediate points which would be effected by this filing.

The City of Chicago and the Chicago Association of Commerce and Industry have submitted a joint answer to the complaint of the Milwaukee parties, asserting that the complainants' allegations of discrimination based on comparisons of Chicago/Europe rates and Milwaukee/Europe rates are unwarranted; that any preference in favor of gateway as against nongateway cities is a valid preference, and a clear differentiation between the two was made by

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[1] The intermediate application provisions adopted by the carrier members of the International Air Transport Association (IATA), and approved by the Board, permit a specific commodity rate to apply to a point intermediate to a specified point if the under —45 kg. general cargo rate for the "intermediate" point is equal to or lower than the comparable rate for the specified point. For instance, specific commodity rates between New York and London may also be applied for carriage between Hartford and London because the under —45 kg. general cargo rate between Hartford and London is equal to the under —45 kg. rate between New York and London. It is not necessary that the intermediate point be situated geographically between the specified origin and destination points, e.g., St. Louis and Kansas City are intermediate to Chicago under the IATA definition.

[2] See Order 73-2-24, February 6, 1973; Order 73-7-9, July 5, 1973; and Order 74-8-54, August 13, 1974. The Board permitted deviations from the per-mile formula to allow common-rating of Baltimore and Washington, and to maintain common-rating or other historical relationships among European points.

[3] Generally, the IATA construction rules are based on the lowest combination principle, and allow combination of North Atlantic specific commodity rates with U.S. domestic rates.

[4] Here Pan American cites Judge Present's Initial Decision in Docket 22859, Domestic Air Freight Rate Investigation, which stated that rates for interline shipments should be the sum of the locals except that only one charge should be assessed for the shipment element of the multi-element formula; and claims that the IATA rate construction formula closely parallels that recommended by Judge Present.

[5] For example, the shortest operated mileages are 3,953 Chicago-London versus 4,020 miles Milwaukee-London, for a difference of 67 miles or only 1.7 percent.

the Board in its orders in Docket 20522; but that, nevertheless, Chicago does not oppose a tariff which common-rates Milwaukee with Chicago so long as the current mileage-based rates for Chicago/Europe traffic, as determined by the Board and upheld by the Courts, are not disturbed.

Prior to the Commissioner's decision, the interpretation by TWA and other carriers of the intermediate application provisions of Resolution 590, and of the IATA construction resolutions, generated tariff rules which permitted intermediate application based on rates to/from the Seven Cities as well as New York, and the Board, in Order 74-8-54, found such rules lawful. These rules would be abrogated by the instant tariff revisions filed to conform to the IATA Commissioner's declaratory interpretation.

Obviously, there is a dispute among the carriers over the meaning of paragraph 14(a) of Resolution 590 governing intermediate application of North Atlantic specific commodity rates. The resolution is, on its face, ambiguous. The pertinent language of the resolution. The present when New York and Montreal were the only specified origin/destination points in the United States or Canada for transatlantic carriage, and no question was presented over its meaning until the carriers, in response to the Board's decision in Docket 20522, established seven new U.S. specified origin/destination points. At that juncture either interpretation, permitting or denying intermediate application at the Seven Cities, could be regarded as reasonable under the literal language of the resolution. The present effective interpretation, as evidenced in carrier tariffs filed with the Board, is that the specification of seven additional origin/destination points necessarily involved an extension to the newly specified gateways of the intermediate-point principle set forth in Resolution 590, which had formerly applied only at points intermediate to New York or Montreal. The Seven Cities were clearly afforded equal gateway status with New York, and it would appear obvious, therefore, that points intermediate to the Seven Cities would fall within the intermediate-point principle, a view shared by various carriers considering the implementation of such application in their tariffs.

In these circumstances the Board must regard the proposed new filings, based on the IATA Commissioner's declaratory interpretation, as a de facto amendment to the existing provisions of the resolution as approved by the Board and interpreted through currently effective tariffs filed to conform with the Board's findings in Docket 20522. The tariff filings before us, in effect, amend the present application of the resolution so as to limit intermediate application only to points intermediate to New York or Montreal. However, no such amendment has been filed with the Board as an agreement under Section 412 of the Act, and accordingly we will herein reject the tariff filings as inconsistent with the reasonable interpretation of the ambiguous language of Resolution 590 which is reflected in currently effective, lawful tariffs on file with the Board. After establishing intermediate application of commodity rates at points intermediate to the Seven Cities, the carriers cannot, now, act in concert to file tariffs reflecting an alteration of an IATA agreement without first obtaining Board approval.

As TWA and Pan American point out, the unrestricted application of the intermediate rule, which is based on the relationships between under —45 kg. general cargo rates rather than mileages, does create certain anomalies. For instance, many cities are now intermediate to Chicago although the shortest operated mileages from these points to European points exceed the comparable Chicago mileages. They include cities such as Milwaukee and Indianapolis, which are in the same geographical and marketing area, with minimal mileage differences; and cities such as Kansas City and Birmingham which are much further from Chicago both in terms of the local mileages and the U.S.-Europe mileages. On the other hand, strict application of an intermediate-point rule based solely on shortest operated mileages would result in other anomalies, such as Cincinnati being intermediate to Chicago with respect to Madrid and Rome but not with respect to London, Paris, Frankfurt, Zurich, or Milan. We believe the carriers should take steps to rationalize this situation, but in the interim the existing tariff rules permitting intermediate application based on rates at the Seven Cities should continue to apply. Therefore, the Board will reject tariff filings which would remove such application.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 412, 414, and 1002 thereof.

It is ordered, That:

1. 7th Revised Page 6-I of C.A.B. No. 3, issued by Trans World Airlines, Inc., and 15th Revised Page 17 of C.A.B. No. 48, issued by Air Tariffs Corporation, Agent, be and hereby are rejected;

2. Except to the extent granted herein, the complaints in Docket 28332 be and hereby are dismissed; and

3. Copies of this order shall be served upon Trans World Airlines, Inc., and Air Tariffs Corporation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-29493 Filed 10-31-75;8:45 am]

COMMISSION ON CIVIL RIGHTS

ARKANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Arkansas Advisory Committee (SAC) to this Commission will convene at 1 p.m. on November 25, 1975, Arkansas Student Union, Room 301, University of Arkansas, Fayetteville, Arkansas 72701.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Room 231, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting is to review progress on the Delta follow-up project; in-depth briefing from members of the Department of Agriculture-Economics, University of Arkansas, Fayetteville, on social, economic, demographic characteristics of the Arkansas Delta region.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-29480 Filed 10-31-75;8:45 am]

COLORADO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado State Advisory Committee (SAC) to this Commission will convene at 9 a.m. on November 22, 1975, Quality Inn Motel, 1840 Sherman Street, Denver, Colorado 80203.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting is to review the final draft of the committee's medical access project report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-29481 Filed 10-31-75;8:45 am]

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commisison on Civil Rights, that a planning meeting of the District of the U.S. Commission on Civil Rights, convene at 12 p.m. and end at 1 p.m. on November 25, 1975, USCCR Conference Room, 1121 Vermont Avenue NW., Washington, D.C.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to plan for upcoming activity of the Committee.

Identify major civil rights issues affecting the District of Columbia.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-29482 Filed 10-31-75;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) to this Commission will convene at 11 a.m. and end at 4 p.m. on November 24, 1975, 230 S. Dearborn Street, Room 3251, Chicago, Illinois 60604.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 32nd Floor, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to finalize plans for the hearing on Housing and Community Development Programs which will be held on December 11-12, in Springfield.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee, Management Officer.

[FR Doc.75-29483 Filed 10-31-75;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the Massachusetts Advisory Committee (SAC) to this Commission will convene 9 a.m. on November 14-15, 1975, and will end at 2 p.m. on November 16, 1975, at the Holiday Inn, 19 Commerce Way, Woburn, Massachusetts.

Persons wishing to attend this conference should contact the Committee Chairperson or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this conference is to train and orient Advisory Committee members.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee, Management Officer.

[FR Doc.75-29484 Filed 10-31-75;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) to this Commission originally scheduled to convene at 7 p.m. on November 11, 1975 has changed. The meeting will now convene at 3 p.m. on November 11, 1975 at the same place as scheduled.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-29485 Filed 10-31-75;8:45 am]

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) to this Commission will convene at 9 a.m. and end at 5 p.m. on November 19, 1975, at the Holiday Inn, Interstate 80 and South Highway 281, Grand Island, Nebraska.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is an discussion of SAC Report, Nebraska's Official Civil Rights Agencies with the eight agencies which participated in the study.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., October 29, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-29486 Filed 10-31-75;8:45 am]

CIVIL SERVICE COMMISSION

Department of Health, Education, and Welfare

NOTICE OF GRANT OF AUTHORITY TO MAKE A NONCAREER EXECUTIVE ASSIGNMENT

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by non-career executive assignment in the excepted service the position of Deputy Assistant Secretary for Income Security, Office of the Assistant Secretary for Planning and Evaluation, Office of the Secretary.

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

[FR Doc.75-29498 Filed 10-31-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Associate Administrator for Policy and Program Development, Federal Railroad Administration.

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

[FR Doc.75-29499 Filed 10-31-75;8:45 am]

THE COMMISSION OF FINE ARTS

OCTOBER 24, 1975.

The Commission of Fine Arts will meet on Wednesday, November 19, 1975, at 10:30 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.75-29429 Filed 10-31-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Addition to Procurement List

Notice of proposed addition to Procurement List 1975, November 12, 1974 (39 FR 39964) was published in the FEDERAL REGISTER on September 8, 1975 (40 FR 41551).

Pursuant to the above notice the following commidity is added to the Procurement List:

CLASS 7210

	Price
Bedspread (IB) 7210-00-408-2800.	$5.94 Each

By the Committee.

H. G. FISCHER,
Acting Executive Director.

[FR Doc.75-29477 Filed 10-31-75;8:45 am]

PROCUREMENT LIST 1975

Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodities to Procurement List 1975, November 12, 1974 (39 FR 39964).

CLASS 7520

Perforator, Paper, Desk, 7520-00-130-3942, 7520-00-163-2563, 7520-00-139-4101, 7520-00-263-3425.

Comments and views regarding these proposed additions may be filed with the Committee on or before December 3, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

H. G. FISCHER,
Acting Executive Director.

[FR Doc.75-29475 Filed 10-31-75;8:45 am]

PROCUREMENT LIST 1975

Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Pub. L. 92-28; 85 Stat. 79, of the proposed addition of the following commodities to Procurement List 1975, November 12, 1974 (39 FR 39964).

CLASS 7210

Cushion, Chair, 7210-00-205-3545, 7210-00-205-3544.

CLASS 7530

Notebook, Stenographer's, 7530-00-223-7939.

MILITARY RESALE ITEM

Paint Roller, Kit.

Comments and views regarding these proposed additions may be filed with the Committee on or before December 3, 1975. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

This notice is automatically cancelled six months from the date of this FEDERAL REGISTER.

By the Committee.

H. G. FISCHER,
Acting Executive Director.

[FR Doc. 75-29476 Filed 10-31-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FAP5H5083/PW5; 451-1]

MOBAY CHEMICAL CORP.

Food Additive Petition; Notice of Withdrawal

On May 8, 1975, the Environmental Protection Agency (EPA) gave notice (40 FR 20129) that Mobay Chemical Corp., Chemagro Agricultural Division, PO Box 4913, Hawthorn Rd., Kansas City MO 64120, had filed a petition (FAP 5H5083). This petition proposed the establishment of a regulation (21 CFR Part 123) proposing the use of the insecticide 4-(methylthio)-3,5-xylyl methylcarbamate on apples with a tolerance limitation of 12.5 parts per million in apple juice.

Mobay Chemical Corp. has withdrawn this petition without prejudice in accordance with the regulations (40 CFR 180.8) pertaining to Section 408 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(a)].

Dated: October 28, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.75-29513 Filed 10-31-75;8:45 am]

[450-1; OPP-180039A]

U.S. CORPS OF ENGINEERS

Issuance of Specific Exemption To Control Asiatic Duckweed in Alabama

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), notice is hereby given that the Environmental Protection Agency (EPA) has granted a specific exemption to the U.S. Corps of Engineers (hereafter referred to as the "Applicant") for the use of the herbicide Diquat to control Asiatic duckweed in Alabama's Black Warrior River system. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, issued December 3, 1973 (38 FR 33303), which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information set forth in the application. For more detailed information, interested parties are referred to the application on file with Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, Asiatic duckweed (*Spirodela oligorrhiza*) is usually found in the quiet water of ponds, lakes, and swamps. Duckweed mats of this species reportedly can double in mass in 0.8 days. Asiatic duckweed was supposedly introduced into the United States in the 1930's, and has been widely collected in Florida, southern Mississippi, and Alabama. The problem in Alabama occurred first in late July of 1974, when a large mass of duckweed entered Bankhead Lake from Village Creek and moved slowly downstream. During this period, several miles of the river were covered solid with a thick duckweed mat and several more miles were almost covered. Three fish kills were associated with the mats, small boat navigation was severely impeded, and intakes of hydroelectric plants were clogged. It is believed that those problems will recur if the infestation is not controlled.

According to the Applicant, other methods of control which have been considered, such as mechanical harvesting, booms, radiation treatment, plant diseases, and animal pests, are not feasible on account of economics, efficacy, or avialability. No other herbicide is currently registered that is known to control Asiatic duckweed.

In the proposed program, diquat will be applied from outboard-powered flat-bottom boats with proper spray equipment, using a diquant-xylene-vegetable oil-surfactant invert emulsion at a rate of five gallons per acre. This solution will be applied at the rate of approximately two pounds active ingredient per acre in the case of the greatest mat thickness and at lower rates, depending on observed efficacy. No more than 80 pounds total diquat will be used. Treatment will not occur more than three times during the growing season; some multiple treatments will be spot-sprays of small areas missed in the initial treatment. Only qualified operators with past experience in the aquatic application of herbicides will be used. The actual areas to be treated are: 2.7 acres of Demopolis Lake, 1 acre of Warrior Lake, 0.5 acres of Holt Lake, 10.3 acres of Bankhead Lake, and 5.2 acres of Bayview Lake, a total of 19.8 acres. Without treatment, it is anticipated that the same problems which occurred in late 1974 will again arise.

Considerable research has been conducted on the effect of diquat, when used as an aquatic herbicide, on fish production, fish reproduction, fish food chain, water quality, control of submersed aquatic weeds and persistence in water. It has been found that diquat does not appear to affect either the fish population or fish reproduction at normal application rates. The method of application proposed should afford maximum protection for the non-target plants and should avoid significant damage to plankton, arthropods, and molluscs. One area of concern is that three public water supplies are located in the area to be treated, under the respective control of the Warrior Water and Fire Protection Authority, Gorgas Steam Plant (Alabama Power Co.), and the City of Jasper. However, under an experimental use permit program conducted in the areas in 1975, analyses were made regarding the herbicide diquat and the herbicide carrier xylene. Diquat was detected only once. EPA Region IV reports that they will, in cooperation with the Alabama Water Improvement Commission, conduct monitoring of the effects of diquat on the non-target organisms, target organisms, and water quality. Three endangered or threatened species are in the area: the flattened musk turtle, the southern bald eagle, and the red cockaded woodpecker; the program is not expected to affect any of these three species.

After reviewing the application and other available information, and consultation with EPA Region IV, EPA has determined that (a) a pest outbreak of Asiatic duckweed has occurred; (b) there is no pesticide presently registered and available for use to control the Asiatic duckweed in Alabama; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic, environmental or health problems may result if the duckweed is not controlled; and (e) the time available for action to mitigate the prob-

lems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above to the extent and in the manner set forth in the application. The specific exemption is also subject to the following additional provisions:

1. All requested areas are to be treated one or more times as necessary to kill duckweed mats, using no more than 80 pounds total diquat. This program will be limited in time to one year from date of issuance;

2. These treatments and their effects on target and nontarget species are to be closely monitored. Cooperation should be solicited from EPA Region IV and/or the Alabama Water Improvement Commission. There are three endangered or threatened species in the area; all due care must be exercised for their protection;

3. The interim residue tolerance of 0.01 ppm for potable water established for diquat must not be exceeded at any time;

4. Treated water shall not be used for animal consumption, swimming, spraying or irrigation within 10 days after treatment, and treated water shall not be used for drinking purposes until 14 days after treatment; and

5. Efficacy data is to be gathered and submitted to support future registration efforts.

It should be noted that if the Administrator determines that the Applicant is not complying with the requirements set forth or if such action is necessary to protect man or the environment, the exemption shall be immediately withdrawn.

Dated: October 24, 1975.

LOWELL E. MILLER,
Acting Deputy Assistant Assistant Administrator for Pesticide Programs.

[FR Doc.75-29450 Filed 10-31-75;8:45 am]

[PF21; 450-8]

MOBAY CHEMICAL CORP.

Pesticide and Food Additive Petitions; Notice of Filing

Petitions proposing the establishment of pesticide tolerances in or on certain raw agricultural commodities and the establishment of tolerances relating to food and/or feed additives have been filed with the Environmental Protection Agency (EPA). Notice is given pursuant to the provisions of sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act. The petitions and proposals are:

PP 6F1688. Chemagro Agr. Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. Proposes amending 40 CFR 180.198 by establishing a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity soybeans at 0.04 part per million (ppm). Proposed analytical method for determining residues is a gas chromatographic procedure using a phosphorous sensitive detector. PM16

PP 6F1680. Chevron Chem. Co., Ortho Div., 940 Hensley St., Richmond CA 94804. Proposes amending 40 CFR 180.108 by establishing tolerances for combined residues of the insecticide acephate (O,S-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite), S-dimethyl phosphoramidothioate in or on the raw agricultural commodities cantaloups or muskmelons at 8 ppm; watermelons at 5 ppm; honeydew melons and casaba melons at 2 ppm; oranges, lemons and grapefruit at 3 ppm; tomatoes at 4 ppm; sugar beet tops at 1 ppm; and sugar beet roots at 0.1 ppm. Proposed analytical method is a gas chromatographic procedure using a thermionic detector. PM16

FAP 6H5105. Chevron Chem. Co., Ortho Div., 940 Hensley St., Richmond CA 94804. Proposes establishment of a regulation (21 CFR 561) permitting the use of the insecticide acephate (O,S-dimethyl acetylphosphoramidothioate) on tomatoes with a tolerance limitation of 16 ppm for acephate and its cholinesterase-inhibiting metabolite O,S-dimethyl phosphoramidothioate in tomato pomace. PM16

Interested persons are invited to submit written comments on any petitions referred to in this notice 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 should be submitted as soon as possible and should bear a notation indicating the number of the petition to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. 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 4:00 p.m. Monday through Friday.

Dated: October 28, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.75-29512 Filed 10-31-75;8:45 am]

[450-5]

HAZARDOUS MATERIALS ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Hazardous Materials Advisory Committee of the Science Advisory Board will be held beginning at 9 a.m., November 19 and 20, 1975, in Room 3307 Waterside Mall, 401 M Street, SW., Washington, D.C. Individuals without an EPA Building Pass must enter the West Tower.

This is a regularly scheduled meeting of the Committee. The agenda includes a report on the activities of the Executive Committee, Science Advisory Board; status reports on the *Ad Hoc* Study Group evaluation of the Review of the Environmental Effects of Asbestos and the *Ad Hoc* Study Group evaluation of the Technical Bulletin on Acceptable Methods of the Utilization and Disposal of (Municipal) Sludges; discussions of the Agency approaches to non-pesticide toxic substances in the environment—PCB's, a case study; Committee recommendations on the assessment of health risks from organics in drinking water; and scientific information bearing on nitrosamines in the environment; future courses of action for the Committee; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J. Frances Allen, Executive Secretary, Hazardous Materials Advisory Committee, (703) 557-7720.

THOMAS D. BATH,
Staff Director, Science Advisory Board.

[FR Doc.75-29449 Filed 10-31-75;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

HISTORICAL ADVISORY COMMITTEE

Notice of Meeting

OCTOBER 28, 1975.

The Energy Research and Development Administration's Historical Advisory Committee will hold a meeting on November 19 and 20, 1975, at the ERDA offices in Germantown, Maryland, Room A-458. The session on November 19 will be open to the public and will begin at 9:30 a.m.

The following agenda items will be discussed:

1. The scope and objectives of the ERDA History Program.

2. Collection of materials on ERDA History.

3. Progress on Volume III of the AEC History.

4. Other activities of the Historian's Office.

The committee will hold a closed meeting on November 20, 1975, not open to the public, under the authority of Section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) to view and discuss a film which is classified Secret Restricted Data and to acquaint committee members with the kinds of historical records available in ERDA files so that the committee may evaluate the adequacy of the record collection procedures of the Historian's Office. I have determined that it is necessary to close the session on November 20, 1975, to view the film which is classified Secret Restricted Data, and to examine historical documents, many of which contain classified Restricted Data as defined in the Atomic Energy Act of 1954, as amended, and fall within exemptions (1) and (3) of 5 U.S.C. 552 (b) and other National Security Information which is exempt from disclosure under exemption (1) of 5 U.S.C. 552(b). Any nonexempt material that may be discussed at this session will be inextricably intertwined with the discussion of exempt material and no further separation is practical. It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal

views and avoid undue interference with Administration and Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items, scheduled above, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing ten copies thereof, postmarked no later than November 10, 1975, to Dr. Richard G. Hewlett, ERDA Representative, Historical Advisory Committee, U.S. Energy Research and Development Administration, Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with (a), above, may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the advisory committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call to Dr. Richard G. Hewlett on (301) 973-5431 between the hours of 8:30 a.m. and 5 p.m., Eastern Time, on November 18, 1975.

(e) Questions may be propounded only by members of the advisory committee.

(f) Seating for the public will be made available on a first-come, first-served basis.

(g) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, upon payment of all charges by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.75-29474 Filed 10-31-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20402]

NATIONAL CABLE TELEVISION ASSOCIATION, INC.

Extension of Time

In the matter of inquiry into policies and practices concerning the exclusive purchase of television program product and the ability of conventional television stations, subscription television stations, cable television systems, and subscription cable television operations to obtain programming.

1. On March 20, 1975, the Commission issued a notice of inquiry in the above-captioned proceeding. At the request of the National Cable Television Association, Inc. (NCTA), the deadlines for filing comments and reply comments were extended approximately one month to October 24, 1975, and December 1, 1975, respectively.

2. On October 17, 1975, NCTA filed a second "Petition for Extension of Time for Filing Comments" pursuant to § 1.46 of the commission's rules. The petition of NCTA requests that the Commission further extend the dates for the filing of comments and reply comments in Docket 20402 to November 10, 1975, and December 15, 1975, respectively.

3. In support of its petition, NCTA states that material relevant to the Commission's inquiry to be published by the Senate Anti-trust and Monopoly Subcommittee is not yet available, although it is reported that it is in the final printing process and will be available shortly. Because the Commission granted its original extension of time to permit NCTA to analyze this information, NCTA urges the Commission to grant the requested brief extension of time to achieve this result.

4. The extension sought by NCTA is relatively short, the material awaited by NCTA appears to relate directly to the issues to be studied in Docket 20402, and a grant of the requested extension of time is not likely to delay the Commission's activities in this proceeding. Therefore, it would appear that the public interest would not be harmed by a grant of the extension requested by NCTA.

Accordingly, it is ordered, That the dates for filing comments and reply comments in the captioned proceeding are extended to November 10, 1975, and December 15, 1975, respectively.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by Section 0.288(a) of the Commission's Rules.

Adopted: October 20, 1975.

Released: October 23, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-29460 Filed 10-31-75;8:45 am]

CONSTRUCTION PERMITS MARANATNA, INC. ET AL

Applications

By the Review Board: 1. By Order, 40 FR 14803, published April 2, 1975, the Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the above-captioned applications for hearing. Now before the Review Board is a motion to enlarge issues, filed April 17, 1975, by Maranatha, Inc. (Maranatha),[1] seeking addition of a community ascertainment issue against Peter and John Radio Fellowship, Inc. (Peter and John).[2]

2. In support of its motion, Maranatha asserts that Peter and John's application fails to demonstrate compliance with several of the requirements of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Specifically, movant alleges that Peter and John has failed to ascertain the needs and interests of several significant groups in the community by not contacting Pocomoke City's labor, cultural, or "private-sector" agricultural leaders, nor representatives of the community's aged, or professionals. Maranatha further argues that Peter and John has failed to contact more than one representative of the community's service organizations, women's groups, or major employers. Finally, movant contends that Peter and John's general public survey is deficient in that the persons who conducted the interviews have not been identified nor shown to be employees or prospective employees of the proposed station.

3. Peter and John, in opposition, maintains that its initial ascertainment efforts are adequate, but submits alternatively that acceptance of its amendment filed May 16, 1975, by Order, FCC 75M-984, released June 3, 1975, remedies any deficiencies inherent in its prior demographic surveys. Specifically with respect to the general public survey, Peter and John refers to the amendment which in-

[1] Also before the Review Board are the following related pleadings: (a) opposition, filed May 16, 1975, by Peter and John; (b) comments, filed May 16, 1975, by the Broadcast Bureau; (c) supplement to motion to enlarge issues, filed May 16, 1975, by Maranatha; (d) errata to (a), filed May 20, 1975, by Peter and John; and (e) opposition to (c), filed June 9, 1975, by the Broadcast Bureau. Although the time for filing reply pleadings was extended to September 14, 1975, no reply has been filed.

[2] Maranatha, in a supplemental pleading filed May 16, 1975, states that its estimated equipment costs greatly exceed those of Peter and John and that since both applicants propose to utilize similar equipment, addition of an issue to determine whether Peter and John is relying on outdated equipment costs is warranted. The Review Board will not add the requested issue. Initially, we note that movant's request, which is contained in an unauthorized pleading, was filed the same day as Peter and John's opposition pleading. Therefore, the supplement is procedurally defective. See In re Filing of Supplemental Pleadings Before the Review Board, 40 FCC 2d 1026 (1972). Second, even if considered on the merits, Maranatha's motion is unsupported by affidavits of persons having personal knowledge, in contravention of Section 1.229(c) of the Commission's Rules, and movant fails to raise a substantial question as to whether Peter and John's cost estimates are unrealistic. As we have previously held, the mere fact that one applicant's expected costs exceed those of another applicant does not, in itself, warrant the addition of an issue. See RKO General, Inc., 42 FCC 2d 469, 28 RR 2d 289 (1973).

dicates that its general public survey was conducted by J. Thomas Bisset, its proposed managing director and by Robert A. Shaffer, Ed John, and W. Hill, employees of Station WRBS, Baltimore, Maryland, which is also owned by Peter and John. Moreover, Peter and John states that the amendment contains the names of additional community leaders subsequently contacted, including representatives of persons having "private-sector" agricultural interests and leaders of local industry. Peter and John submits that local labor leaders were not contacted because local industry is not unionized, and that, while its recent amendment contains additional contacts with leaders of cultural groups, the aged, and women's and service organizations, it has incurred difficulty in "categorizing" the significant groups and interviewing their respective leaders because of the "size and nature" of the community.

4. The Review Board concurs with the assessment of the Broadcast Bureau that the demographic data supplied by Peter and John is not in compliance with the Primer, supra. While Peter and John urges that the size of the proposed community of license will have an impact on the number and extent of contacts with its leaders, Question and Answer 9 of the Primer directs an applicant, regardless of the population of the community of license, "to submit such data as is necessary to indicate the minority, racial, and ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive." *Cf.* Jerry Lawrence, 48 FCC 2d 373, 31 RR 2d 59 (1974). However, in our view, Peter and John has given the Commission only the most rudimentary information as to the community's population and racial breakdown, governmental structure, and industrial make-up. Very little analysis of the economic, social, or cultural character of the community is provided nor does the applicant appear to indicate specifically what organizations, activities, or other characteristics distinguish Pocomoke City from other communities. Hence, although Peter and John has rebutted allegations that it failed to contact certain community groups, nevertheless, it is impossible for us to determine from examination of Peter and John's application whether the applicant has determined all the significant groups comprising the community or whether the leaders contacted are representative of those interests. See Primer, supra, Questions and Answers 4 and 10; Philadelphia Broadcasting Co., 51 FCC 2d 361, 32 RR 2d 1300 (1975). Finally, with regard to Peter and John's general public survey, we note that Peter and John has not indicated whetner two employees of its Baltimore station who participated in this survey, will be employed at the proposed station; thus, it appears that the applicant has not complied with Primer, Question and Answer 11(b). In view of the foregoing, the Review Board will add the requested issue.

5. *Accordingly, it is ordered,* That the supplement to motion to enlarge issues, filed May 16, 1975, by Maranatha, Inc., is denied; and

6. *It is further ordered,* That the motion to enlarge issues, filed April 17, 1975, by Maranatha, Inc., is granted; and

7. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issue:

To determine the efforts made by Peter and John Radio Fellowship, Inc., to ascertain the community needs and interests of the area to be served by its proposed station and the means by which the appilcant proposes to meet those needs and interests.

8. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under the issue added herein shall be on Peter and John Radio Fellowship, Inc.

Adopted: October 22, 1975.

Released: October 24, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29463 Filed 10-31-75; 8:45 am]

[FCC 75R-396; Docket No. 20454, File No. BP-19252; Docket No. 20455, File No. BP-19291]

DALE A. OWENS AND CLAY FRANK HUNTINGTON

Applications for Construction Permits

1. This proceeding involves the mutually exclusive applications of Dale A. Owens (Owens) and Clay Frank Huntington (Huntington) for a new standard broadcast station at Lakewood, Washington. The Review Board now has before it a petition to enlarge issue, filed May 20, 1975, by Huntington,[1] requesting the addition of site availability, Rule 1.65, financial, and ascertainment of needs issues against Owens.[2]

SITE AVAILABILITY AND § 1.65 ISSUES

2. Petitioner first contends that the property specified by Owens as his transmitter site in his January 25, 1974 amendment is no longer available for such use and that Owens has not amended his application to specify a new site. Submitted in support of these allegations is an affidavit of Charles R. Walker, owner of the above-mentioned site, who states that his attorney (David L. Jamieson), by letter dated November 5, 1974, informed Owens that unless an option agreement for the sum of $4,000 was executed, the latter's authority to use the Walker property as a transmitter site would be withdrawn.[3] Walker further states therein that since Owens indicated by letter received approximately November 15, 1974,[4] that he had obtained another site and had refused to consider an option agreement by November 15, 1974 (the date specified in Jamieson's letter), Owens' authority to specify the Walker property as a transmitter site was withdrawn as of that date. Petitioner further contends that although Owens determined in November 1974 to utilize a transmitter site other than the Walker property,[5] he never re-

[1] The Board also has before it the following related pleadings: (a) petition for leave to file an additional pleading, filed May 23, 1975, by Huntington; (b) supplement to petition to enlarge issues, filed May 23, 1975, by Huntington; (c) opposition, filed June 25, 1975, by Owens; (d) comments, filed June 25, 1975, by the Broadcast Bureau; (e) reply, filed July 14, 1975, by Huntington, and (f) response to (d), filed July 14, 1975, by Owens. Although supplemental pleadings are not authorized by the Commission's Rules, the filing of such supplements occasionally can be justified. See *Filing of Supplemental Pleadings Before the Review Board,* 40 FCC 2d 1026 (1972). This is such a case since Huntington, with his petition to enlarge issues, submitted an unsigned copy of an affidavit with the explanation that the affidavit had, in fact, been executed but had not yet been received by counsel. Just three days later, on May 23, 1975, petitioner submitted a copy of the affidavit which had, in fact, been subscribed and sworn to on May 19, 1975. Consequently, the supplement will be allowed. See para. 2, *infra.* However, since Owens' response to the Broadcast Bureau's comments is an unauthorized pleading and no good cause for its acceptance has been shown, the Board will not consider it.

[2] Also before the Board is an appeal, filed August 13, 1975, by Owens, from a Memorandum Opinion and Order, FCC 75M-1277, released July 22, 1975, in which the Presiding Judge denied Owens' June 25, 1975 petition for leave to amend. By Memorandum Opinion and Order, FCC 75M-1368, released August 7, 1975, the Judge authorized this appeal, to which oppositions were filed on August 18 and September 8, 1975, by Huntington and the Bureau, respectively; and a reply filed on September 18, 1975, by Owens. In denying Owens' petition to amend, the Judge found that Owens could have reasonably foreseen the events which necessitated the amendment prior to designation; that the amendment could have reasonably been made prior to designation; and that the amendment would probably require enlargement of the issues. The Board is of the view that Owens has not shown good cause for his post-designation amendment to change his transmitter site, as required by Rule 1.522(b). It is our opinion that Owens knew, or should have known, some five months prior to the designation Order (FCC 75-458, 40 FR 20668, published May 12, 1975) in this proceeding that his proposed site was unavailable. See paragraphs 2, 3, and 4, *infra.* Consequently, for the reasons set forth by the Presiding Judge, Owens' appeal will be denied.

[3] By letter dated January 10, 1974, Walker gave permission to Owens to prepare an engineering report suggesting the use of the former's property as a transmitter tower site for the proposed radio station in Lakewood, Washington. A copy of this letter was submitted by petitioner as an attachment to the Walker affidavit, as was a copy of the Jamieson letter.

[4] The Owens letter was also submitted by Huntington as an attachment to the Walker affidavit.

[5] Owens, in his letter, informed Jamieson of the following: In regards to your letter of 11-5-74. I am presently in the process of amending my application to indicate the use of another site. I am now employed by KIRO

ported this to the Commission as required by § 1.65 of the rules. Alternatively, contends Huntington, if Owens' letter did not constitute abandonment of the Walker property as a proposed site, Owens was required, but has failed, to report to the Commission the increased cost of $4,000 which he would have had to pay for its availability.[6]

3. In opposition, Owens states that on June 25, 1975, he filed a petition for leave to amend his application to specify the former KOOD site[7] as his new transmitter site. Owens contends that since the KOOD site has been found acceptable by the Commission,[8] and it is reasonable to assume that he will be able to lease or sublease that property, his specification of the KOOD site moots the question of whether there is a current site available to him. With regard to the requested § 1.65 issue, Owens, by affidavit, contends that he never abandoned the Walker site and that it was not until he read the Walker affidavit, which was executed on May 19, 1975, that he realized the site was no longer available to him. Owens had not concluded, he argues in his affidavit, that the Walker site was unavailable as of Mid-November 1974, since Walker's attorney had not informed the Commission that Walker had withdrawn his permission to have his property specified as Owens' site, nor had Walker rejected Owens' proposal to continue with the original arrangement.[9] Owens further asserts that since he did not pay the $4,000 option price, there was no reason to report it to the Commission.

4. The Board will add both site availability and § 1.65 issues. Since the Presiding Judge has denied Owens' petition for leave to amend his application, and we are affirming his ruling,[10] the Walker property remains as Owens' proposed transmitter site. However, that property, as is made clear by its owner, and as Owens concedes in his opposition, is no longer available as a site. Therefore, inquiry into whether Owens will have reasonable assurance of a transmitter site is necessary. *Cf. Western Television Company*, 49 FCC 2d 528, 31 RR 2d 1039 (1974). With respect to § 1.65 an applicant must amend his application when the information furnished in the application is no longer substantially accurate and complete in all significant respects or when changes which may be of decisional significance have occurred. See, *e.g., Star Stations of Indiana, Inc.*, 34 FCC 2d 632, 636, 24 RR 2d 165, 170 (1972). First, since an applicant must have a site, its apparent absence is clearly of decisional significance (see paragraph 6, *Reporting of Changed Circumstances*, 29 FR 15516, 3 RR 2d 1622 (1964)). Second, it is difficult on the basis of the pleadings before us, to accept Owens' explanation that he did not realize in November of 1974, that the Walker property was unavailable to him. Not only had Owens refused to pay the option price, but he was also never informed by Walker that the original agreement would be continued. Yet, Owens made no further attempt to either clarify the situation or report it to the Commission.[11] In these circumstances, we are of the view that addition of a § 1.65 issue is warranted.

Financial Issue

5. Petitioner alleges that Owens has failed to include substantial items in his cost estimates and has not demonstrated that all funds claimed would in fact be available to him, thus necessitating the addition of a financial issue. In support of his allegations, Huntington submits that Owens failed to include in his estimated costs $1,200 in studio building lease payments, $1,350 for the Commission grant fee, $4,000 as the cost of his transmitter site option, and the expense of constructing and erecting his antenna and ground system.[12] Thus, petitioner concludes that although Owens has calculated his first year costs as $39,408, they are actually between $45,000 and $50,000. Moreover, contends Huntington, Owens has failed to demonstrate that either he or his mother will have sufficient liquid assets to meet their respective commitments to the applicant. Petitioner points out that Mrs. Owens has committed heself to a $35,000 loan and to another $10,000 to build her son's studio transmitter building. Although Mrs. Owens' balance sheet reflects liquid assets of $50,075, petitioner alleges that no showing has been made that she will not require a substantial amount of these assets for her daily living expenses since her income during 1970 and 1971 was only $2,795 and $3,195, respectively. Even if Mrs. Owens can met her commitment, Huntington alleges, Owens has not demonstrated the reliability of other funds he claims are available including $10,080 in current receipts from a promissory note made to him and a $3,000 annual payment on a covenant not to compete.[13] It is further argued by petitioner that since Owens proposes to operate his station on a full-time basis without compensation he will be required to utilize a substantial portion, if not all, of his claimed available liquid assets to meet daily living expenses.

6. In opposition, Owens submits that he needs only $39,414 to construct and operate the proposed facility for one year without revenue and that he has available funds of $54,187 or $14,773 more than required. First, Owens contends that all allegedly omitted items were included in his estimated costs. He asserts that the $1,350 construction permit grant fee was specifically included under the "Other Miscellaneous" category in his original application, although the estimate for this category was revised downward to $3,000 by an amendment filed January 25, 1974. Owens further argues that the $1,200 for studio building lease payments was not omitted, but, in fact, was included in his $200 monthly figure for "leases". Moreover, contends Owens, petitioner has not challenged the reasonabless of this estmate. Owens also states that since the Walker property is no longer available as a site, the $4,000 payment for an option on it need not be included as an expense. Next, as an experienced broadcast engineer, Owens contends, he is capable of installing the ground system himself, having already done so in building Station KNCR. Owens further alleges that the cost of installing the towers and antennas is included in the price of the equipment. Second, Owens asserts that there will be sufficient liquid assets to meet all estimated expenses. He submits an affidavit in which Mrs. Owens states that she will not have to use any of the liquid assets listed in her December 1, 1974 balance sheet to meet her daily expenses because she has other sources of income which are adequate to sustain her. Moreover, Owens argues that he is justified in relying upon liquid assets of $13,080 derived from his sale of Station KNCR since the promissory not is personally guaranteed by the president of the corporation which purchased Station KNCR, who is an independently wealthy man, and no payments due on either this note or the

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and my employer the LDS (Latter Day Saints) Church owns some property in the vicinity of Mr. Walker's that meets the FCC's requirements.

[6] The Broadcast Bureau supports the addition of site availability and Rule 1.65 issues against Owens.

[7] Both applicants in this proceeding seek, in effect, the deleted facilities of standard broadcast Station KOOD, Lakewood, Washington.

[8] Owens relies upon para. 10 of the designation Order in this proceeding, *supra*, in which the Commission found that Owens had not adequately raised an issue about the suitability of the KOOD site, which was specified by petitioner as his transmitter site.

[9] Owens, in his letter to Jamieson, stated, *inter alia*, the following: Should Mr. Walker decide that he would like to continue our present agreement just let me know prior to my amending my application. It of course was never my intention that Mr. Walker should remove his property from the open market and should Mr. Walker complete his contemplated property sale I would certainly understand his withdrawing his agreement with me. The original agreement had not provided for any consideration on Owens' behalf for Walker's permission to use his property as a transmitter site.

[10] See n.2, *supra*. Even if the amendment were accepted, we agree with the Presiding Judge that there is considerable doubt that the KOOD site is available to Owens. That property is already leased to Huntington who states in his affidavit that he has no right to either sublease or assign his lease rights to anyone else. Moreover, according to the affidavit of James W. Wilson, a representative of the site's owner, in the event that Huntington does not renew his lease, the owner will proceed with plans to build another facility on the property.

[11] We note also that Owens apparently continued to seek to locate a new site. See Note 5, *supra*.

[12] Petitioner contends that, although Owens may be experienced in constructing broadcast stations, handling all the installations himself, as he intends to do, is clearly beyond his individual physical capacity.

[13] Specifically, Huntington notes that the source of these funds was Owens' sale of Station KNCR, Fortuna, California. However, in light of Station KNCR's alleged financial difficulties, petitioner contends that substantially more must be submitted by Owens before any reliance can be placed on those assets as a source of funds for Owens' station.

covenant not to compete have ever been delinquent. Owens further contends that since there is approximately $15,000 in excess funds over anticipated expenses, and the station will generate some revenue and cash flow during the first year of operation, there will be sufficient liquid assets available for him to meet his daily living expenses.

7. The Review Board will add a limited financial issue. With respect to the applicant's cost estimates,[14] we note first that although the Walker property, which was to be leased at $200 per month, is no longer available as a site,[15] nevertheless, the $2,400 allocated for leases would be sufficient to cover the $1,200 required for studio building payments,[16] and there is no indication that the remaining $1,200 would not be an adequate allocation for a new transmitter site. As to the remaining questioned items, Owens has, according to his uncontradicted allegations, in fact, included them in his cost estimates. The Commission grant fee is included under the category "Other Miscellaneous", as is the cost of installing the towers and antennas included in the price of the equipment. However, Owens has not, in our view, shown that he has sufficient available funds to meet even those first year costs he has estimated, let alone any additional costs which might be necessary. Owens proposes to meet his first year costs of $39,414 with a $35,000 loan from his mother and the remainder from his own funds including $13,080 from the sale of Station KNCR and $5,387 in cash. Although the payments due on the promissory note and the covenant not to compete are not accounts receivable and therefore need not be certified (see Form 301, Section III, page 3, item 4), Owens should have demonstrated that they could be relied on, particularly in view of the allegedly precarious financial position of Station KNCR.[17] A self-serving statement made by Owens as to their reliability without the submission of balance sheets or other supporting financial data is not, in our opinion adequate substantiation, and therefore, the $13,080 derived from the sale of Station KNCR cannot be relied on. Furthermore, even when credited with $5,387 in cash and $35,000 from his mother[18] for a total of $40,387, Owens still does not have adequate funds available to him since he intends to draw on what he calculates as approximately $15,000 in excess funds and revenue to meet his daily living expenses. However, the excess funds would actually be $973 ($40,387—$39,414) and Owens did not demonstrate the soundness of the figure he submitted for anticipated revenue; therefore, it cannot be relied upon. See *Ultravision Broadcasting Co.*, 1 FCC 2d 544, 5 RR 2d 343 (1965). Thus, Owens requires more money to meet his first year costs and to support himself than he has shown is available; accordingly, an availability of funds issue will be specified.

ASCERTAINMENT ISSUE

8. In his petition, Huntington alleges that the ascertainment efforts of Owens are defective, in that Owens failed to: (1) adequately determine the composition of the community to be served; (2) specify what significant groups he planned to contact; (3) show with respect to nearly half of those individuals listed as community leaders whether they were, in fact, leaders of the organizations to which they belonged; (4) adequately contact people in communities other than Lakewood which he proposes to serve; (5) elicit in his community leader and general public questionnaires information about the area's problems, as opposed to programming preferences; and (6) show that his programming proposal is responsive to ascertained needs. Owens contests these allegations and contends that he has fulfilled all of his responsibilities under the *Primer on Ascertainment of Community Problems by Broadcast Applicants* (hereinafter called the *Primer*.[19] The Broadcast Bureau agrees with petitioner that there are deficiencies in Owens' demographic showing and community leader survey and, thus, supports the addition of an ascertainment issue.

9. The Review Board will add the requested issue. First, Owen's demographic data appears to be incomplete. He does not adequately indicate the racial composition of the community although that is required by Q. and A. 9 of the *Primer*. Although data on the population of "whites", "negroes" and "other races"[20] is given, there is no indication as to what races are included in the last category. In his amendment of December 16, 1974, Owens indicated that he had interviewed both the president of the American Filipino Brotherhood Association and a representative of the Tacoma Indian Center, yet no demographic data has ever been submitted as to the existence or size of these groups. Moreover, the data provided on the racial characteristics of the community's population appears to be outdated since it is derived from the 1960 census. Second, as a consequence of Owens' failure to submit sufficiently detailed demographic data, the Board is unable to determine whether the community leaders interviewed by Owens are representative of all the significant groups and interests in the area. See *Bangor Broadcasting Corp.*, 50 FCC 2d 222, 32 RR 2d 409 1974). Third, even assuming that Owens' demographic study is a sufficiently precise reflection of his community, it appears that the applicant failed to adequately survey representatives of significant population groupings. Thus, only one of the two black individuals contacted and one of the three alleged Indian representatives questioned actually appear to be community leaders; see *A. V. Bamford*, 48 FCC 2d 1155, 31 RR 2d 790 (1974); nor are any of them residents of Lakewood. The one student interviewed by Owens is neither a leader nor a Lakewood resident and the only individual contacted who represents senior citizens resides in Tacoma, Washington. Fourth, although Owens, according to his amendment of January 25, 1974, has undertaken to serve ten communities outside of Lakewood, he has failed to interview leaders in approximately six of those areas. Moreover, he has not shown that those individuals with whom he consulted in four of the outlying communities have a broad overview of community problems (See *Primer* Q. and A. 7). Consequently, a question is raised as to whether Owens has adequately ascertained the problems of these communities as required by Q. and A. 6 of the *Primer*.[21] For all these reasons an ascertainment issue is warranted. See *St. Cross Broadcasting, Inc.*, 39 FCC 2d 1067, 26 RR 2d 1311 (1973).

10. Accordingly, it is ordered, That the petition for leave to file an additional pleading, filed May 23, 1975, by Clay Frank Huntington is granted, and the supplement is accepted; and

11. It is further ordered, That the response to Broadcast Bureau's comments on petition to enlarge issues, filed July 14, 1975, by Dale A. Owens, is dismissed; and

12. It is further ordered, That the appeal, filed August 13, 1975, by Dale A. Owens, is denied; and

13. It is further ordered, That the petition to enlarge issues, filed May 20, 1975, by Clay Frank Huntington, is granted, to the extent indicated below, and is denied in all other respects; and

14. It is further ordered, That the issues in this proceeding are enlarged by the addition of the following issues:

[14] Owens' estimated first year costs are as follows:

Down payment on lease equipment (5 accelerated payments)	$2,760
14 mo. lease payments on equipment	7,727
Miscellaneous	3,727
Working capital	25,200
Total	39,414

[15] Since the Walker site is presently unavailable, the $4,000 option price is not a cost which should be included in Owens' estimate.

[16] Owens did, as alleged by petitioner, fail to include in his estimated costs $1,200 in studio building lease payments.

[17] Owens does not dispute Huntington's claim that F.G.K., Inc., which purchased KNCR from Owens, was forced to sell that station in less than three years because of extreme operating losses. The Commission granted the new purchaser's application for assignment of the license for Station KNCR on October 18, 1974. It is also undisputed that less than a year later, on April 25, 1975, the Commission permitted a transfer of control (60%) of the licensee corporation of KNCR because of the need for additional operating capital.

[18] Petitioner has failed to substantiate his allegation that Mrs. Owens will not be able to meet her financial commitment because she will need a substantial amount of her liquid assets of $50,075 for daily living expenses. Mrs. Owens has total assets of $109,629 with no liabilities. Moreover, Owens has submitted an affidavit, in which his mother has firmly recommitted herself to meeting her financial promises to her son.

[19] 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[20] The figure given for "other races" is large enough (over 1,000) to be significant if a substantial portion is one race.

[21] Petitioner's other allegations relating to Owens' ascertainment showing are without foundation.

1. To determine whether Dale A. Owens has reasonable assurance of the availability of his proposed transmitter site.

2. To determine whether Dale A. Owens failed to notify the Commission of the unavailability of a transmitter site, as required by § 1.65 of the commission's rules, and, if so, to determine the effect thereof upon the applicant's basic and/or comparative qualifications.

3. To determine whether Dale A. Owens has sufficient funds available to construct and operate his proposed station for one year and is financially qualified.

4. To determine the efforts made by Dale A. Owens to ascertain the needs and interests of the community and area to be served; and the means by which the aplicant proposes to meet those needs and interests; and

15. It is further ordered, That the burden of proceeding with the introduction of evidence under issues 1 and 2 shall be on Clay Frank Huntington; that the burden of proceeding with the introduction of evidence under issues 3 and 4 shall be on Dale A. Owens; the burden of proof under all issues added herein shall be on Dale A. Owens.

Adopted: October 22, 1975.

Released: October 28, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29464 Filed 10-31-75;8:45 am]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Notice of Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," Radio Technical Commission for Marine Services (RTCM) meetings scheduled for the future are as follows:

SC-65—SHIP RADAR

Notice of 41st Meeting, Wednesday, November 19, 1975, 1:30 p.m., Conference Room 8210, 2025 M Street, NW., Washington, D.C.

Formal Meeting Schedule for SC-65 Working Groups to be held at 2025 M Street, NW., Washington, D.C.

Working group	Room	Date	Time
Small boat specifications.....	8210	Nov. 18	9:30 a.m.
Collision avoidance.....	8210	Nov. 19	Do.

If other Working Group meetings are scheduled, Group Members will be notified.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur, September 17, 1975, Paper 140-75/SC 65-197.
3. Progress Reports of Working Groups on:
   a. Small Small Boat Specifications.
   b. Collision Avoidance Systems.
4. Status Reports on Other Working Groups.
5. Other business.
6. Establishment of next meeting date.
7. Transponder Specifications—Paper 109-74/SC 65-168, Rev. F.

Irvin Hurwitz, Chairman, SC-65, Federal Communications Commission, Washington, D.C. 20554, Phone: (202) 632-7197.

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service."

Notice of 35th Meeting, Tuesday, November 18, 1975 and Wednesday, November 19, 1975, 9:30 a.m. (All-day meetings.) Conference Room A-205, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-66 Summary Record. October 14-15, 1975, Paper 148-75/SC 66-93.
4. Begin preparation of General Purpose Marine Communications Receiver Standard.
5. Discussion of problem areas.
6. Solicitation of Work Assignments.
7. Other business.
8. Establishment of next meeting date.

Special Committee No. 68, "Marine Radiotelephone Operator Education."

Notice of 9th Meeting, Wednesday, November 19, 1975, 9:30 a.m. Conference Room 752, 1919 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Confirmation of Secretary.
3. Acceptance of SC-68 Summary Records. September 17, 1975, Paper 138-75/SC 68-58.
4. Approval of MRT Handbook Work Assignment.
5. Establishment of next meeting date.

A. Newell Garden, Chairman, SC-68, Raytheon Company, 141 Spring Street, Lexington, Mass. 02173, Phone: (617) 862-6600 (Ext. 414).

Executive Committee Meeting, Thursday, November 20, 1975.

The next Executive Committee Meeting will be on Thursday, November 20, 1975, at 1:45 p.m. in Conference Room 752, 1919 M Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendance; Adoption of Agenda.
3. Administrative Action Items.
4. Acceptance of the Minutes of Executive Committee Meetings.
5. Progress Reports on Currently Active Committees.
6. Status Reports on Other Committees.
7. Summary Reports and Announcements.
8. New Business.
9. Establishment of next meeting date.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490.)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29466 Filed 10-31-75;8:45 am]

[Report No. 777; 56808]

DOMESTIC PUBLIC RADIO SERVICES [1]

Applications Accepted for Filing [2]

OCTOBER 28, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Televison Transmission Services (Part 21 of the Rules).

domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20460-CD-ML-76, Kenneth F. Fischer, d.b.a. Sierra Communications (KUD222), Modification of License to interchange repeater frequency 459.350 at Loc.#1: Black Peak, 11.57 miles NE of Silver City, New Mexico, with control frequency 454.350 MHz at Loc.#2: 408 N. Bullard St., Silver City, New Mexico.

20656-CD-P-76, Carolyn Cantrell d.b.a. Coffee County Answering Service (New), C.P. for a new station to operate on 454.175 MHz to be located on CATV Tower approximately 1 mile from downtown Manchester, Tennessee.

20657-CD-P-(11)-76, Illinois Bell Telephone Company (KTS203), C.P. for additional facilities to operate on 158.10 MHz at (11) new sites described as: Loc.#21: 201 North Butrick St., Waukegan, Illinois; Loc.#22: 0.5 miles S. of Lindenhurst, Illinois; Loc. #23: 1.3 miles S. of Oakwood Hills, Illinois; Loc.#24: 0.5 mile S. of Lake Zurich, Illinois; Loc.#25: 225 E. Chicago St., Elgin, Illinois; Loc.#26: 4.0 miles N. of Wheaton, Illinois; Loc.#27: 1.5 miles N. of Eola, Illinois; Loc.#28: 1.8 miles SW of Lemont, Illinois; Loc.#29: 1414 W. Jefferson St., Joliet, Illinois; Loc.#30: 1.7 miles SW of Tinley Park, Illinois; Loc.#31: 505 N. Lake Shore Drive, Chicago, Illinois.

20658-CD-MP-76, W. L. and R. L. Meadow, d.b.a. Jacksonville Radio Dispatch Service (KLF632), Modification of CP to change base frequency from 152.24 MHz to 158.70 MHz at Loc.#5: 1 Independent Plaza, Jacksonville, Florida.

20659-CD-P-(2)-76, David R. Williams, d.b.a. Industrial Communications (New), C.P. for a new 2-way station to operate on 454.200 & 454.250 MHz to be located at 1060 North 1800 East, Provo, Utah.

20660-CD-P-(5)-76, David R. Williams, d.b.a. Industrial Communications (New), C.P. for a new 2-way station to operate base facilities on 454.100 MHz and repeater facilities on 2116.4 MHz at Loc.#1: Lewis Peak, 6 miles SW of Coalville, Utah; control facilities on 2168.4 MHz and repeater facilities on 2165.4 MHz at Loc.#2: Kessler Peak, 6 miles SW of Magna, Utah; and control facilities on 2115.2 MHz at Loc.#3: 1171 South West Temple, Salt Lake City, Utah.

20661-CD-P-76, United Telephone Company of Indiana, Inc. (New), C.P. for a new 1-way station to operate on 158.10 MHz to be located approximately 1000' SW of intersection Route 109 & U.S. 30, Columbia City, Indiana.

20662-CD-P-76, Albert W. Dale, Jr. (KLF599), C.P. to replace transmitter & relocate facilities operating on 158.70 MHz to be located at 2632 East Pearl St., Odessa, Texas.

20663-CD-AL-76, New Jersey Mobile Telephone Co., Inc. (KEK290), Consent to Assignment of License from New Jersey Mobile Telephone Co., Inc., Assignor to Radio Call Co. of N.J., Inc., Assignee. Station: KEK290, West Orange, New Jersey.

20664-CD-TC-76, Calhoun City Telephone Company, Inc. Consent to Transfer of Control from Wade H. Creekmore, Sr., Nora Creekmore, Transferors to Telephone and Data Systems, Inc., Transferee. Station: KUS373, Derma, Mississippi.

20665-CD-P-76, Radio Enterprises of Ohio, Inc. (New), C.P. for a new 1-way station to operate on 43.22 MHz to be located at Leveque Lincoln Tower, 50 West Broad Street, Columbus, Ohio.

20666-CD-P-(2)-76, South Central Bell Telephone Company (KIY458), C.P. to change antenna system & relocate facilities operating on 152.57 & 152.75 MHz to be located approximately 1.8 miles SW of Pikeville, Kentucky.

20667-CD-AL-(2)-76, Eugene D. & Mary June Desaulniers. Consent to Assignment of License from Eugene D. & Mary June Desaulniers, Assignors to Mobile Radio Communications Co., Assignee. Stations: KAF254 & KAD931, Kansas City, Missouri.

20668-CD-P-(2)-76, Mahaffey Message Relay, Inc. (KDT223), C.P. to replace transmitter operating on 152.15 MHz located at 969 Madison Street, Memphis, Tennessee, Loc. No. 2; and change antenna system & relocate facilities operating on 152.09 MHz to be located at 969 Madison Street, Memphis, Tennessee.

20669-CD-P-76, Rodney J. Bacon, d.b.a. Coeur D'Alene Answering Service (New), C.P. for a new 2-way station to operate on 454.050 MHz to be located at Wardner Peak; approximately 3 miles SSW of Kellogg, Idaho.

20670-CD-P-76, William B. Folsom, d.b.a. Cullman Mobile Phone (New), C.P. for a new 1-way station to operate on 43.22 MHz to be located 1.5 miles NNE from City Hall, Cullman, Alabama.

20671-CD-P-76, William B. Folsom, d.b.a. Cullman Mobile Phone (New), C.P. for a new 2-way station to operate on 454.175 MHz to be located 1.5 mile NNE from City Hall, Cullman, Alabama.

20672-CD-P-(2)-76, David R. Williams, d.b.a. Industrial Communications (New), C.P. for a new 2-way station to operate on 454.150 MHz & 454.175 MHz to be located at 4805 Old Post Road, Ogden, Utah.

20673-CD-P-76, Jim Bob Measures, d.b.a. Radiofonet (KQZ791), C.P. to change antenna system operating on 152.18 MHz located at 313 South Bowie Drive, Weatherford, Texas.

20675-CD-P-(2)-76, Miami Valley Radiotelephone (KLF577), C.P. for additional base facilities to operate on 35.22 MHz to be located at a new site described as Cowlesville, Rd. at I-75, Nr. Troy, Ohio; and for additional control facilities to operate on 72.10 MHz at Loc. No. 2: I-75 at WDAO Tower, Dayton, Ohio.

Major amendments

4185-C2-P-73, Radiofone Corporation of New Jersey, Toms River, New Jersey (New), amend to change location adjacent to railroad tracks on mizzen, Beachwood (Ocean) New Jersey. All other particulars are to remain as reported on PN No. 627 dated December 18, 1973.

21581-C2-P-74, Charles Rotkin, d.b.a. Northeast Communications (New). Amend frequency 152.03 to read 152.21 MHz. All other particulars to remain as reported on PN No. 706 dated June 24, 1974.

Corrections

20291-CD-MP/L-75, Samuel W. Waldenberg (KUS355), Correct PN No. 776 dated October 20, 1975 to delete entry which was inadvertently shown. For particulars see PN No. 774-A dated October 6, 1975.

20605-CD-P-76, Correct to add: Phil L. Woodbury, d.b.a. Mobilfone of Kansas (New). All other particulars to remain as reported on PN No. 776 dated October 20, 1975.

60192-CR-P-76, Bruce E. Brody (new), C.P. for a new rural subscriber station to operate on 158.01 MHz to be located at Colby Road, 4 miles from town, Warner, New Hampshire.

60193-CR-P/L-76, Lafourche Telephone Company (new), C.P. for a new rural subscriber station to operate on 157.92 MHz to be located at Carroll Adams Camp, approximately 8 miles ESE of Cutt Off, Parish Lafourche, Louisiana.

60194-CR-P/L-76, Lafourche Telephone Company (new), C.P. for a new rural subscriber station to operate on 157.92 MHz to be located at Martin Industries Camp, approximately 20 miles SE of Larose, Louisiana.

60195-CR-P/L-76, Lafourche Telephone Company (new), C.P. for a new rural subscriber station to operate on 157.92 MHz to be located at Texas Gas Exploration Corp., approximately 18 miles SE of Larose, Louisiana.

60196-CR-P-76, Troy Telephone Company, Inc. (new), C.P. for a new central office station to operate on 152.57 MHz to be located at 508 Main Street, Troy, Idaho.

60197-CR-P-76, Troy Telephone Company, Inc. (new), C.P. for a new rural subscriber station to operate on 157.83 MHz to be located at Sun Valley Ski Lodge, Moscow Mtn., 5.7 miles NW of Troy, Idaho.

60198-CR-P/L-76, RCA Alaska Communications, Inc. (new), C.P. for a new rural subscriber station to operate on 157.77 MHz to be located at Umiat Airport, Alaska.

60199-CR-P/L-76, RCA Alaska Communications, Inc. (new), C.P. for a new central office station to operate on 152.51 MHz to be located at Hill 4010, 283 miles North of Fairbanks, Slope, Alaska.

POINT-TO-POINT MICROWAVE RADIO SERVICE

704-CF-ML-76, The Pacific Telephone and Telegraph Company (KMA38), 434 South Grand Avenue, Los Angeles, California. Lat. 34°03'02" N., Long. 118°15'08" W. Mod. of License to delete frequency 3850H toward Padua Hills and transfer to AT&T co-located station KMJ86; add 4010H toward Padua Hills as a partial assignment from AT&T station KMJ86.

705-CF-ML-76, Same, (KMQ33), Strawberry Peak, 9 miles North of San Bernardino, California. Lat. 34°13'55" N., Long. 117°-14'04" W. Mod. of License to delete frequency 3850V toward Padua Hills and transfer to AT&T co-located station KMJ-88; add 4010V toward Padua Hills as a partial assignment from AT&T station KMJ88.

706-CF-ML-76, Same, (KMW74), Padua Hills, 3 miles North of Claremont, California. Lat. 34°08'33" N., Long. 117°43'17" W. Mod. of License to delete frequencies 3810V toward Los Angeles, and 3810H toward Strawberry Peak and transfer to AT&T co-located station KMJ87; add frequencies 3970V toward Los Angeles and 3970H toward Strawberry Peak as a partial assignment from AT&T station KMJ87.

986-CF-AL-(4)-76, American Telephone and Telegraph Company. Application for Consent of Assignment of Radio Station Licenses from American Telephone and Telegraph Company, Assignor, to Southern Bell Telephone and Telegraph Company, Assignee, for stations KIL3, Hancock Landing, Georgia; KJC29, Swansea, South Carolina; KIL84, Allendale, South Carolina; KJC30, Blackville, South Carolina.

972-CF-AL-(2)-76, The Pacific Telephone and Telegraph Company. Application for Consent of Assignment of Radio Station Licenses from The Pacific Telephone and Telegraph Company, Assignor, to General Telephone Company of California, Assignee, for station KYO59, White Water, California and KYO60, Palm Springs, California.

994–CF–ML–76, American Telephone and Telegraph Company (KIL30), 937 Green Street, Augusta, Georgia. Lat. 33°28'30" N., Long. 81°58'10" W. Mod. of License to delete frequencies 3710, 3790, 3870, 3950, and 4110 MHz toward Hancock Landing, Georgia and transfer to Southern Bell Telephone and Telegraph Company KTF45.

996–CF–ML–76, Same, (KJC28), 1645 Hampton Street, Columbia, South Carolina. Lat. 34°00'29" N., Long. 81°01'42" W. Mod. of License to delete frequencies 3930, 4010, 4090, and 4170 MHz toward Swansea, South Carolina, and transfer to Southern Bell Telephone and Telegraph Company KIY59.

995–CF–ML–76, Southern Bell Telephone and Telegraph Company (KIY59), 1645 Hampton Street, Columbia, South Carolina. Lat. 34°00'29" N., Long. 81°01'42" W. Mod. of License to add frequencies 3930V, 4010V, 4090V, 4170V MHz toward Swansea, South Carolina as a partial assignment from AT&T station KJC28.

997–CF–ML–76, Same, (WOF35), 2 miles West of Hancock Landing, Georgia. Lat. 33°09'13" N., Long. 81°47'43" W. Mod. of License to add frequencies 3750H, 3830H, 3910H, 3990H, 4070H, 4150H MHz toward Auguta, Georgia; 3750H, 3830H, 3910H, 3990H, 4150H MHz toward Allendale, South Carolina as a partial assignment from AT&T station KIL31.

998–CF–ML–76, Southern Bell Telephone and Telegraph Company (KJC87), 1.7 miles East of Swansea, South Carolina. Lat. 33°44'42" N., Long. 81°04'25" W. Mod. of License to add frequencies 3890V, 3970V, 4050V, and 4130V MHz toward Blackville, South Carolina, and 3890V MHz toward Columbia, South Carolina as partial assignment from AT&T station KJC29.

999–CF–ML–76, Same, (KJC88), Approx. 4 miles NNW of Blackville, South Carolina. Lat. 33°24'55" N., Long. 81°17'02" W. Mod. of License to add frequencies 3930H, 4010H, 4090H, 4170H MHz toward Allendale, South Carolina, and 3930V MHz toward Swansea, South Carolina as partial assignment from AT&T station KJC30.

1000–CF–ML–76, Same, (KJC89), 3 miles NW of Allendale, South Carolina. Lat. 33°01'56" N., Long. 81°20'53" W. Mod. of License to add frequencies 3730V, 3710H, 3790H, 3950H, 4030H MHz toward Walterboro, South Carolina; 3710H, 3790H, 3870H, 3950H, 4030H, 4110HMHz toward Hancock Landing, Georgia; 3710V, 3790V, 3870V, 3950V MHz toward Newington, Georgia; and 3890H MHz toward Blackville, South Carolina as partial assignment from AT&T station KIL84.

1166–CF–P–76, The Offshore Telephone Company (New), West Cameron Area, Block 171, Gulf of Mexico. Lat. 29°23'47" N., Long. 93°15'04" W. C.P. for a new station on frequency 2162.0V MHz toward East Cameron Area, Block 48C, Gulf of Mexico on azimuth 87°13'.

1167–CF–P–76, Same, (New), East Cameron Area, Block 48C, Gulf of Mexico. Lat. 29°24'47" N., Long. 92°57'37" W. C.P. for a new station on frequency 2112.0V MHz toward West Cameron Area, Block 171, Gulf of Mexico on azimuth 267°02'.

1168–CF–P–76, Same, (New), West Cameron Area, Block 513A, Gulf of Mexico. Lat. 28°26'04" N., Long. 93°11'53" W. C.P. for a new station on frequency 2178.0H MHz toward West Cameron Area, Block 513B, Gulf of Mexico on azimuth 196°53'.

1169–CF–P–76, Same, (New), West Cameron Area, Block 513B, Gulf of Mexico. Lat. 28°23'53" N., Long. 93°12(38" W. C.P. for a new station on frequency 2128.0H MHz toward West Cameron Area, Block 513A, Gulf of Mexico on azimuth 16°53'.

993–CF–ML–76, Southern Bell Telephone and Telegraph Company (KTF45), 937 Green Street, Augusta, Georgia. Lat. 33°28'29" N., Long. 81°58'11" W. Mod. of License to add frequencies 3710H, 3790H, 3870H, 3950H, 4110H MHz toward Hancock Landing, Georgia as partial assignment from AT&T station KIL30.

1170–CF–P–76, Same, (KIA47), 121 West Morgan Street, Raleigh, North Carolina. Lat. 35°46'44" N., Long. 78°38'30" W. C.P. to replace transmitters and increase power output on frequency 6375.2V MHz toward New Hope, North Carolina on azimuth 47°53'.

1156–CF–P–76, American Telephone and Telegraph Company (KIP57), 36 NE Second Street, Miami, Florida. Lat. 25°46'32" N., Long. 80°11'36" W. C.P. to change polarization from Vertical to Horizontal on frequencies 3750, and from Horizontal to Vertical on 3770, 3850, 3930, 4010, 4090, and 4170 MHz toward Ojus R, Florida on azimuth 359.8°.

1157–CF–P–76, American Telephone and Telegraph Company (KJJ68), Ojus R. 3.5 miles NW of Ojus, Florida. Lat. 25°58'19" N., Long. 80°11'39" W. C.P. to change polarization from Vertical to Horizontal on frequencies 3710, 3790, and from Horizontal to Vertical on 3730, 3810, 3890, 3970, 4050, 4130 MHz toward Margate, Florida on azimuth 359.2°.

1175–CF–MP–76, Florida Telephone Corporation (KJA59), Corner of Lake Avenue and Orange Street, Groveland, Florida. Lat. 28°33'55" N., Long. 81°51'22" W. Mod. of C.P. to add frequency 10995.0H MHz toward an additional point of communication at Clermont, Florida on azimuth 94°33'.

1176–CF–MP–76, Same (WAH614), 819 De Sota Street, Clermont, Florida. Lat. 28°33'-14" N., Long. 81°46'09" W. Mod. of C.P. to add frequency 11685.0H MHz toward an additional point of communication at Groveland, Florida on azimuth 274°37'.

2014–CF–R–76, Bell Telephone Company of Nevada (KPF80), Location: In any temporary fixed location within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring December 1, 1975. Term: December 1, 1975 to December 1, 1976.

MULTIPOINT DISTRIBUTION SERVICE:

1165–CM–P–76, Kansas State Network, Inc. (New), 833 North Main, Wichita, Kansas. Lat. 37°41'56" N., Long. 97°20'15.5" W. C.P. for a new station on 2154.75 V & H and 2154.75 H & V. (Primary Service Area: Wichita, Kansas).

1174–CM–P–76, San Joaquin Cable TV. (New), 2220 Tulare Avenue, Fresno, California. Lat. 36°44'06" N., Long. 119°47'10" W. C.P. for a new station on 2154.75H & 2150.25H MHz. (Primary Service Area: Fresno, California).

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex-arte presentations, reasons of potential electrical interference, to provide video service to Urbana, Illinois.

1029–CM–P–76, American Television and Communications Corporation, Fresno, Calif. 1174–CM–P–76, San Joaquin Cable TV, Fresno, Calif.

APPLICATIONS FILED PURSUANT TO SECTION 214 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED.

TELEPHONE WIRE FACILITIES

W–P–C–610, MCI Telecommunications Corporation, Informal, (Section 63.03). To supplement existing facilities between New York City and Chicago, Illinois with the construction of 240 equivalent 4KHz channels.

W–P–C–611, MCI Telecommunications Corporation, Formal, (Section 63.01). To establish points of communication between St. Louis and Springfield, Missouri with the construtcion of 120 equivalent 4KHz channels.

W–P–C–612, Microwave Communications, Inc., Informal, (Section 63.03). To supplement existing facilities between Chicago, Illinois and St. Louis, Missouri with the construction of 240 equivalent 4KHz channels.

W–P–C–613, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Virginia and the Chesapeake and Potomac Telephone Company of Maryland, Informal, (Section 63.03). To construct and operate 240 equivalent 4KHz channels between Arlington, Virginia and Gaithersburg, Germantown, Olney and Rockville, Maryland. These facilities are for inter-office trunking for Traffic Service Position Systems (TSPS) at the locations.

W–P–C–614, MCI Telecommunications Corporation, Informal, (Section 63.03). To construct and operate 60 equivalent 4KHz channels between Oklahoma City, Oklahoma and Dallas, Texas, to provide business communications voice and/or data services.

W–P–C–615, The Pacific Telephone and Telegraph Company, Formal, (Section 63.01). To supplement existing facilities by the installation of 131 additional channel groups (1.544 Mbs. or equivalent) between various locations in California. These facilities are intended to utilize and expand the Digital Data System (DDS). Facilities as granted and proposed by applications which were previously filed.

W–P–C–616, The Chesapeake and Potomac Telephone Company and The Chesapeake and Potomac Telephone Company of Maryland, Informal, (Section 63.03). To supplement carrier facilities by the construction and operation of 168 equivalent 4KHz telecommunications channels between Germantown, Maryland, Washington, D.C. (Downtown, C.O.) and Washington, D.C. (Southwest C.O.).

W–P–C–617, Telenet Communications Corporation, Special Temporary Authority, (Section 63.04). To lease one (1) digital channel group (2400 bps, American Telephone and Telegraph Company DDS channel or equivalent) between Boston, and Braintree, Massachusetts and three (3) analog channels (two with a speed of 2400 bps and one with a speed of 300 bps, American Telephone and Telegraph Company series 3002 channels, or equivalent) between Boston, Massachusetts and Albany, New York; between Minneapolis and White Bear Lake, Minnesota and between New York, New York, and Woodbury, New York.

W–P–C–618, MCI Telecommunications Corporation, Formal, (Section 63.01). To establish points of communication between Detroit, Michigan, Cleveland, Ohio and New York City, New York with the construction of 780 equivalent 4KHz channels.

W–P–C–619, Mountain Microwave Corporation, Informal, (Section 63.03). To construct one (1) 5KHz audio circuit (or equivalent) from Salt Lake City, Utah to numerous radio stations in Colorado Springs, and Denver, Colorado and to construct two (2) 5 KHz audio circuits from Denver, Colorado to Salt Lake City, Utah, on behalf of the ABC Radio Network at Salt Lake City, and the Intermountain Radio Network at Denver.

W–P–C–620, General Telephone Company of the Southeast, Informal, (Section 63.03). To construct 36 equivalent 4KHz telecommunications channels between Dothan, Alabama and Montgomery, Alabama, to provide the circuit requirements through 1976.

W-P-C-621, The Mountain States Telephone and Telegraph Company, Informal, (Section 63.03). To construct and operate 200 equivalent 4KHz telecommunications channels on behalf of Microwave Communications, Inc. (MCI), betweeen MCI's company office at West Osborn Road, Phoenix, Arizona and 22nd and Grand Avenue, Phoenix, Arizona.

W-P-C-622, Southwestern Bell Telephone Company, Formal, (Section 63.01). To supplement existing facilities between Harlingen and McAllen, Texas with the construction and installation of twin-104 pair, 22 gauge LOCAP T2 buried cable between Harlingen and McAllen, Texas and the construction and operation of sixteen (16) new interstate circuits on three (3) newly proposed "T" carrier systems.

W-P-C-623, Tower Communications Systems Corporation, Formal, (Section 63.01). To construct and operate a receive only domestic satellite earth station at Newark, Ohio to receive Home Box Office programming via Domestic Satellite facilities of RCA Global Communications, Inc. to provide a common carrier service to its customers. (See application File No. 40-DSE-P-76).

W-P-C-624, MCI Telecommunications Corporation, Formal, (Section 63.01). To establish points of communication between Oklahoma City and Tulsa, Oklahoma with the construction of 120 equivalent 4KHz channels.

[FR Doc.75-29465 Filed 10-31-75;8:45 am]

[FCC 75-1191; Docket No. 20661, File No. 41552-IB-65]

PROFESSIONAL GOLF BROADCAST SYSTEMS

Application Filed

In the Matter of inquiry into the need for a radio service to transmit to spectators in sports events a running account of the progress of the game and how that need should be accommodated.

1. During the past several years, requests have been made for authorizations in the Business Radio Service for the operation of radio facilities to transmit to spectators at sports events an account of the progress of the event. Typically, this would be accomplished by renting to interested spectators a small receiver, such as a head set, tuned to the authorized frequency, and transmitting to them either periodic reports or running accounts of the details of the on-going action. In golf tournaments, for example, the spectators would be furnished current information on how each of the various participants are playing and scoring so that a person with one of the rented receivers watching a particular player would be able to follow the activities of some or all of the other players. In other sporting events, and presumably in other situations, the system would be designed to meet the particular requirement there. This service would be provided for a fee; the fee will be obtained by the rental of the special radio receivers. Normally, the receivers are to be rented for the day or for the duration of the event.

2. These requests, as we have mentioned, were for radio authorizations in the Business Radio Service presumably because of the rather broad eligibility for licensing in that service, the availability of low power frequencies which are suitable for the type of operation proposed, and the relatively uncomplicated regulatory requirements. However, the Commission has considered such requests en banc on two occasions and concluded that this type of service was not within the scope of the Business Radio Service. Thus, in response to an application for waiver or the rules filed by Sportscaster, Inc., the Commission stated:

> "The Business Radio Service usage you are proposing is in conflict with some of the fundamental premises of the service. The Service is intended to provide for use of radio as an adjunct to a licensee's primary business activity. That business activity was not contemplated to be the business of furnishing radio service to other persons. . . . The Business Radio Service . . . is organized around the concept of mutual sharing among licenses of the limited supply of available frequencies. This is based on the anticipated norm of intermittent operation by licensees in any given area so that each may use the assigned frequencies in alternate fashion. Your operation would require the proposed station to be on the air for the entire period of the sports event being described." Sportscaster, Inc., 5 FCC 2d 579 (1966).

See also, Golfcaster, Inc. et al, 14 FCC 2d 594 (1968). In that case, the Commission also denied a similar proposal and again pointed out that the service proposed should not be accommodated within the context of the Safety and Special Radio Services. However, there, as in the Sportscasters case, the Commission recognized the potential usefulness of such service to the public and suggested submission of alternative proposals.

3. There is no established radio service classification in which the type of service we have described may be authorized on a regular basis and no alternatives have been suggested. Yet, interest in it continues as evidenced by recurring informal inquiries and by the captioned application filed by Professional Golf Broadcast System (PGBS).

4. PGBS has applied for an authorization also in the Business Radio Service to use the frequency 154.570 MHz to provide service to spectators in professional golf tournaments and has asked the Commission to waive its rules to permit grant of its application. The applicant argues that the public interest would be served by providing a service not now available with minimal impact on the Business Radio Service. The impact would be minimal, PGBS claims, because the facilities it proposes would be operated with low power and would not create significant interference problems to other low power radio systems on that frequency. The frequency 154.570 MHz is available only for use by radio systems operating with 3 watts or less power. The applicant also argues that its proposed system would be used during professional tournaments which last a few days so that whatever interference its operation would create would be of short duration.

5. The Commission has considered the PGBS application and has concluded that the proposal is not significantly different from the proposals previously rejected. Nor has PGBS demonstrated sufficient unique or unusual circumstances to justify waiver of the rules. However, in view of the continuing interest in the type of service proposed, we believe that this matter should be explored in a public inquiry proceeding. Therefore, we are issuing this notice of inquiry to obtain comments on this matter generally and more specfically on the areas discussed below.

6. The primary question is, of course, whether the public interest would be served by allowing the use of the radio spectrum for the provision of a service to spectators in sports and other events. To determine this question, interested parties are asked to furnish information concerning the type of sports events in which this service would be useful or beneficial to those attending. Estimates should be furnished of the total number of events during a one-year period where it can reasonably be expected the service would be provided, and a range of the number of persons who can be expected to be served. Cost estimates, rental rates for receivers, and similar information are also requested.

7. As we have indicated, the Commission has previously concluded that the service in question is not within the scope of the Business Radio Service. Nevertheless, we want to further consider this matter and we raise the question for comments whether this service should be accommodated in the Business Radio Service and by appropriate amendment of the rules.[1] If so, parties are asked for suggestions as to the rules to be adopted; whether this service should be restricted to frequencies available for low power operations, to itinerant frequencies, or whether all Business frequencies should be made available and each applicant should be required to select a particular frequency. If this service is to be accommodated in the Business Radio Service, comments should be directed to its potential impact on the availability of frequencies for normal communications systems, especially if this service grows significantly. The potential problem of interference to this service from regular Business Radio Service operations should als be addressed.

8. In addition, we ask for alternative suggestions. Possibilities which may be considered include the broadcast or common carrier services by appropriate rule amendments and the establishment of a new radio service for this purpose. If a new radio service is to be established, suggestions are requested concerning frequencies to be allocated to it and the manner in which the new service should be regulated.

9. As we have indicated, in the specific cases we have considered, the applicant planned to rent receivers to spectators for a fee and these fees would be the sole

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[1] For another proceeding where a similar issue is raised, see Various Methods of Transmitting Program Material to Hotels and Similar Locations, Notice of Inquiry and Proposed Rule Making, Docket 19671, released January 24, 1973, 38 F.R. 2766, January 30, 1973.

source of revenues for the operation. It should be noted, however, that transmission on Business Radio frequencies or other land mobile frequencies, particularly those below 200 MHz, can be easily received by many of the relatively low cost receivers widely available in the market which are used extensively to listen to land mobile systems (police, fire, etc.). While section 605 of the Communications Act may provide protection against unauthorized reception and use of the service provided to paid subscribers, the practical problems of enforcement could render the protection of section 605 largely ineffective. This problem should also be considered and should be addressed in the comments.

10. Resolution of the issues in this proceeding may result in amendment of the rules governing the Business Radio Service or new proposals to create a new service. Authority for this inquiry is contained in sections 303 and 403 of the Communications Act of 1934, as amended.

11. For the reasons given above (para. 5) and in view of our decision to explore this entire matter in an inquiry proceeding, we feel that waiver of the rules to permit the grant of the captioned application is not warranted. Therefore, the application, which seeks an authorization on a regular basis, may not be granted. However, we believe that short-term, limited authorizations under our developmental rules (47 CFR § 91.201 et. seq.) might be appropriate and useful in this proceeding. Therefore, applications for developmental authorizations will be considered in conjunction with this inquiry. In order to assure than an equal opportunity is afforded to all concerned and that the Commission may properly evaluate all developmental applications, no developmental applications will be granted in this inquiry until December 31, 1975.

12. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before December 3, 1975 and reply comments on or before December 15, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission will also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

13. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and 11 copies of all statements, briefs, or comments filed should be furnished to the Commission. Response will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

Adopted: October 21, 1975.

Released: October 30, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-29461 Filed 10-31-75;8:45 am]

FEDERAL MARITIME COMMISSION

BARBER-BLUE SEA LINE JOINT SERVICE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 24, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Milton J. Levitt, Esq., Palmer Serles & Baar, 120 Broadway, New York, New York 10005.

Agreement 10137, as amended, provided for the establishment of the Barber-Blue Sea Line joint service comprised of Barber Line A/S on the one hand, and the Blue Funnel Line and Swedish East Asia Co., Ltd. lines on the other. The latter two lines had been operating their own joint service as the Blue Sea Line pursuant to Agreement 8529, as amended. Essentially, Agreement 10137-2, noticed here, provides for the cancellation of Agreement 8529 inasmuch as that arrangement has become redundant since the approval of Agreement 10137.

By Order of the Federal Maritime Commission.

Dated: October 29, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-29500 Filed 10-31-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. E-9364, E-9366]

BOSTON EDISON CO.

Extension of Procedural Dates

OCTOBER 23, 1975.

On October 16, Staff Counsel filed a motion to extend the procedural dates fixed by order issued July 31, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Staff, Testimony, November 4, 1975.
Service of Company, Rebuttal, November 18, 1975.
Hearing, December 2, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29394 Filed 10-31-75;8:45 am]

[Docket No. RP76-13]

CITIES SERVICE GAS CO.

Order Rejecting in Part, Accepting and Suspending in Part Proposed Tariff Sheets, Denying Waiver and Establishing Hearing Procedures

OCTOBER 22, 1975.

On September 22, 1975 Cities Service Gas Company (Cities) tendered for filing revised tariff sheets to its FPC Gas Tariff,[1] Second Revised Volume No. 1, reflecting general increases in its jurisdictional sales rates amounting to $20,175,304 annually, to become effective October 23, 1975. The total increase is 12.93% above the annual revenues that would result from applying the rates presently being collected to volumes for the test period (twelve months ended May 31, 1975, as adjusted for known changes through February 29, 1976). The tendered filing also includes a new Article 22 and a new Article 23 of the General Terms and Conditions[2] containing, respectively, a research and development rate adjustment provision and an advance payments rate adjustment provision. Cities requests waiver of § 154.38 (d)(3) of the Commission's Regulations in order to include the advance payments rate adjustment provision in its tariff.

Cities states that the rate increase is necessary to offset a revenue deficiency of approximately that amount resulting from, *inter alia*, increased costs and reduced gas sales volumes resulting from declining gas supplies. Cities further states that the nature and magnitude of expenditures for research and development and advance payments, necessitated by the increasing deficiency in the natural gas supplies available to Cities, are such that they can be undertaken only if appropriate compensation for such expenditures is timely included in its rates. Accordingly, the proposed Articles provide procedures for tracking such expenditures.

Public notice of Cities' filing was issued on September 29, 1975, with comments, protests and petitions to intervene due on or before October 10, 1975. Protests and petitions to intervene have been filed by the City of Springfield, Missouri and Board of Utilities of Springfield, Missouri; City Group Gas Defense Association; and Union Gas System Inc.

[1] Thirteenth Revised PGA-1.
[2] Original Sheet Nos. 37H, 37I, 37J, 37K, 37L and 37M of Second Revised Volume No. 1.

Our review of Cities' rate increase filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly we shall suspend the tendered revised tariff sheet for five months, to become effective March 23, 1976, and establish hearing procedures to determine the justness and reasonableness of Cities' filing. We shall accept the tendered original filing sheet Nos. 37H, 37I and 37J, which contain Cities proposed Research and Development rate adjustment provision. However, the provisions shall be suspended for five months pending our review to determine whether the costs treated by Cities as R&D expenditures come within the definition of such expenditures set forth in the Commission's Order No. 483 in Docket No. R-462. Regarding the proposed Article 23, we note that §§ 154.38 (d) (3), (4) and (5) of the Regulations provide that no permanent automatic rate adjustment provisions shall be permitted for natural gas companies except for purchased gas and research and development expenditures. We have only permitted advance payment tracking provisions when they are a part of an approved rate settlement agreement wherein the Commission has reviewed all of the pipeline's costs, including advance payments and revenues and has determined that an advance payment tracking provision is proper for the period that the settlement remains in effect; i.e. until the next Section 4 rate increase becomes effective, subject to refund.[5] Accordingly, we shall deny Cities' request for a waiver of § 154.38(d)(3).

As previously noted, Cities' request for increased rates is based in part upon the fact that its deliverability of gas from connected sources is declining. The present gas shortage in this country, to which this Commission has often called attention, is a problem which is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. It also seems clear that the gas shortage may result in situations where the useful or economic life of gas pipeline facilities may be substantially less than their physical life. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issues of rate of return and depreciation so as to enable this Commission to formulate sound regulatory policies in these areas.

In addition, evidence submitted by the parties relevant to the rate increase filing including that to be filed by our Staff, should give full and careful consideration to the following issues:

1. Cities' expressed need to earn an overall rate of return of 12.0%, an increase of 1.5% over that previously requested which will affect the total cost of service, including related taxes, by $6.4 million;

2. Cities' stated need for an increase in the composite depreciation rate to 4.45% from the 3.73% presently being collected;

3. Cities' inclusion in its working capital of $11.5 million for unrecovered purchased gas costs;

4. The propriety of Cities' inclusion of $4.3 million as research and development costs in rate base, and the consequent correctness of the R&D working capital allowance of $2.3 million for its coal gasification project, particularly in light of Order No. 483.

5. Cities' proposal to include $269,962 in its working capital as an allowance for funds spent on an abandoned naphtha gasification project [6] and to amortize this amount over a 3 year period in O&M expenses and include the average amount of dollars not amortized for the same three year period in its working capital [6].

For the purposes of this filing, Cities has used a modified *Seaboard*[7] method of cost classification. In *United Gas Pipe Line Company*, Opinion No. 671, 50 FPC 1348 (1973)[7], we expressed concern over the worsening gas supply situation, particularly as it existed on United system. Based on the record in that case we concluded that more weight should be given to the annual use of United's systems than would result under the *Seaboard* method. We therefore assigned 75 percent of fixed transmission and storage costs to the commodity component of United's rates. More recently, we issued a Notice of Proposed Rulemaking in Docket No. FM75-19 [8]. We believe that all parties should direct their attention to the propriety of the continued use of the *Seaboard* method, as well as to all other matters bearing on cost classification, allocation and rate design.

We believe that the use of the *Atlantic Seaboard* method of cost classification, cost allocation and rate design may be inadequate and contrary to the public interest under the present conditions of gas supply shortages and ever-increasing curtailments. Moreover, we note that because of successive pipeline rate filings which create "locked-in" periods, our efforts to adopt a just and reasonable cost classification, allocation and rate design differing from *Seaboard* may be frustrated. To the extent that the rate structure found just and reasonable for Cities after hearing and decision departs from the Seaboard methodology used by Cities in its instant filings by assigning additional fixed costs to the commodity component of the rates, undercollections will occur. We believe it would be improper for us to insure Cities protection from undercollections by our failing to adopt the just and reasonable rate structure because rates have become "locked-in". Accordingly, we hereby place Cities on notice that it may be subject to undercollections if, after hearing and decision, we find its rate design improper.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rate increase proposed by Cities in Docket No. RP76-13 and that such increase should be accepted for filing and suspended as hereinafter provided.

(2) The tendered original tariff sheet Nos. 37H, 37I and 37J which contain Cities' proposed Research and Development rate adjustment provision should be accepted for filing and suspended as hereinafter provided.

(3) The request for waiver of the requirements of § 154.38(d)(3) of the Commission's Regulations should be denied and the tendered original sheet Nos. 37K, 37L and 37M—which contain Cities' proposed advance payment rate adjustment provision should be rejected.

The Commission orders: (A) The tendered original tariff sheet Nos. 37H, 37I and 37J containing Cities' proposed Research and Development rate adjustment provision are hereby accepted for filing and suspended for five months, to become effective on March 23, 1976.

(B) The request for waiver of the requirements of § 154.38(d)(3) of the Commission's Regulations is hereby denied and the tendered original sheet Nos. 37K, 37L and 37M, containing Cities' proposed advance payment rate adjustment provision are hereby rejected.

(C) The tendered revised tariff sheet, Thirteenth Revised Sheet PGA-1, is hereby accepted for filing and suspended for five months until March 23, 1976.

(D) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's Rules

[5] Order No. 499, 50 FPC 2111, issued December 29, 1973, in Docket No. RM74-4; *Southern Natural Gas Company*, —— FPC —— issued April 13, 1973, in Docket No. RP72-91, et al; rehearing denied —— FPC ——, issued June 8, 1973; *Northern Natural Gas Company*, —— FPC ——, issued May 20, 1974, in Docket No. RP74-80; rehearing denied in pertinent part —— FPC —— issued July 15, 1974; *Florida Gas Transmission Company*, —— FPC —— issued May 29, 1974, in Docket No. RP74-80.

[6] The amount expended on the project was $539,923.

[6] The same amortization arrangement was proposed in Cities' filing in Docket No. RP75-27. The Commission, in an order dated November 22, 1974, directed Cities to remove such amounts from its filing to which Cities asked and was granted rehearing. In an order dated January 17, 1975, the Commission rescinded its directive without prejudice as to whether such amounts were acceptable in rate base. As a result Cities has been collecting the amortized portion and the allowance for working capital in its rates, subject to refund, since April 23, 1975.

[7] *Atlantic Seaboard Corporation*, 11 FPC 43 (1952).

[7] Affirmed, *Consolidated Gas Supply Corp. v. F.P.C.* —— F.2d —— (D.C. Cir. October 9, 1975).

[8] *End Use Rate Schedules*, issued February 20, 1975.

of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on March 16, 1976, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of Cities' proposed rate increase filed in this docket.

(E) On or before February 3, 1976, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before February 17, 1976. Company rebuttal shall be served on March 2, 1976.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's Rules and Regulations.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29392 Filed 10-31-75;8:45 am]

[Docket No. E-9407]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Further Extension of Procedural Dates

OCTOBER 23, 1975.

On October 16, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 30, 1975, as most recently modified by notice issued August 8, 1975, in the above-designated proceeding:

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Staff, Testimony, January 12, 1976.
Service of Intervenor, Testimony, January 26, 1976.
Service of Company Rebuttal, February 16, 1976.
Hearing, March 22, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29395 Filed 10-31-75;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Extension of Procedural Dates

OCTOBER 23, 1975.

On October 6, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 29, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Phase I

Service of Staff Testimony, January 9, 1976.
Service of Intervenor Testimony, January 23, 1976.
Service of Company Rebuttal, February 6, 1976.
Hearing, February 17, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29396 Filed 10-31-75;8:45 am]

[Docket No. ER76-178]

DUKE POWER CO.

Supplement to Contract

OCTOBER 24, 1975.

Take notice that on October 16, 1975 Duke Power Company (Duke) tendered for filing a Supplement to its Electric Power Contract with the Town of Due West, South Carolina, designated as Duke's Rate Schedule FPC No. 163. This Supplement provides for an increase in contract demand from 1400 KW to 2000 KW.

Duke requests an effective date of November 19, 1975 for the Supplement.

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 §§ 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 November 11, 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.75-29405 Filed 10-31-75;8:45 am]

[Docket No. RP76-24]

FLORIDA GAS TRANSMISSION CO.

Proposed Changes in Rates and Charges

OCTOBER 24, 1975.

Take Notice that on October 15, 1975, Florida Gas Transmission Company (Florida Gas) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume Nos. 1 and 2.

The proposed rate changes would increase Florida Gas' revenues from jurisdictional sales and transportation services by $13,551,572, based on the twelve months ended June 30, 1975 as adjusted. Florida Gas proposes to make the increased rates effective November 15, 1975.

Florida Gas states that the increased rates are required to reflect the effect on its cost of service and revenue requirements of reduced deliveries of natural gas because of declining deliverability from connected gas supplies, increases in operating expenses, depreciation expense and taxes, the necessity for restoring a deficiency in Account 282 which resulted from flowing through the tax reductions attributable to the use of liberalized depreciation for the period from June 10, 1968 through December 31, 1970, and increases in cost of capital including an overall rate of return of 10.25%.

Florida Gas states that copies of its rate filing were served on all the Company's jurisdictional customers and the Florida Public Service Commission. Also, Florida Gas states that Statement P will be filed within fifteen days of its filing.

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 §§ 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 November 14, 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.75-29406 Filed 10-31-75;8:45 am]

[Docket No. RP75-107]

GRANITE STATE GAS TRANSMISSION, INC.

Extension of Procedural Dates

OCTOBER 23, 1975.

On October 15, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 18, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Staff, Testimony, December 9, 1975.
Service of Intervenor, Testimony, December 23, 1975.
Service of Company, Rebuttal, January 13, 1976.
Hearing, January 27, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29397 Filed 10-31-75;8:45 am]

[Docket No. ES76-19]

IDAHO POWER CO.

Notice of Application

OCTOBER 23, 1975.

Take notice that on October 15, 1975, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the states of Idaho, Oregon, Nevada and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power

Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $122,500,000 in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to Lines of Credit with certain banks, and (2) in the form of commercial paper.

Notes in the sum of not to exceed $88,100,000 in an aggregate amount would be issued as bank loans, evidenced by unsecured notes, probably for a maturity of three months after date, and not to exceed one year after date thereof. Of the above total borrowing, $75,000,000 will be made pursuant to the Lines of Credit with three major banks. The remainder of $13,100,000 will be borrowed from a group of banks in Idaho and Oregon at the prime interest rate which, at the present time, is 7¾%. The Idaho banks will loan money at the prime rate, which interest rate at the present time is 7¾%. The Oregon banks have offered to loan money at 110% of the prime interest rate plus a commitment fee. Applicant also requests that the authorization include the right to renew such of said short-term notes as expire prior to one year from the date of such authorization; and that the principal amount of such renewals, if made, either of notes issued under the authorization herein required, or of notes issued under the exemptions set forth in 204(e) of the Federal Power Act, shall not be considered as applying against, or a reduction, of the $101,786,200 authorization herein requested. Applicant further requests authority to substitute commercial paper borrowings for the Line of Credit borrowings up to the limits imposed by any applicable statute, rule or regulation.

Unsecured promissory notes in an aggregate principal amount of not to exceed $29,000,000 at any one time outstanding would be issued and sold by applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the date of issuance, have a maturity of not more than 270 days from the date thereof and be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowing will be used in the further financing of applicant's construction expenditures, which for the period from August 1, 1975 to December 31, 1976, are estimated at approximately $116,077,000. The balance of funds required for construction is expected to come from internally generated cash. Applicant intends to issue 1,000,000 shares of common stock at an anticipated issuance price of at least $26 a share in December of 1975. Further permanent financing, in addition to the common stock, is expected to be undertaken in 1976, but the amounts and types of securities and the exact timing of the issuance has not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirement 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 proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file 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.75-29398 Filed 10-31-75;8:45 am]

[Docket No. RP75-98]

McCULLOCH INTERSTATE GAS CORP.

Extension of Procedural Dates

OCTOBER 24, 1975.

On October 6, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 30, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Intervenor Testimony, October 30, 1975.
Service of Applicant's Rebuttal, November 14, 1975.
Hearing, December 3, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29407 Filed 10-31-75;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Order Granting Rehearing for Purposes of Further Consideration

OCTOBER 23, 1975.

On September 29, 1975, the Municipal Gas and Electric Department of the Town of Middleboro, Massachusetts (Middleboro) filed an application for rehearing of our August 29, 1975, order in this proceeding. On September 26, 1975, the Rhode Island Division of Public Utilities and Carriers and the Rhode Island Consumers' Council filed an application for rehearing of that same order. On October 3, 1975, Montaup Electric Company filed a motion for reconsideration and amendment of the August 29, 1975, order.

Because of the numerous complex issues raised by these pleadings, we shall grant rehearing of our August 29, 1975, order for purposes of further consideration.

The Commission finds: Good cause exists to grant rehearing of our August 29, 1975 order herein for purposes of further consideration.

The Commission orders: (A) Rehearing of our August 29, 1975, is hereby granted for purposes of further consideration.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29399 Filed 10-31-75;8:45 am]

[Docket Nos. CP75-131, CP76-94]

MOUNTAIN FUEL SUPPLY CO. AND PHILLIPS PETROLEUM CO.

Extension of Procedural Dates

OCTOBER 23, 1975.

On October 16, 1975, Phillips Petroleum Company filed a motion to extend the procedural dates set by order issued September 22, 1975, in the above-designated proceeding.

Notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Direct Testimony, November 12, 1975.
Hearing, December 3, 1975 (10 a.m. E.S.T.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29400 Filed 10-31-75;8:45 am]

[Docket No. RP73-8 (PGA 76-3)]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 24, 1975.

Take notice that North Penn Gas Company (North Penn) on October 16, 1975, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective December 1, 1975. The proposed rate change will decrease jurisdictional revenues by $1.4 Thousand for the period December 1, 1975 through May 31, 1976.

North Penn's filing reflects a surcharge credit of 0.014¢ per Mcf proposed to be effective for the six-month period December 1, 1975 through May 31, 1976, and reflects the amounts accumulated in its Unrecovered Purchased Gas Account for the period March 1, 1975 through August 31, 1975.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said application 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 §§ 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 November 5, 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

application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29408 Filed 10-31-75;8:45 am]

[Docket No. E-9173]

PACIFIC POWER & LIGHT CO.

Filing of Notice of Cancellation

OCTOBER 23, 1975.

Take notice that on October 14, 1975, Pacific Power & Light Company (Pacific) tendered for filing a notice of cancellation of its Rate Schedule FPC No. 117 with Portland General Electric Company (Portland). Pacific states that the subject rate schedule is being terminated inasmuch as the service thereunder is covered under Pacific's currently effective tariff. Both the subject rate schedule and the above-referenced tariff are currently being investigated in Docket Nos. E-9173 and E-9212. Pacific requests that the Commission waive the prior notice requirement so as to permit the notice of cancellation to be effective as of October 9, 1975.

Pacific states that a copy of the notice of cancellation was served upon Portland.

Any person desiring to be heard or to protect 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 §§ 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 November 10, 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.75-29401 Filed 10-31-75;8:45 am]

[Docket No. CI76-196, *et al.*]

SHELL OIL CO. ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 20, 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 13, 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.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI76-196..... A 9-29-75	Shell Oil Co., P.O. Box 2099, Houston, Tex. 77001.	Florida Gas Transmission Co., Grand Isle Block 76, offshore Louisiana.	[2] [3] $1.63	15.025
CI76-197..... (CS72-162) F 10-2-75	Gulf Oil Corp. (successor to Cenard Oil & Gas Co.), P.O. Box 1589, Tulsa, Okla. 74102.	Transcontinental Gas Pipe Line Corp., North Duson Field, Lafayette Parish, La.	[4] 27.0	15.025
CI76-198..... (CS72-162) F 10-2-75	Gulf Oil Corp. (successor to Nafco Oil & Gas Inc.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Keyes Field, Cimarron County, Okla.	[5] [6] 15.4804	14.65
CI76-199..... A 10-2-75	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Natural Gas Pipeline Co. of America, acreage in Eddy County, N. Mex.	[2] 1.00	14.65
CI76-200..... (G-7439) B 10-2-75	Bright & Schiff, 2355 Stemmons Bldg., Dallas, Tex. 75207.	Texas Eastern Transmission Corp., South Karon and Ragsdale Fields, Bee County, Tex.	Depleted	.....
CI76-202..... A 10-3-75	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Grand Isle Block 45, offshore Jefferson and Lafourche, La.	[2] 80.0	15.025
CI76-203..... (CS75-142) B 10-3-75	Keystone Fuel Oil Co., Inc., 25 South Heald St., Wilmington, Del. 19801.	Mid Louisiana Gas Co., acreage in Morehouse Parish, La.	Uneconomical	.....
CI76-204..... A 9-24-75	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75211.	El Paso Natural Gas Co., Carlsbad Field, Eddy County, N. Mex.	[7] 55.24	14.65
CI76-206..... (G-18081) B 10-6-75	Bowser Gas & Oil Co., 1231 20th St., Parkersburg, W. Va. 26101.	Consolidated Gas Supply Corp., acreage in Calhoun, Gilmer, and Ritchie Counties, W. Va.	Uneconomical	.....
CI76-207..... (CI75-261) B 10-6-75	H. C. Federer, 804 Amarillo Bldg., Amarillo, Tex. 79101.	Northern Natural Gas Co., acreage in Hutchinson County, Tex.	[10]	.....

[1] Subject to upward and downward British thermal unit adjustment.
[2] Applicant is willing to accept a certificate in accordance with sec. 2.56a of the Commission's general policy and interpretations.
[3] Subject to downward British thermal unit adjustment; includes 3.5¢/M ft³ tax reimbursement.
[4] Applicant is willing to accept a certificate in accordance with opinion No. 598.
[5] Includes 4.2705¢/M ft³ downward British thermal unit adjustment and 0.2509¢/M ft³ tax reimbursement.
[6] Applicant is willing to accept a certificate in accordance with opinion No. 586.
[7] Includes 4.52¢/M ft³ tax reimbursement and is subject to upward and downward British thermal unit adjustment.
[8] Subject to British thermal unit adjustment.
[9] Applicant states that it is willing to accept a certificate conditioned to a rate of $1.33¢/M ft³.
[10] Well has ceased to produce.

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.

[FR Doc.75-29411 Filed 10-31-75;8:45 am]

[Docket No. E-9322]

SOUTH CAROLINA ELECTRIC AND GAS CO.

Further Extension of Hearing Date

OCTOBER 23, 1975.

On October 17, 1975, Duke Power Company (Duke) filed a motion for reconsideration of the denial of its motion to extend the hearing date filed October 2, 1975 and denied by notice issued October 8, 1975. The motion states that Duke has contacted counsel for South Carolina Electric and Gas Company, Carolina Power and Light, Georgia Power Company, the Commission's Staff Counsel and counsel for all of said parties

have authorized Duke to advise the Commission that they and each of them concur in a further extension of the hearing date in this docket until November 17, 1975.

Notice is hereby given that the hearing date in the above proceeding is extended from November 6, 1975 to and including November 17, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29402 Filed 10-31-75;8:45 am]

[Docket Nos. RI76-44, *et al.*]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 24, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, 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.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets No.
RI76-44	Sun Oil Co.	124	10	Transwestern Pipeline Co. (Texas) (Permian).		9-26-75	10-27-75	[3]			R171-140
	do		11	do	$64,562	9-26-75		3-27-76	27.319	54.8259	
	do	132	12	do		9-26-75	10-27-75	[3]			
	do		13	do	256,462	9-26-75		[4]	20.086	54.8259	
	do	314	12	Northern Natural Gas Co. (New Mexico) (Permian).	2,423	9-29-75		3-30-76	[1] [5] 23.9776	[1] [5] 28.5412	
RI76-45	Texas Pacific Oil Co. (Operator) et al.	27	17	do	24,886	9-24-75		3-25-76	[5] 24.8053	[5] 37.3382	
RI76-46	Sun Oil Co.	300	18	do	14,110	9-26-75		3-27-76	[5] 22.7460	[5] 29.4652	

[*] Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Includes 0.90 ¢/M ft³ quality deduction.
[2] Includes 2.11 ¢/M ft³ quality deduction.
[3] Accepted as of the date set forth in the "Effective Date Unless Suspended" column.
[4] The proposed rate increase is accepted as of Oct. 27, 1975, insofar as it does no exceed the opinion No. 662 ceiling and is suspended until Mar. 27, 1976, insofar as it exceeds the opinion No. 662 ceiling rate.
[5] The pressure base is 15.025 lb/in²a.

The proposed rate increase of Sun Oil Company under Supp. No. 13 to its FPC Gas Rate Schedule No. 132 is accepted as of October 27, 1975 insofar as it does not exceed the applicable area ceiling rate established in Opinion No. 662 and is suspended until March 27, 1976 insofar as it exceeds the applicable area ceiling rate in Opinion No. 662.

The amendatory agreements under Supp. Nos. 10 and 12 to FPC Gas Rate Schedule Nos. 12 and 132, respectively, are accepted as of October 27, 1975.

The remaining proposed rate increases exceed the applicable area ceiling rate in Opinion No. 662, and they are suspended for five months.

[FR Doc.75-29412 Filed 10-31-75;8:45 am]

[Docket No. CP75-273]

TRUNKLINE GAS CO.

Extension of Time

OCTOBER 17, 1975.

On October 9, 1975, Trunkline Gas Company (Trunkline) filed a request to extend the time within which to accept its certificate in the above docket, as set by order issued September 10, 1975.

Notice is hereby given that the time within which Trunkline must accept the certificate above-indicated matter is extended to and including December 10, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29391 Filed 10-31-75;8:45 am]

[Docket No. RP75-30]

UNITED GAS PIPELINE CO.

Further Extension of Procedural Dates

OCTOBER 22, 1975.

On October 10, 1975, Columbia Gas Transmission Corporation and Consolidated Gas Supply Corporation filed a motion to extend the procedural dates fixed by order issued December 19, 1974, as most recently modified by notice issued June 26, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Intervenor, Testimony, November 10, 1975.
Service of Company, Rebuttal, November 24, 1975.
Hearing, December 16, 1975 (10 a.m. e.s.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29393 Filed 10-31-75;8:45 am]

[Docket No. E-9198]

WISCONSIN POWER AND LIGHT CO.

Further Extension of Time

OCTOBER 23, 1975.

On October 20, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued February 19, 1975, as most recently modified by notice issued September 4, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Staff, Testimony, November 21, 1975.
Service of Intervenor, Testimony, December 4, 1975.
Service of Company, Rebuttal, December 18, 1975.
Hearing, January 6, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29403 Filed 10-31-75;8:45 am]

[Project No. 1999]

WISCONSIN PUBLIC SERVICE CORP.

Application for Change in Land Rights

OCTOBER 23, 1975.

Public notice is hereby given that an application was filed on August 8, 1975, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by the Wisconsin Public Service Corporation (Correspondence to: Mr. C. A. McKenna, Secretary, Wisconsin Public Service Corporation, P.O. Box 700, Green Bay, Wisconsin 54305) for a change in land rights for constructed Project No. 1999, known as the Wausau Project, located on the Wisconsin River in Marathon County, Wisconsin, within the City of Wausau and near the Village of Brokaw. The Wisconsin River is a navigable waterway of the United States.

Wisconsin Public Service Corporation, Licensee for Wausau Project No. 1999, requests Commission approval to sell 1.1 acres of Project No. 1999 to Half Way House, Inc. for the purpose of constructing a rehabilitation facility which will provide transitional residency and services from an institution back into the community. The land proposed for sale is located in Government Lot No. 5, Section 35, T. 29 N., R. 7 E., City of Wausau, Marathon County, Wisconsin.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 12, 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 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. 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 § 1.32(b) (18 CFR 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. The applicant or initial pleader has requested that the shortened procedure of § 1.32(b) be used. If an issue of substance is raised, 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.75-29404 Filed 10-31-75;8:45 am]

Meeting and Agenda

SUPPLY-TECHNICAL ADVISORY COMMITTEE

To be held in Conference Room 5200, Federal Power Commission, Union Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, November 17, 1975, 9:30 a.m.

Presiding: Dr. Edwin D. Goebel, Technical Director, National Gas Survey and Federal Power Commission, Coordinating Representative and Secretary.

1. Call to Order and Introductory Remarks—Dr. Edwin D. Goebel.
2. Introduction of Technical Advisory Committee Chairman—Dr. Daniel F. Merriam, Chairman, Department of Geology, Syracuse University, Syracuse, New York, and Introduction of Technical Advisory Committee Vice Chairman—Mr. James R. Gill, Associate Assistant Administrator, Office of Energy Resource Development, Federal Energy Office, Washington, D.C.
3. Discussion of Committee Work Scope and Goals—Dr. Daniel F. Merriam.
4. Establishment of Priorities and Completion Dates for Work of the Committee.
5. Assignment of Work to Committee Members.
6. Other Business.
7. Adjournment—Dr. Edwin D. Goebel.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29584 Filed 10-31-75;8:45 am]

Meeting and Agenda

FINANCE-TECHNICAL ADVISORY COMMITTEE

To be held in room 6200, Federal Power Commission, Union Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, November 18, 1975, 9:30 a.m.

Presiding: Mr. Jack Adelman, Coordinating Representative and Secretary, Federal Power Commission.

1. Call to Order and Introductory Remarks—Mr. Jack Adelman.
2. Introduction of the Technical Advisory Committee Chairman—Mr. Edward Symonds, Deputy Assistant Secretary for Energy Policy, Department of the Treasury, Washington, D.C. and Introduction of Technical Advisory Committee Vice Chairman—Mr. Charles G. Freund, Vice President, Secretary and Treasurer, Chicago, Illinois.
3. Discussion of Committee Work Scope and Goals—Mr. Edward Symonds.
4. Establishment of Priorities and Completion Dates for Work of the Committee—Mr. Edward Symonds.
5. Assignment of Work to Committee Members—Mr. Edward Symonds.
6. Selection of Next Meeting Date.
7. Adjournment—Mr. Jack Adelman.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29585 Filed 10-31-75;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation F-359]

FEDERAL PROPERTY MANAGEMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in intrastate rate proceedings.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Public Service Commission of Montana (Docket No. 6279, 6327, 6336) involving the application of Montana Power Company for general increases in its natural gas rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the re-

sponsible officers, officials, and employees thereof.

DWIGHT A. INK,
Acting Administrator of General Services.

OCTOBER 21, 1975.

[FR Doc.75-29447 Filed 10-31-75;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

B & S COAL CO., INC.

Applications for Renewal Permits for Noncompliance With Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4011-000 B & S Coal Company, Inc., Mine No. 21, Mine ID No. 15 02749 0, Vicco, Kentucky, ICP Permit No. 4011-002-R-2 (Joy 7-B Sullivan Cutting Machine, I.D. No. 7-3).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before November 18, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, N.W., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

OCTOBER 28, 1975.

[FR Doc.75-29417 Filed 10-31-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454, STN 50-455, STN 50-456, STN 50-457]

COMMONWEALTH EDISON CO. (BYRON STATION, UNITS 1 & 2 AND BRAIDWOOD STATION, UNITS 1 & 2)

Order

The evidentiary hearing on radiological health and safety matters in these proceedings will commence on Tuesday, November 18, 1975, 9:30 a.m., at the Nuclear Regulatory Commission's Public Hearing Room, Room 550, 4350 East-West Highway, Bethesda, Maryland.

It is so ordered.

Dated at Bethesda, Maryland, this 24th day of October, 1975.

EDWARD LUTON,
Chairman.

[FR Doc.75-29469 Filed 10-31-75;8:45 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, Unit 1, located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment changes the surveillance requirements for the auxiliary feedwater pumps to require testing only when the average reactor coolant temperature is above 305° F.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 2, 1975, (2) Amendment No. 1 to License No. DPR-54, with Change No. 1, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California.

A copy of items (2) and (3) 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 22nd day of October, 1975.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Reactor Licensing.

[FR Doc.75-29470 Filed 10-31-75;8:45 am]

[Docket No. 50-346]

TOLEDO EDISON CO.

Availability of Final Environmental Statement, Operating License Stage, for the Davis-Besse Nuclear Power Station, Unit 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 50, Appendix D, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of Davis-Besse Nuclear Power Station, Unit 1, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 and in the Ida Rupps Public Library, 310 Madison Street, Port Clinton, Ohio 43452. The Final Environmental Statement is also being made available at the Office of the Governor, State Clearinghouse, 62 East Broad Street, 2nd Floor, Columbus, Ohio 43215 and the Toledo Metropolitan Area Council of Governments, 420 Madison Avenue, Toledo, Ohio 43604.

The notice of availability of the Draft Environmental Statement for the Davis-Besse Nuclear Power Station, Unit 1, and request for comments from interested persons was published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20341). The comments received from Federal, State, local and interested members of the public have been included as an appendix to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG-75/097) may be purchased at current rates from the National Technical Information Service, Springfield Virginia 22161. (Paper Copy: $5.75; microfiche: $2.25)

Dated at Rockville, Maryland, this 28th day of October 1975.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Reactor Licensing.

[FR Doc.75-29471 Filed 10-31-75;8:45 am]

[Docket No. 50-346A, etc.]

TOLEDO EDISON CO. ET AL.

Prehearing Conference Order No. 7 and 8

In the Matter of The Toledo Edison Company and The Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Units 1, 2 and 3), Docket Nos. 50-346A, 50-500A, 50-501A; The Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2), Docket Nos. 50-440A, 50-441A.

There will be a prehearing conference on Friday, October 31 commencing at 9:30 a.m. at the Commission Hearing Room, East West Towers Building, Bethesda, Maryland, for the purpose of hearing argument on the amendment of October 14, 1975 to the interrogatory answers of the Department of Justice and the October 21, 1975 objection thereto by Applicants. Oral argument will be limited to one half hour per side.

The 8th prehearing conference will convene on Monday, November 17 at 10:00 a.m. at the Commission Hearing Room, East West Towers Building, Bethesda, Maryland, for the purpose of reviewing progress by the parties on document identification and authentication and for the purpose of making such additional orders as may seem appropriate to govern the conduct of the hearing.

It is so ordered.

Dated at Bethesda, Maryland, this 28th day of October 1975.

ATOMIC SAFETY AND LICENSING BOARD,
DOUGLAS V. RIGLER,
Chairman.

[FR Doc.75-29472 Filed 10-31-75;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 October 29, 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 the release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Economic Development Administration: Form Letter Identifying Project Agents, ED-739, on occasion, contractors, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Social and Rehabilitation Service: CCM Interview Guide, single-time, State & local child care agencies, Human Resources Division, C. Lewis Kincannon 395-3532.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:
Involving Citizens in Identifying Neighborhood Goals, Attitudes and Values, single-time, Key Participants in Metro. Region, Strasser, A. 395-5867.
National Survey of State Driver Licensing, Agency Hearing Authority, single-time, Motor Vehicle Admin. in 50 States, D.C. & Territories, Strasser, A., 395-5867.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census:
Survey of Farm Wage Workers—December 1975 CPS, CPS-1, annually, 55,000 households in CPS sample, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

National Institutes of Health:
Urological Research Group Prostrate Study, semi-annually, participating V.A. urologists, Dick Eisinger, 395-6140.
Honolulu Heart Study/Japan-Hawaii Cancer Study, Lipoprotein Phenotyping Study, NIH-HL-26, other (see SF-83), Honolulu Participants of NHLI Phenotyping Project, Dick Eisinger, 395-6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration:
Tabulation of Materials Furnished by Borrowers, REA 281, on occasion, Consulting Engineers of REA Telephone Borrowers, Marsha Traynham, 395-4529.

DEPARTMENT OF DEFENSE

Department of the Air Force: Program Schedule, AFSC-103, on occasion, defense contractors, Marsha Traynham, 395-4529.

DEPARTMENT OF THE TREASURY

Bureau of Customs: In Bond—Customs in Transit Baggage Card, CF-7524, on occasion, carriers, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-29566 Filed 10-31-75;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

PRIVACY PROTECTION STUDY COMMISSION

Hearing

The Privacy Protection Study Commission will hold the first day of hearings for the purpose of taking testimony at Room 305, 26 Federal Plaza, New York, New York, on November 12, 1975, between 9:30 a.m. and 5:30 p.m. with a break for lunch.

Testimony will be taken in connection with the Commission's inquiry into the question of whether an individual should have the right to have his name removed from a mailing list. Any person wishing to testify at this or subsequent hearings on this issue may contact the Commission at 2120 L Street NW., Washington, D.C. 20506 (202-634-1477).

A copy of the Commission hearing rules may also be obtained at such address.

CAROLE W. PARSONS,
Executive Director,
Privacy Protection Study Commission.

[FR Doc.75-29571 Filed 10-31-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

REPORT COORDINATING GROUP (ADVISORY)

Notice of Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory), will hold a meeting on December 3, 1975, at the New York Stock Exchange, 23rd floor, 55 Water Street, New York, New York. The meeting will commence at 10 a.m. local time and will be for the purpose of discussing the development of simplified trading forms and assessment forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is advising the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10959; Securities Exchange Act Release No. 11140; Securities Exchange Act Release No. 11149).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J. Piliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 28, 1975.

[FR Doc.75-29434 Filed 10-31-75;8:45 am]

[Rel. No. 19225; 70-5749]

ALLEGHENY POWER SYSTEM, INC.

Proposed Issue and Sale of Common Stock at Competitive Bidding

OCTOBER 28, 1975.

Notice is hereby given that Allegheny Power Systems, Inc. ("APS"), 320 Park Avenue, New York, New York 10022, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12 thereof and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, summarized below, for a complete statement of the proposed transactions.

APS proposes to issue and sell on or before March 15, 1976, up to 3,500,000 shares of its authorized and unissued

common stock, par value $2.50 per share ("additional common stock"), at competitive bidding pursuant to Rule 50 under the Act. APS is authorized to issue 40,000,000 shares of its common stock, par value $2.50, and now has 27,292,231 shares of such stock outstanding. The price per share to be paid to APS for the additional common stock will be determined by the competitive bidding.

APS proposes to use the proceeds from the sale of the additional common stock, together with other funds which may become available, to repay short-term bank loans and for other corporate purposes. It is stated that $37,000,000 of such short-term debt was outstanding on September 30, 1975, and that approximately $35,000,000 of such short-term debt is expected to be outstanding when the additional common stock is issued. The proceeds of these short-bank loans were used to acquire common stock of, and to make capital contributions to, the electric utility subsidiaries of APS, which, in turn, used the funds to finance their construction programs.

The fees and expenses to be paid by APS in connection with the proposed transactions will be supplied by amendment. It is stated that the Maryland Public Service Commission has jurisdiction over the proposed transactions and that no other State commission and no Federal commission, other than this Commission, have jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 21, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-29432 Filed 10-31-75;8:45 am]

[Rel. No. 9003; 812-3863]

COLONIAL INCOME FUND, INC., ET AL.

Notice of Application

OCTOBER 28, 1975.

Notice is hereby given that Colonial Income Fund, Inc. ("Colonial Income"), The Colonial Fund, Inc. ("Colonial Fund"), Colonial Convertible & Senior Securities, Inc. ("Colonial Convertible"), Colonial Equities, Inc. ("Colonial Equities"), Colonial Growth Shares, Inc. ("Colonial Growth"), and Colonial Ventures, Inc. ("Colonial Ventures"), hereinafter collectively referred to as the "Funds" or as the "Fund Applicants" and which are open-end management investment companies registered under the Investment Company Act of 1940 ("Act"), and Colonial Management Associates, Inc. ("CMAI"), the principal underwriter for the Funds, all of which are hereinafter referred to as the "Applicants", filed an application on September 22, 1975, pursuant to section 6(c) of the Act for an order of the Commission exempting from section 22(d) of the Act transactions whereby dividends payable from the investment income of Colonial Income will be reinvested at net asset value in shares of any of the other Funds then offering shares to the public. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The investment objective of Colonial Income is to seek as high an income as is consistent with prudent risk. It is the only one of the Funds with income as its only primary objective. Subject to the granting of the exemption requested by the application, Colonial Income proposes to permit any shareholder whose investment in Colonial Income has a current public offering value of $5,000 or more to reinvest his income dividends at net asset value in shares of any of the other Funds then offering its shares to the public; each of the other Funds proposes to offer its shares for investment at net asset value by application of income dividends paid on shares of Colonial Income to any Colonial Income shareholder whose investment in Colonial Income has a current public offering value of $5,000 or more. Reinvestment of income dividends of Colonial Income in shares of more than one Fund will not be permitted.

Applicants represent that the eligibility requirement is for the purpose of reducing the likelihood of establishing small new accounts in the other Funds which could otherwise result from the exercise of the proposed option. If the application is approved, income dividends payable to eligible Colonial Income shareholders who so elect will be reinvested in shares of the designated Fund at its net asset value determined on Colonial Income's dividend payment dates. No sales charges will be received by any Fund, by CMAI, by any securities dealer, or by any sales representative on such reinvestments and there will be no service charge. The costs and expenses of the transaction will be borne by the Fund in which the dividend reinvestment is selected. The Funds or any of them may at any time determine not to permit additional investments in their shares pursuant to the option, and Colonial Income may at any time suspend or terminate the availability of the option.

Section 22(d) of the Act, prohibits a registered investment company and its principal underwriter from selling its redeemable securities "to any person except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus."

Applicants state that the proposed reinvestment option is designed to give shareholders of Colonial Income an opportunity to invest the income from their investment in Colonial Income at net asset value in any of the other Funds and at the same time such shareholders could maintain their initial investment in the only Fund in the Colonial Group with income as its only primary objective. The other Funds have investment objectives different from that of Colonial Income.

Applicants state that a shareholder of Colonial Income who elects to reinvest income dividends pursuant to the option, would, in effect, be accomplishing in a single step that which a shareholder may currently accomplish in two steps by electing to receive income dividends in additional shares of Colonial Income at net asset value and thereafter exchanging such additional shares for shares of one of the other Funds as permitted by section 11 of the Act and pursuant to the Exchange Privilege described in each of the Funds' current prospectuses, subject to a $5.00 service charge and certain stated conditions.

The availability of this additional reinvestment option will be disclosed in the Colonial Income prospectus, which among other things, will advise a shareholder to consider the investment objectives and policies of each of the other Funds as described in their respective prospectuses before electing such option. Colonial Income will notify its shareholders at least once each year of the availability of the option. A shareholder will be permitted to cancel or change the reinvestment option at any time upon written notice to the Shareholders Services and Transfer Agent.

Section 6(c) of the Act authorizes the Commission to exempt conditionally or unconditionally any class of persons or transactions from any provisions of the Act "if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions" of the Act.

Notice is further given that any interested person may, not later than November 20, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed:

Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE R. FITZSIMMONS,
Secretary.

[FR Doc.75-29433 Filed 10-31-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1187; Amdt. No. 2]

NEW YORK

Declaration of Disaster Area

The above numbered Declaration (see 40 FR 48558) and amendment No. 1 (see 40 FR 49825) are amended by adding Tompkins and adjacent counties within the State of New York, and the time for filing applications is extended to December 15, 1975, for physical damage and July 14, 1976, for economic injury.

Dated: October 24, 1975.

H. GREGORY AUSTIN,
Acting Administrator.

[FR Doc.75-29389 Filed 10-31-75;8:45 am]

[License No. 09/09-5187]

TELACU INVESTMENT CO. INC.

Notice of Issuance of License To Operate as a Small Business Investment Company

On July 23, 1975, a notice was published in the FEDERAL REGISTER (40 FR 30889) stating that Telacu Investment Co., Inc., located at 1330 South Atlantic Boulevard, East Los Angeles, California 90722, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1975) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business August 6, 1975, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all the other pertinent information, on October 20, 1975, SBA issued License No. 09/09-5187 to Telacu Investment Company, Inc., to operate a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59011 Small Business Investment Companies)

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

OCTOBER 24, 1975.

[FR Doc.75-29430 Filed 10-31-75;8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket No. 211-4]

DELAWARE AND HUDSON RAILWAY CO.

Notice of Application for a Loan

Section 211 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721) authorizes the United States Railway Association (Association) to make loans to railroads for purposes of achieving the goals of the Act. Section 211(b) requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

Regulations implementing Section 211 in part were published by the Association in the FEDERAL REGISTER on July 24, 1974 (49 CFR Part 921). Notice is hereby given that, on October 16, 1975, the Delaware and Hudson Railway Company filed an application pursuant to those reglations for a loan of $37,584,006, to be used for refinancing long-term debt, purchasing new locomotives and acquiring lines of railroad offered to the applicant in the Final System Plan issued by the Association on July 26, 1975.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket Number, the application to which it relates, and must be filed with the Docket Clerk, United States Railway Association, Room 2222, Trans Point Building, 2100 Second Street, SW., Washington, D.C. 20595, on or before December 3, 1975, to enable timely consideration by USRA. The docket containing the original application and all submissions received shall be available for public inspection at that address, Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C. this 28th day of October, 1975.

JAMES A. HAGEN,
President,
United States Railway Association.

[FR Doc.75-29418 Filed 10-31-75;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

Notice of Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on November 18, 19, and 20 in Room 4454, General Accounting Office Building, 441 G Street NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, NOVEMBER 18

9:30 a.m.—Committee on Prices and Living Conditions:

Owner Occupied Housing in the Revised CPI.

TUESDAY, NOVEMBER 18

1:30 p.m.—Committee on Wages and Industrial Relations:

1. Review of work in progress.
2. Status report on the Employment Cost Index (ECI).
3. New research in area wage surveys.
4. Preview of the wage calendar for 1976.
5. The development of the FY 1976 industry wage survey program.

WEDNESDAY, NOVEMBER 19

2:00 p.m.—Committee on Foreign Labor and Trade:

1. Status of work on statistics under the Trade Act.
2. Import-Export Price Indexes.
3. Training Foreign Statisticians.

THURSDAY, NOVEMBER 20

9:45 a.m.—Committee on Occupational Safety and Health Statistics:

1. Report on the Bureau responsibilities for occupational safety and health statistics after 4 years.
2. Annual survey:
   a. Report on the results of the 1974 Survey of Occupational Injuries and Illnesses.
   b. Status of the 1975 Survey of Occupational Injuries and Illnesses.
3. Report on availability of labor union records for conducting a special study of occupational illnesses.
4. Research activities:
   a. Insurance Company of North America project results.
   b. Proposed projects.
5. State statistical program:
   a. Status of State statistical grants and State plans.
6. Report on Supplementary Data Systems.

THURSDAY, NOVEMBER 20

1:30 p.m.—Committee on Manpower and Employment:

1. Current employment and unemployment situation.
2. Report on study of 1974 work experience.
3. Questions relating to "test of earnings" to be asked in conjunction with November 1975 CPS.
4. Description of surveys which are planned to determine the intensity of job search by employed and unemployed persons.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C. this 30th day of October 1975.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.75-29574 Filed 10-31-75;8:45 am]

Manpower Administration

ADVISORY COMMITTEE ON APPRENTICESHIP

Subcommittee Recommendations on Part 5 Trainee Programs

On March 10, 1975, the Department of Labor published proposed regulations on apprenticeship, 29 CFR Part 29 at 40 FR 11340. The comment period ended on April 9, 1975. On August 6, 1975 the comment period for proposed 29 CFR Part 29 was extended indefinitely at 40 FR 33052. Final publication of these regulations was withheld at the request of the Federal Committee on Apprenticeship until that Committee had an opportunity to submit recommendations to the Secretary of Labor on the subject of Apprenticeship and Trainee Programs. Part 5 of Title 29, CFR, as amended July 21, 1975, 40 FR 30480, provides for trainee programs on Federal and federally assisted construction.

The Subcommittee on Training of the Federal Advisory Committee on Apprenticeship has made a recommendation concerning regulations on this subject. That recommendation is published for comment in this notice. It is written in the form of a proposed new part, Part 28, of Title 29 of the Code of Federal Regulations.

The proposed new part sets forth labor standards, policies and procedures relating to approval, disapproval and termination of approval by the Bureau of Apprenticeship and Training (BAT) of training programs which require BAT's approval under 29 CFR Part 5. The full Federal Advisory Committee on Apprenticeship has not taken a position on this proposal nor has the Department of Labor. Department of Labor personnel made some changes in style and format in the draft of the proposed new part approved by the Subcommittee but no changes were made in the substance of the Subcommittee's recommendation.

The Subcommittee's recommendation is being published to solicit comments from the public. Interested persons and organizations may submit written data, views and arguments to:

Associate Manpower Administrator, Bureau of Apprenticeship and Training, Room 5000, Patrick Henry Building, Washington, D.C. 20213.

All comments received on or before December 3, 1975, will be considered.

The Subcommittee on Training recommends a new Part 28 of Title 29, CFR, which would read as follows:

PART 28—LABOR STANDARDS FOR TRAINEE PROGRAMS ON FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Sec.

28.1 Purpose and scope.
28.2 Definitions.
28.3 Minimum standards for trainee programs.
28.4 Request for approval.
28.5 Eligibility and program approval procedures.
28.6 Trainee records; recognition for completion.
28.7 Recertification of previously approved or recognized programs.
28.8 Enforcement and appeals.

AUTHORITY: Sec. 1, 50 Stat. 664, as amended; 40 U.S.C. 276c; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 3 CFR 1949-53 Comp., p. 1007.

§ 28.1 Purpose and scope.

This part sets forth labor standards to safeguard the welfare of workers employed as trainees under programs approved by the Bureau of Apprenticeship and Training (BAT). These labor standards, policies and procedures cover the requirements for approval and maintenance of approval of such programs, and certification of individual trainees enrolled in such programs for employment and training on Federal and federally assisted construction projects.

§ 28.2 Definitions.

"BAT" shall mean the Bureau of Apprenticeship and Training, Manpower Administration, U.S. Department of Labor.

"Certification" shall mean written attestation by the BAT of its approval of a trainee program.

"Sponsor" shall mean an individual employer, or a group of employers presented by an association, or a group of employers joining together for the establishment and operation of a trainee program, with one or more labor unions or a reasponsible organization broadly representative of the minority interest in the community.

"Trainee" shall mean an individual worker who is recorded by the BAT as enrolled in an approved trainee program and who is being afforded employment and training in accordance with the terms and conditions of that program.

"Trainee program" shall mean a planned systematic sequence of on-the-job instruction under competent supervision with (1) a schedule of work experience in which training is given to impart a family of related job skills, knowledge and abilities common to a recognized construction trade, and (2) a schedule of supplementary instruction in subjects related to the trade.

§ 28.3 Minimum standards for trainee programs.

In order to meet the minimum eligibility requirements for BAT certification, a trainee program shall:

(a) Have a sponsor as defined in § 28.2 of this part. The sponsor must be able to demonstrate a capability to provide the required training and to assure a reasonable continuity of employment;

(b) State each occupation in which trainees are to be trained. Each occupation shall be one commonly recognized throughout the construction industry and not one in which employment is limited to the particular sponsor or locale;

(c) Provide for an organized sequence of job assignments and work experience in which on-the-job training will be given for successively more difficult and more complex skill requirements through which the trainees may achieve journeyman status in the trade. A job assignment shall have a recognizable training content and not be one in which the trade is learned merely by observation and incidental exposure to the work;

(d) Include instruction in safety;

(e) Provide that the trainees be paid a progressively increasing schedule of wages consistent with skill and performance levels achieved. Increments in wage rates shall be at reasonable and uniform intervals and amounts throughout the period of training. Trainee wage rates shall be expressed in a percentage of the journeyman rate and entry rates shall not be less than 50 percent of the journeyman rate. The journeyman rate for a construction trade or craft upon which trainee wages are based shall be not less than that published by the U.S. Department of Labor as the currently prevailing rate in the locale for journeyman in the particular trade or craft. In the absence of such published prevailing rates, trainee wage rates shall be based on the highest journeyman rate paid in the particular trade or craft by the sponsor or the average of the highest rate paid by all participant employers in the case of multi-employer sponsorship;

(f) State the term of training for each occupation. The term shall be that customarily required for an entering worker without previous applicable experience to achieve journeyman status in the occupation and should approximate in length the practice in other training programs with a journeyman skill level objective. In no event shall a program contain less than 2,000 hours of on-the-job training and 144 hours of related instruction;

(g) Provide that the sponsor shall arrange for and afford each trainee the opportunity to receive instruction, or pursue a course of study, in subjects related to the trade (typically identified as "theory of the trade") throughout the period of training. The trainee shall receive his or her regular rate of pay when such instruction or course of study is pursued during normal working hours and all time spent pursuing such related training shall be credited toward the trainee's term of training. Except for the payment of wages for instruction and study during normal working hours, this provision shall not require the sponsor to pay costs of tuition, enrollment, books or other associated instructional or study costs; however, no unreasonable requirements or excessive cost to be paid by trainees shall be imposed for such instruction or study;

(h) Provide for advanced standing in the term of training and wage rate entitlement for trainees entering with previous applicable work experience. Trainees shall be fairly classified by the sponsor with respect to previous work experience, applicable skills and knowledge of the "theory of the trade". The sponsor's judgment or decision on advanced standing of a trainee shall be reduced to writ-

ing and made a part of the program's records;

(i) Impose no qualification requirement for entrance into a trainee program other than minimum legal working age, physical fitness, and a speaking, reading and language comprehension sufficient to perform the work of the trade, unless an additional qualification is shown to be (1) directly related to successful job performance and (2) in accordance with the U.S. Department of Labor, Office of Federal Contract Compliance Testing and Selection Order of October 2, 1971, 41 CFR 60.3. Qualification procedures proposed to be used by the sponsor shall be fully described;

(j) State that recruitment, selection, employment, and training of all trainees shall be without discrimination by reason of race, color, religion, national origin, or sex. The program shall contain a statement of the sponsor's commitment to affirmative action and intent to exert good faith efforts to recruit and enroll women and minorities in the trainee program in such numbers as might reasonably be expected in view of the minority representation in the area in which the trainee program will operate. The sponsor shall comply with equal employment opportunity requirements of Executive Order 11246, as amended, and other applicable State and Federal laws and regulations;

(k) State, for each occupation, a numerical ratio of trainees to journeymen. Except where otherwise stated by a sponsor's collective bargaining agreement, ratios shall be applicable to the job site. Ratios shall be consistent with proper supervision and training, and with the customary practice in the industry in other training programs in the occupation with journeymen level skill objective, and shall reflect current availability of skilled workers, as well as short and long-term needs for skilled workers; and

(l) State that the sponsor shall try to provide a continuity of employment and training for enrolled trainees; insofar as the sponsor has employment available in Federal, federally assisted or private construction projects.

§ 28.4 Request for approval.

A request for BAT approval of a trainee program shall be in writing and shall be accompanied by:

(a) A written detailed plan of training showing, *inter alia*, the hours the trainee will spend in each phase of on-the-job and related instruction, the manner in which related instruction will be supplied, and the wage rates for each phase of the training program; the written plan of training shall be endorse by all parties to the plan including individual employers in a group-sponsored program, and authorized representatives of the union(s) or community organization as appropriate; and

(b) Documentary evidence that the program standards meet the minimum requirements of § 28.3 of this part.

§ 28.5 Eligibility and program approval procedures.

(a) Request for approval of trainee programs shall be addressed to the appropriate BAT Regional Office. Mailing addresses for these offices and the States for which each is responsible are as follows:

Regional Office	*States*
Room 1001, JFK Building, Government Center, Boston, Mass. 02203.	Connecticut, Maine, Massachusetts, Vermont, New Hampshire, Rhode Island.
Room 3731, 1515 Broadway & 44th Street, New York, N.Y. 10036.	New York, New Jersey, Puerto Rico, Virgin Islands.
P.O. Box 8796, Philadelphia, Pa. 19101	Delaware, Maryland, Pennsylvania, Virginia, West Virginia.
Room 700, 1371 Peachtree Street, NE., Atlanta, Ga. 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Federal Building, Room #1—4th Floor, 230 South Dearborn Street, Chicago, Illinois 60604.	Illinois, Indiana, Michigan, Ohio, Wisconsin.
555 Griffin Square Building, Room 858, Griffin & Young Streets, Dallas, Texas 75202.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Federal Office Bldg. Room 1100, 911 Walnut Street, Kansas City, Mo. 64106.	Iowa, Kansas, Missouri, Nebraska.
Federal Building, Room 16440, 1961 Stout St., Denver, Colo. 80202.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
450 Golden Gate Ave., Room 9008, P.O. Box 36017, San Francisco, Calif. 94102.	Arizona, California, Nevada, Hawaii, Guam, American Samoa, Trust Territories.
8014 Federal Office Bldg., 909 First Avenue, Seattle, Washington 98174.	Alaska, Idaho, Oregon, Washington.

(b) Approval of a trainee program shall be stated in writing to the sponsor by the BAT Regional Office. The sponsor will be informed of the address of the nearest area office of the Bureau to which the sponsor shall submit recording of trainees under the program and all subsequent trainee actions including letters of certification as to status of the program and individual trainees enrolled thereunder.

(c) Approval of a trainee program found to be in conformity with this part shall be automatically terminated 2 calendar years from the date of original approval, unless terminated earlier for cause. Approval after the first 2-year period may be renewed annually upon written request of the sponsor and upon demonstration that the program has operated in conformity with this part.

(d) Appeal of decision to deny approval. Within 30 days after the date of the sponsor's receipt of a decision to disapprove a request for approval, the sponsor may obtain review of the decision by filing a request for review with the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210.

§ 28.6 Trainee records; recognition for completion.

(a) The sponsor shall furnish BAT the following information about each trainee: Name, address, social security number, occupation in which enrolled, any credit or advanced standing granted upon entrance, and the date of entrance into the program. The sponsor shall promptly notify BAT in writing of all terminations of training, transfers between occupations, completions of training, and new enrollments of trainees.

(b) The sponsor shall be responsible for maintaining a record of the amount and type of work experience and training received by each trainee and of each trainee's progress in learning the skills of the trade. Such records shall be available to BAT upon request.

(c) In programs under multiple-employer sponsorship, trainees may be transferred from one employer to another in order to maintain continuity of employment and training. Such transfer shall not reduce the rank or wage status earned while previously employed for a participating employer.

(d) Trainees shall be given appropriate recognition for successful completion of the training program. BAT will furnish, upon a sponsor's request supported by the trainee's records, a certificate of completion for each trainee completing the program.

§ 28.7 Recertification of previously approved or recognized programs.

Prior to August 20, 1975, the effective date of the revocation of 29 CFR Part 5a and the concurrent amendment of 29 CFR Part 5 (40 CFR 30480), certain trainee programs had been approved or recognized by the Department of Labor. The amended Part 5 requires sponsors of such programs to submit their programs to BAT for recertification. Sponsors of such programs shall submit their program standards and training plans to the appropriate BAT Regional Office for recertification in accordance with amended 29 CFR 5.15.

§ 28.8 Enforcement and appeals.

(a) Review of program operations. BAT shall make such investigations as it considers necessary to determine that training is being provided and that programs are being operated in accordance with the sponsor's approved standards and plan and in accordance with the provisions of this part. Such investigations may include examination of the trainees' work and related instruction records and on-site interviews and shall

be conducted in a reasonable manner. Where such investigations reveal nonconformance with the regulations under this part, BAT shall inform the sponsor in writing of the specific areas of nonconformance and the specific corrective actions to be taken to maintain program approval.

(b) Terminating approvals. Approval of a program may be terminated by the BAT:

(1) Upon recommendation made by a Federal contracting agency based upon its determination that the sponsor is in violation of contract provisions;

(2) Upon the determination and recommendation of a responsible compliance agency that the sponsor is discriminatory in its employment and training practices; or

(3) Upon a finding by BAT that the program is not being operated in accordance with requirement for continued approval. Such a finding may arise from routine observation of transfers of trainees from one occupational objective to another as reflected in sponsor supply lists; undue retention of trainees in entry wage level rates; receipt of complaints from trainees; and other factual indications of the sponsor's failure to meet his obligations in the operation of the program.

(c) When the reason(s) for terminating approval are of the nature described in paragraphs (b)(1) or (2) of this section, the Bureau will notify the sponsor in writing of the termination of program approval. When a cause described in paragraph (b)(3) of this section exists for terminating approval, and the sponsor has been given reasonable opportunity pursuant to paragraph (b)(3) of this section to take corrective action and has failed to do so, and has been given an opportunity for a hearing pursuant to 29 CFR 5.16, the Bureau shall notify the sponsor of its termination of approval and cite the reasons for its action.

(d) Appeal of decision to terminate approval. Within 30 days after the date of the sponsor's receipt of a decision to terminate a previously approved trainee program, the sponsor may obtain review of the decision by filing a request for review with the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of October, 1975.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.75-29508 Filed 10-31-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB 1 Sub-No. 21]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Outagamie and Winnebago Counties, Wis., on or before November 13, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 21st day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN HORTONVILLE AND LARSEN IN OUTAGAMIE AND WINNEBAGO COUNTIES, WISCONSIN

The Interstate Commerce Commission hereby gives notice that by order dated October 21, 1975, it has been determined that the proposed abandonment of the Chicago and North Western Transportation Company rail line extending 10.1 miles between Hortonville and Larsen through Outagamie and Winnebago Counties, Wis., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of traffic from this allegedly low density line to other transportation modes should not cause any substantial alterations in air quality, fuel consumption, or transportation safety since traffic volume has been declining and alternate rail lines exist within 10 miles of the affected stations. Also no land use plans of economic or industrial importance exist which would necessitate the continued operation of this line. Public interest has been expressed for purchase of the right-of-way upon abandonment for incorporation into the area's regional recreation trail program.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 28, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29506 Filed 10-31-75;8:45 am]

[AB 1 (Sub-No. 11)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Dodge and Mower Counties, Minn., on or before November 13, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 20th day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN WALTHAM AND AUSTIN, IN MOWER COUNTY, MINNESOTA

The Interstate Commerce Commission hereby gives notices that by order dated October 20, 1975, it has been determined that the proposed abandonment by the Chicago and North Western Transportation Company between Waltham and Austin, Minn., a distance of 9.6 miles in Mower County, Minn., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed

action are considered insignificant because (1) there has been no demand for rail service over this line since 1971, (2) no local development plans are dependent on the continued existence of the subject line, (3) the C&NW will continue to maintain rail service at Waltham and Austin, Minn., and (4) the historic, safety, pollution, and ecological aspects of the proposed action are absent or minimal. Furthermore, the city of Austin, Minn., has expressed an interest in utilizing this right-of-way for recreation purposes should the abandonment be authorized.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., on or before November 28, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29505 Filed 10-31-75;8:45 am]

[AB 112]

GREAT PLAINS RAILWAY CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Seward, York, Fillmore, Thayer and Nuckolls Counties, Nebr., on or before November 13, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 20th day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

GREAT PLAINS RAILWAY COMPANY ABANDONMENT BETWEEN SEWARD AND SUPERIOR, IN SEWARD, YORK, FILLMORE, THAYER AND NUCKOLLS COUNTIES, NEBRASKA

The Interstate Commerce Commission hereby gives notice that by order dated October 20, 1975, it has been determined that the proposed abandonment of the 84.7 mile line of the Great Plains Railway Company between Seward and Superior, Nebr., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that (1) the diversion of traffic from this line will create only minimal environmental impacts, (2) there are no definitive land use plans related to the line and (3) there will be no historic or major ecological impacts involved.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 28, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29504 Filed 10-31-75;8:45 am]

[EIGHTH REV. EXEMPTION NO. 89]

ALL RAILROADS

Mandatory Car Service Rules; Exemption

It appearing, That the U.S. railroads own numerous 40-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars of railroad ownership described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 397, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44 ft. 6 in. or less, which bear the reporting marks assigned to United States railroads, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b). (See Exceptions 1, 2 and 3.)

Exception No. 1, This exemption does not supersede United States customs regulations applicable to cars owned by Canadian or Mexican railroads.

Exception No. 2, This exemption shall not apply to cars subject to service orders issued by the Interstate Commerce Commission or directives issued by the Car Service Division of the Association of American Railroads, restricting the use of designated cars.

Exception No. 3, This exemption shall not apply to 40-ft. boxcars owned by the railroads named below:

Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees, Reporting Marks: BM.
Burlington Northern Inc., Reporting Marks: BN-CBQ-GN-NP-SPS.
Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Reporting Marks: MILW.
Chicago and North Western Transportation Company, Reporting Marks: CGW-CMO-CNO-MSTL.
Columbus and Greenville Railway Co., Inc., Reporting Marks: CAGY.
Illinois Central Gulf Railroad Company, Reporting Marks: CLG-GM&O-IC-ICG.
The Kansas City Southern Railway Company, Reporting Marks: KCS.
Louisiana & Arkansas Railway Company, Reporting Marks: LA.
Louisville and Nashville Railroad Company, Reporting Marks: CIL-L&N-MON-NC.
Maine Central Railroad Company, Reporting Marks: MEC.
Norfolk and Western Railway Company, Reporting Marks: NW-NKP-P&WV-WAB.

Effective October 27, 1975.

Expires October 31, 1975.

Issued at Washington, D.C., October 21, 1975.

INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.75-29507 Filed 10-31-75;8:45 am]

[Notice No. 899]

ASSIGNMENT OF HEARINGS

OCTOBER 29, 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-F 12560, Continental Van Lines, Inc.—Purchase—Moving Corporation of America, Inc., now assigned December 3, 1975, at San Francisco, California, is postponed indefinitely.

MC 114211 Sub 239, Warren Transport, Inc., now being assigned November 19, 1975 (3 days), at Omaha, Nebraska; in Union Pacific Plaza, 110 West 14th Street.

MC 124813 Sub 127, Umthun Trucking Co., now being assigned December 1, 1975 at Chicago, Illinois; in a hearing room to be designated later.

MC 128543 Sub 10, Cresco Lines, Inc., now being assigned December 8, 1975 (1 day), at Chicago, Ill., in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29503 Filed 10-31-75;8:45 am]

[Notice No. 107]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 3, 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 November 24, 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-75886. By order of October 10, 1975, the Commission, Division 1, acting as an Appellate Division, approved the transfer to Hill Truck Line, Inc., Centralia, Kans., of that portion of Certificate No. MC 121489 (Sub-No. 7), issued by the Commission November 20, 1972, to Nebraska Iowa Xpress, Inc., Council Bluffs, Iowa, authorizing the transportation of general commodities, with exceptions, between Falls City, Nebr., on the one hand, and, on the other, points in Kansas west of Kansas Highway 63 which are located within 50 miles of Falls City, Nebr. Earl H. Scudder, Esquire, P.O. Box 82028, Lincoln, Nebr. 68501.

No. MC-FC-76091. By order of October 28, 1975, the Motor Carrier Board approved the transfer to Kodiak Transfer, Inc., d.b.a. Kodiak Transfer Company, Kodiak, Alaska, of Certificate No. MC 126271 Sub-No. 1, issued March 3, 1966, to Kodiak Transfer Company, Kodiak, Alaska, authorizing the transportation of general commodities between specified points in Alaska. Nissel A. Rose, 526 "I" Street, Anchorage, Alaska 99501, Attorney for Applicants.

No. MC-FC-76117. By order of October 29, 1975, the Motor Carrier Board approved the transfer to Utermoehlen Trucking, Inc., Arma, Kansas, of Permits Nos. MC 113198 and MC 113198 Sub-No. 4, issued January 26, 1953, and July 9, 1974, respectively, to Henry J. Utermoehlen, d.b.a. Utermoehlen Block and Coal Company, Arma, Kansas authorizing the transportation of coal from and to specified points in Kansas and Missouri. Clyde N. Christey, 641 Harrison, Topeka, Kansas 66603, Attorney for Applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-29502 Filed 10-31-75;8:45 am]

federal register

MONDAY, NOVEMBER 3, 1975

PART II:

DEPARTMENT OF DEFENSE

Corps of Engineers

■

CONTINUING AUTHORITIES PROGRAM

CLEARINGHOUSE COORDINATION

Policies and Procedures

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105-2-811]

PART 384—A-95 CLEARINGHOUSE COORDINATION

Policies and Procedures

On January 8, 1975, the Secretary of the Army, acting through the Chief of Engineers, proposed a regulation to provide general policies for coordination of Corps studies, projects, and programs, pursuant to the requirements of the Office of Management and Budget (OMB) Circular No. A-95 (FEDERAL REGISTER, Vol. 40, No. 5, pp 1620-21). Interested persons and organizations were given until February 24, 1975 to submit comments on the proposed regulation.

No written objections have been received and all comments have been carefully considered. The proposed regulation is adopted with changes to reflect comments from OMB concerning the requirements of Part I of Circular No. A-95. Changes made to satisfy those requirements are as follows:

1. Sec. 284.14(a) has been revised to recognize that the programs subject to Part I of Circular No. A-95 (Revised) are listed in Attachment D of the circular or in the Catalog of Federal Domestic Assistance, whichever bears the later date.

2. Sec. 284.14(c) incorporates most of the provisions of sec. 284.14(b) of the proposed regulation and has been revised to require a requesting entity to notify the appropriate A-95 clearinghouse of its application for assistance prior to the Corps initiating a feasibility study. The Corps will provide necessary information for such notification based on a reconnaissance conducted by Corps personnel.

3. In Sec. 284.14(e), revisions have been made to clarify that Corps field offices will coordinate draft project reports with A-95 clearinghouses, allowing 30 days for comment.

4. In Sec. 384.14(f), provisions have been added, consistent with OMB Circular No. A-95, concerning explanations which must be given to A-95 clearinghouses if their recommendations are not adopted.

5. Sec. 284.14(g) has been added to encourage coordination with A-95 clearinghouses apart from the formal Project Notification and Review System established in Part I of OMB Circular No. A-95 and implemented by this section of the regulation.

6. In Sec. 384.17, guidance on coordination of Environmental Impact Statements with A-95 clearinghouses has been revised to provide that the EIS must be accompanied by pertinent information on the alternatives and proposed plans.

With the above changes, and other editorial revisions, the regulation is hereby adopted as set forth below.

This regulation is effective December 1, 1975.

Dated: October 2, 1975.

RUSSELL J. LAMP,
Colonel, Corps of Engineers, Executive.

Sec.

384.10 Purpose.
384.11 Applicability.
384.12 References.
384.13 General.
384.14 Continuing authority studies and reports.
384.15 Other Planning Programs.
384.16 Clearinghouse Comments in Final Reports.
384.17 Clearinghouse Coordination on Environmental Impact Statements.
384.18 A-95 Liaison Officer.
384.19 Directory of A-95 Clearinghouses.
384.20 Effective Date.

AUTHORITY: Office of Management and Budget Circular A-95 (revised), dated 13 November 1973 (Part II, FR Col. 38, No. 228, November 28, 1973).

§ 384.10 Purpose.

This regulation provides guidelines for coordination of investigations and reports with clearinghouses pursuant to the requirements of the Office of Management and Budget (OMB) Circular No. A-95.

§ 384.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 384.12 References.

(a) OMB Circular No. A-95 (Revised), 13 November 1973 (FEDERAL REGISTER, Vol. 38, Number 228, 28 November 1973).

(b) DA Pamphlet No. 210-4.

(c) ER 1105-2-50, "Continuing Authorities Program" (33 CFR Part 263).

(d) ER 1105-2-507, "Preparation and Coordination of Environmental Impact Statements" (33 CFR 209.410).

(e) ER 1165-2-22, "Federal Regional Council Coordination."

§ 384.13 General.

A-95 clearinghouses are comprehensive planning agencies, and as such, will probably have done land use, transportation, water and sewer, air and water pollution, natural resources and other developmental plans and studies. Thus, they represent a prime resource for planning intelligence in a study area, and their involvement in Corps planning studies from the very beginning can serve to eliminate duplication of effort and can provide valuable leads as to local sources of data and area plans. Inasmuch as most clearinghouses are COG's (Councils of Governments), they provide a direct link to local governments in the area and can assist the reporting officer with intergovernmental contacts.

§ 384.14 Continuing Authority Studies and Reports.

(a) Attachment D of Circular No. A-95 and Appendix I to the Catalog of Federal Domestic Assistance, designate the programs under which requests for assistance are subject to the requirements of the Project Notification and Review System (Part I of A-95). The following Corps of Engineers programs are included:

(1) Beach Erosion Control Projects (Small Beach Erosion Control Projects)—Catalog No. 12.101.

(2) Flood Control Projects (Small Flood Control Projects)—Catalog No. 12.106.

(3) Navigation Projects (Small Navigation Projects)—Catalog No. 12.107.

(4) Snagging and Clearing for Flood Control—Catalog No. 12.108.

(b) Certain planning, design and construction activities can be conducted by the Corps under the above five continuing authorities, provided a State or other political subdivision is able to furnish evidence of legal authorization and financial ability for necessary local participation. Detail program guidance for these authorities is contained in ER 1105-2-50.

(c) Entities satisfying the criteria in paragraph (b) of this section may make letter requests to the appropriate Division or District Engineer regarding water resources problems and the possibility of consideration under these Corps authorities. The reporting officer shall furnish a copy of the request to the appropriate State and areawide planning and development clearinghouses, upon initiating a reconnaissance investigation.

(1) If the Division Engineer gives approval for undertaking a feasibility study, the reporting officer shall instruct the requesting entity to notify the appropriate State and areawide planning and development clearinghouses in accordance with para 2, Part I, OMB Circular A-95, and shall provide the requesting entity with appropriate information for such notification. Notification shall take place prior to the Corps initiating the feasibility study.

(2) If the undertaking of a feasibility study is disapproved by the Division Engineer, the reporting officer shall so notify the appropriate clearinghouses concurrently with the requesting entity.

(d) If the Corps or the requesting entity receive an expression of clearinghouse interest within 30 days after the notifications required in paragraph (c) of this section, appropriate coordination between the Corps, the clearinghouse and the requesting entity shall be established by the Corps during the Recon or the feasibility study. Otherwise, coordination with clearinghouses will follow the same procedures established for coordination with the States and other concerned political subdivisions.

(e) Reporting officers shall provide copies of draft Detailed Project Reports to appropriate State and areawide clearinghouses for review. A minimum of 30 days shall be allowed for comment. The provisions of this paragraph may be accomplished in conjunction with the coordination required by § 384.17 of this regulation, in those cases where an EIS has been prepared. Coordination of draft

reports with A–95 clearinghouses will satisfy the requirements of paragraphs 4e and 6b, Part I, OMB Circular A–95 (Appendix A). Reporting officers shall inform such clearinghouses of changes to the proposed plan resulting from approval actions by Division Engineers or the Chief of Engineers, prior to the initiation of construction.

(f) Reporting officers shall provide notification of Corps action on a proposed plan to clearinghouses which have previously reviewed such plan, within seven days of being informed of such action, concurrently or following notification of appropriate Congressional delegations and local interests. If a clearinghouse has recommended against approval of a plan, and the Chief of Engineers approves the plan, or if a clearinghouse recommends specific and major substantive changes to a plan and the plan is approved without such changes, then the reporting officer shall furnish the clearinghouse, in writing, an explanation therefor.

(g) The requirements of the Project Notification and Review System, as provided in paras (c)–(f) of this section, do not preclude additional coordination between reporting officers and clearinghouses, as provided in § 384.15 of this regulation.

§ 384.15 Other Planning Programs.

The provisions of Parts II and IV of OMB Circular No. A–95 are applicable to Corps planning programs not included in § 384.14, but will not supersede other required and established procedures for communication and coordination between the Corps of Engineers and States, local interests and individuals. In the interest of sound, efficient planning and effective coordination, notices of study initiations, notices of public meetings, notices of report completion, reports and related documents will be furnished the appropriate clearinghouses. In addition, Division and District Engineers, or their designated representatives will be the contact with the State and areawide clearinghouses and will explore with them other general arrangements for coordination and review.

§ 384.16 Clearinghouse Comments in Final Reports.

Reports submitted to OCE under programs covered by § 384.14 and 384.15, shall include any review comments of A–95 clearinghouses together with discussion of the consideration given the comments in reaching conclusions. Any departures from State or areawide plans as identified by the clearinghouse comments should be justified in this discussion. If no comments are received from clearinghouses, it should be so noted and report processing should continue in accordance with prescribed procedures.

§ 384.17 Clearinghouse Coordination on Environmental Impact Statements (EIS).

The EIS, submitted to the Council on Environmental Quality (CEQ) pursuant to Section 102(2)(C) of the National Environmental Policy Act, must be accompanied by the views and comments of those State and local agencies authorized to develop and enforce environmental quality standards. Guidelines published by the CEQ designate the clearinghouses as an appropriate channel through which to secure the required State and local environmental agency views and comments.

(a) *Continuing Authorities Identified in § 384.14.* When required, Environmental Impact Statements, together with pertinent information on the alternatives and proposed plans, will be submitted directly to appropriate areawide clearinghouses for review and comment, as well as to the Governor or his representative. Provisions of paragraph (b) of this section are applicable for obtaining comments from State clearinghouses.

(b) *Other Planning Programs.* Letters transmitting the EIS, together with pertinent information on the alternatives and proposed plans, to the Governor or his designated representative for review and comment will request that the views and comments of the State clearinghouse be ascertained in accordance with OMB Circular No. A–95, if the State clearinghouse is not also the Governor's designated representative.

(c) *Additional Guidance.* Additional guidance on coordination of the EIS is contained in ER 1105–2–507 (33 CFR 209.410).

§ 384.18 A–95 Liaison Officer.

The Corps Regional Representatives to the Federal Regional Councils, as designated by ER 1165–2–22, will also serve as A–95 Liaison Officers to the appropriate Council. The Liaison Officers will be the central contact point with the Council on A–95 matters as they affect the Corps Civil Works mission in the Region, in accordance with the procedures set forth in ER 1165–2–22.

§ 384.19 Directory of A–95 Clearinghouses.

The directory of clearinghouses may be found in DA Pamphlet 210–4. A copy of OMB Circular A–95 (Revised) is provided as Appendix A of this regulation.

§ 384.20 Effective Date.

This regulation is effective December 1, 1975, as published in the FEDERAL REGISTER on November 3, 1975 and codified as 33 CFR 384.

[FR Doc.75–27741 Filed 10–31–75;8:45 am]

[ER 1105–2–50]

PART 263—CONTINUING AUTHORITIES PROGRAM

Policies and Procedures

On January 8, 1975, the Secretary of the Army, acting through the Chief of Engineers, proposed a regulation prescribing policies and procedures to implement seven legislative authorities under which the Secretary of the Army, acting through the Chief of Engineers, is authorized to plan, design and construct certain types of water resources improvements without specific Congressional authorization. These authorities have been established by Congress to enable the Chief of Engineers to respond on a timely basis to small scale problems involving flooding obstructions to navigation, and beach erosion.

Comments were received from several Corps of Engineers field offices, the Department of the Interior, and the Georgia Department of Natural Resources, Game and Fish Division. All comments were given careful consideration, and as a result, the following changes were made:

1. § 263.11. This section has been revised to indicate the effective date.

2. § 263.14(c). The restriction on utilization of the Program for adoption of maintenance responsibilities on a non-Federal project was clarified. The language was rewritten to read: "This program may not be used for adoption of a non-Federal project for future maintenance at Federal expense."

3. § 263.15(a), 3rd line. The words "local cooperation requirements" are changed to read "legislative funding limitations". Local cooperation requirements are determined by the established policies for each purpose served by the project formulated under the Continuing Authorities Program.

4. § 263.15(b). Subparagraph (1) has been revised and changed to subparagraphs (1)–(4) to clarify the policy on costs to be included within the established legislative cost limitation, costs considered as project first costs, costs for economic analysis, and the use of Federal funds by local interests to satisfy local cooperation requirements. Subparagraph (2) has been changed to subparagraph (5).

5. § 263.15(c)(1). The statement that "charges not to exceed $5,000 may be made against the District revolving fund" has been included; the statement is also found in § 263.17(a).

6. § 263.15(c)(2). Subparagraph has been revised to reflect the concept that only Stage 2 of the planning process is the "feasibility" study. The criterion for termination of a study "substantial public opposition" has been changed to "a lack of public support". With regard to what constitutes a "reasonable length of time for local interests to provide assurances of local cooperation," the statement "as determined by the reporting officer" has been added. OCE cannot set specific time limits since the situation is different in many States. The criteria for initiating a feasibility study have been changed as follows:

a. The requirement that there exist solutions for which "Federal participation and Corps implementation are justified" has been changed to read "Federal participation may be justified"; the Recon is not intended to result in the identification of a justified project but is only intended to provide a first look at the Federal interest in the request from non-Federal interests, except under conditions of § 263.17(b)(3).

b. The requirement that existing entities be "capable and willing to satisfy the typical local cooperation requirements for such solutions" has been changed to read "legally and financially capable of satisfying the typical local cooperation requirements for such solutions". Until a definite plan is recommended, the willingness of local interests to participate cannot be ascertained with any validity.

c. The following criterion was added to place the responsibility on the Division Engineer to not allow excessive costs for feasibility studies: "a feasibility study can be accomplished at a reasonable cost compared to the prospective benefits from solving the problems identified in the Recon."

d. A provision was added as paragraph (c)(2)(b) of this section to encourage Division

Engineers to refer any questions on Federal interest or policy to OCE prior to authorizing a feasibility study.

7. § 263.15(c)(3). The title of Stage 3 planning has been changed from "Detailed Project Design" to "Development of Recommended Plan." The first sentence has been deleted; it was considered unnecessary. The penultimate sentence has been rewritten into paragraph (g) of this section. The last sentence has been rewritten into a new paragraph (d) of this section.

8. § 263.15(f). The provisions for obtaining views of States and regional offices of Federal agencies have been changed so as to allow Division Engineers to utilize letters obtained by reporting officers from the coordination of draft reports, if the letters are current. Criteria are provided for defining the term current.

9. § 263.15(g). The first sentence revised to include the words "recommended by reporting officers" after the word "projects" and to authorize the Director of Civil Works to approve and disapprove projects for the Chief of Engineers. A new sentence has been inserted after the first sentence, as follows: "Projects will be approved on the basis of a Detailed Project Report, except in the case of emergencies under Section 14 and 3 Authorities, for which a Recon Report (developed for the recommended work) may be utilized (§ 263.17(b)(3))." The words "approval of the DPR" have been deleted from the second sentence.

10. § 263.15(j). This new paragraph, entitled *Withdrawal of Project Approval*, was added to provide the mechanism for removing approved projects from the backlog, consistent with the intent of Section 12, Public Law 93-251.

11. § 263.16(b). A sentence was added after the first sentence, which reads: "Division Engineers are responsible for insuring, through intensive management, that studies are initiated and terminated at the appropriate time, and funded at the appropriate level, for efficient use of Program funds."

12. § 263.16(c). This new paragraph was added to require reporting officers to designate Program managers and to insure that Recons are appropriately conducted in accordance with the limited objective established by the regulation.

13. § 263.17(a). The words "Stage of the Feasibility Study" have been deleted from the title, and the words "continuation of the" have been deleted from the first sentence, consistent with § 263.13(b). The word "prior" has been inserted before the word "approval" in the penultimate sentence. A new sentence was inserted after the penultimate sentence to require justification of requests for Recon costs exceeding $5,000.

14. § 263.17(b). The word "Continuation" has been changed to "Initiation" in the title and in the first sentence. The second and third sentences have been reorganized to become subparagraphs (2) and (3), respectively. A new subparagraph (1) has been added: "Once the Recon is completed, no further work may be accomplished without a work allowance and allotment from OCE." A new subparagraph (4) was added to read: "Except as provided in subparagraph (3) above, or when the Division Engineer desires OCE views, Recon reports will be transmitted to OCE for information only."

15. § 263.17(c). The words "consistent with the capability of the District to conduct the study" have been added to the second sentence.

16. § 263.17(e)(1). That portion of the last sentence after "* * * Division Engineers * * *" has been deleted, thereby delegating the authority to Division Engineers to waive the requirement for a public meeting.

17. § 263.17(e)(2). The paragraph has been revised to include consideration of nonstructural solutions and a "no development" plan.

18. § 263.17(e)(4). A new paragraph has been inserted entitled *Cultural Resources Survey*, and requires that a cultural resources survey be accomplished as part of the preparation of a DPR.

19. § 263.17(e)(5) vice § 263.17(e)(4). This subpara has been revised to require the reporting officer to include with the DPR an analysis to demonstrate that non-Federal entities are legally constituted and have sufficient financial capabilities to satisfy all requirements of local cooperation. The requirements for the content of a letter of intent have been also added.

20. § 263.17(f)(3) vice § 263.17(e)(5). The para has been revised to require the District Engineer, rather than the Division Engineer, to issue a public notice regarding his recommendations when a DPR is transmitted to OCE by the Division Engineer. The following provision has been inserted: "This requirement may be accomplished by the Division Engineer, at his discretion." The following has been added to the last sentence to clarify that a notice is not required for emergency work under Section 14 or 3 Authorities: "* * * or when a Recon Report is submitted to OCE for project approval."

21. § 263.17(g). In the first sentence, the phrase "letter of assurances" has been changed to "letter of intent".

22. § 263.17(h). The following phrase has been added to the end of the first sentence "* * * or Recon reports when transmitted to OCE for project approval." In order to minimize the problems encountered in approving signed local cooperation agreements (see item 22 below), the following has been added after the words "* * * to DAEN-CWE-B for information": "* * *, and to DAEN-REA-P for review of local cooperation requirements, * * *".

23. § 263.17(k). The paragraph has been revised to clarify the processing of local cooperation agreements.

24. § 263.17(l). That portion of the first sentence preceding the semicolon has been deleted as unnecessary. The requirement stated in paragraph (1)(2) of this section has been added.

25. § 263.18. In the second sentence, following the word "encouraged", the following has been added: "for specific studies and projects". Section 3 Authority has been deleted from the middle column.

26. § 263.18(b). The words "remainder of" have been deleted from the title and the completion-time objective for Section 208, 14 and 3 Authority studies has been changed from six to nine months in response to comments from field operating agencies.

27. § 263.18(f). The total completion-time objectives have been changed from 21 months to 24 months for Section 208 and 14 Authorities.

28. § 263.19(a). The paragraph has been revised to adopt a suggestion received from the field to have the DPR (main report) follow generally the guidelines for a feasibility (survey) report, with a "Design Appendix" providing the advanced engineering and design work accomplished as part of Stage 3 planning, i.e., development of the recommended plan to the extent required to proceed to plans and specifications. The second, third and fourth sentences have been revised to reflect this concept.

29. § 263.19(c). The first sentence has been revised consistent with § 263.19(a).

30. § 263.20(a). The first sentence has been deleted as unnecessary.

31. § 263.20(d). The reference has been changed from ER 11-2-2-240 to ER 11-2-201.

32. Subpart B, § 263.21. A new paragraph (d) has been added to this section.

33. Subpart B, § 263.22. A new paragraph (c) has been added to this section.

34. Subpart C, § 263.23. New paragraphs (a) and (e) have been added to this section.

35. Subpart C, § 263.24. A new paragraph (c) has been added to this section.

36. Subpart C, § 263.25. A new subparagraph has been added to para (b) and the policy has been amended to include erosion damage; a new subparagraph has been added to para (c) to define "shoreline"; and a new paragraph (d) has been added to this section.

37. Subpart D, § 263.26(c). ER 1165-2-19 has been added as a reference.

With the above changes, and additional editorial revisions, the proposed regulation is adopted as set forth below.

Effective date. This regulation is effective December 1, 1975.

Dated: October 1, 1975.

RUSSELL J. LAMP,
Colonel,
Corps of Engineers Executive.

Subpart A—General

Sec.
263.10 Purpose.
263.11 Applicability and Effective Date.
263.12 References.
263.13 Program Scope.
263.14 Program Eligibility Requirements.
263.15 Program Policies.
263.16 Program Management Responsibilities.
263.17 Planning, Design and Construction Procedures.
263.18 Program Completion-Time Objectives.
263.19 Detailed Project Reports.
263.20 Program Funding.

Subpart B—Navigation Policy

263.21 Small Navigation Project Authority (Section 107).
263.22 Authority for Snagging and Clearing for Navigation (Section 3).

Subpart C—Flood Control Policy

263.23 Small Flood Control Project Authority (Section 205).
263.24 Authority for Snagging and Clearing for Flood Control (Section 208).
263.25 Authority for Emergency Streambank and Shoreline Protection of Public Works and Nonprofit Public Services (Section 14).

Subpart D—Shore Protection Policy

263.26 Small Beach Erosion Control Project Authority (Section 103).
263.27 Authority for Mitigation of Shore Damage Attributable to Navigation Works (Section 111).

AUTHORITY: See § 263.13.

Subpart A—General

§ 263.10 Purpose.

This regulation provides policies and procedures for seven legislative authorities under which the Secretary of the Army, acting through the Chief of Engineers, is authorized to plan, design and construct certain types of water resource improvements without specific Congressional authorization.

§ 263.11 Applicability and effective date.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities. This regulation is effective December 1, 1975, as published in the FEDERAL REGISTER on November 3, 1975 and codified as 33 CFR 263. The provisions of this

regulation are fully applicable to studies commenced and projects initiated after the effective date. For studies underway on the effective date, reporting and approving officers shall fully consider the requirements of this regulation and shall take those actions as necessary to insure that projects are approved on the basis of criteria established by this regulation.

§ 263.12 References.

(a) ER 11-2-201, Civil Works Activities, Funding, Work Allowances and Transfers.
(b) ER 405-2-680 Local Cooperation Projects.
(c) ER 1105-2-10 Intensive Management.
(d) ER 1105-2-402 Organization and General Content of Feasibility Reports.
(e) ER 1105-2-403 Format and Appearance of Feasibility Reports
(f) ER 1105-2-502 Public Meetings (33 CFR 209.405)
(g) ER 1105-2-507 Preparation and Coordination of Environmental Statements (33 CFR 209.410)
(h) ER 1105-2-800 Public Involvement: General Policies (33 CFR 380)
(i) ER 1105-2-811 A-95 Clearinghouse Coordination (33 CFR 384)
(j) ER 1110-2-1150 Post-Authorization Studies
(k) ER 1165-2-18 Reimbursement for Advance Non-Federal Participation in Civil Works Projects

§ 263.13 Program scope.

The Continuing Authorities Program (hereafter referred to as the "Program"), consists of the following legislative authorities, which are reproduced and accompanied by policy interpretation in Subparts B, C and D.

(a) *Small Flood Control Project Authority.* Section 205, Flood Control Act of 1948, as amended (33 USC 701s).

(b) *Authority for Snagging and Clearing for Flood Control.* Section 208, Flood Control Act of 1954, as amended (33 USC 701g).

(c) *Authority for Emergency Streambank and Shoreline Protection of Public Works and Nonprofit Public Services.* Section 14, Flood Control Act of 1946, as amended (33 USC 701r).

(d) *Small Navigation Project Authority.* Section 107, River and Harbor Act of 1960, as amended (33 USC 577).

(e) *Authority for Snagging and Clearing for Navigation.* Section 3, River and Harbor Act of 1945 (33 USC 603a).

(f) *Small Beach Erosion Control Project Authority.* Section 103, River and Harbor Act of 1962, as amended (33 USC 426g).

(g) *Authority for Mitigation of Shore Damages Attributable to Navigation Projects.* Section 111, River and Harbor Act of 1968 (33 USC 426i).

§ 263.14 Program eligibility requirements.

Work funded under this Program must meet the requirements of Federal interest and Corps responsibility set forth in one of the legislative authorities referenced in § 263.13. Any project recommended must be justified under established Federal planning criteria, must be complete in itself and must not obligate the Federal government to future work except for those cases in which maintenance by the Federal government is provided by applicable provisions of general law. Eligibility is not permitted for the following:

(a) *Projects Specifically Authorized by Congress.* The Program will not be used to implement any portion of a project specifically authorized by Congress, including postauthorization changes to such projects. However, once a project has been completed to the full extent permitted by its Congressional authorization, this Program could be utilized to provide for a new, complete-in-itself improvement which will not impair or substantially change the purposes of the specifically authorized project.

(b) *Existing Non-Federal Responsibility.* This Program may not be utilized for a project that would in effect nullify or change an existing condition of non-Federal responsibility required for a project specifically authorized by Congress, whether constructed or not. Such changes would require Congressional action.

(c) *Operation and Maintenance of Non-Federal Projects.* This Program may not be used for adoption of a non-Federal project for future maintenance at Federal expense.

§ 263.15 Program policies.

(a) *Designation of Authority.* One of the referenced legislative authorities must be designated as the primary purpose of the project for allocation of Program funds and for determining legislative funding limitations. However, other authorized project purposes are not precluded to meet related needs as determined appropriate by the Chief of Engineers. The cost limitation of Corps participation for the designated authority will prevail regardless of the number of project purposes served. Normally, only one authority will be used for each study accomplished and each project recommended. Certain authorizations specify individual project allotment ceilings "from the appropriations for any one fiscal year." It is the intent of Congress that such specified amount be the maximum limit for Corps of Engineers expenditures at each location or individual project undertaken, without regard to time.

(b) *Applicability of Costs to Federal and Non-Federal Shares.* Unless otherwise specified in a legislative authority (§ 263.13), cost sharing policies applicable to Congressionally authorized projects are applicable to projects recommended under this Program. Any legislative limitation on Corps participation in project costs, however, takes precedence over the apportionment of costs resulting from established cost sharing policies.

(1) *Project First Costs.* Project first costs include all Corps of Engineers costs for investigations, design, and construction (including costs of supervision and administration) incurred subsequent to the Division Engineer's transmittal of a Detailed Project Report or Recon Report to OCE for approval. These costs are normally those related to preparation of plans and specifications and project construction.

(2) *Federal Cost Limitation.* All Corps of Engineers costs of investigations, planning, design and construction, to include those incurred prior to transmittal of the DPR or Recon Report to OCE for approval are to be included within the cost limitation established by Congress for a particular Program authority. Expenditures of other Federal agencies under their own authorities are not to be included within this cost limitation.

(3) *Costs for Economic Analysis.* Costs to be considered as a part of the economic analysis (i.e., determination of a benefit-cost ratio), are the same as those considered in feasibility reports transmitted to Congress for authorization. In this regard, all costs incurred prior to the Division Engineer's transmittal of the Detailed Project or Recon Report to OCE for approval are considered "preauthorization study costs" and are excluded from the economic analysis.

(4) *Use of Federal Funds to Satisfy Local Cooperation Requirements.* Where the law requires that lands, easements and rights-of-way be furnished by local interests "without cost to the United States", direct contributions of other Federal agencies may not be accepted by local interests to satisfy such local cooperation requirements once local interests have furnished a letter of intent (see § 263.17(e)(5)) to the reporting officer.

(5) *Non-Federal Costs.* Local interests must agree to assume responsibility for designated items of local cooperation and for all project costs in excess of the specified Corps cost limitation, or as otherwise apportioned, to insure that expenditure of Corps funds will result in a project that is integrally complete and fully effective. If the project cost exceeds the Corps cost limit, the difference is provided by local cash contributions. Local participation requirements will not be reduced, offset, or otherwise credited for local expenditures prior to the approval of a project by the Chief of Engineers. The scope of the project may be increased, including the addition of project purposes, if local interests are willing to pay the additional costs.

(c) *The Planning Process.* Planning will be conducted generally in accordance with the 1105-2-200 series of planning regulations, adapted to this Program, as discussed in paragraph (c)(1) throught (c)(3)of this section and in Appendix B.

(1) *Stage 1—Reconnaissance.* The reporting officer is delegated the authority to conduct a Reconnaissance (Recon) upon the request of a non-Federal governmental entity or official, to determine if a detailed feasibility study is warranted. Charges not to exceed $5,000 may be made against the District revolving fund. The results of the Recon will be reported to the Division Engineer in a brief letter report; the Division Engineer will require of a reporting officer

only information considered essential for approval of proceeding with the feasibility study, as provided in paragraph (e)(2) of this section.

(2) *Stage 2—Feasibility Study (Plan Formulation).* The Division Engineer is delegated the authority to authorize the reporting officer to conduct a feasibility study, subject to availability of funds from OCE.

(i) The criteria for Division Engineer approval for initiating a feasibility study are: there is a Federal interest in the problem identified in the Recon, there exists solutions for which Federal participation may be justified under one of the Program authorities, there are existing non-Federal entities which are legally and financially capable of satisfying the typical local cooperation requirements for such solutions, and a feasibility study can be accomplished at a reasonable cost compared to the prospective benefits from solving the problems identified in the Recon.

(ii) Where a significant question arises concerning the Federal interest in a problem, the applicability of one of the Program authorities, or other policy matters, the case should be referred to DAEN–CWP or DAEN–CWO prior to authorization of a feasibility study.

(iii) The feasibility study should complete the plan formulation process, including the selection of a plan. The study should be terminated if any of the above criteria are not satisfied, if there is a lack of public support, or in the case of obtaining local assurances, that a reasonable length of time (as determined by the reporting officer) has passed without satisfactory assurances from local interests. (See also (§§ 263.17(e)(5)).

(3) *Stage 3—Development of Recommended Plan.* This stage corresponds to Phase II AE&D for projects specifically authorized by Congress. Authority to continue the planning process from plan formulation to development of a recommended plan is delegated to the reporting officer, unless otherwise provided by implementing instructions issued by the Division Engineer, in accordance with Division responsibilities for intensive management of the program (§263.16(b)).

(d) *Review of Planning Reports.* The primary responsibility for review of all aspects of Recon reports and DPR's rests with the Division Engineer. Division Engineers (with the exception of New England and Pacific Ocean) are delegated the authority to approve the plan formulation aspects of the study and the engineering design of recommended plans, in order that the reporting officer may proceed with work on plans and specifications pending formal approval of the project by the Chief of Engineers. Review of DPRs and Recon reports by OCE will be limited to conformance of recommended plans to existing policy.

(e) *Public Involvement.* General policy and guidance on public involvement is contained in ER 1105–2–800. Requirements for public meetings are discussed further in § 263.17(e)(1). There is essentially no difference in the Corps' objectives for involving and informing the public for studies and projects in this Program than for projects planned and constructed under specific Congressional authority. Since plans formulated under this Program are usually smaller in scope than those specifically authorized by Congress, planners should be able to more readily identify the affected and interested public early in the planning process and initiate a public involvement program that can be continued through plan implementation.

(f) *State and Agency Coordination.* Reporting officers should generally follow the same procedures for agency coordination as in the case of a Congressionally authorized study. Coordination with A–95 clearinghouses is discussed in ER 1105–2–811.

(1) *Section 205, 107, 103, 111 and 208 Authorities.* The views of Governors of affected States, or their designated representatives, and regional offices of appropriate Federal agencies must accompany the DPR when submitted to OCE for approval. Division Engineers shall insure that coordination letters are current and have been adequately considered in the plan formulation and review process. Letters obtained by reporting officers from the coordination of draft or final reports are to be considered current only if the dates on such letters are no more than 360 days prior to the date of submittal of the DPR to OCE, and if no significant changes have been made to the DPR which should be reviewed by the originators of such letters. Reporting officers will normally accomplish any required recoordination of reports to meet the above criteria. Division Engineers may elect, however, to obtain the views of States or Federal agencies, as deemed appropriate. The Chief of Engineers will not normally coordinate DPRs with Governors or Federal Department heads.

(2) *Section 14 and 3 Authorities.* The provisions of para (1) shall apply to the extent determined feasible by the Division Engineer. To be responsive to emergency conditions and to avoid undue delays, Division Engineers may permit coordination with States and regional offices of Federal agencies to be effected concurrently with the review of the DPR or Recon report by OCE.

(g) *Project Approval.* With the exception of projects requiring the personal attention of the Chief of Engineers, the Director of Civil Works is authorized to approve or disapprove projects under this Program, for the Chief of Engineers. Projects will be approved on the basis of a Detailed Project Report (DPR), except in the case of emergencies under Section 14 or 3 Authorities, for which a Recon report (developed for the recommended work) may be utilized. (see § 263.17(b)(3)). Prior to approving a project for construction, requirements for filing an EIS with CEQ must be satisfied, if an EIS has been prepared (ER 1105–2–507), a letter of intent for local cooperation must be obtained from non-Federal interests in accordance with § 263.17(e)(5), and views received from affected States and regional offices of Federal agencies must be considered.

(h) *Project Construction.* Division Engineers may authorize District Engineers to commence work on plans and specifications pending project approval; however, contracts for construction shall not be entered into, nor shall funds be allocated for construction, until the Chief of Engineers has approved the project. Procedures for constructing approved projects, including the preparation of plans and specifications are generally the same as employed for Congressionally authorized projects.

(i) *Hold and Save Provision.* As provided by Sec. 9, Pub. L. 93–251 (88 Stat. 16), "The requirement * * * that non-Federal interests hold and save the United States free from damages due to construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors." This provision will be reflected in all "hold and save" requirements of local cooperation.

(j) *Withdrawal of Project Approval.* The Chief of Engineers may withdraw approval of a project under the Continuing Authorities Program at any time prior to the signing of a written agreement under Section 221, Public Law 91–611 (§ 263.17(k)).

(1) Reporting officers shall at least annually review approved projects on which construtcion has not been intiated and shall determine if such projects should remain on the backlog awaiting construction funds. A recommendation for withdrawal of project approval shall be based on the following criteria:

(i) Local interests are unwilling or unable to provide the necessary local cooperation,

(ii) The project is no longer considered the best solution to the problems of the area, considering economic, social, and environmental factors, or

(iii) The project is no longer justified under applicable Federal planning criteria.

(2) Findings which indicate that the project should remain in the backlog shall not be reported to OCE. Recommendations for withdrawal of project approval shall be transmitted to DAEN–CWP–E, C, or W, or DAEN–CWO, depending on the project authority.

(i) Recommendations shall be coordinated with local, State and Federal interests consistent with Corps public involvement objectives, prior to transmittal to OCE.

(ii) Recommendations shall be accompanied by a brief Project Information Sheet, as required under procedures for recommending project deauthorization under Section 12, Public Law 93–251.

(3) Reporting officers shall notify appropriate local, State and Congressional interests of any final action taken by OCE on recommendations for withdrawal of project approval.

(4) As in the case of project approval, withdrawal of approval may be accomplished by the Director of Civil Works, for the Chief of Engineers.

§ 263.16 Program management responsibilities.

(a) *Office, Chief of Engineers.* Two OCE elements will have primary responsibility for program management: DAEN–CWP (Section 205, 208, 14, 107 and 103 Authorities) and DAEN–CWO (Section 3 and 111 Authorities). These elements are responsible for the staffing of all actions required of OCE by this regulation, maintaining a list of Division and District Program coordinators (as required by paragraphs (b) and (c) of this section), and evaluating the performance of the Program.

(b) *Division Engineers.* Divisions are responsible for intensive management of the Program in accordance with ER 1105–2–10, and are delegated certain approval authorities by the Chief of Engineers, as given in § 263.15 and § 263.17 of this regulation. Division Engineers are responsible for insuring, through intensive management, that studies are initiated and terminated at the appropriate time, and funded at the appropriate level, for efficient use of Program funds. Division Engineers are to specifically designate an individual, or individuals, within the Division office, to manage and coordinate activities under the Continuing Authorities Program.

(c) *District Engineers/Operating Division Engineers.* Reporting officers are to specifically designate individuals to coordinate and manage activities under the Continuing Authorities Program. Reporting officers are responsible for insuring that the Reconnaissance investigations are conducted only to the extent required to achieve the objective established by this regulation.

§ 263.17 Planning, design and construction procedures.

This paragraph prescribes procedures to be followed from the initiation of a Recon to completion of construction of a project. Division Engineers are to establish milestones as deemed appropriate, in accordance with ER 1105–2–10. Unless otherwise stated, all correspondence with OCE relating to the procedures in this paragraph will be addressed to HQDA (DAEN–CWP–E, C or W) WASH DC 20314 or HQDA (DAEN–CWO) WASH DC 20314, depending on the study authority, as provided for in § 263.16(a).

(a) *Initiation of Reconnaissance.* As outlined in § 263.15(c) Recon stage is designed to provide the Division Engineer with sufficient justification for authorizing a feasibility study. Reporting officers are to notify the Division Engineer and either DAEN–CWP–A or DAEN–CWO by letter when commencing a Recon. Such letter or teletype should give the date the Recon began and an identifying name. Charges may be made against the District revolving fund in amounts not to exceed $5,000. Exceptions to this limitation will require prior approval from DAEN–CWP or DAEN–CWO, depending on the study authority. Requests for such exceptions shall be justified by the reporting officer. The suggested scope of a Recon is more fully discussed in Appendix B. (See also ER 1105–2–811 for A–95 clearinghouse coordination requirements.)

(b) *Approval for Initiation of Feasibility Study.* The Division Engineer is the approving authority for initiation of a feasibility study, and as such, will provide reporting offices with appropriate guidance on submission of a Recon letter report in accordance with the general policy stated in § 263.15(c).

(1) Once the Recon is completed, no further work may be accomplished without a work allowance and allotment from OCE.

(2) The recommendations from a Recon may be released by reporting officers to interested parties after action has been taken by the Division Engineer on the Recon report.

(3) In the case of emergencies under Section 14 or 3 Authorities, the Division Engineer may approve a Recon Report for immediate transmittal to OCE (in five copies) for approval and funding of recommended work. In such cases, the Chief of Engineers may approve exceptions to the requirements stated in paragraph (e)(2) through (e)(5) of this section, as deemed advisable in the public interest.

(4) Except as provided in paragraph (3) of this section, or when the Division Engineer desires OCE views, Recon reports will be transmitted to OCE for information only (in two copies).

(c) *Request for Funding of Feasibility Study.* Reporting officers will request funding of an approved feasibility study, through Division Engineers, to DAEN–CWP–E, C or W or from DAEN–CWO in accordance with § 263.16(a). Requests will include the total estimated funding requirement by fiscal year for the feasibility study (including expenditures previously incurred in the Reconstage), consistent with the capability of the District to conduct the study. Requests for reimbursement for Recon expenditures when a feasibility study has not been approved will be made in a similar manner.

(d) *Issuance of Work Allowance.* Work allowances will be issued by DAEN–CWP or DAEN–CWO, as appropriate, based on available funds. Work on a feasibility study will not proceed until such work allowance has been issued. (See also Part 384 of this Chapter for A–95 clearinghouse coordination requirements.)

(e) *Completion of Feasibility Study.* Studies will be conducted in accordance with the policies given in § 263.15 and the planning process discussed in Appendix B. Division Engineers may request guidance from OCE, or schedule a Plan Formulation Review Conference with OCE, as they deem appropriate.

(1) *Public Meetings.* Public meetings are not to be considered the only technique for informing the public of the results of feasibility studies or for soliciting input from the public. However, as a matter of policy, at least one public meeting is to be held during the feasibility study, as discussed in § 209.405 of this Chapter. In certain instances, the reporting officer may feel that the Corps' objectives on public involvement have been achieved without holding a public meeting. Omission of the minimum requirement of one public meeting is to be an exception to policy and will require prior approval from the Division Engineer.

(2) *Application of Federal Planning Criteria.* In general, all Federal planning criteria applicable to studies specifically authorized by Congress are also applicable to studies conducted under this Program. Particular attention shall be given to the consideration of nonstructural solutions, consideration of a "no development" plan, and the assessment of impacts of alternative plans. Plans are to be formulated to provide the same independent and complete-within-itself project as recommended under regular authorization procedures.

(3) *Environmental Impact Statement (EIS) Requirements.* Requirements for preparation, coordination and submittal of the EIS are contained in ER 1105–2–507. Studies conducted under Section 14 and 3 Authorities may not require an EIS, as provided in § 209.410(h) of this Chapter.

(4) *Cultural Resources Survey.* A cultural resources survey shall be accomplished for the consideration of historic and cultural resources as part of the preparation of the DPR.

(5) *Assurances of Local Cooperation.* In addition to involvement of local interests throughout the planning process, a letter of intent shall be requested for specific items of local cooperation near the completion of Stage 2 planning (§ 263.15(c)(2)). The letter of intent must be received from the non-Federal entities which will be ultimately signing a Section 221 agreement (Paragraph (k) of this section), and will be transmitted with the DPR, or Recon report in the case of emergencies under Section 14 or 3 Authorities, together with an analysis of the reporting officer to demonstrate that such non-Federal entities are legally constituted, and have sufficient financial capabilities to satisfy all requirements of local cooperation.

(i) The reporting officer shall review draft local cooperation and repayment agreements with affected non-Federal interests, advising them of currently estimated costs, anticipated timing of costs, all typical provisions of the agreement or contract, and the timing of process of entering into a final, signed agreement or contract.

(ii) The letter of intent shall include verbatim all local cooperation requirements set forth in the Detailed Project Report, or the Recon report, if utilized for project approval; shall state that a review has been made of draft agreements or contracts; shall indicate an understanding of when final project costs are to be determined by the reporting officer; and shall include the following statement:

In carrying out the specified non-Federal responsibilities for the (*identification of work or project*), (*appropriate entity*) agrees to comply with the provisions of the "Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970", Public Law 91–646,

approved 2 January 1971; and Section 221, Public Law 91-611, approved 31 December 1970, as amended.

(iii) The letter of intent shall be signed or cosigned by the chief legal officer of the political subdivision furnishing the letter to the reporting officer. When a State or a department thereof is to be the sponsor, the Attorney General of that State is the approving authority.

(f) *Submittal of Termination Letters or DPR to OCE.* (1) If a feasibility study is terminated prior to the completion of a DPR, the Division Engineer will notify by letter DAEN-CWP-E, C or W or DAEN-CWO-M, depending on the study authority; such notification is to include reasons for termination, an accounting of expenditure of study funds, and the amount of funds to be returned to OCE. Release of unobligated funds will be effected as soon as possible. Revocation of funds by OCE officially terminates the study. The reporting officer shall notify Congressional delegations and local interests when the study has been officially terminated.

(2) If the feasibility study results in a DPR, ten (10) copies of the report, and related documentation required by § 263.15(e), will be transmitted with recommendations of the Division Engineer to DAEN-CWP or DAEN-CWO, depending on the study authority (reference § 263.16(a)). Exceptions to the requirements of paragraph (e) of this section should be noted in the letter of transmittal. In the review of a DPR, Division Engineers may refer any major disagreements with reporting officers on planning matters to DAEN-CWP-E, C or W, or on technical engineering matters to DAEN-CWE-B, for resolution prior to release of public notice and submittal of the final report to OCE.

(3) Upon submittal of a Detailed Project Report to OCE, the District Engineer shall release a public notice informing the public of the proposed action. This requirement may be accomplished by the Division Engineer, at his discretion. The notice need not invite comments but will include the address of the District and Division Engineer in the event that interested parties desire to request further information or comment on the recommendations. Public notices are not required when a feasibility study is terminated without submittal of a DPR (paragraph (f)(1) of this section), or when a Recon report is submitted to OCE for project approval (paragraph (b)(3) of this section).

(g) *Work on Plans and Specifications.* Division Engineers are delegated the authority to allow District Engineers to commence work on plans and specifications pending approval of a project by the Chief of Engineers, provided a satisfactory letter of intent (§ 263.17(e)(5)) has been received from local interests. Such work may be stopped, however, if review of the DPR by OCE reveals a policy problem affecting the project or the report recommendations. Work on plans and specifications should utilize all remaining funds from allocations for the feasibility study. Additional funds may be requested by separate letter, or included with the Division Engineer's favorable indorsement of a DPR.

(h) *OCE Review and Approval of DPR or Recon Report.* As indicated in para 7a, designated OCE elements are responsible for review, staffing and coordination of the DPR, or Recon report when transmitted to OCE for approval. Maximum reliance will be placed on the review conducted by the Division Engineer. Comments will be solicited from DAEN-CWP, DAEN-CWR, and DAEN-GCC, only as required for approval of the recommended project. In all cases, a copy of the DPR will be forwarded to DAEN-CWE-B for information, and to DAEN-REA-P for review of local cooperation requirements, upon receipt from the Division Engineer. Review of DPR's by the BERH staff may be requested at the discretion of DAEN-CWP. In such instances, the Resident Member, BERH, will be requested to submit comments on the DPR to DAEN-CWP. Project approval normally will be accomplished by the Director of Civil Works, for the Chief of Engineers, in accordance with § 263.15(g).

(i) *Notification of Interested Parties of Action by the Chief of Engineers.* Reporting officers are responsible for notification of all interested parties, including Congressional Delegations, States and local interests, of action taken by the Chief of Engineers on DPR's. Division Engineers may prescribe procedures for such notification as deemed necessary.

(j) *Request for Construction Funds.* Following receipt of DPR approval from OCE, reporting officers may submit a request for construction funds to DAEN-CWP or DAEN-CWO, depending on the Program authority, including an updated schedule of funding requirements by fiscal year based on an estimated date by which plans and specifications for the first construction contract will be completed. (See also § 263.20(a) concerning inclusion of these requests in budget submissions.)

(k) *Approval of Local Cooperation Agreement.* Prior to issuance of a work allowance by OCE for construction funds, a signed written agreement for local cooperation must be obtained and approved by the Secretary of the Army, or his designated representative, in accordance with ER 405-2-680. The signed agreement shall be transmitted to DAEN-REA-P together with a copy of the DPR or Recon report which approved the project or work.

(1) As required by ER 405-2-680, requirements of local cooperation are to be stated in the agreement verbatim from the approved project document. Any deviation shall be submitted to DAEN-CWP for approval by the Director of Civil Works, for the Chief of Engineers, prior to the reporting officer obtaining signatures on the agreement.

(2) After OCE approval of the agreement, a work allowance will be issued by DAEN-CWP or DAEN-CWO depending on the Program authority, based on availability of funds.

(l) *Completion of Project Construction (RCS DAEN-CWB-16).* Policies and procedures for projects constructed under specific Congressional authority, with the exception of budgetary submissions and funding matters, are applicable to projects constructed under this Program. At the completion of project construction, reporting officers shall:

(1) Notify DAEN-CWO or DAEN-CWP-A by letter, including a brief description of the completed project, the estimated requirements for operation and maintenance (Federal and non-Federal), the final Federal and non-Federal project costs, and the date on which the project was considered operational.

(2) Notify local interests that project construction has been completed and inform them of their operation and maintenance responsibilities and the operational characteristics of the project.

§ 263.18 Program completion-time objectives.

To provide a Program responsive to local needs, the following target (maximum) completion time objectives are established and should be used to the extent feasible, in scheduling work and programming funds. Shortening of these objectives is encouraged for specific studies and projects when appropriate. However, high standards of planning, design and construction are not to be sacrificed. Attainment of completion-time objectives through intensive management is to be a major concern for those elements and individuals given Program management responsibilities in § 263.16 of this regulation.

Program authorities, Completion times in months

	205, 107, 103, and 111	208 and 14	Emergency 14 and 3 [1]
(a) Completion of recon and submission of funding request or negative report to OCE	2	1	2
(b) Completion of feasibility study by reporting officer and preparation of DPR	16	9	(2)
(c) Review of DPR or recon report by division engineer, (including provisions of Sec. 263.15(f))	2	1	.5
(d) Review of DPR or recon report by OCE	2	1	.5
(e) Completion of project construction (including plans and specifications), after project approval	18	12	3
(f) Total completion-time objective	40	24	6

[1] The decision to utilize a recon report or DPR for recommending a project under sec. 14 authority is delegated to the division engineer (Sec. 263.17(b)(3)).
[2] Not applicable.

§ 263.19 Detailed project reports.

(a) The Detailed Project Report serves a dual purpose: the report serves both as basis for approval of a project for construction by the Chief of Engineers and it serves as a basis for preparation of plans and specifications. (See exception for emergencies, § 263.17(b)(3)). The main report should reflect the plan formulation, generally in accordance with ER 1105–2–402 and ER 1105–2–403. A Design Appendix will be provided as appropriate, for more detailed information on the development of the plan, or elements of the selected plan, recommended for implementation as a Federal project by the Corps of Engineers. The Design Appendix of the report will generally meet the requirements of ER 1110–2–1150, as it pertains to Phase II AE&D studies for projects specifically authorized by Congress, except that it need not duplicate material on plan formulation covered in the main report. Other appendixes should be included as required.

(b) It is anticipated that DPR's submitted for projects under Section 208 Authority will be less extensive than reports submitted under Section 205, 107, 103 and 111 Authorities, and that DPR's submitted for projects under Section 14 Authority will be further abbreviated due to simplicity of the project. The important point is that the planning process should be generally considered the same for studies conducted under all Program authorities; the plan formulation portion of the DPR should reflect this process and the rationale for arriving at the selected plan and recommendations for Federal participation.

(c) The level of detail and extent of engineering work reflected in the design Appendix must be sufficient to proceed directly to plans and specifications. In the event that the need arrises for feature design memoranda on selected aspects of the project, such requirements should be identified in the letter of transmittal accompanying the DPR when submitted to OCE.

§ 263.20 Program funding.

(a) *Program Budget.* Initial consideration of estimated project construction requirements (including funds for plans and specifications), should be given in the first Program budget submission following completion of Stage 2 planning (§ 263.15(c)(2)). OCE elements designated in § 263.16(a) are responsible for issuing Program budget guidance to field operating agencies, formulating appropriate program budgets from field submissions, and submitting such budgets to DAEN-CWB.

(b) *Use of Program Funds.* Funds appropriated by Congress under the legislative authorities of this Program will be utilized by the Corps of Engineers in conducting studies approved by Division Engineers, and in constructing projects approved by the Chief of Engineers. This does not preclude the use of private architect-engineer firms or other consultant services in Program implementation. No grants of Program funds will be made to local interests for conducting studies or constructing projects, nor shall contributions be made for features or benefits of projects constructed by another agency or by local interests. Reimbursement to local interests for work undertaken by them on an approved project normally will not be authorized; however, if the situation warrants consideration of such a provision, the procedures contained in ER 1165–2–18 may be followed to request OCE approval in advance of such action by local interests.

(c) *Requests for Funds.* Procedures for requesting Program funds are contained in § 263.17. Generally, requests will be made in four instances: after approval by Division Engineer to proceed with a feasibility study, after submission of a DPR to OCE and approval of the Division Engineer to proceed with plans and specifications, after OCE approval of a DPR for proceeding with project construction, and in other cases as required to revise the preceding requests. In the case of requesting funds for plans and specifications and project construction, deviations from amounts estimated in previous budget submissions, or contained in current approved Program budgets, will be briefly explained.

(d) *Retention, Revocation and Transfer of Funds.* Unobligated funds will be reported to DAEN–CWP–A or DAEN–CWO, depending on the study authority under which the funds were allotted, as soon as final costs for studies or construction are determined. When work on a study, plans and specifications, or project construction must be suspended for an unknown period of time, or suspended for an extended period, the above OCE elements are to be notified immediately by letter with the Division Engineer's recommendation regarding retention or revocation of unobligated funds held in that particular account. The authority for transfers and reporting requirements are contained in ER 11–2–201.

Subpart B—Navigation Policy

§ 263.21 Small navigation project authority.

(a) *Legislative Authority.* Section 107 of the River and Harbor Act of 1960, as amended by Section 310 of the River and Harbor Act of 1965 and by Section 112 of the River and Harbor Act of 1970, states as follows:

(a) The Secretary of the Army is authorized to allot from any appropriations hereafter made for rivers and harbors not to exceed $25,000,000 for any one fiscal year for the construction of small river and harbor improvement projects not specifically authorized by Congress which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other purposes, when in the opinion of the Chief of Engineers such work is advisable, if benefits are in excess of the costs.

(b) Not more than $1,000,000 shall be allotted for the construction of a project under this section at any single locality and the amount allotted shall be sufficient to complete the Federal participation in the project under this section.

(c) Local interests shall provide without cost to the United States all necessary lands, easements and rights-of-way for all projects to be constructed under the authority of this section. In addition, local interests may be required to hold and save the United States free from damages that may result from the construction and maintenance of the project, and may be required to provide such additional local cooperation as the Chief of Engineers deems appropriate. A State, county, municipality or other responsible local entity shall give assurance satisfactory to the Chief of Engineers that such conditions of cooperation as are required will be accomplished.

(d) Non-Federal interests may be required to share in the cost of the project to the extent that the Chief of Engineers deems that such cost should not be borne by the Federal Government in view of the recreational or otherwise special or local nature of the project benefits.

(e) Each project for which money is allotted under this section shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation other than routine maintenance, and except as may result from the normal procedure apply to projects authorized after submission of survey reports and projects constructed under the authority of this section shall be considered as authorized projects.

(f) This section shall apply to, but not be limited to, the provision of low water access navigation channels from the existing channel of the Mississippi River to harbor areas heretofore or now established and located along the Mississippi River.

(b) *Operation and Maintenance Responsibility.* Projects for navigation constructed under the authority of Section 107 will be considered the same as authorized projects and are operated and maintained by the Corps of Engineers at Federal cost under the same procedures and policies as applied to projects specifically authorized by Congress. (Reference Section 6, Public Law 93–251).

(c) *Aids to Navigation.* Planning and design of channel and other navigation improvements should give full consideration to the feasibility and costs of establishment by the Coast Guard of suitable aids to navigation. The costs for navigation aids to be provided by the Corps of Engineers, Coast Guard, State, and local interests, and similar project-associated costs, will be included in the economic analysis. Project associated expenditures by the Corps of Engineers for aids to navigation are included within the cost limitation under the Section 107 authority, but expenditures by the U.S. Coast Guard are not. The report appendix should reproduce the letter from the Coast Guard stating the estimated number, type and cost of navigation aids and their maintenance cost.

(d) *Local Cooperation.* Local cooperation requirements for projects under the Sec 107 authority are those normally recommended for similar work authorized by Congress.

§ 263.22 Authority for snagging and clearing for navigation.

(a) *Legislative Authority.* Section 3 of the River and Harbor Act approved 2 March 1945, states:

The Secretary of the Army is hereby authorized to allot not to exceed $300,000 from any appropriations made prior to or after March 2, 1945, for any one fiscal year for

improvement of rivers and harbors, for removing accumulated snags and other debris, and for protection, clearing and straightening channels in navigable harbors and navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of navigation or flood control.

(b) *Policy.* (1) *Eligible Work.* It is the policy of the Chief of Engineers to utilize this authority primarily for emergency work to benefit navigation. Work pursuant to this authority is undertaken as an emergency measure to clear or remove unreasonable obstructions to navigation in navigable portions of rivers, harbors and other waterways of the United States, or tributaries thereof, in order to provide existing traffic with immediate and significant benefit. When recurring maintenance work will be required to secure enduring benefits from the initial work, local interests should be informed that they will have to bear the costs of such recurring maintenance until such time as maintenance at that location may become part of a project specifically authorized by Congress and subsequently funded.

(2) *Ineligible Work.* In addition to the ineligible work listed in para 5 of the basic regulation, the following work is also ineligible under this authority:

(i) *Normal Shoaling Process.* When the condition for which the remedial work is requested resulted from the normal shoaling process associated with that particular reach of waterway and not from a sudden occurrence.

(ii) *Work Within the Limits of Authorized Projects.* This restriction applies where authorized new work remains to be accomplished unless an emergency results from aggravated conditions arising subsequent to the authorization of the project. In that event, corrective measures will be limited to restoration of conditions existing at the time of such authorization.

(iii) *General Widening or Deeping.* No general widening or deepening will be accomplished to meet the desires of navigation interests to use larger vessels.

(c) *Local Cooperation.* Local cooperation requirements for projects under the Section 3 authority are those normally recommended for similar work authorized by Congress.

Subpart C—Flood Control Policy

§ 263.23 Small flood control project authority.

(a) *Legislative Authority.* Section 205 of the Flood Control Act approved 30 June 1948, as amended by Section 205 of the Flood Control Act approved 23 October 1962, and as further amended by Section 61 of the Water Resources Development Act approved 7 March 1974, states:

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed $30,000,000 for any one fiscal year, for the construction of small projects for flood control and related purposes not specifically authorized by Congress, which come within the provisions of Section 1 of the Flood Control Act of June 22, 1936, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than $1,000,000 shall be allotted under this section for a project at any single locality, except that not more than $2,000,000 shall be allotted under this section for a project at a single locality if such project protects an area which has been declared to be a major disaster area pursuant to the Disaster Relief Act of 1966 or the Disaster Relief Act of 1970 in the five-year period immediately preceding the date the Chief of Engineers deems such work advisable. The provisions of local cooperation specified in Section 3 of the Flood Control Act of June 22, 1936, as amended, shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

(b) *Non-Federal Responsibilities for Dam and Reservoir Project.* All new projects under this authority, including dams and reservoirs, are considered local protection projects. Non-Federal responsibilities for such dams and reservoirs will thus include the usual lands, easements, right-of-way, and other requirements of local protection projects. Similarly, non-Federal interests must operate the flood control features of any dam or reservoir in accordance with regulations prescribed under the authority contained in Section 7 of the Flood Control Act of December 1944.

(c) *Major Disaster Area.* Determination of a "major disaster area" can be made only by the President, pursuant to the Disaster Relief Acts cited above.

(d) *Local Cooperation.* As stated in para 1a of this part, the provisions of Section 3, Flood Control Act of 1936, as amended (33 USC 701c), are appplicable. Other requirements shall be recommended by reporting officers to insure the long-term viability of the plan and the attainment of benefits from the plan. Consideration of land enhancement shall be in accordance with EM 1120–2–109.

(e) *Limitation on Erosion Protection.* This authority shall not be used for protecting against bank erosion. However, bank stabilization may be included as an integral part of a plan for preventing flood damage.

§ 263.24 Authority for snagging and clearing for flood control.

(a) *Legislative Authority.* Section 208 of the Flood Control Act approved 3 September 1954 and as further amended by Section 26 of the Water Resources Development Act approved 7 March 1974, states:

The Secretary of the Army is authorized to allot not to exceed $5,000,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris, and clearing and straightening of the channels in navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than $250,000 shall be expended for this purpose for any single tributary from the appropriations for any one fiscal year.

(b) *Policy.* Work under this authority is limited to clearing and snagging or channel excavation and improvement with limited embankment construction by use of materials from the channel excavation. If investigation indicates that placement of revetment is needed to provide a complete and fully effective project, the local interests should provide for the item of construction either by work or by cash contribution.

(c) *Local Cooperation.* The provisions of § 263.23(d) of this part are applicable.

§ 264.25 Authority for emergency streambank and shoreline protection of public works and nonprofit public services.

(a) *Legislative Authority.* Section 14 of the Flood Control Act approved 24 July 1946, as amended by Section 27 of the Water Resources Development Act aprpoved 7 March 1974, states:

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereinafter made for flood control, not to exceed $10,000,000 per year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than $250,000 shall be alloted for this purpose at any single locality from the appropriations for any one fiscal year.

(b) *Policy.* Work under the Section 14 authority shall serve to prevent flood or erosion damages to endangered highways, highway bridge approaches, public works, and nonprofit public facilities by the construction or repair of emergency streambank and shoreline protection works. Eligible highways consist of major highway systems of national importance, and principal highways, streets, and roads of importance to the local community, such as arterial streets, important access routes to other communities and adjacent settlements, and roads designated as primary farm–to–market roads.

(1) Work under this authority is not limited in engineering scope but the design must be an integrally complete within itself project that does not require additional work for effective and succesful operation. The cost limitation on Federal participation may require that local interests supplement the Federal funds, so that combined Federal and local efforts will produce a complete, useful improvement.

(2) Reporting officers must be satisfied that the protection of eligible public works and non-profit public services are justified on the basis of the National Economic Development and Environmental Quality objectives.

(c) *Legislative Interpretations.* (1) "Public Works" are considered to be those important and essential public facilities which serve the general public and are owned and operated by the Federal State, or local governments, such as municipal water supply systems and sewage disposal plants.

(2) "Churches, hospitals, schools" includes churches, and public and private non-profit hospitals and schools.

(3) "Non-profit public services" are considered to be facilities or structures which serve the general public and are not intended to earn a profit. Although they may be publicly used, privately owned, profit-making facilities located along streambanks or shore lines are not eligible for protection.

(4) "Shoreline" includes, but is not limited to, oceans, gulfs, and the Great Lakes.

(d) *Local Cooperation.* The provisions of § 263.23(d) of this part are applicable.

Subpart D—Shore Protection Policy

§ 263.26 Small beach erosion control project authority.

(a) *Legislative Authority.* Section 103 (a) of the River and Harbor Act of 1962, as amended by Section 310 of the River and Harbor Act of 1965 and by Section 112 of the River and Harbor Act of 1970, amends Section 3 of Public Law 826, 84th Congress to read as follows:

The Secretary of the Army is authorized to undertake construction of small shore and beach restoration and protection projects not specifically authorized by Congress, which otherwise comply with Section 1 of this Act, when he finds that such work is advisable, and he is further authorized to allot from any appropriations hereafter made for civil works, not to exceed $25,000,000 for any one fiscal year for the Federal share of the costs of construction of such projects: *Provided*, That not more than $1,000,000 shall be allotted for this purpose for any single project and the total amount allotted shall be sufficient to complete the Federal participation in the project under this section including periodic nourishment as provided for under section 1(c) of this Act: *Provided further*, That the work shall be complete in itself and shall not commit the United States to any additional improvements to insure its successful operation, except for participation in periodic beach nourishment in accordance with section 1(c) of this Act, and, as may result from the normal procedure applying to projects authorized after submission of survey reports.

(b) *Periodic Nourishment.* When it can be demonstrated as being part of the best plan to meet project objectives and a more economical remedial measure than others, provision for periodic nourishment may be recommended. The recommended Federal participation in periodic nourishment will be limited to a specific period of time. The total project costs shall include both initial construction and periodic nourishment.

(c) *Local Cooperation.* The provisions of ER 1120-2-110 and ER 1165-2-19 are applicable.

§ 263.27 Authority for mitigation of shore damage attributable to navigation works.

(a) *Legislative Authority.* Section 111 of the River and Harbor Act of 1968 (PL 90-483, approved 13 August 1968) states:

The Secretary of the Army, acting through the Chief of Engineers is authorized to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The cost of installing, operation and maintaining shall be borne entirely by the United States. No such projects shall be constructed without specific authorization by Congress if the estimated first cost exceeds $1,000,000.

(b) *Definitions.* (1) *Federal navigation works* is defined as a project or feature thereof that has been specifically authorized by the Congress in a River and Harbor Act or authorized under the continuing authorities granted by Section 201 or the Flood Control Act of 1965, or by Section 107 of the River and Harbor Act of 1960, as amended. These shall include projects or project features built by others but which have been adopted as a Federal Navigation project.

(2) *Beach erosion control project* is defined as a project that has been specifically authorized by the Congress in a River and Habor Act or authorized under the continuing authorities granted by Section 201 of the Flood Control Act of 1965 or by Section 103 of the River and Harbor Act of 1962. This is considered to include the beach erosion control portion of combined beach erosion and hurricane protection projects.

(3) *Mitigation of shore damages* is defined as the construction of works or procedures to reduce erosion-type damages by shoreline stabilization. The degree of mitigation is the reduction of erosion or accretion to the level which would be obtained without the influence of navigation works at the time navigation works were accepted as a Federal responsibility. It is not intended that shorelines be restored to historic dimensions, but only to lessen the damages by an action that can be justified, the entire costs of which are Federal regardless of shore ownership.

(c) *General Policies.* (1) This Act authorizes the study, construction and maintenance of work for prevention or mitigation of damages to both public and privately owned shores to the extent of the damages that can be directly identified and attributed to Federal navigation work located along the coastal and Great Lakes shorelines of the United States. This authority will not be used:

(i) For construction of works for prevention or mitigation of shore damages such as those caused by river bank erosion or vessel generated wave wash.

(ii) To modify navigation projects authorized, but not constructed, that contain features for prevention or mitigation of shore damages or to change the responsibility for maintenance or to modify portions of constructed navigation projects that contain features for prevention or mitigation of shore damages.

(iii) For prevention or mitigation of shore damages caused by non-Federal navigation projects.

(iv) To construct, maintain, modify or change the cost sharing of authorized beach erosion or combined beach erosion and hurricane protection projects, or portions thereof, located adjacent to Federal navigation projects. Except, when it is determined that shore damage to a portion of an authorized beach erosion project is attributable to the navigation project, mitigation measures may be accomplished under this authority, only to the extent of damages that can be directly identified and attributed to the navigation project.

(2) Where the erosion attributable to the Federal navigation project consists of only a portion of the total erosion problem in a specific area and cannot be considered as a separable reach for effective mitigation measures then a Section 111 project cannot be considered for authorization unless,

(i) There is an authorized beach erosion control or combined beach and hurricane protection project for the area with which the Section 111 mitigation measures could be combined to become effective, or

(ii) A general study of the entire problem area is made and leads to the development of an authorized beach erosion control project, (specific authority must be obtained to conduct a general study of the entire problem area) or

(iii) Local interests indicate a willingness to have the erosion problem outside the scope of Section 111 remedied at local cost.

(d) *Cost Limitations.* Section 111 provides that the Chief of Engineers has authority to authorize projects for which the estimated first costs will not exceed $1,000,000. The first costs will be the cost of the initial preventive or mitigative measures only. The limitation on costs does not include the cost of project maintenance. The project must be planned as a complete unit and not broken into reaches or stages for cost limitation purposes.

(e) *Reports.* The Recon Report required by § 263.15(c)(1) will:

(1) Determine whether or not Federal navigation works are responsible for causing or contributing to the erosion problem.

(2) Determine the extent of the area affected by the navigation works.

(3) Determine total area experiencing significant erosion.

(4) Determine the approximate percentage of the total erosion problem in a specific area that is attributable to the navigation works.

(5) Recommend whether further study of the specific area affected by the Federal navigation works is justified and whether study of the entire area is desirable.

(f) *Evaluation of Mitigation Measures.* The objective of Section 111 is to provide mitigation measures for shore damages attributable to Federal navigation projects, when equitable and in the public interest. All practicable alternatives, structural and non-structural should be identified and considered. Work recommended for construction should provide the most practicable and economical means of mitigating existing damages or the prevention of subsequent damages. Justification of mitigation measures should be made by comparing their costs with the values represented by the damages preventable. Any intangible values should be described and given due weight along with the tangible values in this

justification. Exercise of the authority of Section 111 to provide mitigation measures at Federal expense is not mandatory. A finding for or against its use should fully consider the pre-project conditions and the justification of incurring mitigation costs.

(g) *Criteria for a Favorable Recommendation.* A recommendation favorable to adoption and construction of work to prevent or mitigate shore damage attributable to a Federal navigation project under the authority of Section 111 of the River and Harbor Act of 1968 may be considered warranted when both of the following conditions exist:

(1) The navigation project has been determined to be the cause of the damage.

(2) Analysis based on sound engineering and economic principles clearly demonstrates the feasibility of the proposed work.

(h) *Cost Sharing.* (1) *Construction.* (i) If the work recommended in the report is confined to mitigation work only under Section 111, i.e., erosion totally attributable to the navigation works, costs will be 100 percent Federal.

(ii) If the work recommended is a combination of mitigation under Section 111 and restoration of beaches eroded due to other causes and there is no authorized beach erosion project, mitigation work under Section 111 will be 100 percent Federal and the remaining work will be 100 percent local.

(iii) If the work recommended in the report is a combination of mitigation under Section 111 and the restoration of beaches under an authorized beach erosion project or combination beach erosion-hurricane protection project, the mitigation work under Section 111 will be 100 percent Federal and the remainder in accordance with the cost sharing procedures as specified in project authorization documents.

(2) *Maintenance.* (i) If the initial work is confined to mitigation under Section 111, all maintenance costs are 100 percent Federal.

(ii) If the work is a combination of mitigation under Section 111 and restoration of beaches eroded due to other causes, and there is no authorized beach erosion project, maintenance costs will be shared in the same proportion as recommended for initial construction, i.e., the Section 111 portion will be 100 percent Federal and remaining work 100 percent local.

(iii) If the work is a combination of mitigation under Section 111 and an authorized beach erosion control project or combination beach erosion-hurricane protection project, the Federal maintenance cost for the mitigation work under Section 111 will be in the same proportion as the damage attributed to the Federal navigation work is to the total damage. For the remaining work the cost sharing procedures of the authorized beach erosion or combined beach erosion-hurricane protection project will apply.

(i) *Local Cooperation.* (1) The law as written provided that the cost of installing, operating and maintaining projects under this authority shall be borne entirely by the United States; therefore there are no requirements for local cooperation. The cost of any lands, easements or rights-of-way required for construction or subsequent maintenance will be borne entirely by the United States.

(2) Where Section 111 projects are to be accomplished in conjunction with other works (§ 263.15(a)(2)) local interests will be required to furnish assurance of local cooperation similar to those required for regularly authorized projects for their assigned portion of the work.

(3) Where Section 111 projects are to be accomplished in conjunction with authorized projects, the requirements of local cooperation specified in the authorizing document or report will apply.

APPENDIX A.—*History of program and project limitations continuing authorities program*

Section/law	Date	Public law No.	Federal cost limitation per project	Annual program limit
(1) Small Flood Control Project Authority (Sec. 205)				
Sec. 205 of 1948 FCA	June 30, 1948	80-858	$100,000	$2,000,000
Sec. 212 of 1950 FCA	May 17, 1950	81-516	150,000	3,000,000
Public law 685/84th Congress, 2d Sess.	July 11, 1956	84-685	400,000	10,000,000
Sec. 205 of 1962 FCA	Oct. 23, 1962	87-874	1,000,000	25,000,000
Sec. 61 of WRDA of 1974	Mar. 7, 1974	93-251	[1] 1,000,000	30,000,000
(2) Authority for Snagging and Clearing for Flood Control (Sec. 208)				
Sec. 2 of 1937 FCA	Aug. 28, 1937	75-406	$25,000	$300,000
Sec. 13 of 1946 FCA	July 24, 1946	79-526	50,000	1,000,000
Sec. 208 of 1954 FCA	Sept. 3, 1954	83-780	100,000	2,000,000
Sec. 26 of WRDA of 1974	Mar. 7, 1974	93-251	250,000	5,000,000
(3) Authority for Emergency Streambank and Shoreline Protection of Public Works and Nonprofit Public Services (Sec. 14)				
Sec. 14 of 1946 FCA	July 24, 1946	79-526	$50,000	$1,000,000
Sec. 27 of WRDA of 1974	Mar. 7, 1974	93-251	250,000	10,000,000
(4) Small Navigation Project Authority (Sec. 107)				
Sec. 107 of 1960 R. & H. Act	July 14, 1960	86-645	$200,000	$2,000,000
Sec. 310 of 1965 R. & H. Act	Oct. 27, 1965	89-298	500,000	10,000,000
Sec. 112 of 1970 R. & H. Act	Dec. 31, 1970	91-611	1,000,000	25,000,000
(5) Authority for Snagging and Clearing for Navigation (Sec. 3)				
Sec. 3 of 1945 R. & H. Act	Mar. 2, 1945	79-14	None	$300,000
(6) Small Beach Erosion Control Project Authority (Sec. 103)				
Sec. 103 of 1962 R. & H. Act	Oct. 23, 1962	87-874	$400,000	$3,000,000
Sec. 310 of 1965 R. & H. Act	Oct. 27, 1965	89-298	500,000	10,000,000
Sec. 112 of 1970 R. & H. Act	Dec. 31, 1970	91-611	1,000,000	25,000,000
(7) Authority for Mitigation of Shore Damages Attributable to Navigation Projects (Sec. 111)				
Sec. 111 of 1968 R. & H. Act	Aug. 13, 1968	90-483	[2] $1,000,000	None

[1] Project cost may go to $2,000,000 if project is located in a major disaster area designated by the President.
[2] A project exceeding $1 million will be transmitted to Congress for specific authorization.

APPENDIX B

APPLICATION OF MULTIOBJECTIVE PLANNING FRAMEWORK TO CONTINUING AUTHORITIES PROGRAM

1. *General.* The planning process described in the ER 1105-2-200 series of regulations including the implementation of Federal planning and evaluation criteria, are generally applicable to studies conducted under the Continuing Authorities Program. However, due to the limited scope of many of the plans and projects considered under this program, modification of the *process* is appropriate. Specific modification of the requirements of the planning criteria is not appropriate since the legislative and executive authorities setting forth these criteria do not differentiate between various types of level C implementation studies. Discretion must be employed by reporting officers and reviewers of Detailed Project Reports to insure that projects recommended for implementation by the Corps have been selected on the basis of information and analyses consistent with the WRC Principles and Standards, while at the same time keeping the requirements for information and analyses consistent with the scope of the study, solutions recommended, and the Program completion-time objectives outlined in § 263.18 of this regulation.

2. *Plan Formulation Stages.*

a. *Stage 1—Reconnaissance Study (Recon).* As presented in para. 6c, a Reconnaissance will replace the Development of a Plan of Study as the primary element of Stage 1 planning. As a general rule, a Recon should be conducted by a study team consisting of an engineer, an economist, and an environmentalist. A one-to-two day field reconnaissance should be sufficient to analyze the need for a project, to develop sketch plans, discuss views and capabilities of local interests, and identify the economy of the potential project area and possible environmental issues that would need to be addressed if a feasibility study were to be conducted. Additional effort should pinpoint all data deficiencies, types of investigations required for the feasibility study, and the estimated cost of the study. The latter identification process can be developed as a Plan of Study for the feasibility study, if appproved and funded. To accomplish the intended purpose of the Recon, within the time and cost objectives given in this regulation, reporting officers are not required to develop a specific project (except for emergency situations under Section 14 or 3 Authorities), but should only provide the information required to make a decision as to whether there is a Federal interest in conducting a feasibility study. Mature, seasoned judgment is a prime requisite.

b. *Stage 2—Development of Alternative Plans.* While the ER 1105–2–200 series of regulations provides for a three-stage development of plans, studies under Continuing Authorities may consolidate these two final stages, (intermediate and detailed), into a single stage, if appropriate. This consolidation does not eliminate any of the planning tasks, as discussed in para 3 below, nor does it diminish the concept of screening a full array of alternatives including nonstructural measures, with increasing levels of detail in the assessment of impacts and evaluation as planning progresses to plan selection. The primary emphasis in making the consolidation of these two stages is that the plan selection is normally made on the basis of more limited data and analyses than appropriate for studies conducted under the Level C Survey Program or the Phase I AE&D Program.

c. *Stage 3—Development of Recommended Plan.* The feasibility study under the Continuing Authorities Program will include the design of a recommended plan to the extent necessary to proceed directly from the Detailed Project Report to preparation of plans and specifications. While studies under the Level C Survey Program would complete plan formulation prior to accomplishing detailed project design, the nature of this Program necessitates a flexible design phase, wherein changes in scope of the selected plan, with accompanying changes in project impacts and evaluation, are to be expected and handled by planning personnel in order that the DPR will reflect a selected plan consistent with completed detailed design and a plan justified under the current Federal evaluation criteria for recommending Federal participation.

3. *Planning Tasks.*

a. *Problem Identification.* While planning under Continuing Authorities is to be on a multi-objective basis, the range of problems that can be addressed under a particular Program authority is more limited than normally considered in the conduct of studies specifically authorized by Congress. A good effort to focus the study on relevant problems should be made in the Recon phase of the study, while more intense efforts at data collection and definition of the problems and associated needs should be accomplished during Stage 2 planning.

b. *Formulation of Alternatives.* There are no fundamental differences in the process of formulating alternatives under these Program authorities than in Level C Survey studies, with the exception that the array of alternatives will normally be more limited based on the discussion in para 3a above. The level of detail to which the alternatives are formulated, with associated assessments of impacts and evaluation of beneficial and adverse contributions, will vary greatly depending on the study authority. In some cases, alternatives will be screened and eliminated for various reasons without full development of a tentative plan which can be assessed and evaluated. Such screening is consistent with the nature of this Program; however, good judgment and interdisciplinary participation should be emphasized in such preliminary screenings. The guidance in the ER 1105–2–200 series of regulations with regard to consideration of non-structural measures and formulation of NED and EQ plans, is fully applicable to studies conducted under this Program.

c. *Impact Assessment.* There is no difference in the requirements for the assessment of impacts for studies conducted under Continuing Authorities and those under the Level C Survey Program. As in all studies, the extent to which information is obtained to adequately assess impacts of alternative plans is a matter of discretion of the reporting officer, bearing in mind the requirements of the National Environmental Policy Act of 1969 (NEPA) and Section 122, Public Law 91–611.

d. *Evaluation.* The processes, analyses and displays for evaluation of alternative plans as prescribed in the ER 1105–2–200 series of regulations are generally applicable to studies conducted under Continuing Authorities. Again, the level of detail, and not the process itself, is to be consistent with the study authority and the needs of the decision-making process.

[FR Doc.75–27742 Filed 10–31–75;8:45 am]

federal register

MONDAY, NOVEMBER 3, 1975

PART III:

DEPARTMENT OF DEFENSE

Corps of Engineers

■

URBAN STUDIES PROGRAM

WASTEWATER COLLECTION AND TREATMENT POLICY

Policies and Procedures

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105-2-22; ER 1105-2-180]

PART 264—URBAN STUDIES PROGRAM

PART 275—WASTEWATER COLLECTION AND TREATMENT POLICY

Policies and Procedures

On 5 July 1974, the Secretary of the Army acting through the Chief of Engineers published a proposed regulations in the FEDERAL REGISTER (39 FR 24754) to provide policies and procedures for the Corps of Engineers conduct of Urban studies. A sixty day comment period was provided, during which comments were received from other Federal agencies, organizations, private business, and individuals. These comments were carefully considered and resulted in a number of changes to the proposed regulation. An analysis of comments received and changes made is provided below.

1. In addition to changes to the regulation from comments received, the regulation has been divided, and is hereby adopted, in two parts. The first part provides policies and procedures for the Urban Studies Program (33 CFR 264). The second part, originally proposed as Part Three, Appendix A, to 33 CFR 264, is being adopted separately as a regulation entitled Wastewater Collection and Treatment Policy (33 CFR 275), to provide guidance on water quality standards, goals, and deadlines to be used in developing wastewater management plans, and to provide policies for evaluation of wastewater collection and treatment facilities. Part Two, Chapter 2, Appendix A of the proposed regulation, concerning public involvement, has been deleted from the Urban Studies regulation in order that it would be incorporated into a more comprehensive regulation on public involvement for all Corps programs. The comprehensive regulation on public involvement will be published in the FEDERAL REGISTER as proposed rule-making, and will provide more detailed guidelines to implement the Corps public involvement policy (33 CFR 380, adopted 2 April 1975).

2. Several comments expressed the need to provide for involvement of local and areawide planning agencies and to insure that goals, objectives, and plans developed by local agencies be considered in the Urban Study, and not be duplicated. Revisions to the proposed regulation are reflected in §§ 264.15 and 275.13.

3. Several comments indicated that a provision be made to allow for transfer of funds to the involved State for its participation. Although State participation is desired, the Corps does not have the authority to make such a transfer of funds. However, the Corps can contract with a State for a specific item of work when a State agency is considered best qualified to undertake the work as part of a Corps study. This provision is reflected in § 264.16(k).

4. A comment stated that a plan should be developed for regional development in addition to national economic development and environmental quality. The Water Resources Council's "Principles and Standards for Planning Water and Related Land Resources" (38 FR 24778), do not permit formulating plans for regional development. However, if a planning objective for a particular study is to foster regional development, and if the plans are formulated for possible implementation by States, local governments, or Federal agencies programs not under the Principles and Standards, the Corps would attempt to accomplish that objective. If plans are formulated for possible implementation by the Corps, or other Federal agency programs under the Principles and Standards, the Corps would attempt to accomplish the regional development objective only as an additional benefit to the accomplishment of national economic development and environmental quality. (Reference § 264.12(a).)

5. A comment was made that the study cost tables required in the Plan of Study will stifle innovative thinking and are not easily adaptable to difficult areas and problems. More flexibility was desired. The standard tables provided in the regulation have been adopted as a result of coordination among the Corps, the Environmental Protection Agency (EPA) and the Office of Management and Budget (OMB). The tables have been satisfactorily used in ongoing Urban Studies. Therefore, no change has been made to the tables as presented in the proposed regulation (See Appendix D, 33 CFR 264).

6. Two new sections on "Cost Estimates" and "Engineering Economic Analysis" have been added to provide cost engineering guidance for preparation of the wastewater management portion of the urban studies reports, §§ 275.20 and 275.21. The intent is to establish procedures in accordance with the EPA cost effectiveness guidelines, since the plans prepared in the course of an urban study provide input for the local government's application to the EPA for a Step 2—Section 201 grant.

7. Comments were made concerning the need for public involvement during the development of the Plan of Study and the need to eliminate the requirement to have surveys approved by the Office of Management and Budget when the surveys are sent to ten or more parties. Extensive public involvement is encouraged as part of the development of the Plan of Study, as reflected in § 264.18 (a)(8). The Corps of Engineers does not have the authority to waive the requirement for OMB approval of surveys sent to ten or more parties, and therefore, the requirement will remain as stated, in the future regulation on Public Involvement.

8. Several comments questioned the need to attain "zero discharges, of pollutants," questioned the Corps authority to define such discharges, and questioned the effluent limits established for zero discharge. The regulation has been revised to indicate that the Corps has no authority to define "zero discharge of pollutants" and that EPA has no specific mandate to enforce the "zero discharge" goal (see § 275.16). The Corps has defined the "zero discharge" goal as a matter of administrative policy.

9. An objection was raised concerning the design of all systems to one standard, (i.e., zero discharge), without giving consideration to the social, environmental, economic, and hydraulic considerations in each area. This is not the intent of the Corps policies on developing wastewater management systems. Systems will be developed and evaluated for attaining the 1977, 1983, and 1985 goals. States and the EPA will assist in determining the level of treatment desired for a particular area. While the 1985 goal of "zero discharge" will be planned for, systems will be provided for phased implementation. It will be up to local and State governments how rapidly and to what extent the selected plans are implemented. These concepts are reflected in § 275.16.

10. Exception was taken to one of the zero discharge effluent definitions, which required certain constituents to be absent from discharges (see § 275.16). The party stated that there is no technical method which would allow the attainment of absolute zero discharge. The Corps recognizes that there are technical limits to waste treatment. However, an attempt has been made to plan for systems which come as close to the 1985 goal of zero discharge as possible.

11. A comment indicated that substantial evidence had been submitted to EPA concerning the appropriate effluent limitations for certain toxic pollutants, and that EPA's regulations do not call for zero discharge as does the proposed Corps regulation. EPA has not defined a zero discharge goal. However, EPA has defined discharge limitations for attaining the 1977 and 1983 effluent limitations of Public Law 92-500. If and when EPA defines a 1985 goal of zero discharge of critical pollutants, 33 CFR 275 will be revised to reflect EPA's guidelines.

12. Comments on the proposed regulation were received from the following parties; copies are available for inspection at the Office of the Chief of Engineers, Forrestal Building, 10th and Independence Avenue, Room 4E-086, Washington, D.C. 20314.

Federal:

- Office of Management and Budget, Washington, D.C.
- Environmental Protection Agency, Washington, D.C.
- Department of Commerce, Washington, D.C.
- Department of Housing and Urban Development, Washington, D.C.

State:

- Governor of Connecticut, Hartford, Conn.
- Dept. of Environmental Conservation, State of New York (Albany).
- Dept. of Natural and Economic Resources, State of North Carolina (Raleigh) (Rec'd from Congressman Ike Andrews, who requested State's views).
- Arrowhead Regional Dev. Com., State of Minnesota (Duluth).

Local Government:
National League of Cities, United States Conference of Mayors (Washington Assistant).
The Village of Oak Park, Oak Park, Ill.

Private Business:
Manufacturing Chemists Assoc., Washington, D.C.
John E. Kinney, Sanitary Engineering Consultant, Ann Arbor, Mich.
Collier, Shannon, Rill & Edwards, Attorneys at Law, Washington, D.C.
Republic Steel, Cleveland, Ohio.

Individual:
Richard Lerner, Berkeley, Calif.

With these changes and other editorial revisions, the two proposed regulations are adopted as set forth below.

Effective date: These regulations are effective 3 November 1975.

RUSSELL J. LAMP,
Colonel, Corps of Engineers
Executive.

Part 264 is added as follows:

Sec.
264.10 Purpose.
264.11 Applicability.
264.12 References.
264.13 Definitions.
264.14 Objective of urban studies program.
264.15 Relationship of urban area comprehensive planning to urban water resources planning.
264.16 Program policy.
264.17 Urban water resource plans.
264.18 Planning procedures.
264.19 Washington level review and processing.
264.20 Program management responsibilities.
264.21 Time objectives.
264.22 Reports and documentation.
264.23 Effective date.

Appendix A

Appendix B

AUTHORITY: Sec. 1, Pub. L. 685, June 20, 1938, 52 Stat. 802 (33 USC 540); Sec. 4, Pub. L. 429, as amended, Mar. 4, 1913, 37 Stat. 826 (33 USC 542).

§ 264.10 Purpose.

This regulation provides policy and procedures for studies conducted under the Urban Studies Program.

§ 264.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 264.12 References.

(a) Public Law 92-500 (70 Stat. 498, 84 Stat. 91), Federal Water Pollution Control Act Amendments of 1972, 18 October 1972.

(b) ER 18-2-2, Intensive Management Program Monitor System.

(c) ER 1105-2-10, Intensive Management.

(d) ER 1105-2-105, Guidelines for Assessment of Economic, Social, and Environmental Effects of Civil Works Projects (33 CFR 209.400).

(e) ER 1105-2-402, Organization and General Content of Feasibility Reports.

(f) ER 1105-2-403, Format and Appearance of Feasibility Reports.

(g) ER 1105-2-502, Public Meetings (33 CFR 209.405).

(h) ER 1105-2-507, Preparation and Coordination of Environmental Statements (33 CFR 209.410).

(i) ER 1105-2-180, Wastewater Collection and Treatment Policy. (33 CFR 275).

(j) ER 1105-2-800, Public Involvement: General Policies (33 CFR 380).

(k) ER 1105-2-811, A-95 Clearinghouse Coordination (33 CFR 384).

(l) ER 1120-2-112, Coordination of Investigations and Reports with Clearinghouses.

(m) ER 1165-2-21, Flood Control Works and Storm Sewer Systems in Urban Areas.

§ 264.13 Definitions.

As used in this regulation, the following definitions apply.

(a) "Public." Any affected or interested non-Corps of Engineers entity. This includes other Federal, regional, State and local governments entities and officials; public and private organizations; and individuals. (ER 1105-2-800)

(b) "Institution." Any organization or process that is highly structured, systematized, and stable. If may be a type of group, e.g., a metropolitan sanitary district or a council of governments, or it may be a formalized practice, e.g., a water rights law or a water usage ordinance.

§ 264.14 Objective of Urban Studies Program.

(a) The Urban Studies Program is a joint planning effort between the Corps of Engineers, other Federal agencies, State and local governmental entities. The objective of the Urban Studies Program is to develop, in conjunction with the public, plans which not only offer a realistic prospect for solving specific urban water resource problems, but, equally important, also have the potential to serve as a catalyst for solving other related urban problems. In satisfying this objective, urban water resources planning must be consistent with the national objectives. The national objectives are—

(1) To enhance national economic development (NED).

(2) To enhance the quality of the environment (EQ).

(b) In order to achieve the above objectives, urban water resource plans should:

(1) Address the specified water resource problems, issues, and concerns of the regional publics by responding to expressed desires and preferences.

(2) Be flexible to accommodate changing economic, social, and environmental patterns and new technologies.

(3) Be integrated with other urban development and management programs.

(4) Be fully coordinated with affected agencies at all levels.

(5) Be developed through an orderly, structured, and open planning process.

(6) Be implementable with respect to financial and institutional capabilities and public acceptance.

(7) Be acceptable to affected States, local government entities, and appropriate Federal agencies.

(c) The guidelines and regulations to be followed for areawide waste treatment management and facilities planning are the responsibility of the Environmental Protection Agency (EPA). Therefore, close cooperation with EPA field personnel is necessary for proper interpretation of EPA regulations and guidelines in order to produce information which States and local governmental entities can use in construction grant applications.

§ 264.15 Relationship of urban area comprehensive planning to urban water resource planning.

(a) Comprehensive urban area planning generally is carried out by local or regional planning commissions. Urban area comprehensive planning focuses on a number of issues such as housing, transportation, health and social services, land use planning, solid waste management, and water resourecs management.

(b) The Urban Studies Program will primarily address one of the issues in paragraph (a) of this section—water resources management. In addressing the water resource management components of comprehensive planning, goals and objectives, growth forecasts, proposed uses of the land, and other data prepared by governmental planning organizations shall be taken into consideration. In addressing the urban water resources problems, the plans developed may affect other urban problems. For example, a plan restricting construction in a flood plain to reduce urban flood damages may make land available for additional recreation areas, as well as control urban sprawl. Controlling urban sprawl could then affect urban area housing development.

(c) Within the scope of water resources management, the Urban Studies Program addresses the following functional water resource components:

(1) Urban flood control.

(2) Flood plain management.

(3) Municipal and industrial water supply.

(4) Wastewater management.

(5) Bank and channel stabilization.

(6) Lake, estuarine, and ocean restoration and protection.

(7) Recreation management at Corps civil works projects.

(8) Regional harbors and waterways.

(9) Additional components may be added with the approval of DAEN-CWP. Such approval should be obtained in the Plan of Study.

(d) Within any specific urban area, all, or only some, of these functional components may be applicable. Existing local plans for a functional component may be adequate for the planning time-frame considered in a study. Where this occurs, these local plans will be incorporated into the urban water resource planning process.

§ 264.16 Program Policy.

(a) Comprehensive urban area planning is to remain a local responsibility. The Corps of Engineers may augment local planning efforts by developing alternative urban water resource plans. One of these alternative plans may be selected by responsible officials as a component of a comprehensive urban area plan. Particular emphasis is to be placed on coordination of water resources planning with the policies of state, areawide and local planning agencies.

(b) Urban water resource planning conducted by the Corps of Engineers must not duplicate other Federal, Federally-assisted, Federal-State, State or regional programs.

(c) Wastewater management components of alternative urban water resource plans must be compatible with the intent of Pub. L. 92–500.

(d) On 22 November 1974, the Secretary of the Army and the Administrator of the Environmental Protection Agency signed an interagency agreement defining the relationship between areawide waste treatment in the Urban Studies Program and planning authorized under Title II of Pub. L. 92–500. That agreement (Appendix A) discusses objectives, coordinating provisions and funding policies and are to be adhered to in all urban studies.

(e) The planning process for conducting urban studies shall be generally consistent with the general framework presented in reference § 264.12(a). A discussion of this framework as it relates to urban studies is given in Appendix B. Planning procedures which have been identified for intensive management of the Program (in accordance with ER 18–2–2 and ER 1105–2–10) are discussed in § 264.18.

(f) Throughout the conduct of an urban study, there must be full and continuous coordination with the public. The public must not only be educated and informed about what is occurring, but must also be included and actively involved in the planning process (ER 1105–2–800). Other regulations in the 1105–2–800 Series will provide additional guidance on developing and conducting a public involvement program. The public meetings discussed in § 264.18 of this regulation should be only one component of a comprehensive public involvement program.

(g) A program of institutional analysis is essential. This analysis must be initiated early in the study. Such analysis will set forth the ways and means for implementing any urban water resource plan which is selected. Appendix C provides the framework and guidance for this analysis.

(h) Where specific water resource elements, such as commercial navigation, are included in an urban water resource plan, the plan development of that specific element should be in accordance with applicable Engineer Regulations for that element. Where wastewater management is the element, the plan development of that element will be in accordance with applicable portions of Environmental Protection Agency regulations and ER 1105–2–180.

(i) Although urban drainage is a functional water resource category which could be studied by itself, Corps of Engineers studies of urban drainage within the Urban Studies Program are limited to considering urban drainage as a part of the flood control work item or as a part of the wastewater management work item. Further discussion of this item is included in ER 1105–2–180 and ER 1165–2–21.

(j) Where areawide wastewater management planning is being conducted by local planning agencies under Title II of Pub. L. 92–500, a joint study effort must be developed for a study to be defined as an Urban Study. That joint effort will provide the flow of information between both efforts to insure that decisions are based on full knowledge of the impacts of these decisions on other purposes. In those areas where such a joint effort is not possible, the Corps will determine the need for a Corps study under one of the other Corps planning programs. If no need exists, the study will be terminated.

(k) District may elect to use consultants to augment in-house expertise, to provide expertise unavailable with the Corps, or to gain added familiarity with the study area. Reporting officers shall insure that sufficient in-house expertise exists, or is developed, to effectively manage and review consultant effort.

(l) Potential consultants include:

(i) Separate field operating agencies such as the Cold Regions Research and Engineering Laboratory (CRREL), the Construction Engineering Research Laboratory (CERL), the Waterways Experiment Station (WES), the Hydrologic Engineering Center (HEC), and Institute for Water Resources (IWR).

(ii) Other Federal regional and local agencies.

(iii) Private architectural-engineering firms.

(iv) Universities, non-profit organizations, and citizens having requisite special skills.

(2) The preparation of the Plan of Study is an orientation period for the study team. Because the POS provides guidance for the entire study and involves mandatory coordination, the study team will write the POS. However, this does not preclude the use of consultants to provide background data and information necessary for the Corps to write a POS.

(3) The Corps must reserve for itself the responsibility for comparing and evaluating alternative resource management elements to assure that wastewater management planning is integrated with other Civil Works missions.

(4) Different consultants should be used to develop alternative measures for wastewater management utilizing land treatment and plant-type treatment. While consideration of the technical system outputs and resource requirements of these measures is inherent in the formulation of alternatives, the Corps will have to verify the technical and engineering adequacy of each plan developed, as well as verify the full range of impacts caused by the system outputs and resource requirements. Utilizing more than one consultant will preclude any appearance of bias toward one measure at the expense of the others.

(5) Prior to contracting for the development of methodologies such as a new method of impact assessment or a new method of analyzing institutions, Districts should ascertain whether OCE or other Corps elements have developed useful methodologies. Work completed a year or two earlier may be satisfactorily applied to a new study. In like manner, ongoing developments may be shared by more than one District if costs are appropriately shared.

(l) Where more than one District in a Division surfaces the same need, the Division should consider coordinating the effort.

(ii) Where several Divisions surface the same need, HQDA (DAEN–CWP) WASH DC 20314, will consider coordinating the effort.

(iii) In both of the above cases, equitable sharing of costs may permit all partners, and the Corps in general, to realize far greater returns on their accumulated investment than a series of small, redundant efforts would permit.

(l) The policies and procedures for preparation, coordination and filing an Environmental Impact Statement (EIS) are contained in ER 1105–2–507. Normally, an EIS will be prepared only if recommendations for Federal (Corps) participation are contemplated.

§ 264.17 Urban water resource plans.

The Corps of Engineers through its Urban Studies Program seeks to provide urban water resource plans that are compatible with comprehensive urban development goals of the region under study. These plans will provide an integrated approach to water resources management. Each study will develop alternative urban water resource plans from which one may be selected for implementation. Stage 3 planning will result in the following.

(a) *Alternatives.* (1) A series of three to seven alternative urban water resource plans to meet long range (approximately 50 years) needs, from which a choice may be made by the public prior to completion of the study.

(2) A priced and evaluated portion of each of the alternative urban water resource plans to meet short range (approximately 20 years) needs.

(3) A phased early action program for the study region for each alternative urban water resource plan to meet short range (approximately 20 years) needs.

(b) *Programs.* The alternative urban water resource plans will be composed of three elements.

(1) *Capital improvements programs.* (i) In developing capital improvements programs, both new construction and improvements to existing facilities should be considered. Capital improvements will include those structures which directly address the water resource problems as well as those facilities which may be a necessary by-product of the initial fa-

cility. For example, if a new harbor channel is dredged, (capital improvement) a diked disposal area (capital improvement) may have to be constructed to contain the dredged material.

(ii) Alternatives for solving water resource problems may provide an opportunity for additional capital improvements by the private sector. This potential should be identified in the discussion of public capital improvement. The private sector may be required, under a specific alternative, to provide facilities which satisfy a specific need. For instance, a pretreatment facility to remove heavy metals from industrial waste prior to discharge to municipal sewer is a private sector facility.

(iii) Study alternatives may suggest attractive opportunities for enhancing the non-water resource needs of the region. For example, if a local issue is the siting of a new power generation facility, a land treatment system may provide the necessary cooling water while isolating the facility. While the study should not plan for a power generation facility per se, the availability of land and water should be brought to the attention of the public utility.

(iv) Where existing facilities are incorporated in specific alternatives, operation, maintenance, and replacement costs relating to those facilities should be included in any cost-effectiveness analysis.

(2) *Management programs.* Management programs are the measures necessary to make an alternative operate efficiently. They are distinguished from capital improvements because they do not necessarily involve major construction or engineering activities. Sometimes characterized as non-structural approaches, management programs may still require investment. Management programs associated with resource utilization may include the following—

(i) Regulatory activities, such as permits, building codes, ordinances, land use zoning, and control techniques.

(ii) Operation and maintenance procedures, such as guides for the use of physical components of water resource systems, training of personnel, and public education in resource use.

(iii) Fiscal controls, such as revenue production, cost-sharing, user fees, and development financing.

(3) *Revision programs.* Alternatives should contain a revision program to provide decision makers flexible plans that will be responsive to possible changes in needs and future base conditions. Periodic revisions are essential if the urban water resources plan selected is to be an instrument of continuous, dynamic planning and not merely a static end product. In developing a revision program, potential changes or planning activities should be categorized as substantive or procedural.

(i) Substantive changes causing plans to be revised may include changes such as a council of governments modifying its land use projections, a radical change in energy availability, a new innovation in waste treatment technology, a change in the regulations implementing § 264.12 (b) or (d) or new water resource legislation.

(ii) Procedural matters describing how to make revisions may include designating the agency responsible for future planning, the method or time period for review, and the method for modifying the plan.

(c) *Implementation arrangements.* (1) Each plan element shall contain implementation arrangements which describe the action necessary to take the plan from the conceptual state and place it in operation. Implementation arrangements are developed to provide for the most orderly and efficient creation of capital improvements, management programs and a revision program. Implementation arrangements may include changes in agency responsibility, methods of funding, and the fulfillment or modification of legislative requirements and constraints. Implementation arrangements should also include alternative arrangements which show how existing institutions might be incorporated, or modified if necessary, new institutions created, or existing institutions abandoned in order to efficiently implement the plan.

(2) To provide the public with a choice, each final alternative urban water resource plan should contain alternative implementation arrangements, each arrangement taking a distinctly different approach to implement the plan. For instance, a single, multi-function regional agency, a series of small, geographically defined agencies, or a series of smaller functionally defined agencies illustrates three different approaches. One implementation arrangement may be suitable for more than one plan. Each of the implementation arrangements will address—

(i) Time phasing of construction and associated design activities; for initiation of management programs, and for the revision program.

(ii) Total costs and cost-sharing arrangements. Special care must be taken to make sure that facilities for collection of run-off are identified properly and that construction costs are appropriately allocated to wastewater management and to flood control and, further, that flood control and wastewater management costs are apportioned between Federal and non-Federal interests. Close cooperation with EPA is necessary to assure that the appropriate distinctions will be reflected in the report.

§ 264.18 Planning procedures.

The paragraph prescribes procedures to be followed by field operating agencies from initial funding of an Urban Study through submittal of the report to the Board of Engineers for Rivers and Harbors. Those procedures which, upon completion, represent accomplishment of a milestone (as established by ER 18-2-2) are so designated.

(a) *Stage 1 Planning—Preparation and Approval of the Plan of Study (Milestone 02).* (1) After the reporting officer receives funds for a study, a Plan of Study (POS) will be prepared in accordance with the guidelines given in Appendix D.

(2) Initial efforts will be limited to determining the need and desirability of having the Corps conduct the study. The reporting officer will develop a preliminary scope of study based on discussions with State and local officials and will determine that local cooperation and participation in the study will be forthcoming. This effort should generally cost no more than $25,000 (Sept 1974 prices).

(3) If the reporting officer makes a positive determination in accordance with paragraph (a)(2) of this section, the POS should be completed for a cost not to exceed $75,000 (Sept 1974 prices) including the costs associated with paragraph (a)(2) of this section. Division Enginers are responsible for monitoring these efforts to insure funds are not spent unnecessarily, and for approval to proceed with development of the final POS.

(4) Two on-board review sessions with OCE will be held during POS development.

(i) Thirty days after funds are received by the field office responsible for a study, HQDA (DAEN-CWP) personnel will conduct a meeting in the field office for District and Division personnel to explain the latest guidance concerning POS development and content.

(ii) Approximately 60 days after the first meeting, an on-board review of the POS will be conducted in the field office. Attendees will include HQDA (DAEN-CWP) and Division personnel and may also include representatives of the Office of the Secretary of the Army, HQDA (DAEN-CW-SA). The purpose of this review is to resolve any conflicts in policy and content of the POS before it is transmitted to the public for initial comment. Each meeting participant will be furnished copies of the draft POS at least ten days prior to the meeting.

(5) When the POS is completed and letters of assurance are received from all study participants, the District Engineer will formally transmit the POS to the Division for review. Where ongoing studies are reoriented to be handled as an Urban Study, the District Engineer's forwarding letter should set forth the amounts estimated to be spent on other studies authority to be conducted apart from the Urban Studies Program.

(6) Division Engineers shall review POS's submitted by District Engineers using Appendix D as the measurement of sufficiency. After the POS is modified to respond to Division comments, the Division Engineer will indorse the POS to HQDA (DAEN-CWP) WASH DC 20314. The applicable Reports Management Branch will coordinate the review and, upon completion, comments and/or approval will be forwarded to the Division Engineer. Receipt of POS approval is sufficient authority for the reporting officer to begin Stage 2 of the planning process. Information copies of each approved POS will be forwarded to the Assistant Secretary of the Army

(civil works) by DAEN–CWP for possible review by OMB.

(7) Because of the need to obtain local cooperation and EPA concurrence in the wastewater portion of the Urban Study, no major contracting or in-house study efforts will be undertaken until OCE has approved the Plan of Study. If the reporting officer, or the Division Engineer, desires to commence work prior to formal approval of the POS, an exception shall be requested from HQDA (DAEN–CWP–E, C or W) WASH DC 20314.

(8) The initial public meeting (Milestone o1) is not required prior to completion of the POS. However, the public involvement process shall be initiated during this stage and the initial public meeting should be held prior to approval of the POS or at the outset of Stage 2.

(b) *Stage 2 Report (Milestone 03).* Continuous drafting of the study report as described in paragraph 14 will result in the completion of the Background Information Appendix during Stage 2. Similarly, continuous drafting will document the planning process and the results of the first two stages in the Plan Formulation Appendix. For Urban Studies these two documents will be considered the Stage 2 Study Report, Milestone 03.

(c) *Checkpoint I Conference (Milestone 04).* This conference will serve as a forum for representatives from District, Division, and OCE (and BERH, if considered appropriate) to discuss the findings of the Stage 2 study. The documents prepared for Milestone 03 will serve to provide the majority of information required for this conference. However, as required by ER 1105–2–180, a list of constituent levels considered critical to the environment will be developed for each stream receiving treated wastewater, when the Corps is responsible for the wastewater management studies. This list will be used in developing treatment levels required to meet the 1985 goal of PL 92–500 and will be available prior to this conference.

(d) *Formulation Stage Public Meeting (Milestone 05).* This meeting will be held after Milestone 04 to present the results of the Stage 2 study to the public and to obtain the views of the public regarding the alternative plans to be carried into Stage 3 of the study. The documents prepared for the Checkpoint I Conference should be used in developing information for dissemination to the public prior to the meeting (ER 1105–2–502).

(e) *Checkpoint II Conference (Milestone 06).* This conference is held to discuss and resolve plan formulation and study problems. Since major revision of Urban Study Reports will often not be feasible after submittal to BERH, this conference should be held at a time which will allow for correction of study deficiencies before completion of the report. The Division Engineer, or his designated representative, shall personally conduct this conference. The conference should be held about midway through Stage 3. If additional conferences are needed later in the study, they should be arranged by the Division Engineer or OCE. DAEN–CWP–E, C or W should be kept informed of all such meetings by the Division Engineer.

(f) *Submit District Report (Milestone 07).* Continuous drafting of the report will allow review and revision of the report as the study proceeds. In addition, adequate monitoring by Divisions should eliminate the need for major revision of the report at the end of the study. Milestone 07 will be completed when the entire report, exclusive of the Comments Appendix and the results of the late stage public meeting, has been submitted to the Division.

(g) *Complete Division Review of Report Draft Milestone 08).* Divisions should review and comment on the report as it is submitted. However, it should be recognized that piecemeal review and mid-study corrections could result in inconsistencies with previously reviewed documents. Care must be taken to avoid those problems. Divisions should submit four (4) copies of each portion of the report to DAEN–CWP–E, C, or W after completion of review, together with copies of comments to the reporting officer on the report.

(h) *Late-Stage Public Meeting (Milestone 09).* This meeting will be held to present the findings of the Stage 3 study to the public. The results of that meeting will be presented in the final report to provide local decision-makers with that information for their use in selecting a plan to be implemented (ER 1105–2–502).

(i) *Field Level Coordination of Reports.* Following Milestones 08 and 09 the report will be finalized and distributed to local interests responsible for plan implementation, affected States, regional offices of appropriate Federal agencies and other segments of the public, to accomplish Corps public involvement objectives and interagency coordination requirements. Comments received and responses to those comments will be included in the Comments Appendix.

(j) *Submit District Report (Milestone 10).* District reports will be submitted to Division Engineers in accordance with procedures established for regular survey reports.

(k) *Division Engineer Notice (Milestone 11).* Issuance of the Public Notice should be in accordance with procedures established for regular survey reports. If the report or notice contain any unusual or controversial recommendations it should be submitted to DAEN–CWP–E, C or W for approval prior to being issued.

§ 264.19 Washington level review and processing.

Responsibility for final review and processing of Urban Study reports will be the same as for regular Level C preauthorization study reports submitted to Congress.

(a) *Reports not recommending projects for authorization.* Reports which do not recommend projects for Congressional authorization will be reviewed to determined adequacy of the report in responding to the Congressional authority.

(b) *Reports Recommending Projects for Authorization.* Reports which recommend projects for Congressional authorization will be reviewed as mentioned above. In addition, reports of this type will be reviewed to insure that those projects recommended for authorization have been formulated and evaluated as if they were recommended in a regular Level C preauthorization report.

§ 264.20 Program management responsibilities.

(a) *General.* The Corps of Engineers is involved in the Urban Studies Program in response to the critical need for Federal assistance to solve regional urban water resources problems. Reporting officers responsible for the conduct of urban studies will give this program the requisite direction and attention. The success of an urban study is largely dependent on the organization of the study team; their consultants, and the Plan of Study (POS) that will direct their efforts.

(1) It is imperative that the study team consist of personnel capable of addressing the regional problems in an innovative, imaginative, and skillful manner.

(2) Since the Urban Study affects many functional areas of urban and regional planning (urban goals and objectives, flood plain management, wastewater management, etc.), local and regional representatives should be represented on the study team. State agency personnel responsible for water pollution control and/or water supply planning should also be included.

(3) A–95 clearinghouses shall be consulted for input to the study. These clearinghouses are areawide comprehensive planning agencies and probably will have done land use, transportation, water and sewer and other plans which should be of value in the study (ER 1105–2–811). A–95 clearinghouses are often designated as "208" agencies. If they are not, a memorandum of agreement between the designated agency and the appropriate areawide comprehensive planning agency must be established, in accordance with para 3, Part IV, OMB Circular No. A–95.

(4) Consultants must be selected on the basis of their ability to address the complex urban water problems with imaginative solutions § 264.16(k).

(5) The Plan of Study should be sound enough to guide the entire study effort, and yet be as flexible as necessary to adapt to changes as they arise in the course of the study.

(b) *District/Operating Division Offices.* Districts should organize an interdisciplinary team which has no other duties. The designated team leader should report directly to the Chief of Planning Branch or Planning Division, as appropriate. A high level of involvement of the District Engineer, his deputy, or a designated assistant will be required on a day-to-day basis. Staff support for the interdisciplinary team will have to be provided promptly by other planning, engineering, and administrative elements when needed. Where a Dis-

trict has more than one urban study, certain specialists may work on more than one study. However, separate Study Management and Plan Formulation specialists for each study are recommended. Ideally, one specialist, or more as necessary, should be assigned to each area of expertise described below.

(1) *Study management.* Assigned personnel are concerned with the efficient conduct of the study including the allocation of funds and personnel (including consultants) to assure a balanced study. They are also responsible for the monitoring of study progress to insure timely completion of tasks, adherence to established policy and guidance, and the execution of a quality public involvement program.

(2) *Plan formulation.* Assigned personnel are responsible for formulating alternative urban water resource plans in accordance with policies and procedures contained in this regulation. Plan formulation includes interpreting the problems, issues, and concerns of the public, articulating water resource planning objectives and defining system outputs based upon the expressed problems, issues, and concerns. Plans are formulated from the range of resource management measures which include policies, programs, technologies, engineering inputs, institutional arrangements and implementation schemes (structural and non-structural). Assigned personnel must be capable of combining the partial inputs from the three areas of expertise discussed in paragraphs (b) (3)–(5) of this section to produce balanced plans acceptable to the public.

(3) *Technical systems design.* Assigned personnel are responsible for the design of component technical portions (capital improvements) of the alternative plans formulated. These component technical portions must be properly designed and properly arranged in sequence to meet system outputs and planning constraints. Technical systems design will predominantly respond to, and be guided by, information developed in the plan formulation process.

(4) *Impact assessment and evaluation.* Assigned personnel are responsible for identifying and measuring the impacts of each system on the existing and future regional profiles and the range of comprehensive urban planning objectives. Impact assessment also involves interpreting the expressed problems, issues, and concerns of the people and articulating water resource planning objectives. Evaluation includes summarizing responses of the public and assisting the plan formulation and technical system design specialists in the modification and refinement of plans and plan components based on these responses.

(5) *Public involvement and institutional analysis.* Assigned personnel are responsible for formulating and coordinating the execution of the public involvement program. Personnel are also responsible for identifying and analyzing the institutions affected by each plan, developing the necessary plan or institutional modifications, and assisting in the development of implementation strategies.

(c) *Division Office.* Based on experience in Divisions where Urban Studies are underway, each Division with one or more urban studies will need an Urban Studies Program Coordinator; those Divisions with more than one study will need a small, full-time staff in the Planning Division. The Special Studies Branch can be so designated if such a branch exists. Engineering Divisions at Division Offices should be responsible for review of District efforts for technical adequacy and for providing technical guidance to District Offices. Divisions shall be responsible for reporting study progress to OCE. Frequent communication between Division coordinators is also encouraged to exchange information. Division Program Coordinators should perform the following tasks—

(1) Monitor study progress to achieve timely completion of studies within designated completion - time objectives (§ 264.21);

(2) Disseminate to other field operating agencies and appropriate OCE elements, pertinent information developed during the course of a study which may be of particular value. The value may be in potential application of the data by another Corps office, or obtaining an expendited informal review. Information disseminated may include Plans of Study, contractor scopes-of-work and reports, public involvement documents, and study reports.

(3) Provide training or request training from HQDA (DAEN–CWP) WASH DC 20314.

(4) Co-ordinate and conduct "on-board" reviews of urban studies and checkpoint conferences (ref § 264.18).

(5) Monitor funding obligations and expenditures. Particlar emphasis should be placed on limiting expenditures during development of the Plan of Study to insure funds are not wasted on studies without local support (ref § 264.18(a)).

(d) *Office of the Chief of Engineers.* Primary responsibility in OCE for management of the Program rests with the Planning Division (DAEN–CWP), which is responsible for the staffing of all actions required of OCE by this regulation and intensively managing the Program in accordance with ER 1105–2–10 and ER 18–2–2. Considerable technical engineering studies are required in the studies. Accordingly, the Engineering Division (DAEN–CWE–M) will be kept informed of such work and directly involved in decisions regarding engineering aspects of the study. The Office of Policy (DAEN–CWR) will be involved in reviewing reports for policy implications as deemed appropriate by DAEN–CWP or BERH. Guidance on attendance of OCE representatives at checkpoint conferences is provided in ER 1105–2–10.

§ 264.21 Time objectives.

Urban Studies are to be programmed to be completed in about three years. Time objectives for each of the three study stages (See App B) are as follows—

(a) Stage 1—6 to 8 months (including 30 days for OCE review and approval of POS).

(b) Stage 2—10 to 12 months.

(c) Stage 3—16 to 20 months.

§ 264.22 Reports and documentation.

(a) *The Plan of Study.* (1) Preparation of the Plan of Study (POS) is the first major substantive task to be undertaken in the conduct of an urban study (ref para 10a). The POS is a multiple-party agreement that specifies the scope of the study, describes an initial set of problems, issues, and concerns to be addressed, and delineates the anticipated public involvement program strategy. As such, it serves as a planning and management tool. It specifies who will do each portion of the study, when each part will be done, and how the total effort will be managed. A detailed discussion of format and content is contained in Appendix D.

(2) The Plan of Study, as the first major study output, should serve as a focal point of the public involvement program. The POS shall describe how the public will be involved in the study, and should provide the vehicle for initial contacts with the public.

(3) Table 1 contains a guide to allocating efforts in a Plan of Study for an urban study. These effort component breakdowns are based upon experience with the Pilot Wastewater Management Program. "Effort" as used in this regulation refers to person-years of work multiplied by the annual cost of employing a person with that specific expertise for one year. "Total Combined Efforts" include all Corps efforts plus all other Federal efforts plus all non-Federal efforts plus all non-Corps of Engineer dollars disbursed in lieu of providing effort.

(4) The Plan of Study may require modification once the study is initiated. Changes should be based upon mutual agreement by the parties allied in the Plan of Study, and documented in the Plan Formulation Appendix.

(b) *Study reports.* (1) *General.* The Study Report will consist of a separate summary document and supporting appendices as outlined in Figure 1. Deviation from this format must be approved by HQDA (DAEN–CNP) WASH DC 20314 prior to writing the report. Because the urban study is the ultimate

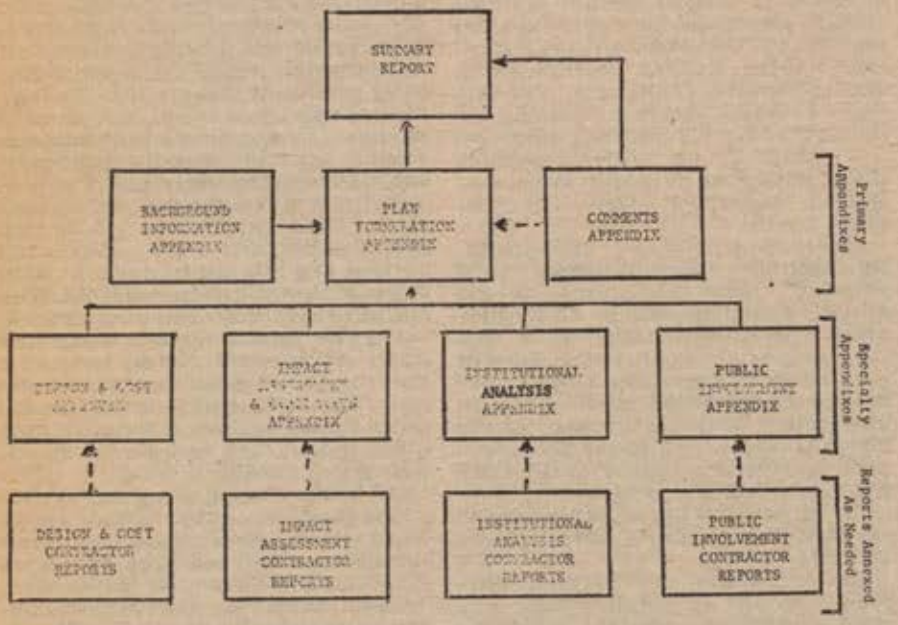
responsibility of the Corps of Engineers, it is strongly recommended that the appendices be written by Corps personnel. A consultant's report should be attached as an annex to an appendix to reference technical information. A consultant's report should not comprise the appendix.

(2) *Summary report.* The Summary Report shall be a well-illustrated document written for the non-technical reader, designed to be read in an hour or less. The document should essentially be a summary of the Plan Formulation Appendix. It should describe the study area highlighting problems, issues, and concerns, explain how the study was conducted, explain the final alternatives including a summary of impacts and present the final recommendations.

TABLE 1.—*Conceptual combined effort breakdown for a 3-yr study period*

Effort component	Percent of total combined efforts		
	Low	Average	High
1. Preparation of a plan of study	5	6	7
2. Plan formulation and evaluation:			
a. Problem identification	7	9	11
b. Formulation of alternatives	20	25	30
c. Impact assessment and evaluation	20	25	30
d. Public involvement and institutional studies	19	21	23
3. Study documentation and report preparation	8	10	12
4. Study management	3	4	5
Total		100	

FIGURE 1. Study Report Organization and Content



(3) *Background information appendix.* This appendix provides a discussion of the existing regional profile and the desired future condition(s), and an identification of the specific problems, issues, needs and concerns to which solutions may be addressed.

(4) *Plan formulation appendix.* This appendix documents the articulation of significant regional problems, concerns, issues, and planning objectives; the formulation of alternative urban water resource plans; the design of component systems; impact assessment; evaluation; and the iterative planning process. Also contained are implementation arrangements, a comparison of final alternative plans and their impacts. A summary of the public involvement program shall include a discussion of how it interacted with the planning process. This appendix, summarizing the specialty appendices is the key to the entire report, throughout the text of the report as decisions are described, the reasons for making each decision should be fully explained.

(5) *Comments appendix.* This appendix documents the views of interested parties based on their review of the draft Study Report and responses to those comments by the reporting officer.

(6) *Design and cost appendix.* This appendix contains the technical detail supporting the engineering aspects of system components. As a minimum, the following items should be included for each system developed—

(i) All assumptions used.

(ii) A description of all unit processes and components considered for inclusion and the reasons for acceptance of rejection.

(iii) A range of the technical effectiveness and reliability for each engineered component.

(iv) Schematics showing final configuration of engineered components, including projected performance of each component.

(v) All design parameters used.

(vi) All cost curves or other estimating devices used, including how they were developed.

(vii) An annotated bibliography.

(7) *Impact assessment and evaluation appendix.* This appendix presents a rationale which illustrates how and why alternatives were accepted, reformulated, or rejected. The methodology used should be explained in sufficient detail to permit the readers to justify the impacts presented or form their own opinion as to what the impact should be. The use of a matrix in the final report in and of itself is acceptable only as a means of presenting verbal information in an organized manner. Mathematical matrices are inadequate as the only tool for measuring the impacts of alternative plans. In like manner, an arbitrary number range such as plus five to minus five, is inadequate for assessment or evaluation purposes and should not be used in any display. The use of such generalized values precludes meaningful comparison of the significance and specificity of impacts.

(8) *Institutional analysis appendix.* This appendix contains an analysis of the interaction of all the plans considered on existing or proposed institutions and organizations. It should include a delineation of proposed institutional and organizational modifications and/or conversely, how the plans was subsequently modified to accommodate the institution. Additionally, the rejection of plans based upon institutional or organizational problems should be discussed.

(9) *Public involvement appendix.* This appendix documents the chronological development and execution of the public involvement program as required by ER 1105–2–800. This program should begin during the development of the Plan of Study. This appendix should include an analysis of the public involvement program and the publics' response to it, modifications to the program based on public response and acceptance, and modification or rejection of plans based on public response.

(10) *Ancillary documents.* These documents are not generally included in the Study Report, but accompany that report when formally transmitted to OCE for review. The reporting officer and the Division Engineer shall submit the same ancillary documents as required for other survey reports.

§ 264.23 Effective date.

This regulation is effective on November 3, 1975, as published in the FEDERAL REGISTER on that date and codified as 33 CFR 264.

APPENDIX A

JOINT AGREEMENT FOR INTERAGENCY COORDINATION OF AREAWIDE WASTE TREATMENT MANAGEMET PLANNING ASSISTANCE TO STATE AND LOCAL GOVERNMENT BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND THE DEPARTMENT OF THE ARMY

Purpose

This interagency agreement defines the relationship between areawide waste treatment management planning conducted by the Army Corps of Engineers under its Urban Studies Program and areawide waste treatment management planning authorized under Title II of the Federal Water Pollution Control Act Amendments of 1972 and ad-

ministered by the Environmental Protection Agency. The agreement also acknowledges that the Corps of Engineers may provide technical assistance in 208 planning outside the Army Urban Studies Program.

The Army Corps of Engineers is authorized by specific resolutions of Public Works Committee of Congress to conduct regional wastewater management planning for designated urban regions of the United States. Such planning is normally conducted in conjunction with other urban water resources problems as part of the Corps of Engineers Urban Studies Program. Further, section 208 of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500) authorizes the Secretary of the Army, acting through the Chief of Engineers, to provide consulting and technical assistance to planning agencies designated under section 208(a) in developing and operating a continuing areawide waste treatment management planning process under section 208(b) upon request of the Governor or the designated planning agency.

The Administrator of the Environmental Protection Agency, in fulfilling his responsibility for administering Pub. L. 92-500, is required by the Act to encourage and facilitate the development and implementation of areawide waste treatment management plans. Subsection 208(f) authorizes the Administrator to make grants to designated planning agencies to develop and operate continuing areawide wastetreatment management planning processes in accordance with specific requirements of section 208. The Act further authorizes the Administrator under subsection 208(g) to consult with and provide technical assistance to a designated agency upon request of the Governor or the designated 208 agency.

While each Federal agency executes its areawide waste treatment planning responsibilities in a different manner—the Army through technical assistance and the Environmental Protection Agency primarily through grants, the two programs are compatible and are designed to achieve the same goal. The provisions delineated in this agreement are intended to provide guidance to representatives of both agencies in instances where the two programs may involve the same geographical area.

Objectives

A common goal of both agencies is to enhance the capability of local and State governments in developing regional wastewater management planning processes which will achieve the National water quality goals stipulated in Pub. L. 92-500. In accordance with this goal, three specific objectives have been established for the areawide waste treatment management planning program. These are:

(1) Development of a local planning process which can successfully conduct the required planning on an areawide scale;

(2) Development of an initial plan meeting requirements of the Act; and,

(3) Establishment of a continuing planning process at the regional level which can successfully evaluate the current plan and appropriately update such a plan to allow continued annual recertification by the Governor as required by the Act.

Coordinating Provisions

1. Planning by the Corps of Engineers under the provisions of section 208 will be to the level of precision required by the Administrator for approval of any plan certified and submitted to him by any Governor under section 208.

2. Acceptance of request by the Secretary of the Army to provide consultation or technical assistance in areawide wastewater management planning is contingent upon the resources and manpower available to the Corps of Engineers to provide such assistance.

3. The Corps of Engineers will assign appropriate priority to planning required by section 208 to enable the designated planning agency and/or the Governor to comply with time limitations prescribed by the Regional Administrator, Environmental Protection Agency.

4. The existence of an urban study resolution shall not preclude approval of a 208 designation for an area, nor shall approval of a 208 designation for an area preclude funding for an urban study.

5. In no case shall there be a duplication of Environmental Protection Agency and Corps of Engineers funding for the same specific task in development of a wastewater management plan or planning process under Title II of the Federal Water Pollution Control Act Amendments of 1972. Where a potential duplication of the same specific task is identified, applicable Corps of Engineers and Environmental Protection Agency budgets will be appropriately modified.

6. All section 208 planning activities undertaken by the Corps of Engineers will be set forth in a plan of study approved by the designated local planning agency, the State and the Environmental Protection Agency Regional Administrator. Such planning will be in accordance with all applicable laws, Environmental Protection Agency guidelines, criteria, and regulations, as well as applicable State and local laws and regulations.

7. Where plans of study under the Army Urban Studies Program have been approved by local officials and the Environmental Protection Agency prior to the 208 designation, the plans of study for the 208 project and the Urban Study will be reviewed to identify the additional planning needed to meet 208 requirements. The urban study will be completed in accordance with provisions of the original plan of study as revised to include any additional section 208 requirements requested by the designated planning agency.

8. Where an urban study has been authorized and funded for an area also designated under section 208 and a plan of study has not been approved, the Corps of Engineers will delete areawide wastewater planning from the urban study if the designated planning agency elects to accomplish such planning using section 208 grant funds. Under such conditions, the Corps of Engineers will assess the remaining water resources problems to determine the feasibility of undertaking an urban study. Conversely, if the designated planning agency requests the Corps of Engineers to conduct the section 208 planning as an integral part of the urban study, a plan of study will be developed to meet the requirements of the designated 208 planning agency, subject to the approval of the Environmental Protection Agency Regional Administrator. If agreement concerning the plan of study for the 208 designated area cannot be set forth in a mutually agreeable manner, wastewater planning for the area will be deleted from the urban study and accomplished by the designated planning agency. As above, the Corps of Engineers would then assess the feasibility of undertaking the remaining facets of the urban study.

9. Technical assistance provided by the Corp of Engineers may include the development of alternative plans or portions of plans for meeting the provisions of section 208(b). The decision to adopt or implement specific alternatives or proposals generated by this planning is the responsibility of the designated planning and the designated management agency(ies).

10. Technical assistance provided by the Corps of Engineers for designated 208 areas not included in the urban studies programs will be accomplished as directed by the designated planning agency.

11. Upon request of the Governor(s), and upon agreement of the Regional Administrator, Environmental Protection Agency, the Army Corps of Engineers may consult with and provide technical assistance on a reimbursable basis in development State plans for areas not designated under section 208(a).

Funding Policy

Funding policy is based on the premise that a designated agency needs to fully participate in the planning process and to build planning expertise.

1. Section 208 studies initiated through 30 June 1975 can be at 100% Federal expense except that costs and effort provided by non-Federal interests prior to designation will not be reimbursed. For areawide wastewater management studies of designated areas initiated through 30 June 1975, the source of Federal funds by planning category will be as follows:

a. Section 208 planning included in Army urban studies will be funded 75 percent by Army and 25 percent by the Environmental Protection Agency. (The funds from the Environmental Protection Agency will be granted to the designated agency for internal activities.) Section 208 planning added to planning already included in Army urban studies will be funded 100 percent by the Environmental Protection Agency.

b. Section 208 planning by the Corps of Engineers in areas not associated with the Army Urban Studies Program will be funded 100 percent by EPA.

2. In areas not designated under section 208, wastewater management planning conducted by the Corps as a part of an urban study will be cost shared at 75 percent Federal/25 percent non-Federal.

APPENDIX B

APPLICATION OF THE MULTIOBJECTIVE PLANNING FRAMEWORK TO THE URBAN STUDIES PROGRAM

1. *General.* The policies and principles established in the ER 1105-2-200 Series of planning regulations are generally applicable to studies conducted in the Urban Studies Program. A discussion of the planning stages and tasks, as they relate to this Program follows.

2. *Stages of Plan Development.* Urban studies will be undertaken in three time-phased stages covering 36 months. This short time period is necessary to meet the deadlines of para 3a as well as to keep the plans relevant in light of rapidly changing urban problems. The planning process is divided into three stages to facilitate management by specifying at least three points for monitoring study progress and scope while providing for the orderly development of plans. Each stage has specific study outputs. These are intended to provide for the sequential review of study progress and to serve as a basis for making decisions about the nature, scope, and direction of subsequent study activities.

a. *Stage 1—The Plan of Study.* This stage should result in a clear indication of the scope of the urban study, the precise study area planning objectives it will pursue, specific constraints that have been identified, and how subsequent planning activities will be handled. The product of this stage will be the sections entitled, "Stage 1 Study Results" and "Plan of Study Coordination" of the Plan of Study document. Additional information on these and other sections of the Plans of Study is containined in Appendix D.

b. *State 2—Development of Intermediate Plans.* This stage concentrates on a more thorough analysis of the problems, as well as the development of a preliminary range of solutions to the problems. It is not in-

conceivable that more than 50 alternatives will be developed in this stage at a very gross level of detail. Those showing promise may be carried forward, while others may be discarded due to adverse public reaction, or engineering or other reasons.

(1) The initial development of alternatives should not be unduly constained during this stage so that any practicable ways for achieving the study area planning objectives are not overlooked. Plans developed which are contrary to existing public preferences permit a comparison showing the social, environmental, and financial cost of the preferences. A public reassessment of their preferences may result in a changing of those preferences to accommodate new of innovative concepts.

(2) The product of this stage should be the preparation of the draft Background Information Appendix, and a chronological draft of the Plan Formulation Appendix covering the first 16 to 20 months of the study. Analysis of these documents by all study participants, Division, and HQDA (DAEN–CWP) WASH DC 20314 should form the basis for decisions regarding how planning should be accomplished in Stage 3. A detailed description of the contents of these appendices is contained in para 14b.

c. *Stage 3—Development of Final Plans.* This stage concentrates on developing an increasing level of detail on a decreasing number of alternative urban water resource plans. The reduction in the number of plans under consideration is accomplished through a screening process primarily dependent on both through public involvement and professional-technical evaluation. The level of detail associated with the final plans should be comparable between capital improvements associated with the same water resource function, such as navigation; however, the level of detail associated with wastewater management may be different than the level of detail associated with navigation whereas all navigation improvements have the same level of detail. The level of detail for water resource functions that are part of the Corps' traditional role is determined by the Engineer Regulations concerning project authorization. The level of detail for wastewater management is determined by EPA regulations and guidance. The product of Stage 3 is the final study report. A detailed description of this document is contained in para 14b.

3. *Planning Tasks.* Planning will be conducted by carrying out four functional planning tasks during each of the three stages of plan development. These tasks are problem identification, formulation of alternatives, impact assessment, and evaluation. It may be necessary and even desirable to repeat or iterate these tasks a number of times during any one stage. Succeeding iterations should reflect an increasing level of effort, detail, and refinement. In addition, iterations also provide for incorporating additional information and for broadening the scope of the urban study as it progresses.

a. *Problem Identification.* The purpose of problem identification is to identify the range of problems the study effort will address and to establish the study area planning objectives for the urban study. The planning objectives provide the direction for formulation of alternate plans and form the basis for assessing and evaluating alternatives. Problem identification involves the following activities:

(1) Identify public concerns.
(2) Analyze resource management problems.
(3) Define the study area.
(4) Describe the base condition.
(5) Project future conditions.
(6) Establish study area planning objectives.

b. *Formulation of Alternatives.* The purpose of formulating alternative plans is to develop and design complete urban water resource management systems which satisfy the planning objectives. It is likely that wastewater management measures would be the keystone of the formulation effort. Formulation involves the following activities:

(1) Identify the full range of resource management measures available for problem solution, including measures favored by representative segments of the public.
(2) Categories applicable management measures.
(3) Develop plans.
(4) Consider plans of others.

c. *Impact Assessment.* The purpose of impact, or effect, assessment is to identify and measure the changes expected to result from different alternative plans. Impacts are identified by comparing all the components of an alternative plan to the base condition of the region to determine if economic, social, and environmental changes from the conditions are expected to occur with the plan. Impact assessment involves the following activities:

(1) Determine sources of impacts, such as inputs, outputs or facilities.
(2) Identify and trace impacts.
(3) Specify incidence of impacts, including spatial distribution, and when they will occur.
(4) Measure impacts.

d. *Evaluation.* The purpose of evaluation is to determine how well the alternative urban water resources plans achieve the planning objectives, and how the plans affect other related problems. Evaluation provides the basis for trading off among the alternatives so that recommended actions can be made. Evaluating alternative urban study plans is contingent upon reflecting publicly-held values to determine which are the beneficial and adverse aspects of each plan. Evaluation involves the following activities:

(1) Appraise planning objective fulfillment.
(2) Appraise system of accounts fulfillment.
(3) Apply specified evaluation criteria to include testing acceptability, effectiveness, and completeness.
(4) Perform trade off analysis.
(5) Designate NED and EQ plans from only those alternative plans, or alternative plan components, considered for possible implementation by the Corps or other Federal agency programs subject to the Water Resources Council Principles and Standards. Designations are not to be used for plans, or plan components, considered for possible implementation under other Federal agency, State, and local programs to which the Principles and Standards are not applicable.
(6) Determine need for repeating planning tasks.

Appendix C

Institutional Analysis and Arrangements

1. *Purpose.* The purpose of this appendix is to establish the framework for performing institutional analysis and presenting institutional arrangements.

2. *Relationship of Institutions to Urban Studies.* An institution is a process or organization that is highly structured, systematized and stable. It may grow out of mores such as common law, or be consciously created such as constitutional law. An institution may be a type of group, or it may be a formalized practice or procedure. Applying these definitions to water resources planning, and particularly to urban studies, the result is a focus for institutional analysis that includes not only organizations such as planning agencies, water commissions, and special interest groups, but also the processes and relationships that are involved such as home rule, tax structures, and increased financial obligations. Substantial public involvement is essential in performing, the latter part of this analysis, inasmuch as public attitudes interact heavily with these non-organizational institutions. Institutional analysis is the process whereby institutions directly or indirectly related to water resource planning and management are identified and their capability to implement alternative plans is assessed. Institutional arrangements are those tasks or procedures which suggest how existing institutions should be utilized, or modified, new institutions created, or existing institutions abandoned in order to facilitate implementation of the plan.

3. *Task Areas.* Institutional analysis parallels this overall planning process, moving from broad data collection to detailed specification of arrangements. Analysis is composed of three major task areas, which are listed below and discussed in paragraphs 4 through 6.

a. Establishment of an institutional data base.

b. Analysis and evaluation of institutional capabilities as part of the implementation program.

c. Presentation of alternative institutional arrangements as part of the implementation program.

4. *Institutional Data Base.* Establishing the necessary data base entails the identification and description of a cross-section of relevant institutions. The description of institutions should concentrate on financing capabilities, legal authorities, programs and policies, existing capabilities to implement programs for management and capital facilities, and availability of competent personnel in formal organizations and agencies, as well as widespread attitudes and local customs relevant to water resources planning. If a survey exceeding ten contacts is required, HQDA (DAEN–CWP) WASH DC 20314 must be contacted prior to the survey. The Office of Management and Budget must approve all surveys exceeding ten contacts, (reference to OCE Supplement AR 335–15).

5. *Analysis and Evaluation of Institutional Capabilities.* a. This task is the core component of the institutional studies. It involves the analysis of institutional requirements imposed by alternative plans and the capability of existing institutions to meet these requirements.

b. In Stage 2 the requirements that plans would place on existing institutions should be identified. Particular attention should be given to the following items.

(1) Formal organizations and agencies.
(2) Powers and authorities of existing institutions, to include legal bases and considerations in both functions and geographic areas.
(3) Major programs and policies of existing institutions.
(4) Regional financing capabilities.

c. As planning continues, the capability of existing institutions, to implement alternative plans is assessed. The assessment may lead to the conclusion that some new institutions will be required in order to implement some or all alternative plans. Because institutional studies are an integral part of plan formulation and evaluation, they must be considered along with social, economic, environmental, and technical impacts throughout the planning process.

d. Active public involvement is essential to accomplish this task. Interest groups and community groups can be of particular value in assessing the potential for change. More-

over, given the definition of public as any non-Corps of Engineers entity, organizations are publics. The inclusion of these publics in the planning process will provide critical input to the institutional analysis.

6. *Presentation of Institutional Arrangements.* Each alternative urban water resources plan must contain at least two alternative implementation arrangements, which may require the presentation of two different institutional arrangements. Those institutional arrangements peculiar to a specific capital improvement or management program should be included in the discussion of that component. Those arrangements concerning the entire plan, should be discussed in an overview paragraph. One implementation arrangement may be used to implement more than one plan. For instance, plan A may have implementation arrangement X and Y. But arrangement X may be used by plans A, C, D, and E whereas arrangement Y may be used by plan A, B, D, and F.

APPENDIX D

THE PLAN OF STUDY (POS)

1. *Purpose.* The purpose of this appendix is to establish a general format and content for Plans of Study to be prepared under the Urban Studies Program. Included are examples of tables and schedules to be incorporated in the POS. Single purpose wastewater management planning studies conducted by the Corps of Engineers under either Congressional resolution or pursuant to section 208 of Pub. L. 92-500 will also follow this format and content.

2. *Plan of Study Objectives.* Each POS should fulfill three objectives.

a. Document the planning efforts of Stage 1.

b. Provide a tool to facilitate study management and review of study progress.

c. Serves as an agreement of participation by all pertinent Federal and non-federal agencies and other publics concurring in its content.

3. *Element of a Plan of Study.* Each POS should have the same format to facilitate review and comparability. Accordingly, each POS should contain the following four sections, discussed in paras. 4–7 below.

a. Justification for the Study.

b. Stage 1 Study Results.

c. Study Effort Allocation.

d. Plan of Study Coordination.

4. *Justification for the Study.* This section of the POS should contain the following three subsections.

a. *Introduction.* The introduction should briefly explain the purpose of the POS and the relationship of the POS to study participants.

b. *Authority.* The authority for making the study should be briefly stated. Copies of resolutions should be included as an Appendix to the POS.

c. *Program Objectives.* This subsection should explain the objectives to the Corps of Engineers' Urban Studies Program or single purpose wastewater or Section 208 study as they broadly relate to the study area.

5. *Stage 1 Study Results.* This section should report on the initial stage of the study. It should provide a dynamic framework of substantive information upon which to structure the study. The framework is based upon a broad survey of issues and concerns leading to preliminary definition and analysis of the problems. The public plays an essential role in providing this information. The following subsections should be included.

a. Identification of the Study Area. A brief overview of the existing regional profile of the study area is essential. Additionally, reasons for selecting the boundaries of the study area should be discussed along with the relationship of the study area to surrounding areas. For instance, the quality and quantity of drainage waters originating upstream may affect the study area as the drainage water flows through it. This cause-effect relationship should be discussed.

b. Description of Existing Problems. A discussion of the existing problems within the study area is necessary. Issues and concerns related both directly and indirectly to water resources must be included.

c. Statement of Study Planning Objectives. Based on the description of problems in the previous paragraph, preliminary water resources planning objectives should be identified. These should draw upon the Urban Studies Program objectives, national planning objectives from para 3d and the existing local and regional objectives. All the above objectives and problems should be combined into a set of unified and concise study planning objectives. The specificity of these study planning objectives is important. Phrases such as "wastewater management" or "navigation" are insufficient. Rather, statements such as, "Upgrade the wastewater management systems in the study area to meet the 1977, 1983, and 1985 goals of Pub. L. 92-500" or "Reduce the incidence and amounts of damages resulting from flooding _____ Creek drainage area of *City, State*" are required.

d. Current Planning and Related Data. Included in this section should be a resume of planning activities currently under way or authorized within the study area by Federal, State and local agencies. Sources of available data and pertinent reports should be shown. It is probable that much of this information will be obtained as a result of contacts made during coordination of the POS.

e. Public Involvement Strategy. Because public involvement must begin as soon as the study is initiated, the public involvement strategy for the entire study should be outlined as soon as possible. Tentative dates for public meetings based on expected progress of the study should be developed. Preparation of brochures, development of workshops, and other activities for involving the public in the planning process also should be discussed. All of this information should be included in this subsection.

f. Institutional Arrangements. Basic information on existing institutional arrangements should be included. Significant authorities, spatial and functional responsibilities and institutional relationships, should be discussed to establish a basic framework and usable starting points for subsequent study and analysis.

g. Study Management. This subsection must set forth the following information.

(1) The POS must clearly specify who has the final authority for the administration and management of the study. Is it the District Engineer, Chairman of the local Council of Governments, or other Federal or non-Federal agency representative? Irrespective of who has the final study authority, the District Engineer will retain the responsibility for the Corps portion of the total effect.

(2) The POS must identify the day-to-day study manager. The members of the study team and their areas of expertise must also be identified. If members of other Federal or non-Federal agencies augment the study team, these persons should be identified.

(3) Direct liaison with other Federal and non-Federal agencies should be documented. The study team's points-of-contact at the working level in these other agencies should be identified.

(4) The POS should contain a brief description of coordinating committees, or similar groups, which will be formed for the study. The description should include a discussion of how the inputs of these groups are going to be used, and whether these groups are going to act in an advisory, a managerial, or an administrative capacity.

(5) The POS should clearly identify who is responsible for monitoring the progress of the study and comparing progress to the time, cost, and work effort schedules set forth in the POS. The parties responsible for modifying, and the parties responsible for approving any modifications to, the POS should also be identified.

6. *Study Effort Allocation.* In order to serve as a tool to facilitate study management and review, a POS must contain tables which show the allocation of costs and efforts to specific work elements. To promote comparability, this paragraph specifies those tables.

a. *Major Work Item.* The total study effort should be broken down into major work items. Examples of major work items are flood control and flood plain management, regional harbors and waterways, wastewater management, water supply management, and conservation of fish and wildlife resources. These major work items will be categorized as—

(1) *Specific Work Tasks.* Work tasks specify discrete duties to which costs or efforts may be allocated by individual study participants. Specific work tasks are prescribed in Table D-4 (located at the end of this appendix) for the Wastewater Management major work item. These work tasks have been agreed upon by the Corps, EPA, and the Office of Management and Budget (OMB). Consequently, deviation from these shall not occur without the written approval of HQDA (DAEN-CWP) WASH DC 20314. Specific work tasks for other major work items will vary from study to study.

(2) *Effort Components.* Work tasks are grouped into effort components which facilitate study management and comparability. The effort components are displayed in Table D-1 (located at the end of this appendix). Table 1 shows the percentage of effort ranges considered reasonable for a balanced urban study.

b. *Scheduling of Work Tasks.* Scheduling for the study must be based on the assumption that funding will be available to meet the required time frame and the most efficient course of action spelled out. Selection of the specific method of scheduling work tasks will be left to the reporting officer; however, the method selected should establish priorities of activities and key check points in consonance with the procedures contained in this FR. Where two or more study participants are responsible for a single work task, the completion date of each participant's share of the work task shall be entered in the tables.

c. *Study Costs.* The total cost of each work task must be estimated and assigned to the responsible Federal or non-Federal study participant. Where two or more participants are responsible for a work task, the total cost for the task will be split to illustrate each participant's share. In the context of the tables, "Total costs" is equivalent to "total combined efforts", defined in para 14a(3).

(1) *Table Format.* (a) Tables D-1, D-2, and D-3 (located at the end of this appendix) will be developed for each study. These tables summarize study effort allocation for an urban study. Table D-1 contains total study costs by major work items and effort component. Table D-2 summarizes Federal and non-Federal eoffrts by major work item. Table D-3 summarizes Federal and non-Federal efforts by effort component. The right hand column of Table D-2 should be identical to the bottom row of Table D-1. The right hand column of Table D-3 should be identical to the right hand column of Table D-1.

(b) A table identical to Table D-3 should be developed for each major work item. An example of a table for the major work item of Wastewater Management is labeled Table

D–3a. Summarizing all of the entries in these tables for each major work item in the study will generate the input for Tables D–1, D–2, and D–3. Consequently, these tables should be some of the first tables developed after the allocated study cost, Table D–6, is determined.

(c) A specific series of tables, Table D–4 will be developed only for the wastewater management major work item. The row and columnar headings and "Work Element/Descriptions" in the POS must be identical to those contained in Table D–4.

(d) A series of seven tables, Table D–5, for each major work item shall be developed if formally requested on a case-by-case basis by HQDA (DAEN–CWP) WASH DC 20314. In no case shall the format of Table D–5 be used as a substitute for the format specified for wastewater management in Table D–4. However, Table D–5 for wastewater management may be required in addition to Table D–4.

(2) *Cost Allocation.* Particular attention must be given to allocating wastewater management costs, because of the potential which wastewater management has for concurrently solving other urban water resource problems. The cost to be allocated to wastewater management shall be based on an equitable distribution of total urban study costs among all major work items. The procedures to be followed in allocating the urban study costs to each major work item is a modified form of the Separable Costs-Remaining Benefits (SCRB) method now being used for project construction cost allocation. In no case shall any other procedure be used without specific written approval from HQDA (DAEN–CWP) WASH DC 20314. The above shall not be construed to supersede or replace existing project cost allocation procedures. Table D–6 shall be used to allocate urban study costs as follows:

TABLE D–1.—*Total study costs by major work item and effort component*

Effort components—work items	Flood control and flood plain management	Lake, ocean, and estuarine, restoration and protection	Wastewater management	Water supply management	Navigation (commercial and recreational)	Water related recreation	Conservation of fish and wildlife resources	Total for effort component
1. Preparation of a plan of study								
2. Plan formulation and evaluation								
a. Problem identification								
b. Formulation of alternatives								
c. Impact assessment and evaluation								
d. Public involvement and institutional studies								
3. Study documentation and report preparation								
4. Study management								
Total for work item								

NOTES.—All table entries should be in thousands of dollars ($10³).

Table 1 contains a conceptual combined effort breakdown for a 3-yr study period. Total study costs=total combined efforts=all corps efforts plus all other Federal efforts plus all non-Federal efforts plus all non-Corps of Engineer dollars disbursed in lieu of providing efforts. Effort=person-years of work multiplied by the annual cost of employing a person with a specified level of expertise.

TABLE D–2.—*Federal and non-Federal efforts by major work item—summary*

Major work items	Federal		Non-Federal		Total for major work items	
	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)
Flood control and flood plain management						
Lake, ocean, and estuarine restoration and protection						
Wastewater management						
Water-supply management						
Navigation (commercial and recreational)						
Water-related recreation						
Conservation of fish and wildlife resources						
Total						

TABLE D–3.—*Federal and non-Federal efforts—summary*

Effort component	Federal		Non-Federal		Total for effort component	
	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)
1. Preparation of a plan of study						
2. Plan formulation and evaluation						
a. Problem identification						
b. Formulation of alternatives						
c. Impact assessment and evaluation						
d. Public involvement and institutional studies						
3. Study documentation and report preparation						
4. Study Management						
Total						

NOTE.—A similar table will be developed for each major work item. Table D–3A, next page is an example.

TABLE D–3A.—*Work item: Wastewater management Federal and non-Federal efforts*

Effort component	Federal		Non-Federal		Total for effort component	
	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)
1. Preparation of a plan of study						
2. Plan formulation and evaluation						
a. Problem identification						
b. Formulation of alternatives						
c. Impact assessment and evaluation						
d. Public involvement and institutional studies						
3. Study documentation and report preparation						
4. Study management						
Total for effort						

NOTES.—A similar table should be developed for each major work item.
Developing this table for wastewater management does not fulfill the same requirement set forth in table D–4. Both tables must be developed although some information is duplicated.

TABLE D–4.—*Federal and non-Federal effort—summary*

	Federal		Non-Federal		Total	
	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)	Man-years	Cost (in thousands of dollars)
A. Public involvement program						
B. Data collection and projection for economics, water quality, and environmental and land use						
C. Development of alternative basin and area-wide plans						
D. Evaluation, comparison, and selection of basin and area-wide plans						
E. Implementation arrangements, including institutions needed for managing, financing, planning, construction, operation, and maintenance						
F. Report preparation						
Total						

NOTE.– Table D-4 applies only to the wastewater management major work item. All other major works items do not need a similar table constructed unless formally requested by HQDA (DAEN-CWP), Washington, D.C. 20314. In the event that a field office is formally requested to develop a similar level of detail on a major work item other than waste-water management, the format contained in table D-5 will be used.

TABLE D–4A.—*Federal and non-Federal effort public involvement program*

Work element/description	Responsible agency [1]	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Develop a public involvement program plan				
2. Compilation of mailing list of individuals and organizations.				
3. Arrangements for meeting places				
4. Personnel to conduct workshops				
5. Personnel to do work with news media				
6. Preparation of public announcement				
7. Preparation of brochures, newsletters, etc				
8. Development of plan of study				
Total:				
Federal				
Non-Federal				

[1] Agency entry should be Corps of Engineers, or an agency name. Code agency name with (F) or (NF) to denote Federal or non-Federal agency, respectively.
[2] Costs should be shown for each agency participating in a work element.
[3] Completion date should be shown for each agency participating in a work element.

TABLE D–4B.—*Federal and non-Federal effort data collection and projection*

Work element/description	Responsible agency	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Historical and projected population and economic data on a county basis:				
a. Urban and rural population				
b. Industrial employment by 2- and 3-digit SIC				
c. Agricultural crop acreage and type of cropping				
d. Compare with OBERS projections				
2. Historical and projected water use and facilities on a county basis:				
a. Municipal				
b. Industrial by census industrial sector				
c. Irrigation				
d. Review and adjust where necessary				
3. Historical and projected waste sources and facilities showing flow rate, constituents and concentrations:				
a. Public and municipal				
b. Industrial				
c. Irrigation return flows				
d. Oil and gas field operations				
e. Urban and rural storm runoff				
f. Sanitary landfills				
g. Open dumps				
h. Field collection and analysis of water quality data where none available.				
4. Existing and projected land use plans:				
a. Adopted land-use plans				
b. Best estimates where none exist				
5. Surface water quality data:				
a. Description of data needed				
b. Prepare map showing monitoring stations				
c. List water quality parameters monitored				
d. Inventory existing violators				
e. Identify, locate, and obtain additional data				
6. Stream standards:				
a. Description of existing standards				
b. Identification of inadequacies, if any				
c. Tentative revised standards by stream reach and for all necessary parameters.				
7. Water rights criteria or constraints that may affect design of upstream treatment systems.				
8. Groundwater quality and quantity:				
a. Availability by county and/or aquifer from existing sources with refinements where possible.				
b. Recommend areas which should be considered for groundwater recharge with treated wastewater.				
9. Provide data on existing significant botanical, zoological, archeological, and historical basin features.				
10. Review, select and implement a data handling and storage program.				
11. Data and inventory assessment:				
a. Assess for validity				
b. Assess for coverage				
c. Determine data gaps				
d. Prepare program for incremental data acquisition.				
e. Provide a complete inventory of data source				
Total:				
Federal				
Non-Federal				

Footnotes: See Table D–4a.

TABLE D–4C.—*Federal and non-Federal effort development of alternative basin and area-wide plans*

Work element/description	Responsible agency	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Identify and designate the wastewater management planning areas.				
2. Basin model:				
a. Review, test, select and adopt model				
b. Adapt, verify, and refine model to river basin conditions.				
3. Alternatives to be developed:				
a. Develop wastewater management alternatives for each areawide planning area and for the basin to meet 2 goals:				
(1) Highest levels of wastewater treatment				
(2) Meet current requirements				
b. Alternatives to be developed include the following:				
(1) Land disposal				
(2) Biological and physical-chemical				
(3) Combinations of (1) and (2) including nonstructural.				
c. Existing wastewater management plans will be utilized in developing 1 or more of the above alternatives.				
Total:				
Federal				
Non-Federal				

Footnotes: See Table D–4a.

TABLE D–4D.—*Federal and non-Federal effort evaluation, comparison, and selection of basin and area-wide plans*

Work element/description	Responsible agency	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Assess beneficial and adverse impacts of alternative areawide and basin plans:				
a. Economic				
b. Environmental				
c. Social				
d. Water rights				
e. Institutional/financial capabilities				
2. Compare performance of alternative plans				
3. Select area-wide and basin plan				
Total:				
Federal				
Non-Federal				

Footnotes: See Table D–4a.

TABLE D–4E.—*Federal and non-Federal effort implementation arrangements*

Work element/description	Responsible agency	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Prepare construction schedules for each of the wastewater planning subareas to meet the highest priority short-range basin goals.				
2. Develop and recommend appropriate institutional arrangements for:				
a. Execution of advanced engineering and design and construction.				
b. Operation and maintenance				
c. Major replacements				
d. Continuing planning and management responsibility.				
3. Develop and recommend financing and cost sharing arrangements.				
4. Planning committee adopts certifiable plan				
Total:				
Federal				
Non-Federal				

Footnotes: See Table D–4a.

TABLE D–4F.—*Federal and non-Federal effort report preparation*

Work element/description	Responsible agency	Cost		Completion date
		In man-years	In thousands of dollars	
	(1)	(2)	(3)	(4)
1. Report preparation				
Total:				
Federal				
Non-Federal				

Footnotes: See Table D–4a.

TABLE D–5.—*Initials of work item—Federal and non-Federal efforts by work task*

[Major work item: (specify). Effort component: (specify)]

Work task	Federal				Non-Federal			
	Responsible agency	Man-years	Cost (in thousands of dollars)	Completion date	Responsible agency	Man-years	Cost (in thousands of dollars)	Completion date
1. * * *								
2. * * *								
* * *								
* * *								
* * *								
n. Specify as appropriate in detail to insure no duplication of efforts.								
Total								

NOTES.—A table should be developed for the following effort components:

1. Preparation of a plan of study.
2a. Problem identification.
2b. Formulation of alternatives.
2c. Impact assessment and evaluation.
2d. Public involvement and institutional studies.
3. Study documentation and report preparation.
4. Study management.

The format in table 2-5 will be used in the event that a field office is formally requested by HQDA (DAEN-CWP) Washington, D.C. 20314, to develop a similar level of detail to table 2-4 on a major work item other than wastewater management.

TABLE D–6.—*Urban study cost allocation worksheet*

Major work item, x_i	Flood control	Wastewater management	Water supply	Water based recreation	Total Σ of line entries
1. Single purpose study cost					Not applicable.
2. Multiple purpose minus 1 major work item study cost					Do.
3. Separable study cost, USC less line 2					v.
4. Remaining study cost, line 1 less line 3					w.
5. Ratio of remaining study cost, remaining study cost for x_i/w					1.
6. Individual joint study cost, (y) by (x_i ratio from line 5)					y.
7. Allocated study cost, line 3 plus line 6					z.

NOTES.—Σ=the sum of.
x_i=a specific major work item.
USC=urban study cost. USC is not equal of line 1, single purpose study cost. USC is the amount of money and effort from both Federal and non-Federal sources, available for the total multiple purpose study. USC=z=the total cost to be allocated.

(a) The single purpose study cost for each major work item, x_i, without regard for any multiple purpose problem solutions is estimated and entered in line 1.

(b) Estimate the cost to solve all major work items through multiple purpose planning. This is the total urban study cost (USC). The USC is the total estimated cost of the study to include Federal and non-Federal efforts.

(c) For each major work item, x_i, estimate the cost to solve all other remaining x_i through multiple-purpose planning. Enter this value, (N—1), in line 2.

(d) The separable study cost of each major work item is estimated and entered in line 3. The separable cost for each major work item, x_i, is determined by subtracting from the USC, the cost estimated in line 2, above.

(e) The individual remaining study cost is the difference between the single purpose study costs, line 1, and the separable study costs, line 3. This value is entered in line 4.

(f) The ratio of the remaining study cost for each major work item, x_i, line 4, to the sum of all remaining study costs, w, is calculated and entered in line 5.

(g) The total joint study cost, y, is the difference between the USC and the sum of all separable costs, v.

(h) The total joint study costs, y, is distributed to each x_i, by multiplying y times the ratio of remaining study cost for each x_i, line 5, and is entered in line 6.

(i) The allocated study cost for each major work item is the sum of the separable cost, line 3, and the individual joint study cost, line 6, for each major work item. The allocated study cost for each x_i is entered in line 7. The allocated study cost for each major work item should be entered in the bottom line to Table D–1, the right hand column of Table D–2, and the lower right entry in Tables D–3a, b, . . . , i.

(j) The total allocated study cost, z, must be equal to the total urban study cost, USC. This is a useful check on the cost allocation process.

(k) Table D–6 should not be reproduced in the POS. Its primary value is as a worksheet for the cost allocation process. Table D–6, along with the supporting tables used to generate the estimates, will be kept in the files of the study office. This information should be available for review at the second OCE and Division review meeting held after beginning the POS. Table D–4 may be used to assist Corps planners in the development of single purpose costs for wastewater management. Other major work items are traditional Corps roles and should present much less of a problem than the initial single purpose wastewater management cost derivation. Based on total allocated costs for wastewater management, line 7 Table D–6, the single purpose entries can be modified to multiple purpose entries for inclusion in the POS.

(3) Eligible Costs. Certain types of funds may not be used to make up the required non-Federal contributions to the wastewater component of urban studies. The non-Federal share may be in terms of services, efforts, and/or cash contributions. Other Federal funds may not be used to make up any part of the non-Federal participation. Revenue-shared funds are not considered Federal Funds for this purpose. The non-Federal share must represent additional new effort specifically required in the conduct of the study. For example, the non-Federal share shall not include costs of data already collected or normally to be collected for an ongoing program, nor shall it include funds used for matching other Federal grants.

(4) Non-Federal Share Costs for Wastewater Management. Those non-Federal efforts which are included as separable costs under the wastewater management column on Table D–6 are countable for cost-sharing purposes. Those non-Federal efforts included as separable costs under any other major work item except wastewater management on Table D–6 are not countable for cost-sharing purposes. Those efforts which are included in the joint study costs are countable for cost-sharing purposes only up to the amount of the joint study costs allocated to wastewater management. The sum of the countable non-Federal efforts described above must be greater than or equal to 25 percent of the allocated study cost for wastewater management, line 7 on Table D–6.

7. *Plan of Study Coordination.* This section of the POS must reflect in detail, the coordination and public involvement that has taken place during POS preparation. The following subsections will be included.

a. *Stage 1 Public Involvement.* This subsection should document the development and execution of the Stage 1 Public Involvement Program. It should set forth what the public involvement hoped to accomplish, how the involvement was executed, and the modifications in the involvement program that may have been necessary to accomplish the desired end.

b. *Agency Approval.* When completed, the POS will essentially represent a formal agreement with the other participants in the study. Therefore, work tasks, schedules, and cost allocations, particularly for wastewater management, will be coordinated with all study participants. Letters of assurance shall be obtained from each and every study participant which confirm that efforts and costs allocated in the tables to specific study participants will be provided. These letters will be reproduced in Appendix B of the POS. If written responses are not available, the situation should be discussed in detail.

Part 275 is added as follows:

Sec.
275.10 Purpose.
275.11 Applicability.
275.12 References.
275.13 Relationship of Pub. L. 92–500 to Corps studies.
275.14 National goals.
275.15 Effluent limitation deadlines.
275.16 Policy on effluent limitations commensurate with 1985 goal.
275.17 Urban drainage.

Sec.
275.18 Reuse.
275.19 Sewer system evaluation.
275.20 Cost estimates.
275.21 Engineering economic analysis.
275.22 Effective date.
Appendix A
Appendix B
Appendix C
Appendix D
Appendix F

AUTHORITY. Pub. L. 92–500, 84 Stat. 91, 18 October 1972.

§ 275.10 Purpose.

This regulation provides guidance concerning water quality standards, goals, and deadlines to be used in developing wastewater management plans. It further provides policies for evaluation of wastewater collection and treatment facilities.

§ 275.11 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 275.12 References.

(a) Pub. L. 92–500, Federal Water Pollution Control Act Amendments of 1972, 18 October 1972 (84 Stat. 91).

(b) ER 1105–2–14, Framework and River Basin Study Programs (33 CFR 252).

(c) ER 1105–2–22, Urban Studies Program (33 CFR 264).

§ 275.13 Relationship of Pub. L. 92–500 to Corps studies.

(a) Sections 101 and 301 of Pub. L. 92–500 establish a set of national water quality goals. These sections establish dates by which wastewater treatment facilities must achieve certain treatment levels; these dates 1977, and 1983 and the treatment levels to be met are discussed along with the goal for 1985 in §§ 275.14–275.18 of this regulation. Plans developed will provide for phased implementation of the wastewater elements needed over the planning period to meet the water quality goals and standards specified in §§ 275.14–275.18. It is particularly important that a clear, concise display of the costs and impacts associated with the phased achievement of each goal over time be presented.

(b) The plans prepared in the course of study shall assist local governments in fulfilling certain of the requirements of a Step 2 (Preparation of Construction Plans and Specifications) construction grant application for section 201, "Facilities Planning". Appendix A sets forth the 14 items to be covered in the Step 2 construction grant application. The plan of study (ref § 27512(c)) must clearly set forth which participating agency is to provide each element of the Step 2 grant application. Some of the elements may be developed after the Corps of Engineers completes its portion of the study effort. Specific interpretations of the level of detail associated with each element should be obtained from the EPA Regional Office in whose jurisdiction the study area is located.

(c) When assisting local interests in the development of elements for a Step 2 grant application the function of certifying a plan is vested in the State. The State agency must forward, with each construction grant application submitted to the Regional Administrator, a certification that the proposed project is entitled to priority in accordance with the State priority system, and requires the specified funding requested from allotments currently available. Also included in priority certification is a statement that the award of a grant for the proposed project will not jeopardize the funding of any treatment works of higher priority. The State agency is responsible for defining the scope of treatment works projects and determining the time when such projects are to receive Federal financial assistance.

(d) Section 303, "Water Qaulity Standards and Implementation Plans," 40 CFR 130, "State Continuing Planning Process," and 40 CFR 131, "Water Quality Management Plans" describe State requirements in three areas. These requirements concern what the state has to do to establish a series of stream water quality standards, develop a priority listing of municipalities not achieving the stream standards, and develop information to implement a waste discharge permit program. Corps wastewater planning is not normally concerned with the type of planning required by section 303. However, information developed in the course of a Corps study may be modified and augmented, as necessary, by the State to satisfy requirements imposed by section 303.

(e) Corps planning for regional wastewater management facilities will reflect the intent of section 208, "Areawide Waste Treatment Management." When a planning agency is designated under section 208(a) to develop an areawide plan, Corps planning will provide input to the planning as defined in the Interagency Agreement between the Secretary of the Army and EPA dated 22 November 1974 (ref. § 275.12(c)).

(f) This regulation does not apply to studies conducted specifically to satisfy section 209, "Basin Planning". Those plans generally conform to Water Resources Council Level B criteria (ref. § 275.12(b)).

§ 275.14 National goals.

(a) Pub. L. 92–500 establishes two national water quality goals in section 101 (a). These goals are:

(1) It is the National goal that the discharge of pollutants into the navigable waters be eliminated by 1985.

(2) It is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1 July 1983.

(b) The wastewater management plans developed by the Corps will provide for satisfaction of these national goals through the time-phased achievement of various effluent limitation deadlines for publicly owned treatment works (POTW's) and non-POTW's. Table 1 relates the name of effluent limitations deadlines, and their acronyms, established in section 301 of Pub. L. 92–500, to the dates by which they must be achieved.

§ 275.15 Effluent limitation deadlines.

(a) *Secondary treatment.* Information defining secondary treatment in terms of water quality criteria was published as 40 CFR 133 in 38 FR 22298–22299 on 17 August 1973. POTW's in existence on 1 July 1977 or approved pursuant to section 203 of Pub. L. 92–500 prior to 30 June 1974 must achieve secondary treatment Any more stringent effluent limitations established to meet paragraphs (a) (1) through (4) of this section must be achieved not later than 1 July 1977.

(1) State water quality standards.

(2) Treatment standards.

(3) Schedules of compliance established pursuant to any State law or regulations under authority of section 501 of Pub. L. 92–500.

(4) Any other Federal law or regulations required to implement any applicable water quality standard established by Pub. L. 92–500.

(b) *Best Practicable Technology Currently Available (BPT).* By 1 July 1977, non-POTW must achieve BPT. Information defining BPT is being published on an industry-by-industry basis. Thirty categories of industrial discharges have been identified, many containing several subcategories. Effluent limitations regulations for these categories are being published in the Title 40 CFR series as Parts 405 through 435. Retreatment requirements for compatible pollutants in existing industrial discharges to POTW are described in 40 CFR 128, 39 FR 20982–30985, 8 Nov. 73. In addition to specifying effluent limitations allowing direct industrial discharge to navigable waters, regulations 40 CFR 405 through 435 also specify pretreatment requirements needed for—(1) Incompatible pollutants discharged from existing industries to POTW.

TABLE 1.—*Effluent limitation deadlines*

Source of wastewater	Dates	
	1977	1983
Publicly owned treatment works (POTW).	Secondary treatment	Best practicable waste treatment technology (BPWTT).
Nonpubliely owned treatment works (non-POTW).	Best practicable technology currently available (BPT).	Best available technology economically achievable (BAT).

NOTE.—POTW's are frequently referred to as "municipal" treatment plants. An example of non-POTW's are industrial treatment plants.

(2) New source industrial discharge to POTW.

(c) Best Practicable Waste Treatment Technology (BPWTT). No later than 1 July 1983, all POTW must provide for the application of BPWTT over the life of the treatment works. A Notice of Availability of an EPA proposed report titled Alternative Waste Treatment Management Techniques and Systems for BPWTT was published in 39 FR 11135, 25 Mar. 74. Corps field offices should coordinate with applicable State officials and EPA Regional Office personnel to develop an acceptable definition of water quality criteria achievable by, and commensurate with, BPWTT. Additionally, no funds may be provided under section 201 of Pub. L. 92-500 after 30 June 1974 unless the grant applicant can show that—

(1) Alternative waste management techniques have been studied and evaluated.

(2) The treatment works proposed meet BPWTT as defined by EPA.

(3) As appropriate, the treatment works allow to the extent practicable, the application of technology for water recycling, reclamation, or the elimination of pollutant discharges at a later date.

(d) Best Available Technology Economically Achievable (BAT). By 1 July 1983, non-POTW must apply BAT to their treatment works. Information on effluent limitations for BAT is provided in the same regulations as is information on BPT (40 CFR 405 through 435).

§ 275.16 Policy on effluent limitations commensurate with the 1985 goal.

(a) The Corps has no authority to establish or enforce "no discharge" limitations. In addition, EPA has no specific mandate to enforce the "no discharge" limitation. However, as a result of sections 301, 302, 304, 306, 307, and 403 of Pub. L. 92-500, "no discharge" limitations may evolve for certain classes and categories of discharges. Until such an evolution occurs, or until the Administrator of EPA publishes effluent limitations commensurate with the national goal, the Corps of Engineers' will interpret this goal. This interpretation shall be used for planning by the Corps as part of the Urban Studies Program.

(1) Wastewater management studies conducted by the Corps which are not a part of the Urban Studies Program need not address this goal unless desired by local participants or EPA.

(2) The reason for developing plans for the 1985 goal in the Urban Studies program is to assure that any potential synergistic effect of attaining that high level of treatment is identified and considered by local interests in selection of the overall water resource plan for the region. The Federal financial cost (75 percent of total construction cost under section 201 of Pub. L. 92-500) as well as the environmental and social cost of proceeding directly from the 1977 goal to the Corps of Engineers' definition of the 1985 goal may be significantly different than the cost of proceeding from the 1977 goal to the 1983 goal and then to the 1985 goal. Consequently, alternative plans will be developed to achieve the 1985 goal with and without the intermediate 1983 goal. Plans developed to attain the 1985 goal will be generally at a reduced level of detail.

(3) Although there is no requirement by the Corps that local governments adopt a plan which will provide for "zero discharge", plans will be available should they decide to do so.

(b) The critical levels for constituents to attain the 1985 goal shall be based upon the natural background levels of the watercourse or aquifer into which the wastewater effluent is discharged, with specific exceptions of constituents that are highly toxic or otherwise injurious to the environment at trace levels. These levels shall apply as the 1985 goal with the exception that:

(1) If current State water quality standards are more stringent, these standards shall apply; or

(2) An environmental scan provides a basis for allowing levels of constituents that are higher than natural background levels but not highly toxic, or otherwise injurious to the environment.

(c) Table 2 lists the constituents which should be absent from the wastewater effluent at discharge, because of their toxicity to the environment at trace levels. The list is based upon limits recommended by the Committee on Water Quality Criteria for water uses such as public water supply, fresh water and marine aquatic habitat, and irrigation.

TABLE 2

Arsenic	Lead
Barium	Pesticides and other synthetic organics
Boron	
Cadmium	Phenols
Chromium	Selenium
Copper	Silver
Cyanides	Zinc
	Mercury

(d) In addition, the constituents in Table 3 are considered to constitute a potential environmental and hygienic risk such that their absence is desirable, although presence at natural background levels may be permissible based upon an environmental scan.

TABLE 3

Antimony	Nickel
Beryllium	Thallium
Cobalt	Tin
Molybdenum	Titanium

(e) In the absence of determing natural background levels or conditions for a particular watercourse or aquifer, the levels given in Appendices C and D should assist in determining the maximum acceptable levels for design. These effluent levels may be relaxed upward on the basis of the environmental scan. The constituents in Appendix C along with those listed in paragraph (c) of this section comprise the minimum acceptable group that must be considered in system design in all studies. Constituents given in Appendix D should be considered as appropriate, depending upon characteristics of the region.

(f) A list of constituent levels considered critical to the environment will be developed in each study for watercourse receiving treated wastewater. These lists will include a discussion of the derivation of each constituent level and environmental scan, with particular emphasis where levels are higher than those recommended in this document. These lists will be furnished to HQDA (DAEN-CWP) WASH DC 20314, prior to the end of Stage 2 planning (see § 275.12(c) for definition of Stage 2).

§ 275.17 Urban drainage.

This paragraph provides policy on the conduct of urban drainage studies.

(a) *Definition of permissible urban drainage studies.* (1) Planning for urban flood control and wastewater management requires studies of urban drainage systems. Runoff from any given tributary area may be conveyed through storm sewers, flood control works, or combinations of these two kinds of facilities. In addition, runoff may be treated to remove pollutants before discharge to receiving waters. Moreover, when provision is made for treatment of urban runoff to meet water quality goals and deadlines, different conveyance and/or retention systems may be required.

(2) Although urban drainage is a functional water resource category which could be studied for its own sake, Corps of Engineers studies of urban drainage are limited to considering urban drainage as a part of the flood control major work item or as a part of the wastewater management major work item. Urban drainage planning for areas with separate storm sewers or without storm sewers will not be part of wastewater management planning if receiving waters will meet the 1983 water quality goal with BPWTT for POTW and BAT for non-POTW in-place. Urban drainage studies which are not an integral part of flood control or wastewater management planning will not be undertaken by the Corps.

(b) *Cost-sharing applicable to permissible urban drainage studies.* (1) Those aspects of urban drainage studies which are part of flood control planning will be financed at 100 percent Federal expense.

(2) Those aspects of urban drainage studies which are part of wastewater management will be financed at the current cost-sharing ratio which is 75 percent Federal—25 percent local. The local share may be in the form of effort sharing or a cash contribution. Section 275.12 (c) provides additional information on cost-sharing.

(3) Those aspects of urban drainage studies which are not a part of either flood control or wastewater management will not be undertaken by the Corps.

§ 275.18 Reuse.

Consistent with the requirements for recycling and reuse in Pub. L. 92-500, and in accordance with requirements governing evaluation of BPWTT techniques for waste treatment and reuse, the following are required:

(a) Reuse opportunities will be identified on the basis of the needs of the region in which wastewater may be collected, treated, transported, and disposed. Reuse will be investigated not only for wastewater, but for sludge, brine, and generated gases.

(b) Wastewater reuse will be analyzed for such uses as agricultural irrigation, turf irrigation, aquifer recharge, stream flow augmentation, recreational lakes, industrial cooling, industrial process water, industrial boiler feed, and for municipal use.

(c) Sludge should be investigated for reuse as a fertilizer, and soil conditioner, especially for strip mine areas; both sludge and brine as bulk material for emerging demands such as highway and other construction; and both sludge and gases as possible sources of energy or other consumptive requirements.

§ 275.19 Sewer system evaluation.

(a) *Requirement.* The engineering report required for a Step 2, section 201 grant application requires a sewer system evaluation. The evaluation is intended to determine the need for rehabilitation of the sewer system. This paragraph explains the Corps of Engineers' position on performing the sewer system evaluation defined in 40 CFR 35.927 (38 FR 5329).

(b) *Sewer system evaluation components.* A sewer system evaluation is composed of two parts. The first part, an Infiltration/Inflow (I&I) Analysis, must be performed by all Step 2 construction grant applicants. The I&I Analysis is a cost effectiveness analysis based on existing data. It is designed to determine whether the cost of sewer rehabilitation is more cost effective than the cost of treating the extra flow resulting from infiltration and inflow. If the cost of rehabilitation is greater than the added cost of treatment, Infiltration/Inflow is not excessive. If the I&I Analysis indicates that Infiltration/Inflow is not excessive, and EPA agrees with that finding, no further efforts need to be expended on this task. However, if infiltration/inflow is determined to be excessive and EPA concurs, then a sewer system evaluation survey is required.

(c) *Corps of Engineers participation in sewer system evaluation.* Where requested by local officials and agreed to in the Plan of Study, the Corps of Engineers should perform Infiltration/Inflow Analyses as an integral part of the wastewater management portion of an urban study. The Corps will not perform Sewer System Evaluation Surveys. If such surveys are required, the Corps will assist local officials making application for a Federal grant. The cost of an Infiltration/Inflow Analysis shall be shared in the same federal to non-Federal ratio as the remainder of the wastewater management portion of an urban study. The local EPA Regional Office should be contacted for the latest technical guidance.

§ 275.20 Cost estimates.

(a) Identified alternative wastewater management plans shall be screened and initially analyzed to determine which systems have cost-effective potential and which should be fully evaluated according to procedures established by the EPA cost effectiveness analysis guidelines (see Appendix E).

(b) The costs to be considered in estimates shall include all direct project costs to be incurred in the implementation of the plan throughout the planning period, including all capital, operation, maintenance, and replacement costs. Sunk costs shall be excluded. Salvage value and revenue derived from implementation of the plan will be assessed as negative monetary costs. The elements of cost listed in Appendix F shall be included in cost estimates for wastewater treatment systems presented in urban studies reports.

(c) Since the cost estimates for wastewater treatment systems are a key criterion in the selection of plans, the presentation of the cost estimates could affect the credibility of the wastewater management portion of the urban studies reports. The presentation should be suitable for detailed review and analysis not only by the authorities who will approve the plans, but also by the people who will be affected by their execution, especially when public approval of project financing is required. Requirements for the presentation of cost estimates are as follows:

(1) Cost data used in the estimate will be supplied and the source identified. When attachment of supporting cost data is impracticable, the data will be specifically identified and described. The data that will be identified are the details behind the summary figures submitted in the report. There are several layers of data, each more detailed than the preceding, and a decision must be made as to what detail the reviewer or the public require to make a judgment as to the degree of confidence in or the validity of the cost estimates. To establish completeness, identification will have to cover the following four points: What it is, Where it is, What it represents, How it was used. The What, Where, and How are self-explanatory. The answer to "what it represents" requires such things as time period and whether the costs are actual or estimated and whether, if actual, the costs are simple average, moving average or derived on some other basis.

(2) The report will include any information necessary to explain the estimating process including the judgemental factors applied and the mathematical methods used in the estimate including those used in projecting from known data. The contingency factors used will be explained and justified. The report must explain how the estimator went from known, factual data to the estimate and how he provided for the uncertainties of the future. The report will provide words to go with the figures so that a complete understanding is possible.

§ 275.21 Engineering economic analysis.

(a) *General.* Construction of treatment plants and transmission facilities can be phased during the planning period. Likewise, operation and maintenance costs vary from year to year due to changes in wastewater flows to the plant. Therefore, in order to make an economic selection, the method of analysis for cost evaluation of each system alternative recommended in the EPA Guidance on Preparing a Facilities Plan, May 1975, will be used. The interest rate will be the Federal discount rate for evaluation of water and related land resources projects, as defined annually by the Water Resources Council and published in an Engineer Circular by DAEN-CWP. The evaluation of monetary costs will not be influenced by adopted financial arrangements such as depreciation, debt retirement, and cost recovery rates and periods.

(b) *Method of analysis for cost evaluation of each system alternative.* (1) Estimate the initial capital cost.

(2) Estimate future capital costs of phased construction and determine their present worth.

(3) Estimate O&M costs, both fixed and variable, and any future changes and determine their present worth.

(4) Estimate salvage values and determine their present worth (negative costs).

(5) Estimate revenues produced and determine their present worth (negative costs).

(6) Sum the values obtained in steps (1) through (5) to obtain the present worth of the system alternative.

(7) Multiply the present worth obtained in Step 6 by the appropriate capital recovery factor to obtain the equivalent annual cost of the system alternative.

§ 275.22 Effective date.

This regulation is effective November 3, 1975, as published in the FEDERAL REGISTER on that date and codified as 33 CFR 275.

APPENDIX A

ITEMS REQUIRED FOR A STEP 2–201 GRANT [1]

EPA regulations for an application for a grant for preparation of construction drawings and specifications shall include but not be limited to the following items. The Corps may provide all items except as indicated.

1. State priority certification in accordance with § 35.915 (State responsibility).

2. Sewer system evaluation in accordance with § 35.927. The Corps may do the I/IA portion; sewer system evaluation study remains a local responsibility.

3. Feasibility report.

4. Engineering report, including—

a. Facility design data incorporating.

(1) Results of sewer system evaluation (Partial satisfaction by Corps plans).

(2) Estimated effluent quality, with respect to all parameters required by applicable effluent limitations and water quality standards.

(3) Proposed method for ultimate disposal of sludge.

b. Cost estimates for design and construction.

c. Schedule for completion of design and construction.

5. Description of proposed user charge system in accordance with § 35.928 (Corps plans partially satisfy this element).

6. Statement regarding availability of proposed site, if relevant (State or local responsibility).

7. Statement regarding ability of applicant to obtain discharge permit for proposed facility (Applicant's responsibility).

8. Required comments or approval of relevant State, local, and Federal agencies (including compliance with "clearinghouse requirements" of OMB Circular A-95 (Corps plans contain the required comments).

9. An environmental assessment unless the Regional Administrator determines, at the request of the applicant that there is insufficient data available to prepare such assessment, provided that the environmental assessment must then be submitted to the Regional Administrator at or prior to the time of submission of plans and specifications for the building and erection of a treatment works.

10. Statement regarding the applicant's financial, legal, institutional, and managerial capabilities to insure the construction, operation and maintenance of the treatment works (Applicant's responsibility).

11. Statement regarding compliance with other applicable Federal statutory and regulatory requirements (see 40 CFR Part 30, Subpart C) (Applicant's responsibility).

12. Statement regarding compliance with title VI of Civil Rights Act of 1964 (Applicant's responsibility).

13. Statement regarding applicant's proposed operation and maintenance program (Corps plans propose some O&M procedures, but the preparation of the statement is clearly an applicant's responsibility).

14. Proposed subagreements, or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work (Applicant's responsibility).

[1] SOURCE: 40 CFR 35, Subpart E, "Grant for Construction of Treatment Works—Federal Water Pollution Control Act Amendments of 1972."

APPENDIX B.—*Controlling uses requiring absence of toxic constituents*

Constituents	Controlling use(s)	Toxic effects
Arsenic	Public Water Supply	Arsenic trioxide is exceedingly toxic to most animals. It is cumulative in the tissues of many organisms. In arsenate form, it is an antimetabolite, reacting with proteins and enzymes. It is a possible carcinogen in water.
Barium	do	Barium forms a stable precipitate or chelate with essential metabolites, causing toxicity.
Boron	do	Boron is an essential element for plants, but is toxic to most plants in concentrations greater than 1 mg/l. Ingestion of boron can upset the central nervous system. Continued ingestion leads to the clinical syndrome of borism. Borate is an antimetabolite. Synthetic boranes are highly toxic.
Cadmium	do	Cadmium toxicities are implicated in hypertensive diseases of man. Irrigation water needs very stringent control of cadmium to insure that cumulative amounts in plants are not a problem. Synergistic effects with zinc are a problem. Cadmium combines with cell membranes, affecting permeability. It may cause cell membrane ruptures. Cadmium may also lead to heart disease, and possibly cancer.
Copper	do	Copper is highly toxic to algae, seed plants, and invertebrates. It is moderately toxic to mammals. Copper acts synergistically with cadmium, zinc, and mercury, but is not a systemic poison like mercury or lead. Fresh water fish are also quite susceptible to copper poisoning.
Cyanides	do	Hydrocyanic acid and its salts, the cyanides, are extremely toxic. Toxicity increases with rising temperatures and decreasing hydrogen-ion concentration. Complex cyanides are formed with cadmium and zinc that are much more toxic than the ordinary salts.
Lead	do	There is a considerable variation in toxicity among the various forms of lead. However, it is a cumulative poison. Chronic lead poisoning occurred in animals when 0.18 mg/l was consumed from soft water. Lead can combine with cellular membranes obstructing the passage of nutrients and can cause bursting of the cell membrane.
Mercury	Fresh water aquatic and marine aquatic habitats.	Some organic mercury compounds are able to enter the food chain of aquatic plants, algae, and lower forms of animals. This methylmercury can be biologically magnified to the extent that it can cause death in humans. Methylmercury can destroy cells of the brain causing tremors and ulcers; it can accumulate in the kidneys and liver. Methlmercury can also accumulate in fetuses where it can produce birth defects by breaking chromosomes. Trace amounts of copper can greater increase toxicity. Shellfish will accumulate very high quantities of methylmercury.
Pesticides and other synthetic organics.	Public water supply	Chlorinated hydrocarbons are very persistent. Organophosphates hydrolyze rapidly to harmless or less harmful products. Cholinergic carbamates and organophosphates are highly toxic to mammals and fish. Chlorinated hydrocarbons may accumulate in animal tissue in high enough levels to preclude human consumption. Phenoxy acid herbicides are subject to rapid biological degradation in soil, but their decomposition in water is not well understood.
Phenols	do	Phenols taint the taste and odor of drinking waters in very minute quantities. Fresh water fish are affected by phenols, the result being anything from intoxication to paralysis to death.
Selenium	Public water supply, irrigation waters.	Selenium poses a special problem for mammals in that it is very easily transmitted through the mammary glands to the milk. Biological magnification in plants is possible, up to 4–5 mg/l. Ingestion of the plants will cause toxic symptoms in animals. As little as 0.5 mg/l of selenium in solution will induce biological magnification. Cereal grains and pasture grasses are the most common plants to biologically magnify selenium and cause toxic reactions in humans and cattle.
Silver	Public water supply	It is highly toxic to plants and mammals.
Zinc	Public water supply and fresh and marine aquatic habitat.	It is accumulated in coelenterates and mollusks. Very small amounts of zinc are toxic to oysters. It has also produced toxic results in plants.

APPENDIX C

CONSTITUENTS REQUIRING CONSIDERATION

Constituent	*Effluent level*
Total dissolved solids	Heat
Biochemical oxygen demand, 5-Day	BOD level less than 5 mg/l. BOD level equal to or less than dissolved oxygen level.
Heat	The level which assures protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in or on the water into which discharge is made.
Color	Less than 15 color units.
Nitrogen as nitrate -N and nitrite -N	Less than 4 mg/l total.
Nitrogen as ammonia -N	Less than 0.5 mg/l.
Total nitrogen as N	Less than 8 mg/l.
Phosphorus as total P	Less than 50 micrograms/liter entering a lake; or 100 micrograms/liter entering a flowing stream.
Oils and greases	Trace.[1]
Fecal coliform organisms	Less than 200/100 ml.
Suspended solids	Less than 5 mg/l.
Dissolved oxygen	Greater than 5 mg/l.

[1] Detectable only with the most refined instruments.

APPENDIX D

CONSTITUENTS WHICH MAY REQUIRE CONSIDERATION

Constituent	*Effluent level*
Virus	Inactivate, but present at trace levels.
Surfactants	Trace.[1]
Fecal streptococci	Inactivated, but present at trace levels.
Tastes and odors	None offensive.
Floatables	None.
Settleable solids	Trace.[1]
Volatile solids	Trace.[1]
Gamma radiation	Trace.[1]
Alpha radiation	Less than one pico curie/liter.
Beta radiation	Less than 100 pico curies/liter.
Turbidity	Less than five Jackson units.
Chemical oxygen demand	Less than 10 mg/l.
pH	Between 6.0 and 8.5.
Alkalinity	Less than 100 to 130 mg/l when pH is between 6.0 and 7.0.
Carbon dioxide	Less than 25 mg/l.
Sulfates	Less than 100 mg/l.
Calcium	Less than 30 mg/l.
Chlorides	Less than 250 mg/l.
Sodium	Less than 10 mg/l.
Magnesium	Less than 125 mg/l.
Fluorides	Varies from 1.7 mg/l at 10° C to .8 mg/l at 30° C.
Aluminum	Less than 1 mg/l.
Bicarbonates	Less than plus or minus 50 mg/l variation over ambient concentrations.
Manganese	Les than 0.05 mg/l.

[1] Detectable only with the most refined instruments.

APPENDIX F

ELEMENTS OF COSTS FOR ESTIMATING WASTEWATER TREATMENT SYSTEMS

1. *Capital costs.* a. Contract Construction Costs including contractor overhead and profit of all system components including:

(1) Systems for collection, treatment and disposal wastewater.

(2) Modifications required for existing facilities.

(3) Components for treatment and disposal of residual wastes, including conveyance to disposal sites.

(4) Components for storage and recycling of wastewater including land disposal.

(5) Integral flow and waste reduction measures.

(6) Pretreatment facilities for industrial wastes (private costs).

(7) Storage or control measures for control of domestic wastes and combined sewer overflows.

(8) Any interim facilities needed while more permanent facilities are deferred or under construction plus incremental operation and maintenance costs of the temporary facilities compared with costs of the old facilities.

(9) Dismantling and restoring the sites of abandoned plants.

(10) Incidental components such as offices, maintenance shops, laboratories, instrumentation and control facilities, chemical storage and conveyance facilities, site preparation and landscaping.

b. Costs for detailed engineering and design services, field exploration studies, and engineering services during construction.

c. Costs for legal and administrative services associated with implementation of the facilities plan.

d. Costs of all lands, including capitalized costs of leased lands (including publicly owned lands), rights-of-way, and easements based on appraised market values, and including relocation and inconvenience payments.

e. Startup costs such as operator training.

f. Interest foregone during facilities construction. In cases where capital expenditures can be expected to be fairly uniform during the construction period, this cost may be calculated as

$$I \times \tfrac{1}{2} P + C$$

where:

I = interest (discount) rate,

P = the construction period in years, and

C = the total capital expenditures;

in cases in which expenditures will not be uniform, or when the construction period will be greater than three years, this cost shall be calculated on a year-by-year basis.

g. Contingency allowances as appropriate to the level of complexity and detail used.

2. *Operation and maintenance (including replacement) costs.* a. Ongoing operation and maintenance costs for all collection, storage, treatment (including pretreatment), disposal and recycling facilities and integral flow and waste reduction measures. Annual costs shall be divided between fixed annual costs and costs which would be dependent on the annual quantity of wastewater collected and treated.

(1) Labor costs including provisions for operational, general maintenance, and administrative personnel.

(2) Chemical costs.

(3) Materials costs including items required for general maintenance and substances which must be replaced periodically such as activated carbon and filter media.

(4) Transportation costs for conveyance of sludges and other materials for ultimate disposal.

(5) *Power costs.*

(6) Incidental costs such as allowance paid to local governments for land removed from the tax rolls.

b. Short-term operation and maintenance costs associated with upgrading of existing facilities or development of interim facilities.

c. Costs of periodic replacement of equipment and equipment parts.

d. Costs for a continuing program for personnel training necessary for new entries and to maintain the proficiency of existing staff, including operator certification, management training, and other specialized training as needed.

3. *Salvage value.* a. Land for treatment works, including land used as part of the treatment process or for ultimate disposal of residues, shall be assumed to have a salvage value at the end of the planning period equal to its prevailing market value at the time of the analysis. Rights-of-way and easements shall be considered to have a salvage value not greater than the prevailing market value at the time of the analysis.

b. Permanent structures will be assumed to have a salvage value at the end of the planning period. If those structures can be expected to continue to be used as planned, salvage value will be based on the remaining service life of the structure based on a straight line depreciation over the assumed service life of the structure.

c. The same approach for determining salvage value will apply to process and auxiliary equipment that will have a usable value at the end of the planning period.

d. When the anticipated useful life of a facility is less than 20 years (for analysis of interim facilities), salvage value can be claimed for equipment where it can be clearly demonstrated that a specific market or reuse opportunity exists.

4. *Revenue produced.* Net revenue (total revenue minus associated costs) anticipated to be accrued from plan implementation will be evaluated and credited as negative costs (benefits) to the plan. Examples are revenue from recovered wastewater constituents and revenue from processed sludge or other residual wastes from the treatment and pretreatment facilities. In addition to normal monetary costs associated with wastewater reuse, these may be external costs for diminution (consumptive use) by evaporation or evapotranspiration of a prior water use or supply. These monetary external costs should be included in the analysis.

[FR Doc.75-28926 Filed 10-31-75;8:45 am]

federal register

MONDAY, NOVEMBER 3, 1975

PART IV:

PRIVACY ACT OF 1974

■

VARIOUS AGENCIES

Title 15—Department of Commerce

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 4b—PRIVACY ACT

Correction

FR Doc. 75-26425, appearing at pages 45619-45631 in the FEDERAL REGISTER of Thursday, October 2, 1975, is corrected by making the following changes:

1. On page 45620, the second column, in paragraph 19, the third line, the word reading "particpiation" should read "participation".

2. On page 45621, the first column, in paragraph 50, the fourth line, the term "(h)" should read "(H)".

3. On page 45621, the second column, in the indexed title of section 4b.3, the word "requests" should read "inquiries".

4. On page 45621, the second column, in the indexed title of section 4b.4, the words "for access" should be added after the word "requests".

5. On page 45621, the second column, in the indexed title of section 4b.6, the word reading "medical" should read "Medical".

6. On page 45621, the second column, in the indexed title of section 4b.7, the word reading "of" should read "to".

7. On page 45621, the third column, in paragraph (a), the eighth line, the word reading "insure" should read "ensure".

8. On page 45622, the first column, in paragraph (d)(1), delete the word "this" from the second line and insert the words "of this Title" after "Part 4" in the third line.

9. On page 45622, the third column, in paragraph (d)(7), the second line, insert a comma after the word "address".

10. On page 45623, the second column, in paragraph (e), the second to last line, the reference "4b.," should read "4b.3,".

11. On page 45623, the third column, in paragraph (ii), the sixth line, insert a comma after the word "card".

12. On page 45624, the second column, in paragraph (e), in the second to last line, the "attmept" should read "attempt".

13. On page 45625, the first column, in paragraph (b), in the ninth line, the word "fill" should read "will".

14. On page 45625, the third column, the paragraph designation which reads "(a)(1)(i)" should read "(a)(1)(i)".

15. On page 45625, the third column, in the second to last line, delete the word "an".

16. On page 45626, the second column, in paragraph (b), the third and forth lines reading "the initial denial, which official is authorized to make final determinations." should read "the initial denial (that official is authorized to make final determinations).".

17. On page 45627, the first column, the reference in footnote 1 reading "5 U.S.C. 552(a)(4)" should read "5 U.S.C. 552a(b)(4)".

18. On page 45627, the third column, the third line, insert a hyphen between the words reading "first class".

19. On page 45628, the first column, in paragraph (a)(2), the first word of the second line which reads "File—" should read "Files—".

20. On page 45628, the second column, in paragraph (a), the reference reading "(e)(4)(G)," should read "(e)(4)(G),".

21. On page 45628, the third column, in paragraph (b)(2)(i), the third line, the word "of" should be deleted and the word "or" inserted in lieu thereof.

22. On page 45628, the third column, in paragraph (b)(2)(iii), the second line, the word reading "File—" should read "Files—".

23. On page 45628, the third column, in paragraph (b)(2)(vii), the first line, the word reading "Non-registered" should read "Non-Registered".

24. On page 45628, the third column, in paragraph (b)(3)(i), the second line, the words reading "1964 (Partial)," should read "1964 (partial),".

25. On page 45628, the third column, in paragraph (b)(3)(v), the second line, the words reading "for 1900 and Subsequent" should read "for 1900 and All Subsequent".

26. On page 45628, the third column, in paragraph (b)(3)(vi), the third line, delete the "s" on "ments".

27. On page 45629, the first column, in paragraph (4)(vi), delete the word "Activity" in the second line.

28. On page 45629, the second column, in the fifth paragraph, the second line, delete the comma following "(e)(4)".

29. On page 45630, the first line on the page, the words reading "Assistant Director Administration, Sills Bldg.," should read "Assistant Director for Administration, NTIS, Sills Bldg.,".

30. On page 45630, after the first line on the page insert a new line reading "Office of Energy Programs—Deputy Director, OEP, Main Commerce Bldg., Washington, D.C. 20230".

31. On page 45630, in Appendix C, the words reading "Federal Employee Compensation Act Program" should read "Federal Employee Compensation Act program", the words reading "Equal Employment Opportunity" should read "Equal employment opportunity" and the words reading "Payroll and tarvel records of department" should read "Payroll and travel records of Department".

32. On page 45630, the last line on the page, the words reading "attach at the point of any denial for access or for correction or amendment" should be deleted and the words "alone apply" inserted in lieu thereof.

33. On page 45631, in paragraph entitled "INSTRUCTIONS:", the second line, the word "Canary" should be deleted and the word "Gold" inserted in lieu thereof.

34. On page 45631, in paragraph entitled "Copy Distribution," delete the last two words "for signature".

Dated: October 28, 1975.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.75-29378 Filed 10-31-75;8:45 am]

Title 41—Public Contracts of Property Management

CHAPTER 51—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PART 51-8—PRIVACY ACT RULES

In accordance with the publication requirements of 5 U.S.C. 552a(f), the Committee for Purchase from the Blind and Other Severely Handicapped issued and published a "Notice of Proposed Rulemaking" on September 12, 1975, at 40 FR 42444-42448.

Since the 30 day comment period for such regulations expired on October 12, 1975 and no comments were received, the Committee hereby adopts the regulations as proposed and published on September 12, 1975, at 40 FR 42444-42448 as its final regulations governing matters arising under 5 U.S.C. 552a, and amends Title 41, Chapter 51 of the Code of Federal Regulations by adding the new part 51-8 thereto as set forth below.

By the Committee.

C. W. FLETCHER,
Executive Director.

Subpart 51-8.1—General Policy

Sec.

51-8.101 Maintenance of records.
51-8.101-1 Collection and use.
51-8.101-2 Standards of accuracy.
51-8.101-3 Content of systems of records.
51-8.101-4 Rules of conduct.
51-8.101-5 Safeguarding systems of records.
51-8.102 Availability of records.
51-8.102-1 Specific exemptions.

Subpart 51-8.2—Disclosure of Records

51-8.201 Conditions of disclosure.
51-8.202 Accounting of disclosure.

Subpart 51-8.3—Individual Access to Records

51-8.301 Notification.
51-8.302 Times, places and requirements for access requests.
51-8.303 Access procedures.
51-8.303-1 Form of requests.
51-8.303-2 Special requirements for medical/psychological records.
51-8.303-3 Granting access.
51-8.303-4 Denials of access.
51-8.304 Fees.
51-8.304-1 Records available without charge.
51-8.304-2 Records available at a fee.
51-8.304-3 Prepayment of fees over $25.
51-8.304-4 Form of payment.
51-8.304-5 Reproduction fee schedule.

Subpart 51-8.4—Requests To Amend Records

51-8.401 Submission of requests to amend records.
51-8.402 Review of requests to amend records.
51-8.403 Approval of requests to amend.
51-8.404 Refusal of request to amend.
51-8.405 Request of review of refusal to amend a record.

Subpart 51-8.5—Report on New Systems and Alteration of Existing Systems

51-8.501 Reporting requirement.
51-8.502 Federal Register notice of establishment of new system or alteration of existing system.
51-8.503 Effective date of new systems of records or alteration of an existing system of records.

Subpart 51-8.6—Exceptions

51-8.601 [Reserved].

Subpart 51–8.7—Rules of Conduct for Disclosure of Information About an Individual

Sec.
51–8.701 Committee rules of conduct.

AUTHORITY: Pub. L. 93–579, 31 December 1974 5 U.S.C. 552a.

Subpart 51–8.1—General Policy

§ 51–8.101 Maintenance of records.

§ 51–8.101–1 Collection and use.

Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under the Committee programs, shall, to the extent practicable, be collected directly from the subject individual. At the time information is collected, the individual must be informed of the authority for collecting such information, whether providing the information is mandatory or voluntary, the purposes for which the information will be used, the routine uses as published in the FEDERAL REGISTER, and the effects on the individual, if any, of not providing the information. The information collected shall be used only for the intended purpose or permission for additional use will be obtained from the subject individual.

§ 51–8.101–2 Standards of accuracy.

The Executive Director shall ensure that all records which are used by the agency to make determinations about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual. Upon petition by an individual, the Executive Director shall provide the individual with the opportunity to review his records, and to request amendment of a portion which the individual believes is not accurate, relevant, timely or complete. Prior to dissemination of records about any individual to any person or to another agency, exclusive of disclosure pursuant to the Freedom of Information Act, the Executive Director shall make reasonable effort to ensure that such records are accurate, complete, timely, and relevant.

§ 51–8.101–3 Content of systems of records.

The Executive Director shall maintain in records only such information about an individual as is relevant and necessary to accomplish an agency purpose required by statute or executive order. Such records shall not contain any information describing how any individual exercises rights guaranteed by the First Amendment unless specifically authorized by statute, by the subject individual, or is pertinent to and within the scope of an authorized law enforcement activity. For these purposes, First Amendment rights include, but are not limited to, religious and political beliefs, freedom of speech, the press, assembly, and freedom to petition.

§ 51–8.101–4 Rules of conduct.

Any employee of the Committee involved in the design, development, operation or maintenance of any system of records, or in maintaining any record, shall review the provisions of 5 U.S.C. 552a and these regulations, and shall conduct himself accordingly with the rules of conduct concerning the protection of personal information outlined in 41 CFR 51–8.7, Disclosure of Information about an Individual.

§ 51–8.101–5 Safeguarding systems of records.

The Executive Director shall ensure that appropriate administrative, technical and physical safeguards are established to ensure 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.

§ 51–8.102 Availability of records.

Committee records pertaining to an individual shall be made available to the subject individual to the greatest extent possible. Disclosures of records to other than the subject individual will be made only in accordance with subpart 51–8.2.

§ 51–8.102–1 Specific exemptions.

Systems of records maintained by the Committee which have been exempted from certain requirements of the Privacy Act are designated in subpart 51–8.6. An individual shall have access to all exempted records containing information about him under procedures outlined in subpart 51–8.3. Upon request, an individual shall receive an accounting of any disclosure of information about him.

Subpart 51–8.2—Disclosure of Records

§ 51–8.201 Conditions of disclosure.

No Committee member or employee of the Committee shall disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To Committee members or employees who have a need for the information in the official performance of their duties.

(b) Required under the provisions of the Freedom of Information Act.

(c) For a routine use as published in the annual notice in the FEDERAL REGISTER.

(d) To the Bureau of Census for uses pursuant to Title 13.

(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. The written statement should include as a minimum:

(1) A statement of the purpose for requesting the records, and

(2) Certification that the records will be used only for statistical purposes.

These written statements shall be maintained as records. In addition to stripping personally identifying information from records released for statistical purpose, the Committee will ensure that the identity of the individual cannot reasonably be deducted by combining various statistical records.

(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 United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

(g) To another agency or 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 agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

(h) To a person showing compelling circumstances affecting the health and safety of an individual (not necessarily the individual to whom the record pertains). Upon such disclosure, a notification of such shall be sent to the last known address of the individual.

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within their jurisdiction).

(j) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office, or

(k) Pursuant to the order of the court of competent jurisdiction.

§ 51–8.202 Accounting of disclosures.

(a) Except for disclosures made pursuant to paragraph (a) and (b) of subpart 51–8.201, an accurate accounting of each disclosure will be made and retained for five years after the disclosure or for the life of the record, whichever is longer. The accounting will include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(b) The accounting will be recorded and maintained in any manner the Executive Director determines is satisfactory for the purposes of constructing a listing of all disclosures, and for providing a cross reference to the justification or basis upon which the disclosure was made, including written documentation required when records are released for statistical or law enforcement purposes and any written consents provided by the individual.

(c) Except for disclosures made to agencies or instrumentalities in law enforcement activities in accordance with Section 51–8.201(2) or for disclosures made from systems exempted from this requirement of the Act as outlined in subpart 51–8.6, the accounting of disclosures will be made available to the individual upon request. Procedures for requesting access to the accounting are outlined in subpart 51–8.3.

Subpart 51–8.3—Individual Access to Records

§ 51–8.301 Notification.

Any individual who wishes to determine if a system of records maintained by the Committee contains a record pertaining to him should direct a request to the Executive Director at the address indicated in the public notice describing the system of records which has been published in the FEDERAL REGISTER. The request should display clearly the legend "Privacy Act Request" both on the face of the request letter and on the face of the envelope. The request letter should contain the complete name and identifying number of the system as published in the FEDERAL REGISTER; the full name, address, and telephone number of the subject individual; a brief description of the nature, time, place and circumstances of the individual's association with the Committee and any other information which the individual believes would facilitate the Executive Director's determination whether the individual's name is included in the system of records. The Executive Director shall answer or acknowledge the request within ten working days.

§ 51–8.302 Times, places and requirements for access requests.

Records will be available for authorized access during normal business hours at the offices where the records are located. A requester should be prepared to identify himself through production of a driver's license, student or employee identification card, or other identification acceptable to the Executive Director. When the disclosure of records to the wrong individual would result in substantial harm, embarrassment, inconvenience, or unfairness to the subject individual, the Executive Director may require a notarized statement of identity. The Executive Director shall ensure that such times, places, and requirements for identification are not excessive and do not restrict individual access unduly.

§ 51–8.303 Access procedures.

§ 51–8.303–1 Form of requests.

(a) An individual must request access to his record in writing. The Executive Director shall accept by telephone only general inquiries for information regarding systems of records or procedures.

(b) A written request should be directed to the Executive Director as listed in the public notice describing the system of records. The individual should display clearly on the face of the request letter and on the face of the envelope the legend "Privacy Act Request", and include the complete name and identifying number of the system as published in the FEDERAL REGISTER; the full name, address, the telephone number of the individual; a brief description of the nature, time, place and circumstances of the individuals association with the Committee; and any other information which the individual believes would facilitate the Executive Director's search for the record.

(c) An individual who wishes to have a person of his choosing accompany him in reviewing a record must sign a statement authorizing the disclosure of his record in the presence of another individual, is so requested by the Executive Director. An individual who intends to visit the Committee office in order to review a record should make an appointment with the Executive Director at least one week in advance.

§ 51–8.303–2 Special requirements for medical/psychological records.

(a) The Executive Director may require an individual who requests access to his medical or psychological record to designate a physician of his choice to whom he may disclose the individual's record if in the opinion of the Executive Director, disclosure directly to the individual might be harmful.

(b) The Executive Director shall mark records which should not be disclosed directly to the subject individual and shall inform an individual requesting such records of the requirement to designate a physician to whom the records can be disclosed.

§ 51–8.303–3 Granting access.

(a) Upon receipt of a request for access to non-exempt records, the Executive Director shall make such records available to the individual, or shall acknowledge the request within ten working days. The acknowledgment shall indicate when the Executive Director will make the record available.

(b) If the Executive Director anticipates more than ten days in making a record available he also shall include in the acknowledgment specific reasons for the delay.

(c) If an individual's request for access does not contain sufficient information to permit the Executive Director to locate the record, the Executive Director shall request additional information from the individual and shall have ten working days following receipt of the additional information in which to make the record available, or to acknowledge receipt of the request and indicate when the record will be available. In no case shall more information be requested from the individual than that contained in the pertinent system of records.

(d) The Executive Director, at his discretion, either shall permit an individual to examine the original of the record, or shall provide the individual with a copy of the record. Fees shall be charged only for copies requested by the individual and not for copies provided to the individual for convenience of the agency.

(e) An individual may request to pick up a record in person or receive it by mail, directed to the name and address provided by the individual in his request. The Executive Director shall not make a record available to a third party for delivery to the subject individual, except in the case of medical records outlined in § 51–8.303–2.

(f) The Executive Director shall maintain in an individual's record an accounting of disclosures to the individual's documenting compliance with the request.

(g) The procedures for access to an accounting of disclosures is identical to the procedure for access to a record as set forth in this subsection.

§ 51–8.303–4 Denials of access.

(a) The Executive Director may deny any individual access to his record only on the grounds that the Committee has published rules in the FEDERAL REGISTER exempting the pertinent system of records from the access requirement.

(b) Upon receipt of a request for access to an exempt system, the Executive Director shall prepare a letter denying access. The letter of denial shall contain a justification for denial of access which includes appropriate citation to the exemption provisions of these rules or other FEDERAL REGISTER notice exempting the system.

§ 51–8.304 Fees.

§ 51–8.304–1 Records available without charge.

The Executive Director shall make one copy of a record available to an employee without charge, and may waive the fee requirement for any other individual requesting records if the cost of collecting the fee is an unduly large part of, or greater than, the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

§ 51–8.304–2 Records available at a fee.

The Executive Director shall provide one copy of a record to the individual at a fee proscribed in § 51.8.304–5. A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily available.

§ 51–8.304–3 Prepayment of fees over $25.

When the Executive Director determines that the anticipated total fee is likely to exceed $25, he shall notify the individual that he must prepay the anticipated fee prior to making the records available. The Committee will remit the excess paid by the individual or bill the individual for an additional amount according to variations between the final fee charged and the amount prepaid.

§ 51–8.304–4 Form of payment.

Payment shall be by check or money order payable to the Committee for Purchase from the Blind and Other Severely Handicapped and shall be addressed to the Executive Director.

§ 51–8.304–5 Reproduction fee schedule.

(a) The fee for reproducing a copy of a record (by routine electrostatic copying) up to and including material 8½ x 14 inches shall be $0.10 per page.

(b) The fee for reproducing a copy of a record over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copy-

ing shall be the direct cost of reproducing the records through Government or commercial sources.

Subpart 51–8.4—Requests To Amend Records

§ 51–8.401 Submission of requests to amend records.

An individual who desires to amend any record or information pertaining to him should direct a written request to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, N., Arlington, Virginia 22201.

A request should bear the legend "Privacy Act—Request to Amend Record" prominently marked on both the face of the request letter and the envelope.

§ 51–8.402 Review of requests to amend records.

(a) Upon receipt of a request to amend a record, the responsible official, whenever practicable shall complete the review and advise the individual of the results within ten working days. If a determination cannot be made within ten working days, the Executive Director, within ten working days, shall send the individual a written acknowledgment of receipt of the request including a description of the request and the date when the requester may except to be advised of action taken on the request. Except in unusual circumstances, the Executive Director shall complete the review within 30 working days. In unusual circumstances, causing delay beyond the 30 day limit, the Executive Director shall inform the individual in writing of the cause of delay, the actions taken to review the record, and the date the Executive Director anticipates the review to be complete.

(b) When reviewing a record in response to a request to amend, the Executive Director shall assess the accuracy, relevance, timeliness, and completeness of the record to ensure fairness to the individual in any determination made on the basis of the record. With respect to a request to delete information, the Executive Director also shall review the request and record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by law or Executive Order.

§ 51–8.403 Approval of requests to amend.

If the Executive Director agrees to amend a record, he promptly shall make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, he shall advise all previous recipients of the record of the fact that a correction was made of/and the substance of the correction. Where practicable, the Executive Director shall send a copy of the corrected record to previous recipients.

§ 51–8.404 Refusal of request to amend.

(a) The Executive Director, or any official acting for him, shall have the authority to issue an initial refusal of a request to amend a record within his custody and shall be responsible for the initial adverse agency determination.

(b) If the Executive Director, after reviewing the request to amend a record, determines not to amend the record, he promptly shall advise the requester in writing of the determination. The refusal letter (1) shall state the reasons for refusal, (2) shall state the requester's right to seek a review of the initial determination, and (3) shall state the procedures for requesting such review.

§ 51–8.405 Request of review of refusal to amend a record.

(a) An individual who disagrees with the refusal to amend may appeal that refusal with the Committee. An individual should address a request for review of a refusal to amend any record, exclusive of a personnel record of a current Committee employee to the Chairman, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street N., Suite 610, Arlington, Virginia 22201.

(b) A request to review must be in writing and should include a copy of the initial request and refusal to amend. The request to review should bear the legend "Privacy Act—Request for Review of Refusal to Amend" on both the face of the letter and the envelope. The Chairman shall complete the review and make a determination no later than 30 working days after receipt of the request for review, unless a determination is made to extend the 30 day period. If a determination is made to extend the 30 day period, the Chairman shall notify the requester in writing of the reasons for the delay and the date when the review will be completed.

(c) Upon receipt of a request to review a refusal to amend, the Chairman shall undertake an independent review of the request and initial determination. If, after conducting the review, the Chairman agrees to amend, he shall notify the requester promptly in writing of the determination, amend the record, and notify previous recipients in accordance with § 51–8.403.

(d) If, after conducting the review, the Chairman agrees with the refusal to amend the record, he shall notify the requester promptly in writing of the determination. The notification shall include the reasons for the refusal, and shall advise the individual of his right to file a statement of disagreement, and the procedures for doing so. The Chairman also shall advise the individual that such statement of disagreement will be made available in any subsequent disclosures of the record together with a concise statement summarizing reasons for refusal where the responsible official deems it appropriate. The Chairman also will advise the individual of his right to bring civil action against the agency in a district court of the United States.

Subpart 51–8.5—Report on New Systems and Alteration of Existing Systems

§ 51–8.501 Reporting requirement.

(a) No later than 30 days prior to the establishment of a new systems of records, the Executive Director shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

(b) No later than 30 days prior to the alteration of a system of records, the Executive Director for the maintenance of that system of records shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

§ 51–8.502 Federal Register Notice of Establishment of New System or Alteration of Existing System.

(a) When the Executive Director receives notice that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records, or the alteration of an existing system of records, or

(b) When no fewer than 30 days elapse from the submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget, without receipt by the Executive Director of an objection to the proposal, then a notice shall be published in the FEDERAL REGISTER of the proposed establishment or alteration of a system of records. The notice shall include all of the information required to be provided by the Privacy Act of 1974, and such other information as deemed necessary.

§ 51–8.503 Effective date of new systems of records or alteration of an existing system of records.

Systems of records proposed to be established or altered in accordance with the provision of the subpart shall be effective no sooner than 30 days from the publication of notice required by § 51–8.502.

Subpart 51–8.6—Exemptions

§ 51–8.601 Reserved.

Subpart 51–8.7—Rules of Conduct for Disclosure of Information About an Individual

§ 51–8.701 Committee rules of conduct.

(a) Every Committee member and employee who is involved in the design, development, operation, or maintenance of a system of records, or who has access to a system of records shall familiarize himself with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and the Committee regulations and or-

ders issued thereunder and apply these requirements to all systems of records.

(b) No Committee member or employee shall 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 the disclosure would be to a recipient specified in paragraph c of this section. The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, 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. The term "system of records" means a group of any records under the control of the Committee 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. 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. The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. The term "agency" is defined in 5 U.S.C. 552(e).

(c) An employee may disclose any record which is contained in a system of records, without a written request by and without the prior written consent of the individual to whom the record pertains, if the disclosure would be:

1. To those Committee members and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

2. Required under Section 552 of Title 5 U.S.C.;

3. For a routine use as described in paragraph b, above;

4. 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.C.;

5. 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;

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 if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

8. 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;

9. 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;

10. To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

11. Pursuant to the order of a court of competent jurisdiction.

(d) No Committee member or employee shall maintain a 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.

(e) No Committee member or employee shall sell or rent an individual's name and address unless such action is specifically authorized by law.

(f) A Committee member or employee, 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 paragraph a of this section or by any other rules or regulations established under the Privacy Act of 1974, and who (1) 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, or (2) willfully maintains a system of records without meeting the notice requirements of the Privacy Act of 1974, or (3) knowingly and willfully requests or obtains any record concerning an individual from any agency under false pretenses, is subject to criminal penalties and administrative sanctions. Any Committee member or employee who (1) makes a determination not to amend an individual's record in accordance with the Privacy Act of 1974, or (2) refuses to comply with an individual's request to gain access to review, and obtain a copy of any information pertaining to him, or (3) 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 or of 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 (4) fails to comply with any provision of the Privacy Act of 1974 or any Committee regulation implementing it, subjects the Committee to civil penalties and himself to administrative sanctions.

[FR Doc.75-29479 Filed 10-31-75;8:45 am]

DEPARTMENT OF COMMERCE

PRIVACY ACT

Notice of Systems of Records; Correction

FR Doc. 75-26288, appearing at pages 45634-45674 in the FEDERAL REGISTER of Thursday, October 2, 1975, is corrected by making the following changes:

1. On page 45634, the first column, under the heading "Adoption of Systems of Records", the first paragraph, the third line, the symbols "1/" should be the supernumerary "1" to indicate a footnote and the entire second paragraph should be removed to the bottom of the page to become the text of that footnote.

2. On page 45634, the first column, in the paragraph beginning with the words "Editorial changes and", the third line, after the words "Bureau of the Census" insert the words "and/or Bureau of Economic Analysis".

3. On page 45634, the first column, in the paragraph beginning with the words "Regarding the", the eighth line, the comma after the word "character" should be deleted and a semicolon inserted in lieu thereof.

4. On page 45634, the second column, the third line on the page, the abbreviation reading "N.W.," should read "NW.,".

5. On page 45634, the second column, in the paragraph beginning with the words "A new general routine use 10.", the symbols "2/" should be the supernumerary "2" to indicate a footnote and the next paragraph reading "A contractor which operates a system of records within the meaning of subsection (m) of the Act is within subsection (b) (1) of the Act." should be removed to the bottom of the page to become the text of that footnote. Additionally, the word "which" in the first line of this paragraph should be deleted and the word "who" inserted in lieu thereof.

6. On page 45634, the second column, in the paragraph beginning with the words "A new general routine use 11.", the second line, the words "is subject to" should be deleted and the words "qualified for" inserted in lieu thereof.

7. On page 45634, the second column, in the paragraph beginning with the words "COMMERCE/MA-14:", the third line, the word "which" should be deleted and the word "who" inserted in lieu thereof.

8. On page 45635, the first column, in the paragraph beginning with the words "COMMERCE/PAT-TM-9:", the second line, the words reading "not classified," should read "nonclassified,".

9. On page 45635, the first column, under the heading "Notice of Systems of Records*/", after the line beginning with "NFPCA" insert a new line reading "OEP—Office of Energy Programs".

10. On page 45635, the second column, in paragraph "5.", the third and fourth lines, delete the first word "the" and insert the word "an", and delete the words reading "is a constituent of the Member and".

11. On page 45635, the second column, in paragraph "11.", the second line, the words "is subject to" should be deleted and the words "qualifies for" inserted in lieu thereof.

12. On page 45636, the first column, the line reading "DEPT-15 Private Legislation Claimants-Control Legislative" should read "DEPT-15 Private Legislation Claimants-Central Legislative", and the line reading "EPA-1 Applicant Resumes" should read "EDA-1 Applicant's Resumes".

13. On page 45636, the second column, the line reading "NOAA-11 Fisheries Law Enforcement Files" should read "NOAA-11 Fisheries Law Enforcement Case Files"; under NOAA-16 the line reading "Equipment)" should read "Experiment);" and under NTIS-2 the line reading "Shipped Other Addresses, and Subscribers Files" should read "Shipped Order Addresses, and Subscribers Files".

14. On page 45636, the second column, the section entitled "System location:", the second line, insert "OEP," after after "NFPCA,".

15. On page 45637, the second column, in the section entitled "Notification procedure:", after the paragraph beginning with the words "For NFPCA" insert a new paragraph reading "For OEP records at location a., information may be obtained from: Deputy Director, OEP, U.S. Department of Commerce, Washington, D.C. 20230;".

16. On page 45640, the first column, the first section entitled "System location:", in paragraph "b.", the second line, the word "Security" should be deleted and the words reading "Guard Service" inserted in lieu thereof.

17. On page 45640, the first column, under the heading "COMMERCE/DEPT-7.", the paragraph beginning with "System location: a.", insert "OEP," after "NFPCA,".

18. On page 45641, the first column, after the first paragraph beginning with the words "For NFPCA records" insert a new paragraph reading "For OEP records at location a., information may be obtained from: Deputy Director, OEP, U.S. Department of Commerce, Washington, D.C. 20230;".

19. On page 45641, the first column, under the heading "COMMERCE/DEPT-8.", in paragraph "e.", the third line, delete the period, insert a semicolon, and add the words reading "and Security Office, Radio Building, NBS, Boulder, Colorado 80302.".

20. On page 45642, the first column, under the heading "COMMERCE/DEPT-9.", in the paragraph entitled "System location: a.", the second line, insert "OEP," after "NFPCA,".

21. On page 45642, the second column, in the section entitled "Notification procedure:", after the paragraph beginning with the words "For NFPCA records" insert a new paragraph reading "For OEP records at location a., information may be obtained from: Deputy Director, OEP, U.S. Department of Commerce, Washington, D.C. 20230;".

22. On page 45643, the second column, under the heading "COMMERCE/DEPT-11.", in the paragraph entitled "System location: a.", the second line, insert "OEP," after "NFPCA,".

23. On page 45644, the first column, in the section entitled "Notification procedure:", after the paragraph beginning with the words "For NFPCA records" insert a new paragraph reading "For OEP records at location a., information may be obtained from: Deputy Director, OEP, U.S. Department of Commerce, Washington, D.C. 20230;".

24. On page 45646, the second column, the section entitled "System location:", in paragraph "d.", the third line, delete the period, insert a semicolon and add the words reading "Security Office, Radio Building, NBS, Boulder, Colorado 80302; and Instrument Shops Division, Shops Building, NBS, Gaithersburg, Maryland (P.O. Washington, D.C. 20234).".

25. On page 45647, the second column, under the heading "COMMERCE/DEPT-18.", the first line, delete the words reading "Employee PerCommission—" and insert in lieu thereof the words reading "System Name: Employee Personnel Files Not Covered by U.S. Civil Service Commission—".

26. On page 45647, the second column, under the heading "COMMERCE/DEPT-18.", in the paragraph entitled "System location: a.", the second line, insert "OEP," after "EDA,".

27. On page 45648, the first column, in the section entitled "Notification procedure:", after the paragraph beginning with the word "For NFPCA records" insert a new paragraph reading "For OEP records at location a., information may be obtained from: Deputy Director, OEP, U.S. Department of Commerce, Washington, D.C. 20230;".

28. On page 45648, the second column, the paragraph entitled "Record source categories:", the second line, the words reading "information, individual, physician," should read "information; others involved in references of the individual; physicians;".

29. On page 45652, the second column, the paragraph entitled "Record source categories:", the second line, delete the words reading "those authorized by the individual to furnish information.", and insert in lieu thereof words reading "persons nominating the individual for council membership.".

Additional typographical or technical corrections, which are not included in this notice because of their minor nature, will be reflected in the unified text of the Notices of Systems of Records scheduled to be published by the FEDERAL REGISTER in December 1975.

Dated: October 28, 1975.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.75-29379 Filed 10-31-75;8:45 am]

AGENCY FOR INTERNATIONAL DEVELOPMENT

PRIVACY ACT OF 1974

Amendment to Notice of Systems of Records

Notice is hereby given that the Agency for International Development, in accordance with Sec. 3(e), (4) and (11) of the Privacy Act of 1974 (Pub. L. 93-579), (5 U.S.C. 552a), ("Act"), proposes to amend as noted below the Notice of Systems of Records published in the FEDERAL REGISTER of October 2, 1975 (40 FR 45679 *et. seq.*)

In reference to the Statement of General Routine Uses, an additional routine use is established as follows:

11. A record from this system of records may be disclosed, as a routine use, to the Foreign Service Grievance Board in the course of the Board's consideration of matters properly before it.

This routine use is proposed in light of the Foreign Service Grievance Board's composition which includes public membership. Records disclosed under this routine use would be limited to those pertaining to an individual who has presented a grievance for the Board's consideration.

Also, in reference to the statement of General Routine Uses, the eighth Routine Use (to Members of Congress) is deleted as previously published and is amended to read in its entirety as follows:

8. A record from this system of records may be disclosed, as a routine use, to a Member of Congress or a Congressional staff representative of the Member in response to an inquiry from a Member made at the request of an individual.

In reference to System of Records A.I.D. -3, Employee Automated Records, another category of records in the system is added as follows:

i. Minority Designator File—This file contains SSAN and a minority code designator used in preparing reports required by the Equal Employment Opportunity Act of 1972.

Further, the System Manager and address of System of Records A.I.D. 3, is amended to add:

For the minority code designator, the Director, Equal Opportunity Programs, Agency for International Development, 21 "C" Street, NW., Washington, D.C. 20523.

In reference to System of Records A.I.D. -10, Employee Relations Records the following routine use is added to the routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To a health or life insurance carrier for the purpose of determining the status of benefits paid or owed by or to an employee pursuant to a health or life insurance compensation agreement.

Also in reference to System of Records A.I.D. -10, the following authority for maintenance of the system is added:

Executive Order 10450 as amended August 5, 1954.

In reference to System of Records A.I.D. -13, Orientation and Training Records, System manager(s) and address reads:

The Chief, Manpower Development Division, (PM/PD), Agency for International Development, 1735 N. Lynn Street, Arlington, Virginia.

In reference to System of Records A.I.D. -26, Litigation Records, the categories of individuals covered by the system is amended to read:

Foreign Service employees, Civil Service employees, personal service contractors, former employees, and members of the public.

Also, in reference to System of Records A.I.D. -26, the categories of records in the system is amended to read:

Correspondence and other documents relating to disputed contracts, tort claims against the Agency, and other claims and actions against the Agency.

Interested persons may submit such written views, arguments, or data relative to the Notice of Systems of Records as they may desire.

Comments should be submitted to the Privacy Officer, Agency for International Development, Department of State, 320 21st Street, NW., Washington, D.C. 20523, before November 28, 1975. All written comments received from the public before November 28, 1975, will be given consideration by the Agency.

Effective date. This notice shall be effective October 28, 1975.

Dated: October 28, 1975.

DANIEL PARKER,
Administrator.

[FR Doc.75-29377 Filed 10-31-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

PRIVACY ACT OF 1974

Additional System of Records

Pursuant to the requirements of section 3 of the Privacy Act of 1974, 5 U.S.C. 552a(c)(4), notice is hereby given of the existence and character of a new system of records to be maintained by the National Science Foundation and of the routine uses thereof. Interested persons are invited to submit written data, views or arguments to the Director, National Science Foundation, ATTN: General Counsel, Washington, D.C. 20550, not later than December 3, 1975.

NSF—39

System name: Reviewer/Panelist Information Subsystem. (Note this system differs from NSF System No. 30 in that the system 39 is used to collect information concerning reviewers used by Foundation offices whereas No. 30 is used as an aid in the selection of reviewers.)

System location: Management Information Office, 1800 G St., NW., Washington, D.C. 20550

Categories of individuals covered by the system: Members of advisory panels, individuals, consultants, NSF staff, members of review panels and other individuals from whom reviews or evaluation of proposals for support from NSF are solicited or received.

Categories of records in the system: The individual's field of expertise and address. Also contains information concerning the proposals reviewed and NSF Identification Number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Other Government agencies needing names of potential reviewers or specialists in particular fields may be given information from this system. List of reviewers used by NSF will be published annually.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records on disc and tapes.

Retrievability: Records are retrieved alphabetically by last name.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password must be used to access computer files.

Retention and disposal: File is cumulative and is maintained indefinitely.

System manager(s) and address: Management Information Officer.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with the procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Individual reviewers and panelists, other reviewers, consultants and panelists, project folders, project managers, newspaper clippings, correspondence, biographical works such as American Men of Science, and other such miscellaneous sources.

Dated: October 28, 1975.

H. Guyford Stever,
Director.

[FR Doc.75-29270 Filed 10-31-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

(Docket No. 20605; FCC 75-1092)

PRIVACY ACT OF 1974

Notice of Systems of Records

Correction

In FR Doc. 75-26411 appearing at page 46075 in the issue of Friday, October 3, 1975, the text appeared out of order. The document should read as follows:

In the matter of Notice of Systems of Records Pursuant to the Privacy Act of 1974.

1. For the purpose of implementing the Privacy Act of 1974, Pub. L. 93-579, December 31, 1974, 5 U.S.C. 552a, the Federal Communications Commission is issuing a notice of the existence and character of a system which it maintains and which contains pay, leave, and travel information about individuals.

2. Though this systems has been in force at the Commission for years, it was inadvertently omitted when the other Commission systems were published in the Federal Register on August 29 1975, 40 FR 40068.

3. Interested persons are invited to submit comments on the "routine uses" of the systems of records on or before October 30, 1975.

4. 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, Pub. L. 93-579, December 31, 1974, 5 U.S.C. 552a(e)(4) and (11).

5. 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.

Adopted: September 29, 1975.

Released: September 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

Vincent J. Mullins,
Secretary.

FCC/OED—12

System name: Pay, leave, and travel records—FCC/OED

System location: 1919 M St., NW., Washington, D.C. 20554.

Categories of individuals covered by the system: All Commission employees.

Categories of records in the system: Contains various records required to administer the pay, leave, and travel requirements of the Federal Communications Commission.

Authority for maintenance of the system: 44 U.S.C. 3101, 3102, 3309.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used as indicated below:

A. To authorize payroll deductions for allotments, savings bonds, charitable contributions, union dues, health benefits and life insurance; collect indebtedness for overpayment of salary and unpaid Internal Revenue taxes; pay income tax obligation to Internal Revenue Service; authorize mailing or or holding salary checks or savings bonds; authorize issuing of salary checks by Treasury Department; obtain reimbursement of travel expenses for official business; report gross wages and separation information for unemployment compensation; pay any uncollected compensation due a deceased employee; and provide for a summary of employees payroll data and retirement contributions.

B. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

C. For litigation in a Federal court where required.

D. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

E. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or other benefit.

F. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual files in folders, cards, magnetic tapes, and loose leaf binders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in filing cabinets in an office that is locked when not occupied by staff. Records are available only to authorized personnel whose duties require access.

Retention and disposal: Records are maintained for varying periods of time from one year to permanently. Disposal is by shredding.

System manager(s) and address: Executive Director, Office of the Executive Director, 1919 M St., NW., Washington, D.C. 20554.

Notification procedure: Same as above. It is necessary to furnish the following information in order to identify the individual whose records are vrequested:

A. Full name.
B. Date of birth.
C. Social Security Number.
D. Mailing address to which the reply should be mailed.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is provided by management officials and by the individual on whom the record is maintained.

[FR Doc.75-26411 Filed 9-29-75;4:12 pm]